equipment, the recharging of equipment in batch operation, and transitional conditions due to changes in product for flexible operation units.

State means all non-Federal authorities, including local agencies, interstate associations, and statewide programs, that have delegated authority to implement the provisions of this part; the referencing subparts; and/or the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

Steam jet ejector means a steam nozzle that discharges a high-velocity jet across a suction chamber that is connected to the equipment to be evacuated.

Stuffing box pressure means the fluid (liquid or gas) pressure inside the casing or housing of a piece of equipment, on the process side of the inboard seal.

Surge control vessel means feed drums, recycle drums, and intermediate vessels. Surge control vessels are used within a process unit (as defined in the specific subpart that references this part) when in-process storage, mixing, or management of flow rates or volumes is needed to assist in production of a product.

Temperature monitoring device means a unit of equipment used to monitor temperature and having a minimum accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±1.2 degrees Celsius (°C), whichever is greater.

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established under 40 CFR part 70 or 71 to implement title V of the Act (42 U.S.C. 7661).

Total organic compounds or *TOC* means those compounds measured according to the procedures specified in §65.64(c) and §65.158(b)(3)(ii)(A), as applicable. Those compounds that the Administrator has determined do not contribute appreciably to the formation of ozone and that are specifically excluded from the definition of volatile organic compound at 40 CFR 51.100(s), as amended, are to be excluded for the purposes of measuring the hourly emission rate as required in §65.64(f) for process vents subject to subpart III, NNN, or RRR of part 60 of this chapter.

Total resource effectiveness index value or *TRE index value* means a calculated value used to determine whether control is required for a process vent. It is based on process vent flow rate, emission rate of regulated material, net heating value, and corrosion properties (halogenated compound content), as quantified by the equations given under §65.64(h).

Vapor balancing system means a piping system that is designed to collect regulated material vapors displaced from tank trucks or railcars during loading and to route the collected regulated material vapors to the storage vessel from which the liquid being loaded originated, or to another storage vessel connected by a common header; or to compress and route to a process or a fuel gas system the collected regulated material vapors.

Vapor-mounted seal means a continuous seal that is mounted so that there is a vapor space between the stored liquid and the bottom of the seal.

Visible emission means the observation of an emission of opacity or optical density above the threshold of vision.

§ 65.3 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* (1) Except as provided in paragraph (a)(2) of this section, the emission standards and established parameter ranges of this part shall apply at all times except during periods of startup, shutdown (as defined in §65.2), malfunction, or nonoperation of the regulated source (or specific portion thereof) resulting in cessation of the emissions to which this part applies. However, if a startup, shutdown, malfunction, or period of nonoperation of one portion of a regulated source does not affect the ability of a particular emission point to comply with the specific provisions to which it is subject, then that emission point shall still be required to comply with the applicable provisions of this part during the startup, shutdown, malfunction, or period of nonoperation.

For example, if there is an over pressure in the reactor area, a storage vessel in a chemical manufacturing process unit would still be required to be controlled in accordance with subpart C of this part. Similarly, the degassing of a storage vessel would not affect the ability of a process vent to meet the requirements of subpart D or G of this part.

(2) Sections 65.106 through 65.118 shall apply at all times except during periods of startup or shutdown (as defined in §65.2), malfunction, process unit shutdown (as defined in §65.2), or nonoperation of the regulated source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which subpart F of this part applies.

(3) During startups, shutdowns, and malfunctions when the emission standards of this part do not apply pursuant to paragraphs (a)(1) and (2) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize emissions in excess of those that would have occurred if there were no startup, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this part. The measures to be taken shall be identified in the applicable startup, shutdown, and malfunction plan and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the regulated source. Backup control devices are not required but may be used if available. This paragraph (a)(3) does not apply to Group 2A or Group 2B process vents.

(4) Malfunctions shall be corrected as soon as practical after their occurrence in accordance with the startup, shutdown, and malfunction plan required in §65.6(a). This paragraph (a)(4) does not apply to Group 2A or Group 2B process vents.

(5) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable independent of emissions limitations or other requirements in relevant standards.

(b) *Compliance determination procedures.*—(1) *Parameter monitoring: Compliance with operating conditions.* The parameter monitoring data for emission points that are required to perform continuous monitoring shall be used to determine compliance with the required operating conditions for the monitored control devices or recovery devices. For each excursion, except for excused excursions and as provided for in paragraph (b)(2) of this section, the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions. Excused excursions are provided for in §65.156(d)(2).

(2) *Parameter monitoring: Excursions.* If the conditions of paragraph (b)(2)(i) or (ii) of this section are met, an excursion is not a violation and, in cases where continuous monitoring is required, the excursion does not count toward the number of excused excursions. Nothing in this paragraph (b)(2) shall be construed to allow or excuse a monitoring parameter excursion caused by any activity that violates other applicable provisions of this part.

(i) During periods of startup, shutdown, or malfunction (and the source is operated during such periods in accordance with the source's startup, shutdown, and malfunction plan as required by §65.6(a)), a monitoring parameter is outside its established range or monitoring data cannot be collected; or

(ii) During periods of nonoperation of the regulated source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(3) *Operation and maintenance procedures.* Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan, if applicable, required in §65.6(a), as applicable), review of operation and maintenance records, inspection of the regulated source, and alternatives approved as specified in §65.7.

(4) *Emissions standards.* Paragraphs (b)(4)(i) and (ii) of this section shall

govern the use of data, tests, and requirements to determine compliance with emissions standards. Paragraphs (b)(4)(i) and (ii) do not apply to Group 2A or Group 2B process vents. Compliance with design, equipment, work practice, and operational standards, including those for equipment leaks, shall be determined according to paragraph (b)(5) of this section.

(i) *Performance test.* The Administrator will determine compliance with emission standards of this part based on the results of performance tests conducted according to the procedures specified in subpart G of this part, unless otherwise specified in a subpart of this part.

(ii) *Operation and maintenance requirements.* The Administrator will determine compliance with emission standards of this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in subparts of this part.

(5) *Design, equipment, work practice, or operational standards.* Paragraphs (b)(5)(i) and (ii) do not apply to Group 2A or Group 2B process vents.

(i) *Records and inspection.* The Administrator will determine compliance with design, equipment, work practice, or operational standards by review of records, inspection of the regulated source, and other procedures specified in this part.

(ii) *Operation and maintenance.* The Administrator will determine compliance with design, equipment, work practice, or operational standards by evaluation of an owner or operator's conformance with operation and maintenance requirements as specified in paragraph (a) of this section, in other subparts of this part, and in applicable provisions of § 65.6(b).

(c) *Finding of compliance.* The Administrator will make a finding concerning a regulated source's compliance with an emission standard, design standard, work practice, operational standard or operating and maintenance requirement as specified in paragraphs (a) and (b) of this section upon obtaining all the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable) and any information available to the Administrator needed to determine whether proper operation and maintenance practices are being used. Standards in this part and methods of determining compliance are given in metric units followed by the equivalents in English units. The Administrator will make findings of compliance with the standards of this part using metric units.

(d) *Compliance times.* All terms that define a period of time for completion of required tasks (for example, weekly, monthly, quarterly, annually) unless specified otherwise in the section or paragraph that imposes the requirement refer to the standard calendar periods.

(1) Notwithstanding time periods specified for completion of required tasks, time periods may be changed by mutual agreement between the owner or operator and the Administrator as specified in § 65.5(h)(3) (for example, a period could begin on the compliance date or another date, rather than on the first day of the standard calendar period). For each time period that is changed by agreement, the revised period applies until it is changed. A new request is not necessary for each recurring period.

(2) When the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in the following paragraphs, as appropriate:

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be performed each quarter, or at least 3 months for tasks that must be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance deadline occurs.

(3) In all instances where a provision requires completion of a task during

each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period provided the task is conducted at a reasonable interval after completion of the task during the previous period.

§65.4 Recordkeeping.

(a) *Maintaining notifications, records, and reports.* Except as provided in paragraph (b) of this section, the owner or operator of each regulated source subject to this part shall keep copies of notifications, reports, and records required by this part for the length of time specified in the following, as applicable:

(1) If an owner or operator is required to obtain or operate a regulated source under a title V permit, then all applicable notifications, reports, and records for that regulated source shall be maintained for at least 5 years, except for the records required in §65.47(b) for storage vessel capacity, §65.104(e)(2) for valve and connector monitoring, and §65.163(d)(1) for closed vent system design specifications.

(2) If an owner or operator is not required to obtain or operate a regulated source under a title V permit, then all notifications, reports, and records for that regulated source required by this part shall be maintained for at least 2 years, except for the records required in §65.47(b) for storage vessel capacity, §65.104(e)(2) for valve and connector monitoring, and §65.163(d)(1) for closed vent system design specifications.

(b) *Copies of reports.* If an owner or operator submits reports to the applicable EPA Regional Office, the owner or operator is not required to maintain copies of those reports. If the EPA Regional Office has waived the requirement of §65.5(g)(1) for submittal of copies of reports, the owner or operator is not required to maintain copies of the waived reports. Paragraph (b) of this section applies only to reports and not the underlying records which must be maintained as specified throughout this part.

(c) *Availability of records.* All applicable records shall be maintained in such a manner that they can be readily accessed and are suitable for inspection as specified in the following:

(1) Except as specified in paragraph (c)(2) of this section, records of the most recent 2 years shall be retained onsite or shall be accessible to an inspector while onsite. The records of the remaining 3 years, where required, may be retained offsite.

(2) For sources referenced to this part from 40 CFR part 63, subpart G or H, the most recent 6 months of records shall be retained on site or shall be accessible to an inspector while onsite from a central location by computer or other means that provides access within 2 hours after a request. The remaining 4 and one-half years of records, where required, may be retained offsite.

(3) Records specified in paragraph (c)(1) or (2) of this section may be maintained in hard copy or computer-readable form including, but not limited to, on paper, microfilm, computer, computer disk, magnetic tape, or microfiche.

§65.5 Reporting requirements.

(a) *Required reports.* Each owner or operator of a regulated source subject to this subpart shall submit the following reports, as applicable:

(1) A Notification of Initial Startup described in paragraph (b) of this section.

(2) An Initial Notification for Part 65 Applicability described in paragraph (c) of this section.

(3) An Initial Compliance Status Report described in paragraph (d) of this section.

(4) Periodic reports described in paragraph (e) of this section.

(5) Other reports shall be submitted as specified elsewhere in this part.

(6) Startup, Shutdown, and Malfunction Reports described in §65.6(c).

(b) *Notification of Initial Startup.* (1) *Contents.* Any owner or operator of a regulated source which elects to comply with this part at initial startup shall send the Administrator written notification of the actual date of initial startup of a regulated source.

(2) *Due date.* The notification of the actual date of initial startup shall be postmarked within 15 days after such date.