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EPA's Woeful Deadline Performance Raises Questions about Agency Competence, Climate Change Regulations, "Sue and Settle"

By William Yeatman*

The Environmental Protection Agency's (EPA) record of compliance with statutory deadlines established for three core Clean Air Act programs raises serious questions regarding the agency's competence and discretion.

Since 1993, 98 percent of EPA regulations (196 out of 200) pursuant to these programs were promulgated late, by an average of 2,072 days after their respective statutorily defined deadlines. Currently, 65 percent of the EPA's statutorily defined responsibilities (212 of 322 possible) are past due by an average of 2,147 days. In addition, the results demonstrate the insidiousness of a practice known as "sue and settle," whereby the EPA advances the agenda of environmental advocacy groups. This study reviews the EPA's performance since 1993 in meeting statutory deadlines codified in three core Clean Air Act regulatory programs:

- (1) Responsibility to review National Ambient Air Quality Standards under Clean Air Act Section 109(d)(1)¹ (see Appendix 1);
- (2) Responsibilities to promulgate and review National Emissions Standards for Hazardous Air Pollutants under Clean Air Act Sections 112(d)(4), 112(d)(5), 112(d)(6), and 112(f)(2)² (see Appendix 2); and
- (3) Responsibility to review New Source Performance Standards under Clean Air Act Section 111(b)(1)(B)³ (see Appendix 3).

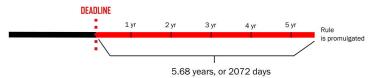
Since 1993, the EPA has promulgated 200 final regulations pursuant to these three programs. Of these 200 regulations, only four—a mere 2 percent—were promulgated on or before their statutorily defined deadlines. On average, the late regulations were promulgated 2,072 days after the statutory deadline. The problem persists. Currently, 65 percent of the EPA's statutorily defined responsibilities for these programs—212 of 322 possible—are past-due. The average outstanding deadline is 2,147 days late as of July 6, 2013

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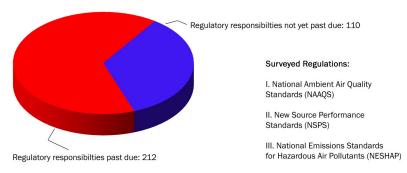
Of the 200 surveyed Clean Air Act Regulations promulgated by EPA since 1993, **only 2 percent were on time.**

Surveyed Regulations: I. National Ambient Air Quality Standards (NAAQS) II. New Source Performance Standards (NSPS) III. National Emissions Standards for Hazardous Air Pollutants (NESHAP) Regulations promulgated past deadlines: 196

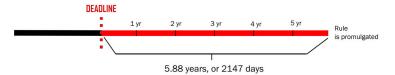
On average, regulations promulgated late since 1993 were promulgated over 5 years after their deadlines.



Of EPA's 312 current statutorily-defined responsibilities surveyed 65 percent are past deadline.



On average, the EPA's current statutory responsibilities that are past deadline and still outstanding are over 7 years late.



This matters for three important reasons:

It calls into question the EPA's competence. These three programs comprise the core of the regulatory regime established by the Clean Air Act. For more than two decades, the EPA has failed to meet its congressionally delegated responsibilities for these foundational Clean Air Act programs by a wide margin. This has been the case under both Republican and Democratic administrations. Why has this failure been allowed to persist?

It calls into question EPA's discretionary exercises of power. Since 2009, despite the EPA's persistent failure to meet *non-discretionary* deadlines—that is, deadlines that have been codified in the statute—the agency has taken on enormous new *discretionary* regulatory responsibilities pursuant to the Clean Air Act as a result of its unilateral decision to regulate greenhouse gases as pollutants.⁴ Indeed, in every Unified Regulatory Agenda since 2010, EPA has listed climate change policy as its first "guiding priority." Why is the EPA giving priority to duties chosen by unelected bureaucrats, rather than responsibilities assigned by elected representatives?

It exposes the insidiousness of "sue and settle." "Sue and settle" refers to friendly lawsuits filed by environmental advocacy organizations against the EPA that lead to collusive policymaking. The basis of the preponderance of such lawsuits is the agency's alleged failure to meet a particular Clean Air Act deadline. Instead of litigating, the agency agrees to enter directly into settlement negotiations with these groups in order to establish when the agency will meet its past due responsibilities.

Some commentators have questioned whether sue and settle causes any harm by asking: What could be inappropriate about negotiating a Clean Air Act deadline?⁷ Here is an answer: If the EPA is out of compliance with virtually all its deadlines—as shown by this report—then clearly the agency has limited resources relative to its responsibilities. As a result, establishing *any* deadline determines how the EPA deploys its limited resources, which is no different than rendering policy. This is troubling.

Sweetheart lawsuits are enabling secret policy negotiations between unelected bureaucrats and environmental lawyers. If the EPA wants to give priority to its many outstanding responsibilities, it should do so in cooperation with the states, which have to actually implement these regulations, rather than the likes of environmental special interests like the Sierra Club, Natural Resources Defense Council, or Center for Biological Diversity.⁸

Notes

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¹ National Ambient Air Quality Standards (NAAQS) are the foundational regulatory program of the Clean Air Act. There are six NAAQS—for carbon monoxide, nitrogen dioxide, lead, particulate matter, ozone, and sulfur dioxide—established at levels requisite to protect public health, with an adequate margin of safety. Section 109(d)(1) of the Clean Air Act requires the EPA administrator to complete a thorough review of National Ambient Air Quality Standards, and revise them if necessary, every five years.

² The National Emissions Standards for Hazardous Air Pollutants (NESHAP) in its current form was amended to the Clean Air Act in 1990. The 1990 Clean Air Act Amendments established a thorough schedule by which the program was to be implemented. Not a single NESHAP was promulgated on time pursuant to section 112(d)(4) criteria for major and area sources and section 112(d)(5) alternative criteria for area sources. For all major sources, the EPA is

required by Clean Air Act section 112(f)(2) to conduct a residual risk review within eight years of the promulgation of the NESHAP. For both major and area sources, section 112(d)(6) requires the agency to review the NESHAP standards every eight years.

http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201010/Statement_2000.html; EPA Unified Agenda 2011, http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201110/Statement_2000.html; EPA Unified Agenda 2012: http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201210/Statement_2000.html.

http://switchboard.nrdc.org/blogs/jwalke/the office of house majority.html.

³ The New Source Performance Standards (NSPS) program establishes emissions limits for new, major stationary sources. Pursuant to Clean Air Act section 111(b)(1)(B), EPA is required to review NSPS every 8 years.

⁴ See Marlo Lewis, "EPA Runs Amuck," Green Watch, August 2011, http://cei.org/other-studies/epa-runs-amuck ⁵ EPA Unified Agenda 2010,

⁶ For more on sue and settle, see *Regulating Behind Closed Doors*, U.S. Chamber of Commerce, June 2013, http://www.uschamber.com/reports/sue-and-settle-regulating-behind-closed-doors; See also, William Yeatman, EPA's New Regulatory Front: Regional Haze and the Takeover of State Programs, U.S. Chamber of Commerce June 2012, http://cei.org/studies/epas-new-regulatory-front.

⁷ See John Walke, Cantor Report Attacks Environmental Law Enforcement, Falls Flat with Baseless Conspiracy

⁷ See John Walke, Cantor Report Attacks Environmental Law Enforcement, Falls Flat with Baseless Conspiracy Theory," NRDC Switchboard, October 10, 2012,

⁸ The EPA has actually litigated to prevent state and local officials from intervening in negotiations to establish deadlines pursuant to a Clean Air Act lawsuit. See section two of William Yeatman, "Environmental Protection Agency's Assault on State Sovereignty," American Legislative Exchange Council report, July 2013, http://cei.org/studies/us-environmental-protection-agencys-assault-state-sovereignty.

APPENDIX 1

Color Key

Yellow cells are actions promulgated past deadline
Green cells are outstanding deadlines

	NAAQS	109(d)(1) Review	
NAAQS Pollutant	Promulgated	Promulgated	Time Overdue
Carbon Monoxide	4/30/1971	9/13/1985	
		8/1/1994	1418
		8/31/2011	4413
Lead	10/5/1978	11/12/2008	9170 N.B. Lead NAAQS review is not sheduled to be completed on time.
Nitrogen dioxide	4/30/1971	6/19/1985	Review began in 2012
		10/8/1996	2303
		2/9/2010	3046
Ozone	4/30/1971	2/8/1979	
		3/9/1993	3317
		7/18/1997	
		3/27/2008	2079
Particulate Matter	4/30/1971	7/1/1987	
		7/18/1997	1843
		10/17/2006	1552
		1/15/2013	456
Sulfur dioxide	4/30/1971	9/14/1973	
		5/22/1996	6460
		6/22/2010	3318

APPENDIX 2

	ns Standards for Hazardous Air Pollutants (NESHAP) Deadline Review Color Key											
	Yellow cells are actions promulgated past deadline											
	Brown cells are actions promulgated on time Green cells are source categories with an outstanding 112(d)(6) deadline									-		
	Blue cells are source categories with outstanding 112(d)(6) and 112(f)(2) deadlines	*****										
												Duration Current
						112(f)(2) Residua				Past-Due Duration	Next 112(d)(6)	Regulation Is Past
CFR cite	Regulated Industry (# in a parenthetical indicates more than one source category is regulated)	NESHAP Promulgated	NESHAP Deadline	Past-Due Duration of NESHAP (Days)	112(f)(2) Residual Risk Review Promulgated	Risk Review Deadline	of 112(f)(2) Review (Days)	112(d)(6) Review Promulgated	112(d)(6) Review Deadline	of 112(d)(6) Review (Days)	Review Deadline (if outstanding)	Due (Days as of 7/6/2013)
40 CFR 63 Subpart F-I	Synthetic Organic Chemical Manufacturing Industry	4/22/1994	11/15/1992 ¹	523	12/21/2006	4/22/2002	1704	12/21/2006	4/22/2002	1704	outstanding)	7/0/2013/
40 CFR 63 Subpart J	Polyvinyl Chloride and Copolymers Production	4/17/2012	11/15/2000 ²	4171	12/21/2000	4/22/2002	1,04	12/21/2000	4/22/2002	1704		
40 CFR 63 Subpart L	Coke Oven Batteries	10/27/1993	12/31/1992 ³	300	4/15/2005	10/27/2001	1266	4/15/2005	10/27/2001	1266	4/15/2013	82
40 CFR 63 Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities	9/22/1993	11/15/1992 ¹	311	7/27/2006	9/22/2001	1769	7/27/2006	9/22/2001	1769		
40 CFR 63 Subpart N	Chromium Emissions from Hard and Decorative Chromium Anodizing Tanks	1/25/1995	11/15/1992 ¹	801	9/19/2012	1/25/2003	3525	9/19/2012	1/25/2003	3525		
40 CFR 63 Subpart O	Ethylene Oxide Emissions Standards for Sterilization Facilities	12/6/1994	11/15/1992 ¹	751	4/7/2006	12/6/2002	1218	4/7/2006	12/6/2002	1218		
40 CFR 63 Subpart Q	Industrial Process Cooling Towers	9/8/1994	11/15/1992 ¹	622	4/7/2006	9/8/2002	1307	4/7/2006	9/8/2002	1307		
40 CFR 63 Subpart R	Gasoline Distribution Facilities (2)	12/14/1994	11/15/19921	759	4/6/2006	12/14/2002	1209	4/6/2006	12/14/2002	1209		
40 CFR 63 Subpart S	Pulp and Paper Industry	4/15/1998	11/15/1992	1977	9/11/2012	4/15/2006	2341	9/11/2012	4/15/2006	2341		
40 CFR 63 Subpart T	Halogenated Solvent Cleaning	12/2/1994	11/15/19921	747	5/3/2007	12/2/2002	1613	5/3/2007	12/2/2002	1613		
40 CFR 63 Subpart U	Group 1 Polymers and Resins (5)	9/5/1996	11/15/19921	1390	4/21/2011	9/5/2004	2419	4/21/2011	9/5/2004	2419		
40 CFR 63 Subpart U 40 CFR 63 Subpart W	Group 1 Polymers and Resins (4) Epoxy Resins Production and Non-Nylon Polyamides Production (2)	9/5/1996	11/15/1992 ¹ 11/15/1992 ¹	1390 1209	12/16/2008 12/16/2008	9/5/2004 3/8/2003	1563 2110	12/16/2008 12/16/2008	9/5/2004 3/8/2003	1563 2110		
40 CFR 63 Subpart W 40 CFR 63 Subpart X	Epoxy Resins Production and Non-Nylon Polyamides Production (2) Secondary Lead Smelting	3/8/1995 6/13/1997	11/15/1992 ¹	1209 1671	1/5/2012	3/8/2003 6/13/2005	2110	1/5/2012	3/8/2003 6/13/2005	2110		
40 CFR 63 Subpart X	Marine Tank Vessel Loading Operations	9/19/1995	11/15/1992 11/15/1992 ¹	1038	4/21/2011	9/19/2003	2771	4/21/2011	9/19/2003	2771		
40 CFR 63 Subpart 4 40 CFR 63 Subpart AA	Phospheric Acid Manufacturing Plants	6/10/1999	11/15/1992 11/15/1997 ⁴	572	4/21/2011	3/13/2003	2//1	4/21/2011	3/13/2003	2//1		2218
40 CFR 63 Subpart BB	Phosphate Fertilizers Production Plant	6/10/1999	11/15/1997 ⁴	572						1		2218
40 CFR 63 Subpart CC	Petroleum Refineries	8/18/1995	11/15/1992 ¹	1006						1		3610
40 CFR 63 Subpart DD	Off-Site Waste and Recovery Operations	7/1/1996	11/15/1992 ¹	1324								3292
40 CFR 63 Subpart EE	Magnetic Tape Manufacturing Operations	12/15/1994	11/15/1992 ¹	760	4/7/2006	12/15/2002	1209	4/7/2006	12/15/2002	1209		
40 CFR 63 Subpart GG	Aerospace Manufacturing and Rework Facilities	9/1/1995	11/15/1992 ¹	1020								3596
40 CFR 63 Subpart HH	Oil and Natural Gas Production	6/17/1999	11/15/1997 ⁴	579	8/16/2012	6/17/2007	1887	8/16/2012	6/17/2007	1887		
40 CFR 63 Subpart II	Ship Building and Ship Repair	12/15/1995	11/15/1992 ¹	1125	11/21/2011	12/15/2003	2898	11/21/2011	12/15/2003	2898		
40 CFR 63 Subpart JJ	Wood Furniture Manufacturing Operations	12/7/1995	11/15/1992 ¹	1117	11/21/2011	12/7/2003	2906	11/21/2011	12/7/2003	2906		
40 CFR 63 Subpart KK	Printing and Publishing	5/30/1996	11/15/1992 ¹	1292	4/21/2011	5/30/2004	2517	4/21/2011	5/30/2004	2517		
40 CFR 63 Subpart LL	Primary Aluminum Reduction Plants	10/7/1997	11/15/19921	1787			1					2829
40 CFR 63 Subpart MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semiche	1/12/2001	11/15/19974	1144								1636
40 CFR 63 Subpart YY	Genric MACT (4)	6/29/1999	11/15/19974	591						-		2199
40 CFR 63 Subpart YY	Genric MACT (4) Steel PicklingHCL Process Facilities and Hydrochloric Acid Regeneration Plants	7/12/2002 6/22/1999	11/15/1997 ⁴ 11/15/1997 ⁴	1700 584	9/19/2012	6/22/2007	1916	9/19/2012	6/22/2007	1916		1090
40 CFR 63 Subpart CCC 40 CFR 63 Subpart DDD	Mineral Wool Production	6/2/1999	11/15/1997 11/15/1994 ⁵	1659	Proposed 11/25/2011	6/22/2007	1910	Proposed 11/25/2011	6/22/2007	1916		2227
40 CFR 63 Subpart EEE	Hazardous Waste Combustors (3)	9/19/1999	11/15/1997 ⁴	673	110poseu 11/25/2011			110poseu 11/25/2011				2209
40 CFR 63 Subpart EEE	Hazardous Waste Combustors (2)	10/12/2005	11/15/2000 ²	1792								
40 CFR 63 Subpart GGG	Pharmaceutical Production	9/21/1998	11/15/1992 ¹	2136	4/21/2011	9/21/2006	1673	4/21/2011	9/21/2006	1673		
40 CFR 63 Subpart HHH	Natural Gas Transmission and Storage Facilities	6/17/1999	11/15/19974	579	8/16/2012	6/17/2007	1887	8/16/2012	6/17/2007	1887		
40 CFR Subpart III	Flexible Polyurethane Foam Production	10/7/1998	11/15/1992 ¹	2152								2464
40 CFR Subpart JJJ	Group IV Polymers and Resins (7)	9/12/1996	11/15/1992 ¹	1397	Proposed 1/9/2012			Propsed 1/9/2012				3291
40 CFR 63 Subpart LLL	Portland Cement Manufacturing Industry	6/14/1999	11/15/19974	576								2214
40 CFR 63 Subpart MMM	Pesticide Active Ingredient Production	6/3/1999	11/15/1994 ⁵	1661	Proposed 1/9/2012			Proposed 1/9/2012				2225
40 CFR 63 Subpart NNN	Wool Fiberglass Manufacturing	6/14/1999	11/15/19974	576	Proposed 11/25/2011			Proposed 11/25/2011				2214
40 CFR Subpart 63 000	Manufacture of Amino/Phenolic Resins	1/20/2000	11/15/19974	796						-		1994
40 CFR 63 Subpart PPP	Polyether Polyols Production	6/1/1999	11/15/19945	1659	Proposed 1/9/2012			Proposed 1/9/2012				2227
40 CFR 63 Subpart QQQ 40 CFR 63 Subpart RRR	Primary Copper Smelting Secondary Aluminum Production	6/12/2002 3/23/2000	11/15/1997 ⁴ 11/15/1997 ⁴	1670 859	Proposed 2/14/2012			Proposed 2/14/2012		-		1120 1931
40 CFR 63 Subpart TTT	Primary Lead Smelting	6/4/1999	11/15/1997 ⁴	566	3/23/2011	6/4/2007	1388	3/23/2011	6/4/2007	1388		1931
40 CFR 63 Subpart UUU	Petroleum Refineries: Cataclytic Cracking Units, Catalytic Reforming Units, and Sulfur Re	4/11/2002	11/15/1997 ⁴	1608	3/23/2011	0/4/2007	1300	3/23/2011	0/4/2007	1300		1182
40 CFR 63 Subpart VVV	Publicly Owned Treatment Works	10/26/1999	11/15/1997 ⁴	710						1		2080
40 CFR 63 Subpart XXX	Ferroalloys Production: Ferromanganese and Silicomaganese	5/20/1999	11/15/1992 ¹	2377						1		2239
40 CFR 63 Subpart AAAA	Municipal Solid Waste Landfills	1/16/2003	11/15/1997 ⁴	1888								902
40 CFR 63 Subpart CCCC	Manufacturing of Nutritional Yeast	5/21/2001	11/15/1997 ⁴	1283								1507
40 CFR 63 Subpart DDDD	Plywood and Composite Wood Products	7/30/2004	11/15/2000 ²	1353								341
40 CFR 63 Subpart EEEE	Organic Liquids Distribution (Non-Gasoline)	2/3/2004	11/15/2000 ²	1175								519
40 CFR 63 Subpart FFFF	Miscellaneous Organic Chemical Manufacturing	11/10/2003	11/15/2000 ²	1090						-		604
40 CFR 63 Subpart GGGG	Solvent Extraction for Vegetable Oil Production	4/12/2001	11/15/19974	1244						ļ		1546
40 CFR 63 Subpart HHHH	Wet-formed Firberglass Mat Production	4/11/2002	11/15/19974	1608			-			-		1182
40 CFR 63 Subpart IIII	Surface Coating of Automobiles and Light-Duty Trucks	4/26/2004	11/15/2000 ²	1258						-		436
40 CFR 63 Subpart JJJJ	Paper and Other Web Coating	12/4/2002	11/15/19974	1854	-			-		-		945
40 CFR 63 Subpart KKKK	Surface Coating of Metal Cans Surface Coating of Missellaneous Metal Parts and Products	11/13/2003	11/15/2000 ²	1093		-		-		1	-	601
40 CFR 63 Subpart MMMM 40 CFR 63 Subpart NNNN	Surface Coating of Miscellaneous Metal Parts and Products Surface Coating of Large Appliances	1/2/2004 7/23/2002	11/15/2000 ² 11/15/1997 ⁴	1143 1711						1	-	551 1079
40 CFR 63 Subpart NNNN 40 CFR 63 Subpart 0000	Printing, Coating, and Dyeing of Frabrics and Other Textiles	5/29/2003	11/15/1997 11/15/2000 ²	925						+		769
40 CFR 63 Subpart PPPP	Surface Coating of Plastic Parts and Products	4/19/2004	11/15/2000 ²	1251								443
40 CFR 63 Subpart QQQQ	Surface Coating of Wood Building Products	5/28/2003	11/15/2000 ²	924								770
40 CFR 63 Subpart RRRR	Surface Coating of Metal Furniture	5/23/2003	11/15/2000 ²	919						†		770
40 CFR 63 Subpart SSSS	Surface Coating of Metal Coil	6/10/2002	11/15/1997 ⁴	1688						1		1122
40 CFR 63 Subpart TTTT	Leather Finishing Operations	2/27/2002	11/15/19974	1565								1225

40 CFR 63 Subpart UUUU	Cellulose Product Manufacturing	6/11/2002	11/15/1997 ⁴	1669								1121
40 CFR 63 Subpart VVVV	Boat Manufacturing	8/22/2001	11/15/19974	1376								807
40 CFR 63 Subpart WWWW	Reinforced Plastic Composites Production	4/21/2003	11/15/2000 ²	887								807
40 CFR 63 Subpart XXXX	Rubber Tire Manufacturing	7/9/2002	11/15/1997 ⁴	1697						<u> </u>		1414
40 CFR 63 Subpart YYYY	Stationary Combustion Turbines	3/5/2004	11/15/2000 ²	1206								488
										-		
40 CFR 63 Subpart ZZZZ	Stationary Reciprocating Internal Combustion Engines	6/15/2004 RICE engine	11/15/2000 ²	1308						ļ		386
40 CFR 63 Subpart ZZZZ	Stationary Reciprocating Internal Combustion Engines	1/18/2008 RICE engine	11/15/2000 ²	2620				ļ		ļ		
40 CFR 63 Subpart ZZZZ	Stationary Reciprocating Internal Combustion Engines	3/3/2010 RICE engines	11/15/2000 ²	3395								
40 CFR 63 Subpart AAAAA	Lime Manufacturing Plants	1/5/2004	11/15/2000 ²	1146								548
40 CFR 63 Subpart BBBBB	Semiconductor Manufacturing	5/22/2003	11/15/2000 ²	918								776
40 CFR 63 Subpart CCCCC	Coke Ovens: Pushing, Quenching, and Battery Stacks	4/13/2003	11/15/19974	1975								815
40 CFR 63 Subpart DDDDD	Industrial, Commercial, and Institutional Boilers and Process Heaters	3/21/2011	11/15/2000 ²	3778								1
40 CFR 63 Subpart EEEEE	Iron and Steel Foundries	4/22/2004	11/15/2000 ²	1254						 		440
	- 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1					-	-					
40 CFR 63 Subpart FFFFF	Integrated Iron and Steel Factories	5/20/2003	11/15/2000 ²	916								778
40 CFR 63 Subpart GGGGG	Site Remediation	10/8/2003	11/15/2000 ²	1057								637
40 CFR 63 Subpart HHHHH	Miscellaneous Coating Manufacturing	12/11/2003	11/15/2000 ²	1121								573
40 CFR 63 Subpart IIIII	Mercury Cell Chlor-Alkali Plants	12/19/2003	11/15/2000 ²	1129								565
40 CFR 63 Subpart JJJJJ	Brick and Structural Clay Products Manufacturing	5/16/2003	11/15/2000 ²	912								782
40 CFR 63 Subpart KKKKK	Clay Ceramics Manufacturing	5/16/2003	11/15/2000 ²	912								782
40 CFR 63 Subpart LLLLL	Asphault Processing and Asphault Roofing Manufacturing	5/7/2003	11/15/2000 ²	903								791
				+						1	l	791 814
	Flexible Polyurethane Foam Fabrication Operations	4/14/2003	11/15/19974	1976						-		
40 CFR 63 Subpart NNNNN	Hydrochloric Acid Production	4/17/2003	11/15/2000 ²	883		-				-		817
40 CFR 63 Subpart PPPPP	Engine Test Cells/Stands	5/27/2003	11/15/2000 ²	923								771
40 CFR 63 Subpart QQQQQ	Friction Materials Manufacturing Facilities	10/18/2002	11/15/1997 ⁴	1798								992
40 CFR 63 Subpart SSSSS	Refractory Products Manufacturing	4/16/2003	11/15/19974	1978								816
40 CFR 63 Subpart TTTTT	Primary Magnesium Refining	10/10/2003	11/15/2000 ²	1059				[635
40 CFR 63 Subpart UUUUU	Coal- and Oil-Fired Electric Utility Steam Generating Units	2/16/2012	11/15/2000 ²	4110					İ	1	İ	
	Hospital Ethylene Oxide Sterilizers	12/28/2007	11/15/2000 ²	2599								
40 CFR 63 Subpart YYYYY	Area Sources: Electric Arc Steelmaking Facilities	12/28/2007	11/15/2000 ²	2599						ļ		
40 CFR 63 Subpart ZZZZZ	Iron and Steel Foundries Area Sources	1/2/2008	11/15/2000 ²	2604						<u> </u>		
40 CFR 63 Subpart BBBBBB	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	1/10/2008	11/15/2000 ²	2612								
40 CFR 63 Subpart CCCCCC	Gasoline Dispensing Facilities	1/10/2008	11/15/2000 ²	2612								
40 CFR 63 Subpart DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	1/23/2007	11/15/2000 ²	2260	4/17/2012							
40 CFR 63 Subpart EEEEEE	Primary Copper Smelting Area Sources	1/23/2007	11/15/2000 ²	2260								
40 CFR 63 Subpart FFFFFF	Secondary Copper Smelting Area Sources	1/23/2007	11/15/2000 ²	2260		<u> </u>				<u> </u>		
40 CFR 63 Subpart GGGGGG	Primary Nonferrous Metals Area SourcesZinc, Cadmium, and Beryllium	1/23/2007	11/15/2000 ²	2260		1						
				·		1		ļ		ļ		
40 CFR 63 Subpart HHHHHH	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	1/9/2008	11/15/2000 ²	2611						ļ		
40 CFR 63 Subpart JJJJJJ	Industrial, Commercial, and Institutional Boilers Area Sources	3/21/2011	11/15/2000 ²	3778								
40 CFR 63 Subpart LLLLLL	Acrylic and Modacrylic Fibers Production Area Sources	7/16/2007	11/15/2000 ²	2434								
40 CFR 63 Subpart MMMMMN	Carbon Black Production Area Sources	7/16/2007	11/15/2000 ²	2434								
40 CFR 63 Subpart NNNNNN	Chemical Manufacturing Area Sources: Chromium Compounds	7/16/2007	11/15/2000 ²	2434								
40 CFR 63 Subpart 000000	Flexible Polyurethane Foam Production and Fabrication Area Sources	7/16/2007	11/15/2000 ²	2434								
40 CFR 63 Subpart PPPPPP	Lead Acid Battery Manufacturing Area Sources	7/16/2007	11/15/2000 ²	2434								
40 CFR 63 Subpart QQQQQQ	Wood Preserving Area Sources	7/16/2007	11/15/2000 ²	2434				l		1		
				+				l		-	-	
40 CFR 63 Subpart RRRRRR	Clay Ceramics Manufacturing Area Sources	12/26/2007	11/15/2000 ²	2597		-				-	-	
40 CFR 63 Subpart SSSSSS	Glass Manufacturing Area Sources	12/26/2007	11/15/2000 ²	2597								
40 CFR 63 Subpart TTTTTT	Secondary Nonferrous Metals Processing Area Sources	12/26/2007	11/15/2000 ²	2597		1						
40 CFR 63 Subpart VVVVVV	Chemical Manufacturing Area Sources (9)	10/29/2009	11/15/2000 ²	2905				L				
	Plating and Polishing Operations	7/1/2008	11/15/2000 ²	2785								
40 CFR 63 Subpart XXXXXX	Area Source Standards for 9 Metal Fabrication and Finishing Source Categories (9)	7/23/2008	11/15/2000 ²	2807				1				
40 CFR 63 Subpart YYYYYY	Area sources: Ferroalloys and Production Facilities	12/23/2008	11/15/2000 ²	2960		1	1					
40 CFR 63 Subpart ZZZZZZ		6/25/2009	11/15/2000 11/15/2000 ²	3144			<u> </u>			1	1	1
	Area Soure Standards for Aluminum, Copper, and Other Nonferrous Foundries					-	-	-		1		
40 CFR 63 Subpart AAAAAAA	Area Source Standards for Asphalt Processing and Ashpalt Roofing Manufacturing	12/2/2009	11/15/2000 ²	3304						-		
40 CFR 63 Subpart BBBBBBB	Area Source Standards for Chemical Preparations Industry	12/30/2009	11/15/2000 ²	3332								
40 CFR 63 Subpart CCCCCCC	Area Source Standards: Paints and Allied Products Manufacturing	12/3/2009	11/15/2000 ²	3305				<u> </u>		ļ		
40 CFR 63 Subpart DDDDDDD	Area Source Standards: Prepared Feeds Manufacturing	1/5/2010	11/15/2000 ²	3336				L				
40 CFR 63 Subpart EEEEEEE	Area Source Standards: Gold Mine Ore Processing and Production Area Source Category		11/15/2000 ²	3746								
40 CFR 63 Subpart HHHHHHH	[Major Source Standards] Polyvinyl Chloride and Copolymers Production	4/17/2012	11/15/2000 ²	4171								
40 CFK 05 Subpart minimin [Major Source Standards] Polyviniyi Cilioride and Copolymers Production 4/17/2012		11,15,2000	-1/1				l		1			
Summary 164 source categories total current responsi		nilities: 248			-							
164 Source categories 164 Source categories 164 Source categories within deadline for next 112(d)(6) & 112(f)(2) review 164 Current responsib			İ									
78 source categories past deadline 112(d)(6) & 112(f)(2) review (tolar current responsible to the content responsible to the cont		past auc. 137			†	 						
1 source category past deadline 112(d)(6) review			<u> </u>		<u> </u>		<u> </u>					
	1 source category past deadline 112(d)(d) review											
Notes	¹ 11/15/1992 deadline established by 112(e)(1)(A)											
										1	-	
	2 11/15/2000 deadline established by 112(e)(1)(E)			<u> </u>		 	-	ļ		-		
	3 12/31/1992 deadline established by 112(d)(8)(A)			-						-		
	4 11/15/1997 deadline established by 112(e)(1)(D)											
	⁵ 11/15/1994 deadline established by 112(e)(1)(C)											

APPENDIX 3

Section 111(b)(1)(B) New Sou	rce Performance Standards Deadline Review				
	Color Key				
	Yellow cells are actions promulgated past deadline				
	Brown cells are actions promulgated on time				
	Green cells are source categories with an outstanding 112(d)(6) deadline				
					Duration Current
			111(b)(1)(B)		Regulation Is Past Du
CFR Cite	Industry	NSPS Promulgated	Review	Time Overdue (Days)	(Days as of 7/6/2013
40 CFR 60 Subpart Da	Electric Utility Steam Generating Units	6/11/1979	9/16/1998	4115	
			2/27/2006		
40 CFR 60 Db	Industrial-Commercial-Institutional Steam Generating Units	11/25/1986	9/16/1998	1391	
			2/27/2006		
40 CFR 60 Subpart Dc	Small Industrial-Commercial-Institutional Steam Generating Units	9/12/1990	2/27/2006	2725	
40 CFR 60 Subpart F	Portland Cement	12/23/1971	9/9/2010	5017	
40 CFR 60 Subpart G 40 CFR 60 Subpart H	Nitric Acid Plants Sulfuric Acid Production	12/23/1971 12/23/1971	8/14/2012 none since 1994	5660	4204
40 CFR 60 Subpart I	Hot Mix Asphalt Facilities	3/8/1974	none since 1994		4204
40 CFR 60 Subpart J	Petroleum Refineries	3/8/1974	6/24/2008	9605	4204
40 CFR 60 Subpart Ka	Storage Vessels for Which Contruction, Reconstruction, or Modification Commenced aft	4/4/1980	none since 1994		4204
40 CFR 60 Subpart Kb	Storage Vessels for Which Contruction, Reconstruction, or Modification Commenced aft	4/8/1987	none since 1994		4204
40 CFR 60 Subpart L	Standards of Performance for Secondary Lead Smelters	3/8/1974	none since 1994		4204
40 CFR 60 Subpart M	Secondary Brass and Bronze Production Plants	3/8/1974	none since 1994		4204
40 CFR 60 Subpart N	Primary Emissions from Basic Oxygen Process Furnaces for Which Construction Is Comm	3/8/1974	none since 1994		4204
40 CFR 60 Subpart Na	Secondary Emissions from Basic Oxygenn Process Steelmaking Facilities for Which Const	1/2/1986	none since 1994		4204
40 CFR 60 Subpart P	Primary Copper Smelters	1/15/1976	none since 1994		4204
40 CFR 60 Subpart Q	Primary Zinc Smelters	1/15/1976	none since 1994		4204
40 CFR 60 Subpart R	Primary Lead Smelters	1/15/1976	none since 1994		4204
40 CFR 60 Subpart S 40 CFR 60 Subpart T	Primary Aluminum Reduction Plants Phosphate Fertilizer Industry—Wet-Process Phosphoric Acid Plants	1/26/1976	none since 1994		4204
40 CFR 60 Subpart 1 40 CFR 60 Subpart U	Phosphate Fertilizer IndustryWet-Process Phosphoric Acid Plants Phosphate Fertilizer IndustrySuperphosphoric Acid Plants	8/6/1975 8/6/1975	none since 1994 none since 1994		4204 4204
40 CFR 60 Subpart V	Phosphate Fertilizer IndustrySuperphosphote Acid Flants Phosphate Fertilizer IndustryDiammonium Phosphate Plants	8/6/1975	none since 1994		4204
40 CFR 60 Subpart W	Phosphate Fertilizer Industry - Triple Superphosphate Plants	8/6/1975	none since 1994		4204
40 CFR 60 Subpart X	Phosphate Fertilizer IndustryGranular Triple Superphosphate Storage Facilities	8/6/1975	none since 1994		4204
40 CFR 60 Subpart Y	Coal Preparation and Processing Plants	1/15/1976	none since 1994		4204
40 CFR 60 Subpart Z	Ferroalloy Production Facilities	5/4/1976	none since 1994		4204
40 CFR 60 Subpart AA	Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974 and before Augus	9/23/1975	none since 1994		4204
40 CFR 60 Subpart Aaa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed	10/31/1984	none since 1994		4204
40 CFR 60 Subpart BB	Kraft Pulp Mills	2/23/1978	994 [Proposed Revie	w 5/23/2013]	4204
40 CFR 60 Subpart CC	Glass Manufacturing Plants	10/7/1980	none since 1994		4204
40 CFR 60 Subpart DD	Grain Elevators	8/3/1978	none since 1994		4204
40 CFR 60 Subpart EE	Surface Coating of Metal Furniture	10/29/1982	none since 1994	C074	4204
40 CFR 60 Subpart GG 40 CFR 60 Subpart HH	Stationary Gas Turbines	9/10/1979 3/7/1978	7/6/2006 none since 1994	6874	4204
40 CFR 60 Subpart KK	Lime Manufcaturing Lead Acid Battery Manufcaturing Plants	4/16/1982	none since 1994		4204
40 CFR 60 Subpart LL	Metallic Mineral Processing Plants	2/21/1984	none since 1994		4204
40 CFR 60 Subpart MM	Automobile and Light Duty Truck Surface Coating Operations	12/24/1980	10/11/1994	2117	
40 CFR 60 Subpart NN	Phosphate Rock Plants	4/16/1982	none since 1994		4204
40 CFR 60 Subpart PP	Amonium Sulfate Manufacture	11/12/1980	none since 1994		4204
40 CFR 60 Subpart QQ	Graphic Arts Industry: Publication Rotogravure Printing	11/8/1982	none since 1994		4204
40 CFR 60 Subpart RR	Pressure Sensitive Tape and Label Surface Coating Operations	10/18/1983	none since 1994		4204
40 CFR 60 Subpart SS	Industrial Surface Coating: Large Appliances	10/27/1982	none since 1994		4204
40 CFR 60 Subpart TT	Metal Coil Surface Coating	11/1/1982	none since 1994		4204
40 CFR 60 Subpart VV	Asphalt Processing and Asphalt Roofing Manufacture Equipment Leaks of VOC in SOCMI for which Construction, Reconstruction, or Modification	8/6/1982	none since 1994	6146	4204
40 CFR 60 Subpart VV 40 CFR 60 Subpart WW	Equipment Leaks of VOC in SOCMI for which Construction, Reconstruction, or Modificati Beverage Can Surface Coating Industry	1/18/1983 8/25/1983	11/16/2007 none since 1994	0140	4204
40 CFR 60 Subpart XX	Bulk Gasoline Terminals	8/18/1983	none since 1994		4204
40 CFR 60 Subpart AAA	New Residential Wood Heaters	2/26/1988	none since 1994		4204
40 CFR 60 Subpart BBB	Rubber Tire Manufacturing	9/15/1987	none since 1994		4204
40 CFR 60 Subpart DDD	VOC Emissions from the Polymer Manufacturing Industry	12/11/1990	none since 1994		4204
40 CFR 60 Subpart FFF	Flexible Vinyl and Urethane Coating and Printing	6/29/1984	none since 1994		4204
40 CFR 60 Subpart GGG	Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction	5/30/1984	11/16/2007	5648	
40 CFR 60 Subpart HHH	Synthetic Fiber Production Facilities	4/5/1984	none since 1994		4204
40 CFR 60 Subpart III	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Air Oxidation		none since 1994		4204
40 CFR 60 Subpart JJJ	Petroleum Dry Cleaners	9/21/1984	none since 1994		4204
40 CFR 60 Subpart KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants for Which Contruct	6/24/1985	8/16/2012	6993	
40 CFR 60 Subpart LLL 40 CFR 60 Subpart NNN	SO 2 from Onshore Natural Gas Processing for Which Construction, Reconstruction, or N VOC emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distilla	10/1/1985	8/16/2012	6894	4204
40 CFR 60 Subpart NNN 40 CFR 60 Subpart OOO	Nonmetallic Mineral Processing Plants	6/29/1990 8/1/1985	none since 1994 6/9/1997	1408	4204
5 55 Subpart 000		0/1/1000	4/28/2009	1419	
40 CFR 60 Subpart PPP	Wool Fiberglass Insulation Manufacturing Plants	2/25/1985	none since 1994		4204
40 CFR 60 Subpart QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	11/23/1998	none since 1994		4204
40 CFR 60 Subpart RRR	VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor		none since 1994		4204
40 CFR 60 Subpart SSS	Magnetic Tape Coating Facilities	10/3/1988	none since 1994		4204
40 CFR 60 Subpart TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	1/29/1988	none since 1994		4204
40 CFR 60 Subpart UUU	Calciners and Dryers in Mineral Industries	9/28/1992	none since 1994		4204
	Polymeric Coating of Supporting Substrates Facilities	9/11/1989	none since 1994		4204
40 CFR 60 Subpart VVV		3/12/1996	none since 1994		4204
40 CFR 60 Subpart VVV 40 CFR 60 Subpart WWW	Municipal Solid Waste Landfills				
40 CFR 60 Subpart VVV 40 CFR 60 Subpart WWW 40 CFR 60 Subpart IIII	Stationary Compression Ignition Combustion Engines	7/11/2006			
40 CFR 60 Subpart VVV 40 CFR 60 Subpart WWW					
40 CFR 60 Subpart VVV 40 CFR 60 Subpart WWW 40 CFR 60 Subpart IIII	Stationary Compression Ignition Combustion Engines	7/11/2006			