MON Compliance Issues Startup, Shutdown and Malfunction Reporting Recordkeeping Rick Bidstrup 202-974-1760 rbidstrup@cgsh.com

General Compliance Considerations

- Plans and Reports Critical to Delineate Scope of MON Compliance Program
- Accuracy and Completeness Essential to Minimizing Exposure to Enforcement
- Certifications
- Timeliness
- Confidential Business Information

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Startup, Shutdown And Malfunctions 63.6(e), 63.2525(j)

- Key Definitions
- •General Duty
- SSM Plan Content and Procedures
- •SSM Reporting and Recordkeeping

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Definition of "Startup"

- Setting in operation of a continuous operation for any purpose
- •First time a new or reconstructed batch operation begins production
- First time newly added equipment is put into operation
- •First time a new product or process is run

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Definition of "Startup" for Batch Operations

- •First time equipment is put into operation at start of campaign if steps differ from startup of standard or nonstandard batch
 - "Startup encompasses actions to bring a campaign on-line, regardless of whether previous campaigns of that product have been run, or after a shutdown for maintenance"
- Routine action to put equipment into operation as part of a batch within a campaign is not startup

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Definition of "Shutdown"

- Cessation of a continuous operation for any purpose
- Cessation of batch operation if steps differ from standard or nonstandard batch
- Emptying and degassing storage vessels
- Routine action to cease batch operations at end of campaign or between batches in campaign is not shutdown

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Definition of "Malfunction"

- Sudden, infrequent and not reasonably preventable failure
 - -Process
 - -Process equipment
 - -Air pollution control or monitoring equipment
- Failures caused "in part" by poor maintenance or careless operations are not malfunctions

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General Duty During SSM Periods – 63.6(e)(1)(i), 68 FR 32596 (May 30, 2003)

- *Reduce emissions "to the greatest extent" consistent with safety and good air pollution control practices
- Compliance with MACT standard sufficient but not necessary – "compliance with a properly drafted SSM plan" satisfies the general duty
- EPA: "a source will not be considered to have satisfied the duty to minimize emissions merely because it complied with an inadequate SSMP"
- •EPA: General duty requires "review [of SSMPs] on an ongoing basis and . . . appropriate improvements to ensure that excess emissions are avoided"

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SSM Plan Content

- •Implement general duty
- Describe processes for operating and maintaining source during SSM periods
- Correct malfunctions as soon as practicable
- •Carveouts
 - Not required to include Group 2 emission points unless used in emissions average
 - For equipment leaks, SSM Plan need cover control devices only

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SSM Plan Procedures

- Develop by compliance date
- •Revise as appropriate by source or as required by EPA
- Revise within 45 days of an event qualifying as a malfunction but not included in the SSM plan
- Maintain on site with copies retained for five-year period
- Submit to EPA promptly on request

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SSM Plan Revisions

- •Revisions to be reported in semiannual compliance report
- Revisions altering scope of activities constituting SSM or modifying applicability of a MON requirement takes effect only following written notice

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Reporting During SSM Periods – 63.2520(e)(4), (e)(5)(iii)

- Reporting to be made in semiannual compliance report -- immediate SSM reporting not required
- *Applicable to SSM periods during which excess emissions occur
- •Records that SSM Plan procedures were followed
- •Documentation of actions inconsistent with SSM plan
- Brief description of each malfunction

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Recordkeeping of SSM Periods – 63.998(c)(1)(ii)(D)-(G), 63.998(d)(3)

- •Records of each SSM period during which excess emissions occurred
 - -Occurrence and duration
 - -Records that SSM plan was followed
 - Documentation of actions inconsistent with SSM plan
- Records of CMS SSM events specifying absence of excess emissions

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MON Reporting and Recordkeeping

- •Key Notifications and Reports
- Other Reports
- Recordkeeping
- •Waiver of Recordkeeping/Reporting 63.10(b)(2)(xii), 63.10(f)
 - Written application containing information considered useful by owner/operator
 - Required showing of compliance or suitable progress
 - Recordkeeping supporting waiver may be required

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Key Notifications and Reports

- •Initial Notification
 - -March 2004
- Precompliance Report
 - -May 2006
- Notification of Compliance Status Report
 - -April 2007
- Semi-Annual Compliance Report
 - -August 2007
- Other Notifications and Reports
 - -60 Days Advance Notice

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Initial Notification -63.9(b), 2515(b)

- Purpose
 - Alert appropriate agencies of existence of affected source and anticipated future compliance actions
- Content
 - Brief description of the nature, size, design and method of operation of the source
 - -Identification of the types of emission points
 - -Identification of the types of HAPs emitted
- Timina
- -120 Days after Effective Date or 120 Days after New Source Becomes Subject to MON

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Precompliance Report – 63.2520(c)

- Approval requests; EPA to act within 90 days
- Due at least 6 months prior to compliance date, or for new sources, with the application for approval of construction or reconstruction

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Content of Precompliance Report

- Operating limits for parameters other than those specified in the MON
- Setting monitoring parameters outside those established during performance test (63.2460(c)(3))
 - Test conditions, data and calculations used to develop the limit
 - Description of why limit indicates proper operation of control device
- •Use of P2 alternative
- -P2 demonstration plan under 63.2495(c)(1)

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Content of Precompliance Report

- *Use of engineering analysis to calculate uncontrolled emissions under 63.1257(d)(2)(ii)
 - -Used to meet other regulatory obligations
 - No affect on applicability or compliance determinations
- Periodic verification for control devices handling less than 1 tpy of HAP emissions
 - Supporting rationale for compliance verification in absence of continuous measurement under 63.2460(c)(5)
 - -Operating limits

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Notification of Compliance Status Report -63.9(h), 63.10(d)(2), 63.2520(d)

- Purpose
 - Comprehensively describe the affected source and the strategy being used to comply
 - Provide mechanism for establishing and reporting compliance obligations
 - NOTE: NOCS including the results of nonapplicability determinations is required for all affected facilities, even if no sources are subject to controls (63.2520(d)(2)(i))
- Timing
 - -Due by 150 days after compliance date

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Content of NOCS

- Threshold Determinations
 - Results of applicability determinations, emission calculations, or analyses used to identify/quantify HAP emissions
 - Identification of overlapping MACT requirements and source's election for emission points
 - Specified records relating to process units used to create a PUG and calculations of initial primary product of PUG (63.2535(I)(1)-(3))
 - Identification of storage tanks complying via the vapor balancing alternative

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Content of NOCS

- Monitoring Information Relating to Initial Compliance
 - -Emissions profiles
 - Performance tests (including description of sampling/analysis and QA/QC procedures)
 - -Engineering analyses
 - -Design evaluations
 - Other calculations or measures to demonstrate initial compliance
 - Descriptions of monitoring devices and frequencies and operating limits (with supporting data) established during initial compliance demonstrations

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Content of NOCS

- Process Information
 - -All operating scenarios
 - Descriptions of worst case operating and/or testing conditions for control devices
 - Specified information on processes subject to the work practice standard for equipment leaks (63.1039(a)(1)-(3))

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Semi-Annual Compliance Report – 63.2520(b), (e)

- Statement by responsible corporate official certifying to accuracy of the report
- Timing
 - Coverage Period of First Report: Compliance Date to Whichever of June 30 or December 31 Occurs 6-12 Months After Compliance Date
- -Report Due Two Months Later (August 31 or February 28)
- -Subsequent Reports Due Semi-Annually
- -Permitting Authority Dates Govern if Different

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Content of Compliance Report Information on Deviations -Statement that there was no failure to meet emissions limits, operating limits, and work practice standards (including during SSM periods) -Non-CMS deviations: (1) total operating time of affected source; (2) number, duration, cause and corrective action; (3) operating logs for days of deviation, except for deviations of work practice

-CMS deviations: detailed information specified in 63.2520(e)(5)(iii)(A)-(L), including duration, identification of HAPs, and operating logs for days of deviation

standards for equipment leaks

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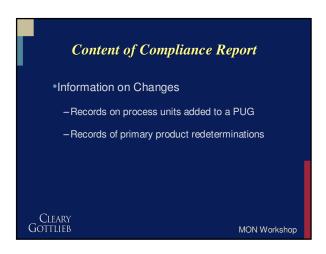
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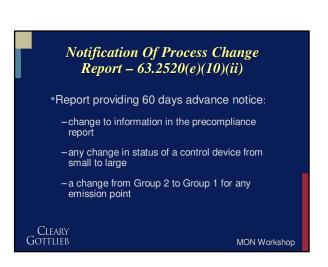
Content of Compliance Report Information on Changes -New operating scenarios -Revised operating scenarios for existing processes -Include verification that -(1) operating conditions for any associated control or treatment device have not been exceeded and -(2) required calculations have been performed

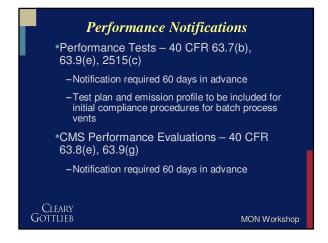
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Content of Compliance Report Information on Changes Process change (ie, a change not within the scope of an existing operating scenario or within a range of conditions specified in a standard batch) -description of the process change -revisions to information in original notification of compliance status report -detailed information on addition of processes or equipment -NOTE: Immediate reporting not required CLEARY GOTTLIEB



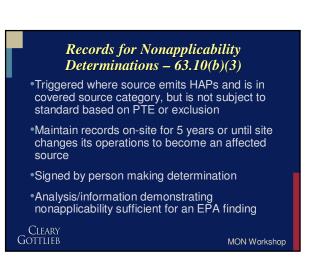
Content of Compliance Report Other Information -Reports of SSM during which excess emissions occurred -Statement that there were no out of control periods of the CEM -Reports of LDAR program -Results of tank and wastewater management unit inspections -Reports of CVS bypass and/or car seal breaks CLEARY GOTTLIEB MON Workshop







General Recordkeeping Requirements – 63.10(b)(1) Maintain at least 5 years Maintain at least 2 years on site Option of computers or media May be physically located off-site (eg in a central server) provided that they are accessible on-site "Suitable and readily available for expeditious inspection and review" CLEARY GOTTLIEB MON Workshop



Documentation Supporting Initial
Notifications and Notifications of
Compliance Status – 63.10(b)(2)(xiv)

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Records of Each Operating Scenario - 63.2525(b)

- Process vents, wastewater POD, transfer racks and storage tanks (including those from other processes) simultaneously routed to the control device or treatment processes
- Applicable monitoring requirements and parametric levels assuring compliance
- Calculations/engineering analyses to demonstrate compliance

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Schedule or Log of Operating Scenarios - 63.2525(c)

•To be updated each time a different operating scenario is put into operation

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Records of Compliance Measurements – 63.10(b)(2)(vii)-(ix)

- *All required measurements needed to demonstrate compliance (including CMS data, results of performance tests, performance evaluations)
- Measurements necessary to determine conditions of performance tests, performance evaluations
- •CEMS data special provisions at 63.10(b)(2)(vii)(A)-(B)

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Group 1 Batch Process Vent Recordkeeping - 63.2525(d)

- •Where some vents are controlled to less than the percent reduction requirement:
 - Records of whether each bath was considered to be a standard batch
 - For nonstandard batches, the estimated controlled and uncontrolled emissions

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Group 2 Batch Process Vent Recordkeeping - 63.2525(e)

- •For purposes of Group 2 thresholds
 - Day each batch was completed and whether each batch was a standard batch
 - Estimated controlled and uncontrolled emissions for nonstandard batches
 - Records of daily 365-day rolling summations of emissions, calculated at least monthly
- No records required if notification of compliance status report documented that the MCPU does not process, use or produce HAP

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CMS Recordkeeping

- *Records of CPMS calibration checks and maintenance 63.998(c)(1)(ii)(A), 63.2450(k)(1), 63.2525(g)
- Records for CEMS 63.10(b)(2)(vi), (x), (xi), 63.2525(h)
 - Date and time that deviation started and stopped and whether it occurred during an SSM period
 - Period during which CEMS is malfunctioning or inoperative
 - CEMS calibration checks
 - Adjustments and maintenance performed on CEMS
 - Calculations for primary product determination and redetermination

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Equipment-Specific Recordkeeping •Records of maintenance of air pollution control equipment - 63.10(b)(2)(iii) •Records of each time a safety device is opened to avoid unsafe conditions - 63.2525(f) Bag leak detectors for fabric filters -63.2525(k) -Date and time of bag leak detection alarms -Brief explanation of cause and corrective action

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Records Relating to PUGs -63.2525(i) Descriptions of MCPU and process units in initial PUG and any added process units •Rationale for inclusion in initial PUG identification of overlapping equipment Calculations used to determine primary product and any redetermination CLEARY GOTTLIEB

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Records Relating to Alternative Standard of 63.2505 -63.10(b)(2)(xiii), 63.10(c)(1)-(6), (9)-(15), 63.10(e)(1), 63.10(e)(2)(i) Emissions levels •CMS data and operational information CLEARY GOTTLIEB MON Workshop

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