explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishing of a regulated navigation area and therefore falls within the categorical exclusion noted above. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. Any comments received concerning environmental impacts will be considered and changes made to the environmental analysis checklist and categorical exclusion determination as appropriate.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0868 to read as follows:

§ 165.T01–0868 Regulated Navigation Area; Route 24 Bridge Construction, Sakonnet River, Rhode Island.

(a) *Location.* The following area is a regulated navigation area: All navigable waters of the Sakonnet River between Tiverton and Portsmouth, RI, from surface to bottom, within 100 yards of the Route 24 bridge over the Sakonnet River.

(b) *Regulations.* The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA, and in addition:

(1) Each person or vessel within the RNA must comply with the directions of the Captain of the Port Sector Southeastern New England (COTP) or the COTP's designated on-scene patrol personnel and must comply with all applicable regulations including but not limited to the Rules of the Road (33 CFR Subchapter E, Inland Navigational Rules);

(2) The COTP may close the RNA or establish a marked temporary channel within the RNA at any time to protect public safety;

(3) Each vessel using the temporary channel must not exceed 47 feet in height from the waterline, have a draft not exceeding 17 feet, and enter the temporary channel only if it is completely clear of all other vessel traffic; and

(4) Each vessel approaching the temporary channel and equipped with a VHF radio must make an appropriate ''Securite'' radio call to notify approaching vessel traffic;

(c) *Effective period; enforcement.* This section is effective from 8 a.m. on September 9, 2011, until 11:59 p.m. on May 1, 2013. Paragraph (b) of this section may be enforced at any time within that period. The COTP and designated on-scene patrol personnel will notify the public whenever paragraph (b) is in force and whenever enforcement is lifted. Notification may be by Broadcast Notice to Mariners, Local Notice to Mariners, Marine Safety Information Bulletins, or by siren, radio, flashing light, or other hailing by a Coast Guard vessel.

(d) *Violations.* Report violations of this regulated navigation area to the COTP at 508–457–3211 or on VHF–Channel 16.

Dated: September 7, 2011.

D.A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2011–23916 Filed 9–16–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0084; FRL–9466–1]

RIN 2060–AQ74

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal of direct final rule.

SUMMARY: On June 12, 2008, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for the plating and polishing area source category under section 112 of the Clean Air Act (CAA). On June 20, 2011, the EPA proposed amendments to clarify that the emission control requirements of the plating and polishing area source NESHAP did not apply to any bench-scale activities. The amendments also made several technical corrections and clarifications that are not significant changes in the rule's requirements. In addition, on June 20, 2011, the EPA issued a direct final rule amending the area source standards for plating and polishing area sources. Since we received an adverse comment, we are withdrawing the direct final rule today simultaneously with this final rule.

DATES: This final rule is effective on October 19, 2011. Effective September 19, 2011, EPA withdraws the direct final rule published at 76 FR 35750 on June 20, 2011.

ADDRESSES:

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744,

and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Lee Jones, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5251; fax number: (919) 541–3207; e-mail address: *Jones.DonnaLee@epa.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Background Information
II. Summary of Comment and Response
III. Does this action apply to me?
IV. Where can I get a copy of this document?
V. Why are we amending this rule?
A. Clarification of Applicability for Bench-Scale Operations
B. Other Technical Corrections and Clarifications
VI. What are the changes to the area source NESHAP for plating and polishing operations?
VII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background Information

The EPA stated in the direct final rule titled, ''Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing'' which was published on June 20, 2011 (76 FR 35750) that if EPA received adverse comment by July 20, 2011, the direct final rule would not take effect and EPA would publish a timely withdrawal of the direct final rule in the **Federal Register**. The EPA subsequently received an adverse comment on the direct final rule.

Because EPA received an adverse comment, EPA is withdrawing the direct final rule titled ''Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing.'' As stated in the parallel proposed rule (76 FR 35806) published on the same day as a direct final rule, EPA will not institute a second comment period in this proceeding concerning the Plating and Polishing Area Sources amendments addressed in the direct final and parallel proposed rules. EPA is addressing the adverse comment on the direct final rule and providing final notice of the amended rule concurrent with this withdrawal. This final rule is based on the parallel proposed rule and includes a summary of the comment received and the EPA response.

The amendments in this final rule clarify that the emission control requirements of the plating and polishing area source NESHAP do not apply to any bench-scale activities. Also, several technical corrections and clarifications that do not make significant changes in the rule's requirements have been made to the rule text. This rule amendment increases flexibility and freedom of choice for the public, and makes the rule more clear and intelligible which, as a result, reduces burden.

II. Summary of Comment and Response

The EPA received one comment concerning the amended rule.

Comment: One comment was received from a semiconductor wafer and photovoltaic (PV) cell manufacturer who performs electroless nickel plating onto silicon wafers in clean rooms or segregated manufacturing areas designed to limit contamination. The commenter stated that emissions from metalization during these semiconductor and PV manufacturing processes are too small to measure easily and consequently could not have been included in the 1990 inventory. Also, the commenter stated that semiconductor and PV facilities are not similar to the large scale plating and polishing operations to which the commenter believes the plating and polishing rule is intended to apply. The commenter requested that these small-scale semiconductor and PV manufacturing processes be exempted from the plating and polishing rule along with the bench-scale operations described in the proposed rule amendment.

Response: The semiconductor industry does both electroless and electrolytic plating, as stated in the materials submitted by the commenter. In both these plating processes, the concentration of plating HAP in the plating solution is high, with electroplating having a greater potential for air emissions than electroless plating. According to information available to the EPA, many facilities in the semiconductor industry were already controlling their HAP emissions at the time of the final rule for plating and polishing in 2008 by the control methods required by the plating and polishing area source rule. Although HAP emissions from many facilities in the semiconductor industry may be low, as the commenter describes, emissions from many other affected facilities under this rule, as well as other area source rules, are also low; hence their classification as area sources. The intent of the area source rules is to set standards for low-emitting sources with the potential to emit HAP and which are not major sources.

The semiconductor industry is very similar to other plating and polishing industries that do a high production volume of plating using solutions with high concentrations of metal HAP and, therefore, are the intended subjects of the rule. To the extent that sources in the semiconductor and PV manufacturing industry qualify as bench scale operations, they also may be exempt from the plating and polishing rule with as a result of this action. However, as individual industries, we believe that area sources in the semiconductor and PV manufacturing industries are the type of sources intended to be regulated under the area source program and, more specifically, under the plating and polishing rule for metal HAP. Therefore, no sources or classes of sources are being added to the exemption for bench-scale operations in today's action. Additionally, for electroless plating sources, the plating and polishing rule requires management practices for minimizing HAP emissions, as practicable, with no additional control requirements or annual reporting. Therefore, the burden of the rule on facilities similar to the commenter's is low, especially for facilities that are already well controlled.

III. Does this action apply to me?

The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code [1]	Examples of regulated entities
Industry	332813	Area source facilities engaged in any one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Regulated sources do not include chromium electroplating and chromium anodizing sources, as those sources are subject to 40 CFR part 63, subpart N, ''Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.''
Manufacturing	32, 33	Area source establishments engaged in one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Examples include: 33251, Hardware Manufacturing; 323111, Commercial Gravure Printing; 332116, Metal Stamping; 332722, Bolt, Nut, Screw, Rivet, and Washer Manufacturing; 332811, Metal Heat Treating; 332812, Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332913, Plumbing Fixture Fitting and Trim Manufacturing; Other Metal Valve and Pipe Fitting Manufacturing; 332999, All Other Miscellaneous Fabricated Metal Product Manufacturing; 334412, Bare Printed Circuit Board Manufacturing; 336412, Aircraft Engine and Engine Parts Manufacturing; and 339911, Jewelry (except Costume) Manufacturing.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility will be regulated by this action, you should examine the applicability criteria in 40 CFR 63.11475 of subpart WWWWWW (NESHAP: Area Source Standards for Plating and Polishing Operations). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in § 63.13 of the General Provisions to part 63 (40 CFR part 63, subpart A).

IV. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

V. Why are we amending this rule?

On July 1, 2008 (73 FR 37741), we issued the NESHAP for Area Sources: Plating and Polishing (40 CFR part 63, subpart WWWWWW). The final rule establishes air emission control requirements for new and existing facilities that are area sources of hazardous air pollutants. The final standards establish emission standards in the form of management practices for new and existing tanks, thermal spraying equipment, and dry mechanical polishing equipment in certain plating and polishing processes. These final emission standards reflect the EPA's determination regarding the generally achievable control technology (GACT) and/or management practices for the area source category.

In the time period since promulgation, it has come to our attention that certain aspects of the rule as promulgated have led to misinterpretations, inconsistencies, and confusion regarding the applicability of the rule. These amendments make several technical corrections and clarifications to the rule's text that will provide clarity.

In addition to fulfilling the mandate in CAA section 112, these amendments are also responsive to Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, which directs each Federal agency to ''periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' EPA's amended rule increases flexibility and freedom of choice for the public, and makes the rule more clear and intelligible which, as a result, reduces burden.

VI. What are the changes to the area source NESHAP for plating and polishing operations?

We are amending this rule to clarify and correct inconsistencies and inadequacies of the rule language that have come to our attention since promulgation. These items are discussed in this section. There is also a red-line version of the regulatory text in the docket that shows the effect of these changes on the promulgated rule.

A. Clarification of Applicability for Bench-Scale Operations

EPA is making these amendments to the NESHAP for plating and polishing operations that are area sources (40 CFR part 63, subpart WWWWWW) to clarify that the rule was not intended to apply to process units that are bench-scale operations.

Based on available inventory information, we believe that HAP emissions from bench-scale activities were not part of the 1990 baseline inventory for the urban air toxics program that supported the area source listing decision for this category. The plating and polishing category includes job shop operations dedicated to plating and polishing operations, and original equipment manufacturers with large-scale plating and polishing processes. We believe that this definition is also consistent with the basis of the listing of the plating and polishing source category in the 1990 air toxics inventory. Therefore, this amendment clarifies that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Further, our experience is that the types of plating and polishing operations that are bench-scale use small containers on the scale of 25 gallons or less, and any potential air emissions would be too low to measure. Bench-scale processes are defined in this final rule as: ''Any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.''

B. Other Technical Corrections and Clarifications

To clarify our intent in the rule and reduce misinterpretations that have come to our attention since the final rule was published in July 2008, we

have made certain clarifications and technical corrections to the rule text.

We are clarifying that certain process units and operations are not part of the affected activity, based on our knowledge of the area source inventory on which the source category description was derived. These processes include activities such as plating, polishing, coating or thermal spraying conducted to repair surfaces or equipment. Similarly, other EPA area source rules also do not include repair and maintenance activities at manufacturing facilities as affected operations for air pollution control purposes, such as area source regulations for Nine Metal Fabrication and Finishing source categories (40 CFR part 63, subpart XXXXXX).

In addition, we are clarifying the descriptions of standards and management practices to better reflect the industry and manufacturer's equipment operations. For example, in the standards and compliance requirements, the addition of wetting agents/fume suppressants to tank baths has been clarified to reflect manufacturers' specifications, including flexibility to the operator that may be provided in the specifications. We intended the requirements of the final rule to be consistent with practices conducted based on manufacturers' specifications. Definitions of operations and procedures were also corrected in order to clarify the scope of the rule, the affected processes, and make applicability and other definitions consistent within the rule. These are listed in the following paragraphs.

We are clarifying that certain operations were not part of the original urban air toxics inventory on which this source category was defined and, therefore, we are revising the regulatory text to clarify that these operations are not subject to the requirements of the rule, as described below.

We are clarifying that the affected operations do not include plating or polishing performed to repair equipment or for maintenance purposes. The final rule excluded repair operations performed with thermal spraying as a result of comments received after proposal. In the time period since the rule was promulgated, we learned that plating or coating was also done for repair purposes, usually with small paint brushes and not in tanks. Therefore, we have amended the rule to add ''any'' plating and polishing process as the types of repair processes which are not affected operations under the rule. This change is based on the original urban air toxics inventory on which the source category was defined.

We are clarifying that certain operations were intended to be part of the affected sources and, therefore, we are revising the regulatory text to clarify that these operations are subject to the requirements of the rule, as described below.

We are clarifying that thermal spraying is another process to which the requirements for dry mechanical polishing apply. The final rule stated that dry mechanical polishing was an affected process if performed after plating. Since thermal spraying is one of the plating and polishing processes used to plate metal onto surfaces, we intended to include dry mechanical polishing done after thermal spraying as an affected process, and are making that clarification in today's action.

We are also clarifying that language of the rule to reflect the fact that flame spraying, which is a different name for thermal spraying, is subject to the rule. We are also clarifying that thermal and flame spraying operations do not include spray painting at ambient temperatures. After promulgation of the final rule, we learned that flame spraying is another name for thermal spraying—both terms are used for an identical process. However, spray coating at room temperatures is another process entirely, with a different definition, and is already addressed under subpart HHHHHH of this part, which regulates spray painting and other similar spray coating processes performed without the use of heat or flame. Therefore, spray coating at room temperatures is not subject to the requirements of this rule.

In addition, we are making clarifications to the rule language to better describe certain rule requirements which have been misinterpreted since the time of promulgation. The following is a discussion of these items.

First, we are clarifying that although Material Safety Data Sheets (MSDS) may be used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process, MSDS are not required to be used and are not the only method to determine HAP content. Other methods include laboratory analysis or engineering estimate of the HAP content of the bath, which are also reliable indicators of HAP content. The reference to MSDS in the final rule was only intended to provide an example of readily available resources to determine the HAP content of materials used in plating and polishing and was not meant to be the exclusive method to be used. Therefore, we are amending the rule to clarify that these other methods are acceptable.

We are also clarifying that for plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish rather than the HAP content of the individual components, to better reflect the fact that HAP emissions are based on the concentration of HAP within the tank. The most important concentration of plating HAP as it relates to the potential for HAP to be emitted is the concentration of HAP within the tank. We received information after promulgation of the final rule demonstrating that measuring the concentration of pure ingredients in the pure form (''as added'') could misrepresent the HAP concentration within the tank for some platers. Therefore, in today's action we are amending the rule to also allow measurement of HAP content of the final solution within the tank to determine applicability to the rule. We are retaining the ''as added'' measurement point since this point provides a conservative value because the materials added will only be more dilute once they are placed in the tank, and because it may be easier to perform the measurement ''as added'' for some plating operations. Facilities may still use the HAP concentrations specified in the individual MSDS for each ingredient used in the tank to establish the total HAP content of the tank for the purposes of this rule.

We are clarifying that when facilities add wetting agent/fume suppressant to replenish the plating baths, they can add these ingredients in amounts such that the bath contents are returned to that of the original make-up of the bath and do not have to add the full amounts originally added on startup. Adding more wetting agent/fume suppressant than needed to return the bath contents to their original make-up will not necessarily reduce HAP emissions. This revision ensures that the concentration of the wetting agent/fume suppressant does not change. The wetting agent/fume suppressant concentration in the tank is one of the key features for proper plating as well as for emission control. However, adding more wetting agent/fume suppressant beyond the amount recommended by the manufacturer is not necessarily better for pollution control and in many cases could be detrimental to the plating process itself. Therefore, we are permitting the addition of smaller amounts of wetting agent than that original amount as long as the amount added brings the tank back to its original concentration of wetting agent/fume suppressant. We intended in the final rule that platers

maintain the concentration of wetting agent/fume suppressant as recommended by the manufacturer and this change today enables platers to add only the amount that is needed to maintain the correct concentration.

We are also clarifying the definition of startup of an affected plating or polishing bath to explain that startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time. The chemical make-up of the original tank bath is the key point in time at which startup of the tanks occurs, rather than the existence of electricity supplied to the tanks for heating, agitation, or other physical conditions. Therefore, we are revising the definition of the startup of tanks to specify that this startup is when the tank baths are originally created. If startup begins at the time electricity is delivered to the tank, this could lead to facilities refraining from turning off the power when the tanks are not in use to avoid startup requirements when the plating is resumed. This practice could lead to wasting of energy and possibly increases in air pollution as tanks remain heated or agitated for hours longer than needed. Therefore, by defining tank startup as the time of the original bath make-up, we are encouraging facilities to shut down the electricity to their tanks when not in use and eliminating unnecessary startup procedures to comply with the rule.

We are also adding ''cartridge'' filters as a type of filter that can fulfill the control requirement in all instances where the general category of ''filters'' are specified. Cartridge filters are a specific type of filter used in air pollution control that give the same performance as fabric filters in terms of particle control in, for example, dry mechanical polishing or thermal spraying. Cartridge filters are more compact than fabric filters and more useful in industrial machinery settings where space is limited. Therefore, we have added cartridge filters as a type of filter permitted as a control device under the rule.

We are also clarifying that the rule requirement to maintain and record the minimum amount of time that tank covers must be used is only applicable when covers are the sole method of complying with the GACT operating standards, and these requirements for recordkeeping do not apply when another method is used to comply with the GACT operating standards, or when covers are used as a management practice. The use of covers is a method of complying with the GACT operating standards for electroplating processes as well as for complying with the management practices for both electrolytic and electroless plating, and polishing operations. When covers are used as a management practice, there are no specific requirements under the rule for the amount of time or the amount of surface area coverage as there is for the GACT operating standards. Covers used for complying with the GACT operating standard are more critical to emission control and therefore need to have stricter time requirements, such as 95 percent of the plating time or, in the case of continuous plating, cover 75 percent of the surface area. Covers used as a management practice are used on processes where either control of emissions is not critical to pollution control due to low emissions, or where other methods of control are being used to meet the GACT requirements, such as wetting agents/fume suppressant. In many cases, covers are used as a management practice where the process does not allow the covers to be used for as much time or over as much surface area as the operating standards in the rule. Factors that can interfere in the use of covers for as long as needed to meet the GACT operating standard are, for example, processes where workers have to remove and load parts frequently. In this situation, another method of achieving the operating standard is used, such as wetting agents/fume suppressant. The use of covers for any part of the plating time, regardless of other controls or practices employed, is a management strategy for pollution prevention and is encouraged.

Therefore, we are clarifying that when covers are used as a management practice, facilities are not required to document the time the covers are in place in the same way as covers used for meeting the GACT operating standard. We are amending the rule today to make this point clear and to encourage pollution prevention achieved by the use of covers, in general.

We are also clarifying that limiting and recording the time of plating to fulfill the flash or short-term requirements in the rule is only applicable when facilities comply with the GACT standard of this subpart solely by limiting the plating time of the affected tank, and do not apply to plating done for short periods of time in general, where other methods are used to comply with the GACT standards. Tanks that perform plating for short periods of time, in general, are not required to use the GACT regulatory option of limiting and recording plating time to comply with the rule if another method of compliance is used.

Similar to the discussion above on the use of covers, if facilities with short-term plating use another method to comply with the rule, we encourage them to still keep their plating times short and, hence, minimize potential pollution. Therefore, we are clarifying that documentation is not required for the practice of short-term plating, in general, when another method of compliance with the rule is used.

We are clarifying that if a new affected source is started after July 1, 2008, an Initial Notification must be submitted upon startup. The final rule erroneously required the Initial Notification for new sources to be submitted after 120 days of startup of the process (§ 63.11509(a)(3) ''What are my notification, reporting, and recordkeeping requirements?'') as a result of a typographical error. Since we generally require initial notification for new sources upon startup, we have corrected the submittal date of the initial notification.

We are clarifying that if a facility makes a change to the methods of compliance with the standard, an amended Notification of Compliance Status should be submitted within 30 days of the change. Note that this does not apply to any changes in the listed management practices. This requirement is intended to ensure that the EPA is aware of changes in the process or controls that may affect HAP emissions and compliance with the rule. This notification can be in the form of the annual report already required under the rule. This additional requirement includes mailing the annual report (the preparation of which is already required), and should not occur for many facilities in the industry and will not be required frequently. Therefore we estimate that the burden of this additional requirement is negligible. Electronic notifications may be allowable by the air permit authorities or EPA regional representative in some states or regions.

We are also clarifying that the management practices apply to all affected plating and polishing operations, as practicable, not just affected plating tanks. In the final rule, the management practices were intended to apply to all plating and polishing operations under this subpart and this amendment corrects that applicability. The word ''plating'' as used in the promulgated rule was intended to be a short phrase to represent all plating and polishing operations. Although most of the management practices do apply to

tanks, there are others that apply to all plating and polishing sources, including: ''general good housekeeping,'' such as regular sweeping or vacuuming, if needed; ''periodic washdowns,'' as practicable; and ''regular inspections'' to identify leaks and other opportunities for pollution prevention. Therefore, we are clarifying that management practices apply to all plating and polishing operations.

We have also made corrections that were primarily typographical in nature, and added definitions for terms used in the rule that were not defined to clarify our original intent in the rule. The revised or added definitions to the rule are as follows (in alphabetical order): ''bath,'' ''bench-scale plating or polishing,'' ''conversion coatings,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''maintenance,'' ''major facility,'' ''metal coating operation,'' ''metal HAP content,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process tanks,'' ''repair,'' ''startup of the tank bath,'' and ''thermal spraying.''

Finally, we are updating Table 1 of the rule titled ''Applicability of General Provisions to Plating and Polishing Area Sources,'' to reflect changes in the General Provisions that have occurred since the rule was originally promulgated. Specifically, the previous provisions relating to startup, shutdown, and malfunctions have been removed, in light of the DC Circuit's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008). The emissions standards for plating and polishing area sources are expressed as management practices, and these management practice requirements can be met at all times. Therefore, exempting sources from meeting these standards during periods of startup, shutdown, and malfunction is not appropriate.

VII. Statutory and Executive Order Reviews

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'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

This action is responsive to Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821, January 21, 2011), which directs each Federal agency to review existing significant regulations to determine whether any regulations should be modified, streamlined, expanded, or repealed so as to make the EPA's regulatory program more effective or less burdensome in achieving the regulatory objectives. This amended rule increases flexibility and freedom of choice for the regulated community, and makes the rule more clear and intelligible which, as a result, reduces burden.

B. Paperwork Reduction Act

This action does not impose any new information collection burden therefore no new information collection request has been prepared. These final amendments clarify that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Also, several technical corrections and clarifications that do not make material changes in the rule's requirements have been made to the rule text. No new burden is associated with these requirements because the burden was included in the approved information request (ICR) for the existing rule. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart WWWWWW) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has been assigned OMB control number control number 2060–0623. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For the purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 500 employees for NAICS code 332813); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that the small entities in this area source category will not incur any adverse impacts because this action makes only technical corrections and clarifications that increase flexibility and does not create any new requirements or burdens. No costs are associated with these amendments to the NESHAP.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or Tribal governments or the private sector. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector. The term ''enforceable duty'' does not include duties and conditions in voluntary Federal contracts for goods and services. Thus, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule 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, as specified in Executive Order 13132. The final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on state and local governments. Thus, Executive Order 13132 does not apply to the final rule.

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

This final action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). This final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on Tribal governments. They also have no direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for plating and polishing area sources which is based solely on technology performance.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the agency does not use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this final rule do not change the level of control required by the NESHAP.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing these final rule amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on October 19, 2011.

List of Subjects in 40 CFR Part 63

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

Dated: September 12, 2011.

Lisa P. Jackson,

Administrator.

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

PART 63—[AMENDED]

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

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

■ 2. Section 63.11504 is amended as follows:
■ a. By revising paragraph (a)(1)(iv); and
■ b. By revising paragraph (a)(2) to read as follows:

§ 63.11504 Am I subject to this subpart?

(a) * * *

(1) * * *

(iv) Dry mechanical polishing of finished metals and formed products after plating or thermal spraying.

* * * * *

(2) A plating or polishing facility is an area source of HAP emissions, where an area source is any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more and any combination of HAP at a rate of 22.68 Mg/yr (25 tpy) or more.

* * * * *

■ 3. Section 63.11505 is amended as follows:
■ a. By revising paragraph (d)(4);
■ b. By revising paragraph (d)(5); and
■ c. By revising paragraph (d)(6) to read as follows:

§ 63.11505 What parts of my plant does this subpart cover?

* * * * *

(d) * * *

(4) Plating, polishing, coating, or thermal spraying conducted to repair surfaces or equipment.

(5) Dry mechanical polishing conducted to restore the original finish to a surface.

(6) Any plating or polishing process that uses process materials that contain

cadmium, chromium, lead, or nickel (as the metal) in amounts less than 0.1 percent by weight, or that contain manganese in amounts less than 1.0 percent by weight (as the metal), as used. Information used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process may include information reported on the Material Safety Data Sheet for the material, but is not required. For plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish.

* * * * *

■ 4. Section 63.11507 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text;

■ b. By revising paragraph (a)(1)(ii);

■ c. By revising paragraph (d)(1);

■ d. By revising paragraph (e);

■ e. By revising paragraph (f)(1); and

■ f. By revising paragraph (f)(2) to read as follows:

§ 63.11507 What are my standards and management practices?

(a) * * *

(1) You must use a wetting agent/fume suppressant in the bath of the affected tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' and according to paragraphs (a)(1)(i) through (iii) of this section.

* * * * *

(ii) You must add wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the bath, as in the original make-up of the bath, or in proportions such that the bath contents are returned to that of the original make-up of the bath.

(d) * * *

(1) You must measure and record the pH of the bath upon startup of the bath, as defined in § 63.11511, ''What definitions apply to this subpart?'' No additional pH measurements are required.

* * * * *

(e) If you own or operate an affected new or existing dry mechanical polishing machine that emits one or more of the plating and polishing metal HAP, you must operate a capture system that captures particulate matter (PM) emissions from the dry mechanical polishing process and transports the emissions to a cartridge, fabric, or high efficiency particulate air (HEPA) filter, according to paragraphs (e)(1) and (2) of this section.

* * * * *

(f) * * *

(1) For existing permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to a water curtain, fabric filter, cartridge, or HEPA filter, according to paragraphs (f)(1)(i) and (ii) of this section.

* * * * *

(2) For new permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to a fabric, cartridge, or HEPA filter, according to paragraphs (f)(2)(i) and (ii) of this section.

* * * * *

■ 5. Section 63.11508 is amended as follows:

■ a. By revising paragraph (c)(3) introductory text;

■ b. By revising paragraph (c)(4) introductory text;

■ c. By revising paragraph (c)(5) introductory text;

■ d. By revising paragraph (c)(6) introductory text;

■ e. By revising paragraph (c)(7)(i);

■ f. By revising paragraph (c)(9)(i);

■ g. By revising paragraph (c)(10)(i);

■ h. By revising paragraph (d)(3)(ii) introductory text;

■ i. By revising paragraph (d)(3)(ii)(A);

■ j. By revising paragraph (d)(5) introductory text;

■ k. By revising paragraph (d)(6) introductory text; and

■ l. By revising paragraph (d)(7) introductory text to read as follows:

§ 63.11508 What are my compliance requirements?

* * * * *

(c) * * *

(3) If you own or operate an affected batch electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and which is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you use a tank cover, as defined in § 63.11511, to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(3)(i) through (iv) of this section.

* * * * *

(4) If you own or operate an affected continuous electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you cover the tank surface to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(4)(i) through (iv) of this section.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must demonstrate initial compliance according to paragraphs (c)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate initial compliance according to paragraphs (c)(6)(i) through (iv) of this section.

* * * * *

(7) * * *

(i) You must report in your Notification of Compliance Status the pH of the bath solution that was measured at startup, as defined in § 63.11511, according to the requirements of § 63.11507(d)(1).

* * * * *

(9) * * *

(i) You must install a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a water curtain, or a cartridge, fabric, or HEPA filter.

* * * * *

(10) * * *

(i) You must install and operate a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a cartridge, fabric, or HEPA filter.

* * * * *

(d) * * *

(3) * * *

(ii) For tanks where the wetting agent/fume suppressant is a separate ingredient from the other tank additives, you must demonstrate continuous compliance according to paragraphs (d)(3)(ii) (A) and (B) this section.

(A) You must add wetting agent/fume suppressant in proportion to the other

bath chemistry ingredients that are added to replenish the tank bath, as in the original make-up of the tank; or in proportion such that the bath is brought back to the original make-up of the tank.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time for the affected tank, you must demonstrate continuous compliance according to paragraphs (d)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected batch electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' or a flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), and you comply with § 11507(a), (b) or (c) of this section by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(6)(i) through (iii) of this section.

* * * * *

(7) If you own or operate an affected continuous electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(7)(i) and (ii) of this section.

* * * * *

■ 6. Section 63.11509 is amended as follows:

■ a. By revising paragraph (a)(4);

■ b. By revising paragraph (b) introductory text;

■ c. By adding new paragraph (b)(3);

■ d. By revising paragraph (c)(3);

■ e. By revising paragraph (c)(4);

■ f. By revising paragraph (c)(5); and

■ g. By revising paragraph (c)(6) to read as follows:

§ 63.11509 What are my notification, reporting, and recordkeeping requirements?

(a) * * *

(4) If you startup your new affected source after July 1, 2008, you must submit an Initial Notification when you become subject to this subpart.

(b) If you own or operate an affected source, you must submit a Notification of Compliance Status in accordance with paragraphs (b)(1) through (3) of this section.

* * * * *

(3) If a facility makes a change to any items in (b)(2)(i), iii, and (iv) of this section that does not result in a deviation, an amended Notification of Compliance Status should be submitted within 30 days of the change.

(c) * * *

(3) If you own or operate an affected flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must state in your annual compliance certification that you have limited short-term or flash electroplating to no more than 1 cumulative hour per day or 3 cumulative minutes per hour of plating time.

(4) If you own or operate an affected batch electrolytic process tank that is subject to the requirements of § 63.11507(a) or a flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have operated the tank with the cover in place at least 95 percent of the electrolytic process time.

(5) If you own or operate an affected continuous electrolytic process tank that is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have covered at least 75 percent of the surface area of the tank during all periods of electrolytic process operation.

(6) If you own or operate an affected tank or other affected plating and polishing operation that is subject to the management practices specified in § 63.11507(g), ''What are my standards and management practices?'' you must state in your annual compliance certification that you have implemented the applicable management practices, as practicable.

* * * * *

■ 7. Section 63.11511 is amended by:

■ a. Adding, in alphabetical order, new definitions of ''bench-scale,'' ''conversion coatings,'' ''filters,'' ''major facility for HAP,'' ''maintenance,'' ''metal HAP content of material used in plating and polishing,'' ''repair,'' and ''startup of the tank bath''; and

■ b. Revising the definitions of ''bath,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''metal coating operation,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process tanks,'' and ''thermal spraying.''

§ 63.11511 What definitions apply to this subpart?

* * * * *

Bath means the liquid contents of a tank, as defined in this section, which is used for electroplating, electroforming, electropolishing, or other metal coating processes at a plating and polishing facility.

Bench-scale means any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.

* * * * *

Conversion coatings are coatings that form a hard metal finish on an object when the object is submerged in a tank bath or solution that contains the conversion coatings. Conversion coatings for the purposes of this rule include coatings composed of chromium, as well as the other plating and polishing metal HAP, where no electrical current is used.

* * * * *

Dry mechanical polishing means a process used for removing defects from and smoothing the surface of finished metals and formed products after plating or thermal spraying with any of the plating and polishing metal HAP, as defined in this section, using automatic or manually-operated machines that have hard-faced abrasive wheels or belts and where no liquids or fluids are used to trap the removed metal particles. The affected process does not include polishing with use of pastes, liquids, lubricants, or any other added materials.

* * * * *

Electropolishing means an electrolytic process performed in a tank after plating that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a work piece is attached to an anode immersed in a bath, and the metal substrate is dissolved electrolytically, thereby removing the surface contaminant;

electropolishing is also called electrolytic polishing. For the purposes of this subpart, electropolishing does not include bench-scale operations.

Fabric filter means a type of control device used for collecting PM by filtering a process exhaust stream through a filter or filter media. A fabric filter is also known as a baghouse.

Filters, for the purposes of this part, include cartridge, fabric, or HEPA filters, as defined in this section.

Flash electroplating means an electrolytic process performed in a tank that uses or emits any of the plating and polishing metal HAP, as defined in this section, and that is used no more than 3 cumulative minutes per hour or no more than 1 cumulative hour per day.

* * * * *

Maintenance is any process at a plating and polishing facility that is performed to keep the process equipment or the facility operating properly and is not performed on items to be sold as products.

Major facility for HAP is any facility that emits greater than 10 tpy of any HAP, or that emits a combined total of all HAP of over 25 tpy, where the HAP used to determine the total facility emissions are not restricted to only plating and polishing metal HAP or from only plating and polishing operations.

* * * * *

Metal coating operation means any process performed either in a tank that contains liquids or as part of a thermal spraying operation, that applies one or more plating and polishing metal HAP, as defined in this section, to the surface of parts and products used in manufacturing. These processes include but are not limited to: non-chromium electroplating; electroforming; electropolishing; non-electrolytic metal coating processes, such as chromate conversion coating, electroless nickel plating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and thermal or flame spraying.

Metal HAP content of material used in plating and polishing is the HAP content as determined from an analysis or engineering estimate of the HAP contents of the tank bath or solution, in the case of plating, metal coating, or electropolishing; or the HAP content of the metal coating being applied in the case of thermal spraying. Safety data sheet (SDS) information may be used in lieu of testing or engineering estimates but is not required to be used.

* * * * *

Non-electrolytic plating means a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy. Non-electrolytic plating is also called electroless plating. Examples include chromate conversion coating, nickel acetate sealing, electroless nickel plating, sodium dichromate sealing, and manganese phosphate coating.

* * * * *

Plating and polishing facility means a facility engaged in one or more of the following processes that uses or emits any of the plating and polishing metal HAP, as defined in this section: electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating); electroless plating; other non-electrolytic metal coating processes performed in a tank, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; thermal spraying; and the dry mechanical polishing of finished metals and formed products after plating or thermal spraying. Plating is performed in a tank or thermally sprayed so that a metal coating is irreversibly applied to an object. Plating and polishing does not include any bench-scale processes.

Plating and polishing metal HAP means any compound of any of the following metals: cadmium, chromium, lead, manganese, and nickel, or any of these metals in the elemental form, with the exception of lead. Any material that does not contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), and does not contain manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

Plating and polishing process tanks means any tank in which a process is performed at an affected plating and polishing facility that uses or has the potential to emit any of the plating and polishing metal HAP, as defined in this section. The processes performed in plating and polishing tanks include the following: electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating) performed in a tank; electroless plating; and non-electrolytic metal coating processes, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and electropolishing. This term does not include tanks containing solutions that are used to clean, rinse or wash parts prior to placing the parts in a plating and polishing process tank, or subsequent to removing the parts from a plating and polishing process tank. This term also does not include any bench-scale operations.

* * * * *

Repair means any process used to return a finished object or tool back to its original function or shape.

* * * * *

Startup of the tank bath is when the components or relative proportions of the various components in the bath have been altered from the most recent operating period. Startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time.

* * * * *

Thermal spraying (also referred to as metal spraying or flame spraying) is a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a metallic coating is applied by projecting heated, molten, or semi-molten metal particles onto a substrate. Commonly-used thermal spraying methods include high velocity oxy-fuel (HVOF) spraying, flame spraying, electric arc spraying, plasma arc spraying, and detonation gun spraying. This operation does not include spray painting at ambient temperatures.

■ 8. Table 1 to Subart WWWWWW of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART WWWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PLATING AND POLISHING AREA SOURCES

Citation	Subject
63.1[1]	Applicability.
63.2	Definitions.
63.3	Units and abbreviations.

TABLE 1 TO SUBPART WWWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PLATING AND POLISHING AREA SOURCES—Continued

Citation	Subject
63.4	Prohibited activities.
63.6(a), (b)(1)–(b)(5), (c)(1), (c)(2), (c)(5), and (j)	Compliance with standards and maintenance requirements.
63.10(a), (b)(1), (b)(2)(i)–(iii), (xiv), (b)(3), (d)(1), (f)	Recordkeeping and reporting.
63.12	State authority and delegations.
63.13	Addresses of State air pollution control agencies and EPA regional offices.
63.14	Incorporation by reference.
63.15	Availability of information and confidentiality.

[1] Section 63.11505(e), "What parts of my plant does this subpart cover?", exempts affected sources from the obligation to obtain title V operating permits.

[FR Doc. 2011–23806 Filed 9–16–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 95–91; FCC 10–82]

Establishment of Rules and Policies for the Satellite Digital Audio Radio Service in the 2310–2360 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rules; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements contained in the Satellite Digital Audio Radio Service (SDARS) Second Report and Order. The information collection requirements were approved on July 5, 2011 by OMB.

DATES: The amendments to 47 CFR 25.144(e)(3), 25.144(e)(8), 25.144(e)(9), 25.263(b) and 25.263(c), published at 75 FR 45058, August 2, 2010, are effective on September 19, 2011.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams on (202) 418–2918 or via e-mail to: *cathy.williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that on July 5, 2011 OMB approved, for a period of three years, the information collection requirements contained in 47 CFR 25.144 and 25.263. The Commission publishes this document to announce the effective date of these rule sections. *See* Satellite Digital Audio Radio Service (SDARS) Second Report and Order (FCC 10–82; IB Docket No. 95–91), 75 FR 45058, August 2, 2010.

Synopsis

As required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on July 5, 2011, for the information collection requirement contained in 47 CFR 25.144 and 25.263. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number.

The OMB Control Number is 3060–1153 and the total annual reporting burdens for respondents for this information collection are as follows:

Title: Satellite Digital Audio Radio Service (SDARS).

Form Number: Not applicable.

Type of Review: New collection.

OMB Control Number: 3060–1153.

OMB Approval Date: 07/05/2011.

OMB Expiration Date: 07/31/2014.

Respondents: Business or other for-profit entities.

Number of Respondents: 1 respondent; 74 responses.

Estimated Time per Response: 4–12 hours

Frequency of Response: On occasion filing requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of SDARS applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience, and necessity. The statutory authority for this information collection is contained in Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, and 47 U.S.C. 154, 301, 302a, 303, 307, 309, and 332.

Total Annual Burden: 400 hours.

Annual Cost Burden: $171,320.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On May 20, 2010, the Commission adopted and released a Second Report and Order titled, ''In the Matter of Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band,'' IB Docket No. 95–91, GEN Docket No. 90–357, RM–8610, 25 FCC Rcd 11710 (2010). In this Second Report and Order, the Commission adopted a framework for the regulation of SDARS terrestrial repeaters. First, the Commission adopted technical rules governing the operation of SDARS repeaters that will not unduly constrain the deployment of SDARS repeaters, but that will, at the same time, limit the potential for harmful interference to adjacent spectrum users in the Wireless Communications Service (WCS). Second, the Commission adopted a blanket-licensing regime to facilitate the flexible deployment of SDARS repeaters, which are necessary to ensure a high quality service to the public, while ensuring that such repeater operations comply with the Commission's rules regarding RF safety, antenna marking and lighting, and equipment authorization, as well as with international agreements. The Commission adopted a site-by-site licensing regime for repeater operations that did not qualify for blanket licensing. Finally, the Commission addressed other issues regarding SDARS repeater operations that are not associated with the interference concerns raised by WCS licensees. Specifically, the Commission adopted rules to ensure that SDARS repeaters remain truly complementary to a satellite-based service, and that SDARS