WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Division of Environmental Protection Office of Air Quality TITLE NUMBER: 45CSR16

CITE AUTHORITY W. Va. Code §§22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR16

TITLE OF RULE BEING AMENDED: Standards of Performance for New Stationary Sources

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Roger T. Hall
Authorized Signature

27.20 15.20 W/O

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR16 - Standards of Performance for New Stationary Sources

Type of Rule: X Legislative ___ Interpretive ___ Procedural

Agency: Office of Air Quality

Address: 1558 Washington Street, East
Charleston, WV 25311-2599

1. Effect of Proposed Rule	Annual		Fiscal Year		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	$ -0-	$ -0-	$ -0-	$ -0-	$ -0-
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates: The above estimates reflect that there will be no anticipated changes in costs to administer 45CSR16 (currently in effect) as a result of the changes to federal rules under 40CFR60 since the last update to 45CSR16. WVDEP/OAQ anticipates that most costs associated with state implementation of the federal rules under 40CFR60 will be covered (after EPA approval of the Title permit program) by fees collected pursuant to 45CSR30 authorized by the legislature in 1994. These fees and the associated budget analyses were incorporated into the fiscal note for 45CSR30. WVDEP/OAQ anticipates EPA approval or interim approval of its Title V program (45CSR30) in the latter part of 1994 or early 1994 (FY'95) prior to or at the time of legislative authorization of the proposed 45CSR16 amendments. With respect to those minor facilities subject to 45CSR16 which are eventually deferred or exempted from 45CSR30 requirements, OAQ oversight costs will not be funded by the fee program and would have to be paid from general revenue funds, non-Title V fees and federal grant awards. In the event that sufficient funding is not available to cover the costs for OAQ regulation of non-Title V sources, WVDEP would request that EPA withdraw its delegation of authority to the state to enforce the federal standards as they relate to non-Title V (minor) sources.

3. Objectives of these rules: This rule adopts standards of performance for new stationary sources promulgated by the USEPA under the federal Clean Air Act, as amended.

4. Explanation of overall economic impact of proposed rule.

   A. Economic impact on state government.

      See Section 2.

   B. Economic impact on political subdivisions; specific industries; specific groups of citizens.

      No impact above that resulting from the currently applicable federal emission standards.

   C. Economic impact on citizens/public at large.

      No impact above that resulting from the currently applicable federal emission standards.

Date: August 12, 1994

Signature of agency head or authorized representative:

G. Dale Farley
Chief, Office of Air Quality

DATE: August 12, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. DALE FARLEY
CHIEF, OFFICE OF AIR QUALITY

LEGISLATIVE RULE TITLE: 45CSR16 - "Standards of Performance for New Stationary Sources"

1. Authorizing statute(s) citation W. Va. Code §§22-5-1 et seq.

2. a. Date filed in State Register with Notice of Hearing:

June 23, 1994

b. What other notice, including advertising, did you give of the hearing?

Class I legal advertisement filed in a newspaper published in each of the Air Quality Control Regions of West Virginia.

Office of Air Quality Mailing List.

c. Date of hearing(s): July 29, 1994

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received ____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 12, 1994

f. Name and phone number of agency person to contact for additional information:

G. Dale Farley, Chief
Office of Air Quality
Phone: 558-2275

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

   a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

   N/A

   b. Date of hearing: N/A

   c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

   N/A

   d. Attach findings and determinations and reasons:

   Attached N/A

45CSR16

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

SUMMARY

45CSR16, "Standards of Performance for New Stationary Sources", adopted by reference New Source Performance Standards (NSPS) promulgated by USEPA through May 1, 1993. This revision to the rule updates NSPS requirements through June 1, 1994.

42 U.S.C. 7411 [C.A.A. §111] charges the Administrator of USEPA with developing standards for sources if the sources cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. These standards are enforceable by USEPA. In turn, the State may request delegation from USEPA to implement and enforce such standards. To that end, federal standards, as contained in the proposed rule, are adopted by reference.

The following subparts and test methods have been added or amended in 40 CFR Part 60 since the previous revision of this rule.

Subpart

O - "Sewage Treatment Plants"
RRR - "VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes"
UUU - "Calciners and Dryers in Mineral Industries"

Appendix A - Test Methods

Method 18 - "Measurement of Gaseous Organic Compound Emission by Gas Chromatography"
Method 26 - "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources--Midget Impinger Method"
Method 25D - "Determination of VOC Concentration of Waste Samples"
Method 26A - "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources--Isokinetic Method"

45CSR16

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

STATEMENT OF CIRCUMSTANCE

This rule adopts standards of performance for new stationary sources promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, regulating the construction or modification of new stationary sources. It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

Any person who constructs, modifies, or reconstructs an affected facility after the effective date of any New Source Performance Standard (NSPS) under 40 CFR Part 60 must comply with the NSPS. The final adoption of the proposed rule amendment will enable the WVDEP to become the primary enforcement authority for NSPS subparts promulgated by USEPA as of June 1, 1994.

Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the federal Clean Air Act, as amended.

45CSR16

TITLE 45
LEGISLATIVE RULES
~~WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION~~
BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 16
STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

§45-16-1. General.

1.1. Scope. -- This rule adopts standards of performance for new stationary sources promulgated by the United States Environmental Protection Agency under the Federal Clean Air Act, as amended, ~~regulating the construction or modification of new stationary sources~~. It is the intent of the ~~Commission~~Director to adopt these standards by reference. It is also the intent of the ~~Commission~~Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

1.2. Authority -- W. Va. Code ~~§16-20-5~~§§22-5-1 et seq.

1.3. Filing Date -- ~~August 13, 1993~~.

1.4. Effective Date -- ~~April 27, 1994~~.

1.5. Incorporation By Reference -- Federal Counterpart Regulation. The Director recommends incorporating the federal counterpart regulation by reference.

1.6. Determination of Stringency -- Federal Counterpart Regulation. This rule incorporates, with limited exceptions, the federal counterpart rule and is no more or no less stringent than the federal counterpart.

1.7. Constitutional Takings Determination -- The Director has determined that this rule will not result in a taking of real property.

§45-16-2. Requirements.

2.1. No person may construct, reconstruct, modify, or operate or cause to be constructed, modified, or operated a New Source Performance Standard (NSPS) source which results or will result in violations of this ~~regulation~~rule.

§45-16-3. Adoption of Standards.

3.1. Standards. -- Standards of performance for new stationary sources including associated reference methods, performance specifications and other test methods which are appended to such standards promulgated by the United States Environmental Protection Agency pursuant to 42 U.S.C. 7411(b) [C.A.A. §111(b)] of the federal Clean Air Act, as amended, as of ~~May 1, 1993~~July 1, 1994, and contained in 40 CFR Part 60 are hereby adopted in their entirety and incorporated herein by reference, except as follows:

a. Part 60.9 is amended to provide that information shall be available to the public in accordance with W. Va. Code ~~16-20-1,~~§§22-5-1 et seq., W. Va. Code 29B-1-1~~,~~ et seq., and 45CSR31.

b. Sub-parts B, C, Ca, Cb and Ea of 40 CFR 60 shall be excluded.

§45-16-4. ~~Chief~~Director.

4.1. Any and all references in said 40 CFR 60 to the "Administrator" is amended to be the "~~Chief~~Director" of the ~~Office of Air Quality of the~~ West Virginia Division of Environmental Protection" except in the following references which such references shall remain "Administrator of the United States Environmental Protection Agency":

a. Part 60.2.

b. Part 60.4.

c. Part 60.8(b)(2).

d. Part 60.8(b)(3).

e. That sentence of part 60.8(b) which deals with the authority of the Administrator to require testing under Section 114 of the Clean Air Act, as amended.

f. Part 60.11(e).

g. Part 60.13(c).

h. part 60.45(a).

i. Part 60.195(b).

j. Part 60.332(a).

k. Part 60.335(a)(1)(i).

§45-16-5. Permits.

5.1. Nothing contained in this adoption by reference shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall be in any way be limited or inapplicable.

§45-16-6. Inconsistency Between ~~Regulations~~Rules.

6.1. In the event of any inconsistency between this rule and any other existing rule of the ~~Commission~~West Virginia Division of Environmental Protection, such inconsistency shall be resolved by the determination of the ~~Chief~~Director and such determination shall be based upon the application of the more stringent provision, term, condition, method, rule or regulation.

§45-16-7. Severability.

7.1. The provisions of this rule are severable and if any provisions or part thereof shall be held invalid, unconstitutional, or inapplicable to any person or circumstance; such invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sections, or parts of this rule; or their application to any persons or circumstances.

REGULATION 16 ATTACHMENT

7-29-93
Vol. 58 No. 144
Pages 40581-40716

federal register

Thursday
July 29, 1993

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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economic impact on a substantial number of small entities.

Collection of Information

This action contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant preparation of a federal assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. Section 2.B.2g.(5) provides that Bridge Administration program actions relating to the promulgation of operating requirement or procedures for drawbridges are excluded. A Categorical Exclusion Determination is available in the docket for inspection at the Office of Bridge Administrator-NY, Fifth Coast Guard District, Bldg. 135A, Governors Island, NY 10004–5073.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.745 is revised to read as follows:

§ 117.745 Rancocas River (Creek).

(a) The following requirements apply to all bridges across the Rancocas River (Creek):

(1) Public vessels of the United States, state or local vessels used for public safety and vessels in distress shall be passed through the draw of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle or horn, or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw span shall not exceed ten minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping or reversing.

(b) The draws of the SR#543 bridge, mile 1.3 at Riverside, the Conrail bridge, mile 1.6 at Delanco and the SR#38 bridge, mile 7.8 at Centerton, shall operate as follows:

(1) From April 1 through October 31 open on signal from 7 a.m. to 11 p.m.

(2) From November 1 through March 31 from 7 a.m. to 11 p.m., open on signal if at least 24 hours notice is given, except as provided in paragraph (a)(1) of this section.

(3) Year round from 11 p.m. to 7 a.m. need not open for the passage of vessels, except as provided in paragraph (a)(1) of this section.

Dated: June 29, 1993.

W.T. Leland,

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

[FR Doc. 93–18010 Filed 7–28–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–4684–7]

Standards of Performance for New Stationary Sources: Calciners and Dryers in Mineral Industries; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the standards of performance for new, modified, and reconstructed calciners and dryers in mineral industries published on September 28, 1992 (57 FR 44496). Corrections are made to the definition of exceedances for recordkeeping and reporting purposes.

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: For further information about this correction contact Mr. Warren Johnson, (919) 541–5124, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

This correction document amends § 60.735 of subpart UUU of 40 CFR part 60. This section deals with the *monitoring, recordkeeping* and reporting requirements for the standards of performance for new, modified, and *reconstructed calciners and dryers in* mineral industries. As published, the final regulation contains errors that cause compliant monitoring records to be defined as exceedances, and vice versa.

Appropriate language defining exceedances for reporting purposes appeared in the notice of proposed rulemaking in the Federal Register, April 23, 1986, for which the public had no negative comments. Between proposal and promulgation, an attempt to shorten sentence structure inadvertently reversed the meaning of the intended exceedances provisions. Also, in the compliance provisions for a wet scrubber, the word "an" was inadvertently changed to "and" in describing an arithmetic average. This document restores the exceedances provisions to the language and meaning originally intended in the proposal, and also corrects the wet scrubber compliance provisions word error.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Metallic minerals, Nonmetallic minerals, Reporting and recordkeeping requirements.

Dated: July 2, 1993.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

Title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for part 60 is revised to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Authority: 42 U.S.C. 7401–7601.

§ 60.735 [Amended]

2. In § 60.735, paragraph (b), the phrase "and arithmetic average" is revised to read "an arithmetic average".

3. In § 60.735, paragraph (c)(2), the phrase "that is within 10 percent of" is

revised to read "that is less than 90 percent of".

4. In § 60.735, paragraph (c)(3), the phrase "that is within 20 percent of" is revised to read "that is less than 80 percent or greater than 120 percent of".

[FR Doc. 93-18103 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-18

[FPMR Amendment D-92]

Acquisition of Real Property

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Final rule.

SUMMARY: On December 9, 1991, the General Services Administration published in the Federal Register (56 FR 64221) a Proposed Rule which set forth certain revisions to the basic policy under which GSA leases, or delegates to other agencies the authority to lease, space in privately owned buildings. There are no major changes to the Final Rule as a result of agency comments on the Proposed Rule. These comments and GSA's response to them are addressed in the SUPPLEMENTARY INFORMATION below.

This Final Rule reinserts regulatory provisions which were inadvertently omitted from the CFR beginning with the July 1, 1986, issue. These provisions outline the scope of part and authority and are reinserted unchanged from the issued dated July 1, 1985. This Final Rule also increases to 20 years the allowable lease terms for certain categorical and agency special purpose space delegations. The maximum allowable lease term set forth in the Proposed Rule was 5 years.

DATES: Effective date: July 29, 1993.

ADDRESSES: Copies of comments that have been received are available in room 2324 of the General Services Building, 18th & F Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert E. Ward, Director, Office of Real Estate, Office of Real Property Development, Public Buildings Service, General Services Administration, Washington, DC 20405, telephone 202-501-4266.

SUPPLEMENTARY INFORMATION: Subsequent to the December 9, 1991, publication of this proposed amendment to 41 CFR part 101-18, comments were received from the Departments of Agriculture, Air Force, Commerce, Interior, Justice, and Veterans Affairs. The United States Postal Service and the Advisory Council on Historic Preservation also submitted comments. The majority of the suggested changes have been incorporated into this Final Rule. In those cases where suggested changes could not be accommodated, agencies have been provided with explanations for not incorporating their comments into the Final Rule. All agency comments have been resolved either through incorporation or explanation.

This Final Rule also (a) corrects and/or updates authority citations; (b) rearranges the order of paragraphs and/or placement of information within paragraphs to promote clarity and more logical sequence of material presented therein; and (c) streamlines the listing of agency special purpose space delegations in § 101-18.104-3. Those authorities granted to agencies by statute and/or specific delegation(s) granted by the Administrator of General Services are not reiterated in this section.

Executive Order 12291

GSA has determined that this Final Rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in costs to consumers or others, and will not have significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions on this Final Rule on adequate information concerning the need for and consequences of this Final Rule. GSA has also determined that the potential benefits to society from this Final Rule far outweigh the potential costs, has maximized the net benefits, and has chosen the alternative involving the least net cost to society.

Regulatory Flexibility Act

The General Services Administration has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 41 CFR Part 101-18

Acquisition of real property by lease. Acquisition of real property by purchase or condemnation.

Accordingly, 41 CFR part 101-18 is amended as follows:

PART 101-18—ACQUISITION OF REAL PROPERTY

1. The authority citation for 41 CFR part 101-18 is revised to read as follows:

Authority: 40 U.S.C. 486(c); sec. 1-201(b), E.O. 12072, 43 FR 36869.

2. Subpart 101-18.0 is added and subpart 101-18.1 is revised to read as follows:

PART 101-18—ACQUISITION OF REAL PROPERTY

Subpart 101-18.1—Acquisition by Lease

§ 101-18.000 Scope of part.

This part prescribes policies and procedures governing acquisition of interests in real property.

§ 101-18.001 Authority.

This part implements applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 *et seq.*); the Act of August 27, 1935, as amended, 49 Stat. 886 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended, Pub. L. 86-249, 73 Stat. 479 (40 U.S.C. 601-615); the Public Buildings Cooperative Use Act of 1976, Pub. L. 94-541, 90 Stat. 2505; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894; the Federal Urban Land-Use Act, Pub. L. 90-577, 82 Stat. 1104 (40 U.S.C. 531-535); the Rural Development Act of 1972, as amended, Pub. L. 92-419, 86 Stat. 657 (42 U.S.C. 3122); the Fair Housing Act, as amended, Pub. L. 90-284, 82 Stat. 81 (42 U.S.C. 3601 *et seq.*); Reorganization Plan No. 18 of 1950, 15 FR 3177, 64 Stat. 1270 (40 U.S.C. 490 note); Executive Order 12072, 43 FR 36869 (40 U.S.C. 490 note); and OMB Circular A-95 (41 FR 2052).

federal register

Tuesday
August 31, 1993

Part II

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–4024–9]

RIN 2060–AB55

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for SOCMI reactor process operations were proposed in the Federal Register on June 29, 1990 (55 FR 26953). Today's action promulgates standards of performance for SOCMI reactor processes. These standards implement section 111 of the Clean Air Act (CAA) and are based on the Administrator's determination that VOC emissions from SOCMI cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed reactor processes to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: August 31, 1993.

The information collection requirements contained in subpart RRR of 40 CFR part 60 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Reactor Processes in Synthetic Organic Chemical Manufacturing Industry—Background Information for Promulgated Standards," EPA–450/3–90–016b. The BID contains (1) a summary of all the public comments made on the proposed standards and the Administrator's response to the comments; (2) a summary of the changes made to the standards since proposal; and (3) the final Environmental Impact Statement, which summarizes the impacts of the standards.

Docket. Docket No. A–83–29, containing supporting information used in developing the promulgated standards, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st Floor, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the regulation of reactor processes in the SOCMI, contact Mr. Warren Johnson, telephone (919) 541–5124 concerning regulatory decisions. Contact Mr. Robert E. Rosensteel or Mr. Leslie B. Evans, telephone (919) 541–5608 and (919) 541–5410, respectively, concerning technical aspects of the industry and control technologies. The address for the above contacts is Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in reading the preamble to the promulgated standards.

I. The Standards
  A. The Affected Facility
  B. Exemptions
  C. Methods of Achieving Compliance
  D. Boiler/Process Heater Requirements
  E. Flare Requirements
  F. Incinerator Requirements
  G. Requirements for Maintaining Total Resource Effectiveness Index Value Greater Than 1.0
  H. Reporting and Recordkeeping Requirements
II. Summary of Impacts
  A. Environmental Impacts
  B. Energy Impacts
  C. Cost Impacts
  D. Economic Impacts
III. Public Participation
IV. Significant Comments and Changes to the Proposed Standards
  A. Applicability of the Standards
  B. Definitions
  C. Selection of Best Demonstrated Technology (BDT)
  D. Format of Standards
  E. Monitoring
  F. Performance Testing and Measurement Methods
  G. Reporting and Recordkeeping
V. Administrative Requirements
  A. Docket
  B. Paperwork Reduction Act
  C. Executive Order 12291
  D. Regulatory Flexibility Act
  E. Miscellaneous

I. The Standards

Standards of performance for new sources established under section 111 of the CAA reflect:

> * * * application of the best system of emission reduction which (taking into account the cost of achieving such emission reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to VOC emissions from new, modified, and reconstructed reactor processes within the SOCMI. The standards apply to reactor processes operating as part of a process unit which produces any of the chemicals listed in § 60.707 as a product. A product means any compound or chemical listed in § 60.707 which is produced for sale as a final product as that chemical, or for use in the production of other chemicals or compounds. By-products, co-products, and intermediates are considered to be products.

Reactor processes comprise one of the three SOCMI process vent emission source categories for which EPA has developed standards under section 111 of the CAA. Final rules for SOCMI air oxidation and distillation operations were promulgated under section 111 on June 29, 1990. The section 111 standards apply to VOC emissions. A national emission standard that would apply to SOCMI reactors emitting hazardous air pollutants (HAP) is also under development under section 112 (that rule is commonly referred to as the hazardous organic NESHAP or HON). The NSPS apply to reactors producing any of 173 listed chemicals. The HON list of covered chemicals includes only 99 of the 173 covered by the NSPS. This is because only 99 emit HAP. Although the HON covers fewer chemicals than the NSPS, it will apply to both new and existing sources, whereas the NSPS will apply to only new, modified, and reconstructed sources.

Consequently, the EPA believes that it is appropriate to establish both standards to satisfy the requirements of section 111 to regulate new stationary sources of criteria air pollutants (in this case, VOC) and of section 112 to regulate new and existing stationary sources of HAP. In cases of overlap where both standards apply to the same source, the source must comply with the more stringent rule and its associated monitoring, recordkeeping, and reporting requirements. The compliance demonstration and the set of records and reports for the more stringent rule would also satisfy the requirements for the less stringent rule, thus eliminating the need for the source owner or operator to duplicate records and reports.

A. The Affected Facility

The affected facility is designated as a single reactor process with its own individual recovery system (if any) or the combination of two or more reactor processes and the common recovery system they share. A recovery system consists of any device, or devices, capable of and used for the purpose of recovering chemicals for use, reuse, or sale and may include both primary and secondary recovery devices. Some examples of recovery devices are absorbers, adsorbers, and condensers as well as certain devices that recover non-VOC's, such as ammonia and hydrogen chloride recovery units.

Construction, reconstruction or modification of the affected facility must have begun after June 29, 1990 for the standards to be applicable. Existing facilities are not subject to the standards unless modified or reconstructed as defined in 40 CFR 60.14 or 60.15.

B. Exemptions

Reactor processes operating as part of a process unit that produces beverage alcohols, or which uses, contains, or produces no VOC, are not affected facilities. Any reactor process that is designed and operated as a batch operation is exempt from the new source performance standards (NSPS) for reactor processes. Any reactor process that is part of a process unit that has a total design production capacity less than 1 gigagram per year (Gg/yr) (1,100 tons/yr) for all chemicals produced within the process unit is exempt from the standards except that the owner or operator shall maintain up-to-date, readily accessible records of any change in equipment or process operations that increases the design production capacity of the process unit. If any such change increases the design production capacity above the low capacity exemption level, a performance test must be conducted. In addition, an initial report detailing the production capacity of the process unit must be submitted.

Any reactor process operated with a vent stream flow rate less than 0.011 standard cubic meters per minute (scm/min) [0.39 standard cubic feet per minute (scf/min)] is exempt from all provisions of the standards except certain reporting and recordkeeping requirements described in this paragraph. Any owner or operator shall maintain up-to-date, readily accessible records of any change in equipment or process operations that increases the vent stream flow rate. If any such change increases the flow rate above the low flow exemption level, a performance test must be conducted. In addition, an initial report of the vent stream flow rate must be submitted.

Any reactor process operated with a vent stream total organic compound (TOC) concentration less than 150 parts per million volume (ppmv) as measured by Reference Method 25A or 300 ppmv as measured by Reference Method 18 is exempt from all provisions of the standards except certain reporting and recordkeeping requirements described in this paragraph. The owner or operator of such a process shall maintain up-to-date, readily accessible records of any change in equipment or process operations that increases the vent stream TOC concentration. If any such change increases the vent stream TOC concentration above the low-TOC concentration exemption level, a performance test must be conducted. In addition, an initial report of the vent stream TOC concentration must be submitted.

A reactor process vent stream routed through a distillation unit subject to the provisions of the NSPS for SOCMI distillation operations (subpart NNN) before it is released to the air would be subject to the provisions of subpart NNN rather than this NSPS for reactor processes, as long as there are no other releases to the air except for a pressure relief valve. Owners or operators who seek this exemption must submit a report of the process design. Exemptions from the standards were also added for reactor processes that are subject to the provisions of the polymer manufacturing NSPS (subpart DDD) and reactor processes with total resource effectiveness (TRE) value greater than 8.0.

C. Methods of Achieving Compliance

The standards include emission reduction requirements and/or emission limits which are based on the emission reduction capabilities of BDT. However, the standards do not require that a specific device or technology be used for those facilities that must comply with the emission reduction requirements. Rather, any control technology other than recovery devices as defined in the standards can be used as long as it can be demonstrated that the selected control technology is at least as effective as BDT at reducing VOC emissions. The requirements for boilers or process heaters, incinerators, and flares are summarized in the following sections. If the emission reduction requirements were achieved by other means, the owner or operator would be required to provide information describing the operation of the control device and the parameter(s) that indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Due to variations in the vent stream characteristics of flow rate, heat content, and concentration of organic compounds, the total cost of control per unit of VOC removed would vary considerably among the different types of reactor processes. The Administrator has determined that for some reactor processes the control technology has not been adequately demonstrated. For this reason, the TRE index was developed as an indicator to determine when the cost of controlling a particular vent stream is reasonable.

The TRE index is an algebraic reduction of all the annualized costs incurred when controlling a vent stream, such as annualized capital costs, supplemental gas costs, labor costs, electricity costs, etc. It was determined that those facilities with a TRE index less than or equal to 1.0 would be able to reduce VOC emissions at a reasonable cost. Therefore, BDT for these facilities is to reduce VOC emissions by 98 weight-percent or to 20 ppmv through the use of a thermal incinerator or a flare. Because facilities with a TRE index greater than 1.0 are unable to reduce VOC emissions at a reasonable cost, BDT for them is no additional control.

(Note: A TRE value of 1.0, (i.e. approximately $2500/Mg (1982 yr$)) represents a cutoff for determining which facilities must reduce VOC emissions by 98 weight-percent or 20 ppmv. The cutoff would not necessarily be appropriate for other categories; therefore, it should not be viewed as a benchmark for other standards.)

Using the TRE approach, the standards would require each owner or operator of an affected facility with a TRE index value less than or equal to 1.0 to use a VOC control device to reduce emissions of TOC (less methane and ethane) in the process vent stream by 98 weight-percent or to 20 ppmv, whichever is less stringent; or to combust VOC emissions in a flare that meets the requirements of § 60.18 in the General Provisions. For facilities with a TRE index value greater than 1.0, the owner or operator must consistently maintain a value greater than 1.0.

Equations are included in the regulation for determining the TRE index value of a vent stream from an affected facility. The process vent stream flow rate, total organic compound emission rate, net heating value, and corrosion properties (whether or not halogenated compounds are present) must be determined according to the specified Reference Methods in order to calculate the TRE index value. These vent stream characteristics would be determined for the vent stream following the last recovery device (e.g., condenser, absorber, carbon adsorber).

The structure of the standards allows an affected facility with a TRE index value of less than or equal to 1.0 to add a recovery device, improve the existing recovery system efficiency, or alter the process operation so that the TRE index value would increase above 1.0 and, therefore, emissions would not have to be reduced by 98 weight-percent or to 20 ppmv. Increased recovery efficiency for this purpose would have the advantages of achieving additional emission reductions, less energy usage, lower costs, and increased recovery of compounds or increased retention of products. The additional emission reduction could be as much as 30 percent more than current industry practice.

D. Boiler/Process Heater Requirements

Any owner or operator using a boiler or process heater to achieve compliance with the percent reduction or concentration limit in the standards would be required to combust the reactor vent stream in the flame zone of the boiler or process heater. The owner or operator would also be required to monitor and record the presence of vent stream flow/no flow diverted away from the combustion device at least once every 15 minutes. A flow indicator would be installed at the entrance to any bypass line that could divert the vent stream to the atmosphere before it reaches the combustion device. Alternatively, a car-seal or lock-and-key type of arrangement could be used to ensure that the vent stream is not being diverted from the combustion device.

If the reactor vent stream is being combusted through a secondary burner or with combustion air in a boiler or process heater with heat input design capacity less than 44 megawatts (MW) (150 million British thermal units per year (MMBtu/yr)), then the owner or operator would be required to conduct an initial performance test using Reference Method 18 on the combined inlet stream (the fuel plus the affected vent stream) and test the combined outlet stream to determine if total TOC (minus methane and ethane) is reduced by 98 weight-percent or to 20 ppmv. The owner or operator also would be required to monitor and record the firebox operating temperature on a continuous basis.

For boilers or process heaters of 44 MW (150 MMBtu/hr) or greater design heat input capacity, no initial performance test or temperature monitoring is required. For any size boiler or process heater, if the reactor vent stream is being combusted as primary fuel rather than being combusted as a secondary fuel or mixed with combustion air, then the owner or operator would be exempt from conducting a performance test and monitoring temperature.

E. Flare Requirements

A steam-assisted flare, an air-assisted flare, and a flare with no assist are considered to be capable of achieving 98 weight-percent emission reduction and may be used to meet the standards, provided that the flares are operated in accordance with the requirements in 40 CFR 60.18. Each owner or operator complying with the standards by using a flare would be required to monitor continuously the presence of the pilot flame. Ultra-violet beam sensors or thermocouples are acceptable for this purpose. If a bypass line is present, a flow indicator would be required to record any time the vent stream flow is diverted from the flare to the atmosphere. Alternatively, a car-seal or lock-and-key type of arrangement could be used to ensure that the vent stream is not being diverted from the combustion device.

F. Incinerator Requirements

Each owner or operator complying with the standards by using an incinerator would be required to monitor continuously and record the firebox operating temperature or, if a catalytic oxidizer is used, the temperature before and after the catalyst bed. An initial performance test demonstrating that 98 percent reduction or 20 ppmv outlet concentration is being achieved is required for any incinerator.

A vent stream flow indicator is also required for each affected facility and must be installed at the entrance to any bypass line that could divert the vent stream away from the combustion device to the atmosphere. Records of vent stream flow in the bypass line must be maintained. Alternatively, a car-seal or lock-and-key type of arrangement could be used to ensure that the vent stream is not being diverted from the combustion device.

G. Requirements for Maintaining Total Resource Effectiveness Index Value Greater Than 1.0

Each owner or operator who complies with the standards by maintaining a vent stream TRE index value above 1.0 would be required to monitor continuously and record specified operating parameters of the final piece of recovery equipment to ensure this TRE index value is consistently maintained. Operating parameters are established during the initial (or most recent) performance test when the VOC concentration is measured. Subsequent monitoring of these parameters is conducted to determine if their values have deviated from the values measured during the performance test. Depending on what the final recovery device is, the specified operating parameters are condenser exit (product side) operating temperature; absorber liquid temperature; specific gravity (or an alternative measure of absorbing liquid saturation, if approved by the enforcing agency); carbon adsorption bed temperature (after regeneration and completion of any cooling cycle(s)); and the mass flow rate of carbon bed regeneration stream. As an alternative to the above requirements, an organic monitoring device may be used. The owner or operator would also be required to maintain records of changes in production capacity; feedstock identity; catalyst identity; or of replacement, removal, or addition of recovery equipment. When any such change takes place, the owner or operator of the facility is required to recalculate the TRE index value to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes.

If the recalculated TRE index for the facility is less than 1.0, the owner or operator would have to demonstrate compliance with the 98 weight-percent reduction or 20 ppmv emission limit within 180 days from the time of process change. Prior notice of any performance testing shall be given to EPA as required by the General Provisions of 40 CFR part 60. Where the initial TRE index value is greater than 8.0 and the recalculated TRE index is less than or equal to 8.0 but greater than 1.0, a performance test is also required. Performance testing may also be required on a case-by-case basis by the Administrator following any change to the recovery system in order to verify the status of the TRE index value for the facility.

H. Reporting and Recordkeeping Requirements

The standards require that owners and operators who are using any control device to comply with the standards must maintain on file a schematic diagram of the affected vent streams, collection systems, fuel systems, control device(s), and bypass systems. Records of the operating parameters discussed above must be maintained to ensure the proper operation and maintenance of control equipment and recovery equipment used to reduce VOC emissions. Furthermore, records of instances where these monitored values exceed allowable limitations established during the most recent performance test must be maintained. In addition to maintaining these records, an owner or operator must submit a semiannual report of recorded exceedances. The requirement of semiannual reporting may be waived for affected facilities in States that have been delegated authority for enforcement, provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State.

II. Summary of Impacts

The analysis of energy, environmental, cost, and economic impacts was performed using conservative assumptions that would tend to overestimate the actual impacts. It was assumed that all affected reactor processes would use combustion devices to comply with the standard. In reality, the standard allows flexibility for using less costly, energy saving, and pollution prevention approaches. For example, some facilities would upgrade existing recovery equipment to achieve a TRE index value higher than the cutoff and, in fact, the standards are structured in a way that encourages this. Such equipment generally has lower associated costs and energy use. Second, some facilities would use other combustion devices, such as boilers or process heaters, which may be less expensive to apply and have a lower net energy consumption than flaring or incineration. A third reason is that some facilities could use existing devices to control emissions and not have to build new devices. The impacts estimated here assumed that new combustion devices would be built in all cases. The degree to which these assumptions overstate the impacts cannot be quantified.

The environmental, energy, cost, and economic impacts are discussed in greater detail in the two background information documents for the standards: "Reactor Processes in Synthetic Organic Chemical Manufacturing—Background Information for Proposed Standards" and "Reactor Processes in Synthetic Organic Chemical Manufacturing—Background Information for Promulgated Standards." (EPA-450/3-90-016a and EPA-450/3-90-016b).

A. Environmental Impacts

Under the standards, it is estimated that for determining fifth year impacts, about 13 percent of all new, modified, or reconstructed reactor processes would have vent streams with TRE index values at or under the TRE cutoff of 1.0. If all of these facilities were controlled to 98 weight-percent, the projected national VOC emissions from all new, modified, and reconstructed reactor processes would be reduced by an estimated 2,100 megagrams per year (Mg/yr). This national VOC reduction would be approximately 63 percent beyond the emission level projected to occur in the absence of an NSPS.

There will be a slight increase in emissions of air pollutants such as carbon monoxide (CO) and nitrogen oxides (NO_x) as a result of controlling VOC emissions with combustion devices; however, any increases in these pollutants would be negligible compared to the magnitude of overall VOC emission reductions. There would be no direct solid waste impacts under the standards, and impacts on noise would be negligible.

No significant increase in total plant wastewater effluent is projected under the standards. There is no organic wastewater effluent associated with combustion devices themselves. Some facilities which may have an incremental increase in wastewater are those which might choose to upgrade or add recovery devices to achieve a TRE above the 1.0 cutoff. Absorption and carbon adsorption are the only recovery techniques currently used in the industry which have an associated organic wastewater effluent. However, use of these VOC recovery techniques would not result in a significant amount of VOC transferred into another medium, such as water. Rather, the magnitude of VOC in the water would be insignificant compared to the overall amount of VOC emissions reduced from the air. Further, based on the available data, only a small percentage of chemical manufacturing operations with reactor processes are expected to employ these recovery techniques.

B. Energy Impacts

The use of combustion to control VOC emissions from reactor process vent streams can result in fuel and electricity usage. Supplemental fuel is frequently required to support combustion. Electricity is required to operate pumps, fans, blowers, and other instrumentation when operating an incinerator or flare. The fifth year energy requirements of the standards would be 320 terajoules per year (TJ/yr) (300 MMBtu/yr). This represents a small increase over baseline use in the industry.

C. Cost Impacts

The fifth year cost impacts of the standards are also considered reasonable. The fifth year national annualized cost of VOC control would be $3.7 million (1982 dollars). The fifth year national capital cost for VOC control would be $5.9 million (1982 dollars). These impacts may be overstated because they assume that all reactor processes use flares and incinerators to comply with the standards. In reality, it is anticipated that some reactor processes will use boilers or process heaters to achieve compliance. To the extent that these devices are used, the costs of compliance would be reduced. Costs would also be reduced for reactors that share control systems with other process vents.

If costs were escalated to 1990 dollars using the GNP implicit price deflator, the resulting adjusted total national capital cost and total national annualized cost would be $7.8 and $4.9 million, respectively. However, it is not recommended that these values be used since this escalation is likely to be questionable due to technology changes during the substantial time between 1982 and 1990. Also, the use of a GNP deflator in determining these adjusted costs may not be appropriate as these figures are not indicative of a full economic analysis adjustment.

D. Economic Impacts

The standard will pose no significant adverse economic impacts. Assuming that all costs are passed on in the form of price increases, the economic analysis indicated that the costs associated with the standards will have little or no effect on the profitability of the industry. Most of the chemicals screened (81 percent) would have a maximum price increase of under 2 percent, and 90 percent would have a maximum price increase of under 3 percent. In no case would the price increase exceed 5 percent. Finally, there would be no adverse effects on employment because the standards would not appreciably affect the demand for chemicals covered by these standards.

III. Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the Federal Register (49 FR 26807), June 29, 1984, of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the reactor process VOC standards recommended for proposal. This meeting was held on August 29, 1984. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal.

The standards were proposed and published in the Federal Register on June 29, 1990 (55 FR 26953). The preamble to the proposed standards discussed the availability of the BID, "Reactor Processes in Synthetic Organic Chemical Manufacturing" (EPA–450/3–90–016a), which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. The proposal notice stated that a public hearing would be held, if requested, to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards. No public hearing was requested.

The proposal comment period was from June 29, 1990 to September 12, 1990. Seventeen comment letters were received concerning issues relative to the proposed standards of performance for reactor processes in the SOCMI. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards.

IV. Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from 14 industry representatives (2 industry representatives submitted 2 comment letters) and one State agency. A total of 17 comment letters were received. Detailed discussion of these comments and responses can be found in the promulgation BID, which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the promulation BID serves as the basis for the revisions that have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The comments have been divided into the following areas: Applicability of the Standards, Definitions, Selection of Best Demonstrated Technology, Format of Standards, Monitoring, and Performance Testing and Measurement Methods.

All comments discussed here have been entered into Docket Number A–83–29. Access to the docket is described in the ADDRESSES section of this preamble.

A. Applicability of the Standards

Exemption for Reactor Processes Subject to the New Source Performance Standards for Distillation Operations. Two commenters requested that a specific exemption be added for reactor processes that discharge their streams directly into a distillation unit subject to another NSPS (Subpart NNN). They also stated that monitoring and recordkeeping requirements for such units would be redundant and unnecessary.

The EPA agrees that a reactor process vent stream routed through a distillation unit subject to 40 CFR part 60, subpart NNN, before it is released to the air would be subject to the provisions of subpart NNN for distillation operations rather than subpart RRR for reactor processes. Further, a distillation unit subject to subpart NNN would be achieving the VOC emission reductions similar to those required by this NSPS. Therefore, to avoid dual applicability, exemption for such units has been added to the standards.

In addition, recordkeeping and reporting requirements have been revised to eliminate redundant reporting. These reactor processes are required only to submit an initial notification of this particular process design and to maintain documentation of the overall process design for the life of the equipment.

Clarification for Reactor Processes Venting Through Relief Valves. One commenter stated that the proposed regulation was unclear concerning those reactors that only vent through relief valves during emergencies. This commenter felt that reactors venting through relief valves only during emergencies should be exempt from the regulations.

The EPA did not intend to cover pressure relief valve discharges in the proposed reactors NSPS. Further, relief valve discharges were specifically excluded from coverage in the proposed rule under the definition of "vent stream." For further clarification, a definition of "relief valve" has been added to the regulation as follows: "Relief valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge results from an operator error, a malfunction such as a power failure, an equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage."

Exemption for Reactor Processes Producing Beverage Alcohols. Four commenters expressed concern about the applicability of this NSPS to ethanol created by the natural breakdown of sugars, a process used in the production of food and beverage alcohols. These commenters noted that the intended scope of this rule is virtually identical to the distillation NSPS and that production of beverage alcohols is specifically exempt from the distillation NSPS. To remain consistent with previous rulemakings, these commenters urged that the regulation of beverage alcohol be specifically exempt from the reactors NSPS.

The EPA agrees that the intended scope of the reactors NSPS is very similar to the distillation NSPS and that neither NSPS is intended to apply to ethanol created by the natural production of beverage alcohols. These sources are not included on the priority list of sources for which standards are to be promulgated and, as indicated in the notice announcing EPA's promulgation of the NSPS Priority List (44 FR 49222), are not within the scope of the SOCMI source category. Further, ethanol generated during baking or other food manufacturing processes is produced neither for sale nor for further use. Based on the definition of "product," ethanol generated during food manufacturing would not be considered a product within the context of the SOCMI regulation. For the above reasons, an exemption similar to the one that appears in the distillation NSPS has been added to the reactors NSPS. This provision specifically exempts the production of beverage alcohols from the reactors NSPS.

Exemption for Reactor Processes Subject to the New Source Performance Standards for Polymer Manufacturing. One commenter stated that if the definition of "product" in the regulation includes raw materials, then those facilities that use raw materials listed under § 60.707 and that are subject to the provisions of the NSPS for polymer manufacturing (subpart DDD) should be exempt from the reactors NSPS.

The EPA acknowledges that it is not the intent of the reactors NSPS to regulate process vents that are subject to the NSPS for polymer manufacturing under 40 CFR part 60, subpart DDD (55 FR 51010). To ensure that these facilities are not subject to both standards, an exemption identical to the one that appears in the distillation NSPS will be added to the reactors NSPS. This exemption will exclude from regulation under the reactors NSPS any reactor process that is subject to the provisions of subpart DDD for polymer manufacturing.

Request for Low Concentration Exemption. One commenter indicated that an exemption or a minimum emission rate should be added to the low flow provision to exclude vent streams with flow greater than the minimum flow rate of 0.011 scm/min (0.39 scfm) but that contain relatively low concentrations of TOC. The commenter felt that this exemption is needed because it is conceivable that a concentrated stream with a low flow rate (less than 0.011 scm/min (0.39 scfm)) could contain higher emissions (greater than 20 ppmv) than a dilute vent stream with a large flow rate, *making the control cost significant.*

In reevaluating the applicability criteria of the reactors NSPS, a low concentration cutoff of 300 ppmv has been added to the standard. The low concentration exemption was established so sources would not have to bear the unnecessary cost of determining the TRE index value. The cutoff was set such that the TRE index value would not be less than 1.0 for this low concentration stream even if the stream heat content and flow were worst case. Below this concentration cutoff, the owner or operator would not be required to make an assessment of the TRE index value for a vent stream. This level was set as the minimum concentration level below which the TRE index value would always be expected to exceed a value of 1.0. Measurement of the concentration level of a vent stream could be made using Reference Method 18. If the resulting concentration value is less than 300 ppmv TOC, then a TRE calculation is not needed and combustion is not required. The basis for selecting this 300 ppmv level is documented in a memorandum entitled "Selection of the Low Concentration Cutoff," (Docket No. A–83–29, Item IV–B–1). Alternatively, Reference Method 25A could be used as a screening method in lieu of Method 18. However, if Method 25A is used, the measured concentration of TOC must be less than 150 ppmv to qualify for the exclusion. See section IV–F of this preamble for further discussion.

The total cost of control per unit of VOC removed could vary considerably among the different types of reactor process vent streams due to variations in the vent stream characteristics of flow rate, heat content, and concentration of organic compounds. For this reason, the efficiency of controlling a particular vent stream is taken into consideration in the regulation by the TRE calculation. An additional cutoff based on minimum emissions is not needed.

The standard also contains a mechanism for exempting any vent stream for which compliance would be unreasonably costly. This means of measuring the cost of control is embodied in the TRE index. Equations are included in the regulation for determining the TRE index of a vent stream from an affected facility.

B. Definitions

Total Organic Compounds (TOC). One commenter requested a clarification to ensure consistency in the definition of TOC. This commenter pointed out that the definition of TOC in § 60.701 of the reactors NSPS excludes "* * * those compounds that the Administrator has determined do not contribute appreciably to the formation of ozone * * *." This commenter speculated that, in the future, EPA is intending to exclude additional compounds such as the new hydrofluorocarbons and hydrochlorofluorocarbons that were mentioned in 54 FR 1988, published on January 18, 1989. The commenter pointed out that the definition of TOC in the distillation NSPS does not include the compounds mentioned in 54 FR 1988.

The EPA did intend to exclude from the definition of TOC in § 60.701 specific compounds that the Administrator has determined do not contribute appreciably to the formation of ozone. The current list of exempt compounds, which is identified in separate Federal Register notices (54 FR 1988, 42 FR 35314, 44 FR 32042, 45 FR 32424, 45 FR 48941), is as follows: methane; ethane; 1,1,1-trichloroethane; methylene chloride; trichlorofluoromethane; dichlorodifluoromethane; chlorodifluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; chloropentafluoroethane; dichlorotrifluoroethane; tetrafluoroethane; dichloroethane; and chlorodifluoroethane. As the commenter noted, the list of specific compounds that the Administrator has determined do not contribute appreciably to the formation of ozone may be updated periodically. If, in the future, the Administrator adds to the list of chemicals defining TOC, these added chemicals will be identified in future **Federal Register** notices.

The current definition of TOC in the reactors NSPS will be retained to reference and not specifically list the compounds that the Administrator has determined do not contribute appreciably to the formation of ozone. Finally, by defining TOC in this manner, any changes that the Administrator makes to the list of compounds would be automatically incorporated into the definition of TOC in the reactors NSPS.

The Definition of Product. Six commenters objected to the definition of "product." Two commenters felt that the definition is confusing for determining the applicability of the reactors NSPS. Four commenters recommended that the definition of "product" in the distillation NSPS be used, with the necessary revision to reference the reactor process list of chemicals in § 60.707. These commenters objected to the phrase "* * * or is used for the production of other chemicals or compounds." These commenters were concerned that this language could be interpreted to expand applicability of this NSPS to all facilities that use any of the 173 listed chemicals in their production processes, even if they do not manufacture any of the 173 compounds as a product, by-product, or co-product.

The EPA agrees that the language in the definition of "product" in § 60.701 of the proposed standards could be misleading and could expand applicability of the reactors NSPS to facilities that were not intended to be impacted by this regulation. The definition of "product" similar to the one found in the distillation NSPS has been included in the reactors NSPS. It states that a "product" is "any compound or chemical listed in § 60.707 that is produced for sale as a final product as that chemical, or for use in the production of other chemicals or compounds." This definition is consistent with EPA's intent of coverage under the reactors NSPS.

Products, Co-Products, or Intermediates. Two commenters requested further clarification of the definition of the phrase "product, co-product, by-product, or intermediate." These commenters recommended that wording similar to that found in the preamble of the distillation NSPS be included in the reactors NSPS preamble to clarify the intent.

As suggested by the commenters, the following language is presented to clarify the intent of the definition of "product." The EPA considers it appropriate for the reactors NSPS to apply to any reactor process facility within a process unit producing any of the listed chemicals as a product, by-product, co-product, or intermediate. The standards were developed from data on reactor processes within process units that produce the chemicals listed in § 60.707 in any of the forms listed above. The cost of controlling emissions from the production of a listed chemical as a by-product, co-product, or intermediate is similar to the cost of controlling emissions from the production of that chemical as a product. Furthermore, the application of the standards to facilities producing any of the listed chemicals was found to be reasonable. Therefore, EPA considers the word product to also represent by-products, co-products, and intermediates.

The standards are also applicable to reactor processes that are used to recover waste or feedstock components as long as the facility is within a process unit producing any of the listed chemicals as a product. The main factor in determining if a listed chemical is produced as a product is the use of the chemical after the process unit. The EPA considers either of the following downstream uses as indicative of the production of a listed chemical as a product: (1) Production for sale as that listed chemical, or (2) use in another process where that listed chemical is needed. However, if a listed chemical is only part of a mixed stream exiting a process unit and cannot be sold or used in another process as the listed chemical, then that chemical is not considered to be produced as a product.

The Definition of By-Product. One commenter questioned whether the term "by-product" includes those compounds that are unintentionally created as a result of a chemical reaction and that are contained within a final product. To avoid confusion, the commenter recommended establishing a *de minimis* level (i.e., less than one percent) to exclude a contaminant from the definition of by-product.

Another commenter also requested clarification for by-products that are produced during reactor processes but are not pure enough for sale and, generally, are disposed of as waste. This commenter felt that it is not the intent of the reactors NSPS to regulate these by-products because they are neither intended for sale nor used in the production of other chemicals.

The EPA believes that if a mixture is produced in a reactor process as a "product" and contains a chemical listed in § 60.707 that is intentionally included in the mixture for use of its chemical characteristics, the process would be subject to the standard. A mixture would not be subject if the listed chemical is included only as a contaminant; that is, the chemical is not included in the process for its chemical characteristics. To further clarify this distinction, sometimes a listed chemical can be formed during the reaction process as a contaminant from side reactions as a consequence of producing other chemicals that are not listed. These contaminants would not be considered to be produced by the reactor process if they are not recovered to be sold or used in the production of a final product.

The EPA has decided that for the purpose of these standards, it is more appropriate to determine applicability according to whether a listed chemical is produced as a product, instead of setting a minimum concentration level of a listed chemical as a means of defining what may constitute production as a product. It is not feasible to set any one concentration limit for listed chemicals below which the chemical is always an impurity or waste. It is not feasible because the necessary concentration or purity for a listed chemical to be considered a product can vary from site to site. For example, a chemical that is produced as 90 percent pure from one process may only be 80 percent pure to be considered as a product for another process. Due to the diversity of the SOCMI, it would not be practicable for EPA to establish different concentration limits for all of the processes covered by the standards. Therefore, the applicability of the standards is determined according to whether a listed chemical is produced as a product.

C. Selection of Best Demonstrated Technology (BDT)

One commenter requested that although the preamble discussion states that "any control can be used as long as it can be demonstrated that it is at least as effective as BDT at reducing VOC emissions," this stipulation should also be specifically spelled out in § 60.702 of the regulation.

Because the standard in § 60.702(a) is expressed in terms of an emission limitation and not an equipment requirement, the EPA believes that the wording in § 60.702(a) is clear in its intent that any control device can be used to achieve the emission limitation. Any VOC control device, including an incinerator, boiler, process heater, or other combustion device, can be used to comply with this requirement. Alternatively, a flare can be used to comply with § 60.702(b). In addition, any VOC recovery device, including an absorber, condenser, carbon adsorber, or other recovery device, can be used to comply with § 60.702(c) to maintain the TRE index greater than 1.0. It should be noted that the TRE value for a vent stream is determined at the point that the stream exits the final VOC recovery device and before it enters a VOC control device.

If an owner or operator elects to use a control device other than an incinerator, boiler, process heater, or flare; or a recovery device other than an absorber, condenser, or carbon absorber, that facility would be required to provide information to the Administrator describing the device and the process parameter(s) that would indicate proper operation. The documentation should be submitted to the appropriate enforcement officer. As necessary, EPA Headquarters may be consulted to determine the adequacy of monitoring alternative process parameters.

D. Format of Standards

Standardization of the TRE Equation. Three commenters recommended that the TRE equations be standardized in 40 CFR part 60, subpart III, subpart NNN, and subpart RRR. One commenter pointed out that an important feature of the TRE index value noted in the reactors NSPS preamble is that "it is independent of cost changes over time so that it is not necessary to periodically revise the calculation to reflect current year dollars." Two commenters noted that the only change to the TRE equation between the air oxidation NSPS and distillation NSPS and the proposed reactors NSPS was a revision of the coefficients to account for various cost changes from a 1978 to a 1982 base year. Both of these commenters noted that the purpose for changing the coefficients seems to contradict the rationale for developing the TRE index format.

Two commenters pointed out that for a given process vent, the revised coefficients result in TRE index values that are about three percent greater. Both commenters noted that by standardizing the coefficients in all three regulations, applicability and compliance determinations for many facilities would be simplified without appreciably changing the impact of the rules.

The EPA agrees that the TRE coefficients in the reactors NSPS should be identical to those used in the air oxidation NSPS and distillation NSPS and has made this change to the final reactors NSPS. This standardization is important to reduce confusion and ensure consistency in calculating TRE values, especially in those cases where a facility has several vent streams subject to different SOCMI NSPS. The resulting difference in the computed TRE values would be insignificant using the adjusted TRE coefficients.

E. Monitoring

Carbon Bed Temperature. One commenter stated that according to § 60.705(g)(3)(ii) of the proposed regulation, an exceedance is based on a 10 percent greater temperature [in degrees Celsius (°C)] for carbon bed regeneration compared to the most recent performance test. This commenter felt that this requirement is overly restrictive and would penalize facilities that choose to operate at lower and more efficient temperatures. This commenter recommended a temperature range, to be determined by EPA, instead of a percentage value.

The EPA does not intend to penalize those owners or operators who are operating their carbon beds at lower, more efficient temperatures. The commenter is correct in pointing out that by allowing a 10 percent variation in temperature from the performance test for the carbon bed following regeneration, some inequities may result. To eliminate possible inequities, a minimum temperature difference of 5 °C will be added as an alternative to the 10 percent provision in § 60.705(f)(3)(ii). As discussed in the memorandum entitled, "Documentation of Carbon Adsorber Cool Down Temperature" (Docket No. A–83–29, Item IV–B–2), the minimum value of 5 °C is derived from 10 percent of 50 °C, a typical carbon bed cool down temperature. This alternative provides more flexibility to those owners or operators who are operating their carbon beds at lower, more efficient temperatures. As an example, an owner or operator may be able to achieve a carbon bed cool down temperature of 5 °C when conducting the performance test. However, using the 10 percent provision to maintain compliance with the regulation, the owner or operator must cool the carbon bed down to at least 5.5 °C. The alternative added to the regulation would allow the owner or operator to cool the carbon bed down to 10 °C.

Flow Indicators. Three commenters expressed concern about the requirement for flow indicators. One commenter requested that flexibility be included in the final regulation to allow an affected facility to use any means available to indicate vent stream flow and to allow a flow indicator to be located in a place other than the point closest to the inlet of the control device.

Another commenter stated that the requirement for facilities to determine the presence of vent stream flow before the stream is combined with other streams should be deleted. This commenter pointed out that existing reactor process vent streams are frequently combined with other vent streams in a vent header prior to being routed to a control device. This commenter noted that in these cases, conventional design provides for flow indicators to be placed only at a point close to the control device and downstream from all individual vents. This commenter recommended that facilities be allowed to comply with the flow indication requirement by using existing instrumentation that is located close to the control device and after the affected facility vent stream has been joined by other vent streams.

The EPA considers it very important to ensure that vent streams are continuously vented to the control device. The primary intent of the flow monitoring requirement in the reactors NSPS was to provide a means for indicating when vent streams were bypassing the control device. In the June 29, 1990 proposed rule for reactor processes, flow indicators were proposed to be installed in the vent stream from the affected facility at a point closest to the inlet of the control device and before being joined with any other vent stream. The presence of flow was to be recorded at least once every hour. The flow indicators envisioned by EPA were to simply provide an indication of flow/no flow, and not to provide quantitative estimates of flow rates.

The EPA has reevaluated the use of flow indicators in reactor process vent streams as proposed in light of the comments received. Because flow indicators located in the vent stream between the emission source and the control device prior to being joined with another vent stream may be insufficient to meet the intent of the standard (although this is what was proposed), EPA has decided to alter the flow indicator location. The new flow indicator location would be at the entrance to any bypass line that could divert the vent stream before it reaches the control device. This location would indicate those periods of times when uncontrolled emissions are being diverted to the atmosphere. In those instances when the vent stream is rerouted to another control device, the second control device must also conduct a performance test and meet the requirements of the standard. The flow indicator required in each bypass line to the atmosphere can be used in conjunction with any type of seal mechanism to ensure that flow is not diverted.

In some situations, there may be no bypass lines that could divert the vent stream to the atmosphere. In these cases, there will be no flow indicator requirement. In addition, engineering records that show an emission stream is hardpiped to a control device are sufficient to demonstrate that the entire flow will be vented to the control device. Other piping configurations can be used, but flow indicators located in any bypass line that could divert a portion of the flow to the atmosphere, either directly or indirectly, become necessary.

Considering the above conclusions, EPA is now requiring that engineering records be retained that describe the piping arrangement for venting the affected vent streams to the control device. This requirement will further ensure that each reactor process vent stream of the affected facility is being continuously vented to the control device. If the piping arrangement for the reactor process changes, then the facility must revise and retain the information. Little or no additional burden would be expected from this requirement because engineering design specifications that describe the piping arrangements are already being maintained at these facilities.

At proposal, EPA required that hourly recordings of flow to the control device be taken. However, EPA believes that more frequent collection of flow/no flow data is appropriate when the purpose of the monitoring is to detect flow diverted away from the control device rather than flow towards it. Thus, the final reactors NSPS requires flow indicators to be equipped to indicate and record whether or not flow exists at least once every 15 minutes (rather than once every hour). Because the monitor collects flow/no flow data on a continuous basis, this additional recording would not be an additional burden. If an owner or operator believes that an alternative frequency or placement of a flow indicator is equally appropriate, then the owner or operator can petition the Administrator, as provided by the General Provisions, to use an alternative monitoring scheme.

Alternate Methods to Flow Indicators. Three commenters requested that alternate methods be allowed for determining vent stream flow/no flow for an affected facility. One commenter explained that each column in his system has a manual vent valve used for initial purging at startup to remove oxygen from the system and to prevent a flammable mixture in the flare header. According to the commenter, the alternative that this facility requested was to lock the manual vent valves in the closed position during normal operations, with periodic visual checking to ensure no release to the atmosphere. The manual vent valve lock suggested by the commenter would be secured in place with a lock and key. The key to the lock would be kept in the custody of the foreman or chief operator. Alternatively, the commenter explained that the valves could be locked electronically with a remote control valve on a control panel, or computer activated. The commenter felt that this type of problem was not an isolated case and recommended adding a provision to § 60.703 which allows an appropriate administrative compliance alternative method for flow measurement, with a direct reference to § 60.13(i) of the General Provisions as the means by which a source could seek approval.

In addition to relocating the position of the flow indicator to the entrance of any bypass line, EPA agrees that alternate provisions to flow indicators should be allowed for indicating vent stream flow/no flow for an affected facility. An alternate provision is being added for those facilities that use a car-seal or a lock-and-key type configuration to maintain the bypass line closed. This alternate provision would require all lines that allow emissions to bypass the control device to be car-sealed closed or secured with a lock-and-key type configuration. For those affected facilities that use any other alternative type of locking mechanism (such as a computer-activated electronic locking system), those affected facilities would be required to install a flow indicator in the bypass line.

This alternative is being added to the reactors NSPS to ensure that the vent streams are not routinely bypassed to the atmosphere rather than being routed to the control device. If the owner or operator elects to comply with this alternative, a visual inspection of the seal mechanism and valves would be required at least once per month to report and record any time the seal mechanism is broken or the lock is open, and to report and record any time the valve position has been changed and the duration of the release to the atmosphere.

If at any time a flow indicator positioned in any bypass line to the atmosphere indicates gas flow, this shall constitute a violation under § 60.702(a), except during periods of startup, shutdown, or malfunction. For purposes of determining compliance, malfunctions shall be events deemed to occur infrequently, unforseeably, and unavoidably. Consequently, recurring instances of flow through any bypass line to the atmosphere shall not constitute a malfunction under this standard.

Clarification of Firebox. One commenter observed that the requirement to install temperature monitoring devices in the "firebox" of an incinerator should be modified to allow for additional flexibility. This commenter remarked that with many incinerators, the technology does not exist to maintain a reliable temperature monitor inside the firebox. The commenter noted that, in practice, most temperature monitors are installed in the exhaust gas downstream of the firebox. The commenter thought that flexibility should be allowed in the final regulation to allow for the placement of the temperature monitor in an appropriate location to address situations where it is not practical or where the technology does not exist to install these devices in the firebox.

For purposes of measuring the firebox temperature in an incinerator, EPA considers it appropriate to locate the temperature monitor in a position before any substantial heat exchange is encountered. For the purposes of this regulation, the location of the temperature monitoring device will be allowed in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange is encountered.

F. Performance Testing and Measurement Methods

Timing Requirements for Constructed, Modified, or Reconstructed Facilities. Four commenters requested that guidance be provided for the performance test requirements for facilities that are constructed, reconstructed, or modified between the date of proposal and the date of promulgation. All four commenters felt that the timing requirement of 60 days for the initial performance test was unrealistically tight. They recommended allowing a minimum of 120 days for the initial performance test.

Three commenters do not believe that facilities can anticipate the final rule because changes are likely to occur after proposal as a result of public comments. All four commenters stated that considerable time is needed to perform the requisite analyses and tests. One commenter stated that those affected facilities electing to comply with the TRE index format would have to perform stack tests, which would take 10 to 12 weeks and, therefore, would have an extremely difficult time in meeting the 30-day notification deadline. Two commenters pointed out that many steps are involved when conducting a performance test, including setup, testing, and sample analysis. Both of these commenters agreed that 120 days provides a more reasonable time to complete testing.

In regard to performance tests, the owner or operator must conduct performance tests and submit a written report of the results of such tests to EPA within 60 days after achieving the maximum production rate at which the facility will be operated, but not later than 180 days after initial startup of the facility. In some instances, however, the initial startup of a facility may occur before the date of promulgation. The EPA has a policy of allowing facilities to conduct and report the results of performance tests within 60 days from the date of promulgation, unless maximum production has not been achieved. In the latter case, the facility must conduct and submit the results of a performance test no later than 180 days after the date of promulgation. It is believed that this is a reasonable amount of time for the owner or operator of a reactor process unit to achieve compliance. All sources subject to the NSPS must meet these general requirements.

Maximum Operating Capacity for Constructed, Modified, or Reconstructed Facilities. Four commenters expressed concern about the provision which requires facilities that are built, modified, or reconstructed between proposal and promulgation that have not achieved maximum operating capacity before promulgation to conduct their performance test within 180 days of promulgation. Two commenters pointed out that § 60.704(a) clearly states that facilities must be run at full operating conditions and flow rates during performance tests. Three commenters stated that if a facility does not achieve maximum operating conditions within 180 days of promulgation, then it cannot conduct a performance test without violating the provisions of § 60.704(a). These three commenters recommended that facilities either be allowed to conduct their performance test after the maximum operating rate has been achieved, or that § 60.704(a) be revised to accommodate facilities that have not yet achieved their maximum operating rate.

The requirement for the initial performance test to be conducted within 180 days following initial startup will remain unchanged. If, however, a facility foresees a problem in achieving compliance (i.e., if the facility is unable to achieve maximum capacity within 180 days), then the owner or operator of that facility must notify the State, which has been delegated implementation authority, or the appropriate EPA Regional Office at the earliest possible time.

Method 18—Future Validation Method. One commenter expressed concern about the expected cost and the amount of time required by a source to run Method 18's future validation method. This commenter stated that each vent stream possesses its own set of unique characteristics so that each vent stream will require a separate test once the new validation protocol is issued. This commenter requested some discussion and guidance in the final reactor processes preamble on possible ways to reduce this time and cost burden.

The protocol mentioned by the commenter has been published as EPA Method 301, entitled "Field Validation of Emission Concentrations from Stationary Sources," in appendix A to 40 CFR part 63. This method is not a mandatory procedure for complying with the Method 18 requirements specified in the reactors NSPS. Rather, it is intended for use in validating results of emission testing, particularly when there is no performance test method specified. Because Method 18 is specified in the reactors NSPS, Method 301 is not required by the NSPS, but may prove useful in some situations. To use Method 301, the owner or operator would have to request and receive approval for its use under the alternative methods provisions found in § 60.13(i) of the General Provisions.

Analytical Requirements of Method 18. Two commenters believed that the use of Method 18 to determine the concentration of TOC would be extremely labor-intensive, especially if there are a number of compounds present. One commenter pointed out that Method 18 does not specify chemicals to be analyzed and that extensive efforts could be expended quantifying trace components to ensure that compliance with the method is achieved. This commenter recommended that the analytical burden could be reduced by stating that for purposes of achieving compliance, the analytical efforts should focus only on the compounds expected to be present. This commenter suggested that expected compounds could be determined by knowledge of the process or by an initial analytical screening. The second commenter suggested that Method 25 would be a more adequate method for this determination.

Method 18 includes performance specifications, which are internal to the method. These specifications offer guidance on the steps needed to measure approximately 90 percent of the total gaseous organic compounds that are present in the vent stream. However, before implementing Method 18, it is necessary to have some preknowledge of the source. When designing the analytical scheme for conducting the Method 18 performance test, it is necessary to have some prior knowledge of the identity and concentration of species that are present. It is also necessary to be familiar with the chemical process being tested and to perform an initial analytical screening. As discussed in Method 18, presurvey sampling and analysis is required to confirm the identities and approximate concentrations of the organic emissions.

In response to the suggested use of Method 25 as an appropriate method, this method is not suitable at levels as low as 20 ppmv. Because of this, Method 25 is not considered appropriate for compliance testing purposes for the 20 ppmv emission limitation specified in the reactors NSPS.

As discussed in section IV–A of this notice, a low concentration cutoff of 300 ppmv (measured using Method 18) has been added to the standards. Method 25A is allowed as an alternate screening method to Method 18 for those owners or operators seeking an exclusion for vent streams with low concentration levels. Although Method 25A does not identify speciated compounds, when calibrated to the primary constituent in the vent stream it can provide a sufficiently accurate measurement of TOC for comparison to the low concentration applicability cutoff. However, because vent streams are often composed of a mixture of multiple organic compounds, and some are more easily detected by Method 25A than others, the regulation includes certain procedures for using Method 25A.

Method 25A can only be used if one organic compound accounts for over 50 percent of the vent stream TOC. This compound is referred to as the primary constituent. The primary constituent must be used as the calibration gas for Method 25A. Because the compound to which the method is calibrated may be only half of the total TOC present, the TOC concentration measured by Method 25A must be less than 150 ppmv (or 0.50 × 300 ppmv) to demonstrate compliance with the low concentration cutoff. This requirement accounts for some organics that may not be well detected when the method is calibrated to the primary constituent. Method 25A measurements include methane and ethane.

Primary Fuel Systems. Two commenters cited problems applying performance tests and monitoring requirements set out in the regulation to fuel systems that collect and mix reactor vent stream offgases with natural gas or other fuel gas for use as a primary fuel source. One of the commenters indicated that his plant-wide fuel system provides fuel for numerous (100 or more) process heaters and boilers.

One commenter stated that although the monitoring and testing requirements set out in the regulation may be appropriate for incinerators combusting waste vent streams, they are not appropriate for fuel gas systems such as this. This commenter pointed out that for such a fuel system, the required temperature monitoring parameter does not correlate to VOC removal. This commenter explained that it would be difficult and costly to demonstrate that each of the boilers or process heaters in the system is achieving the required 98 percent reduction efficiency.

This commenter added that as long as the process heaters and boilers in the system are operating properly and ignition is maintained, the 98 percent reduction efficiency required by the NSPS would be greatly exceeded. This commenter further stated that for process and safety reasons, fuel flow to the boiler or process heater is always stopped if a flame is not present. This commenter felt that due to the ability of these boilers and process heaters to achieve the 98 percent destruction efficiency, these fuel systems should be able to monitor operating parameters appropriate to their particular operations to ensure that sufficient combustion is being achieved.

The commenter stated that at least 98 percent destruction efficiency based on good combustion practices, including adequate residence time, temperature, and mixing, was reported for the example operations. Examples of these operations were cited by the commenter. The commenter requested that EPA allow facilities that combust reactor vent gases in boilers and heaters to identify an appropriate operating parameter for each combustion device to monitor as an indicator that combustion is present. Because normal monitoring of combustion devices is essential to ensure proper operation, the commenter stated that facilities generally have in place appropriate monitoring procedures to enable the identification and control of combustion process malfunctions such as flame loss.

The EPA agrees that when a vent stream is combusted as primary fuel, the fuel gas is passing through the flame front and, on average, it is combusted at a higher temperature than if it were being introduced into the flame with combustion air. Based on emission calculations for natural gas fuel combustion, it has been demonstrated that boilers and process heaters with design capacities ranging from 10 to 100 MMBtu/hr achieve greater than 99.99 percent combustion efficiency. In general, it is expected that SOCMI chemicals affected by this standard would be easier to combust than natural gas. One commenter submitted results of a Method 25A performance test conducted on a unit with design capacity of 70 MMBTU/hr. The results of this test demonstrated that TOC was reduced by greater than 99.99 percent. The above information supports the commenter's claim that an affected vent stream combusted in a boiler or process heater as primary fuel would achieve greater combustion efficiency than the 98 percent level required by the standards.

It is also in the best interest of the owner or operator to achieve the greatest combustion efficiency possible when using the vent stream as primary fuel. The process heaters and boilers in the fuel system are operated to produce steam or heat, so that greater combustion efficiency would minimize the amount of supplemental fuel required and reduce operating costs.

In addition, for safety reasons, the fuel flow to a unit in a fuel system of the type described by the commenter would be shut down immediately if the combustion device fails to operate. Fuel collecting inside a unit in the absence of combustion could result in a highly flammable and dangerous situation once the flame is reinstated. The EPA believes that, to avoid an explosion, the owner or operator would ensure that any vent stream being used as fuel does not pass through the combustion device without a flame present. In a case such as this, the vent stream would be diverted to another combustion device that would have to comply with NSPS requirements.

For the above reasons, EPA has determined that performance testing and temperature monitoring for those boilers and process heaters combusting vent streams as primary fuel are not warranted; furthermore, based on the performance of these types of units, it is believed that they would already be achieving the levels required by the standards. In view of this, the performance testing and temperature monitoring requirements are not deemed necessary to ensure compliance with the standards. The EPA, therefore, is deleting performance testing and temperature monitoring requirements for those affected vent streams combusted as primary fuel in process heaters and boilers. However, performance testing and monitoring are required for all incinerators, and for boilers and process heaters with design capacity less than 150 MMBtu/hr that are not combusting their vent streams as primary fuel.

To demonstrate that affected vent streams are being routed to appropriate control devices, EPA is adding a requirement for any type of control device used, that the owner or operator retain a schematic diagram of the affected vent stream, collection system, fuel system, control device(s), and any bypass systems. The EPA expects no additional burden associated with this requirement. Retaining a schematic diagram on site would provide an enforcement mechanism to ensure that the affected vent stream is being routed to an appropriate control device. The schematic diagram would also indicate whether or not the vent stream is being diverted to the atmosphere or to an additional control device.

Use of Flow Indicators on Primary Fuel System. One commenter questioned the usefulness of flow indicators on a fuel gas system that combusts the vent stream as primary fuel and where the vent stream is never vented to the atmosphere.

As discussed previously, EPA has reevaluated the use of flow indicators and has decided to alter the position of the flow indicator so that it would provide an indication of those times when the vent stream is being diverted to the atmosphere. If no bypass lines to the atmosphere are present, then flow indicators would not be required. However, if a vent stream is diverted to another combustion device, such as a flare, that device must also comply with the standards.

The proposed requirement for monitoring periods of boiler or process heater operation is not included in the final standards. As explained in the previous response, boilers or process heaters are typically operated continuously, and due to safety reasons a vent stream is not expected to be introduced into a boiler or process heater without a flame present. Any bypass of the combustion device would be recorded due to the flow indicator requirements. Therefore, a requirement to monitor periods of operation of the boiler or process heater is unnecessary.

Introduction of a Vent Stream as a Secondary Fuel or with the Combustion Air. In addition to use as a primary fuel, one commenter was aware of situations in which process vent streams are combusted as a secondary fuel in a separate burner or are combined with combustion air. The commenter, however, did not provide any performance test data or emission calculations indicating that 98 percent organics reduction efficiency was being met in these situations.

The EPA is concerned about situations in which vent streams represent a small percentage of the total fuel input to a boiler or process heater and are not mixed with the primary fuel. When vent gases are fed into the combustion system through a separate burner, the potential exists for unstable burner operation and burner "flame-out." When vent gases are mixed with combustion air prior to entering the burners, the potential exists for the vent gases to bypass the main flame zone due to poor adjustment of burner air registers.

Based on discussion with combustion system operators and review of other information, EPA concluded that the potential for significant bypass of vent gases around the combustion zone of larger boilers and process heaters is small due to: (1) The residence time, temperature, and turbulence associated with the flame zone in larger combustion systems, (2) the use of burner management systems on most large combustion systems that reduce the potential for undetected flame-outs, and (3) the presence of operating staffs that would detect a problem if it occurred. Therefore, as at proposal, performance testing and temperature monitoring are not required for boilers or process heaters with capacities of 150 MM Btu/hr or greater.

The situation for smaller boilers and process heaters is different, however. For example, many small combustion systems are not equipped with flame scanner systems that automatically stop the flow of vent gases used as a secondary fuel in the event of a burner flame-out. Also, the smaller devices do not have the residence time or temperature of the larger combustion systems. Furthermore, as stated above, no data were provided by the commenter to assure such systems would achieve 98 percent reduction of organics. As a result, the requirements for performance testing and temperature monitoring are being retained for vent streams being used as secondary fuels or combined with combustion air in boilers and process heaters smaller than 150 MM Btu/hr.

Use of Method 18 for Determining Organics Destruction of Vent Streams Used as Secondary Fuels. One commenter also indicated that it would be difficult to determine the organics destruction efficiency of vent streams that represent a small fraction of the total fuel input to a combustion system.

After further review, EPA agrees that it may be difficult for boilers and process heaters in which vent streams are secondary fuels to determine the destruction efficiency specifically for the vent gases. As a result, a provision has been added to the rule clarifying that Method 18 should be used to demonstrate that the reduction in TOC emissions (minus methane and ethane) by 98 percent or to 20 ppmv should be based on the combined stream (the vent stream plus the primary fuel and all secondary fuels), rather than on the vent gases only.

G. Reporting and Recordkeeping

Request for Simplification of Reporting/Recordkeeping Requirements. One commenter stated that the requirements for reporting and recordkeeping are very detailed and should be simplified in cases where the intent can be satisfied by an alternative means. The commenter further explained that to avoid the possibility of numerous reports on a scattered basis, these reporting and recordkeeping requirements should be summarized into a semiannual report to be submitted, for example, in January and July of each year.

The compliance procedures seem complicated because there are several different routes to comply with the Reactors NSPS. For example, the owner or operator may elect to comply with the NSPS by installing an additional condenser or by combusting emissions in a flare or other device. In each case, specific monitoring, reporting, and recordkeeping provisions must be specified in the final regulation. These requirements are nearly identical to the requirements in the air oxidation and distillation NSPS. To remain consistent and because industry has become familiar with these requirements, the monitoring, reporting, and recordkeeping provisions will not be revised. However, Tables 1 through 3 give a general summary of the monitoring, reporting, and recordkeeping requirements. This general summary should assist the owner or operator in identifying and locating the applicable requirements in the regulation for reactor processes.

TABLE 1.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC COMPOUND EMISSIONS OR A LIMIT OF 20 PPMV

Type of control device used for compliance	Monitoring equipment required[a]	Parameters to be monitored	Recordkeeping requirements	Parameter boundary exceedances to report
Thermal incinerator	Temperature monitoring device (installed in firebox or ductwork immediately downstream) equipped with a continuous recorder [60.703(a)(1)(i)].	Average firebox temperature.	Continuous records	All 3-hour periods of operation when average combustion temperature is >28 °C (50 °F) below the average value measured during the most recent performance test [60.705(c)(1)].
	Flow indicator at entrance to bypass line equipped with a continuous recorder [60.703(a)(2)(i)][b].	Presence of flow away from incinerator, at least once every 15 minutes.	Continuous records; schematic diagram.	Periods when the vent stream is diverted from the combustion device [60.705(l)(2)].
Catalytic incinerator	Temperature monitoring device (installed in gas stream immediately before and after catalyst bed) equipped with a continuous recorder [60.703(a)(1)(ii)].	Average temperature upstream and downstream of the catalyst bed.	Continuous records	All 3-hour periods of operation when the average temperature of vent stream upstream of the catalyst bed is >28 °C (50 °F) below the average value from the most recent performance test [60.705(c)(2)]. All 3-hour periods of operation when the average temperature difference across the catalyst bed is 80 percent of the average temperature difference measured during the most recent performance test [60.705(c)(2)].
	Flow indicator equipped with a continuous recorder [60.703(a)(2)][b].	Presence of flow away from incinerator, at least once every 15 minutes.	Continuous records; schematic diagrams.	Periods when the vent stream is diverted from the combustion device [60.705(l)(2)].
Boiler or process heater	Flow indicator equipped with a continuous recorder [60.703(c)(1)(i)][b].	Presence of flow away from boiler or process heater, at least once every 15 minutes.	Continuous records; schematic diagrams.	Periods when the vent stream is diverted from the combustion device [60.705(l)(2)].

TABLE 1.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR COMPLYING WITH 98 WEIGHT-PERCENT REDUCTION OF TOTAL ORGANIC COMPOUND EMISSIONS OR A LIMIT OF 20 PPMV—Continued

Type of control device used for compliance	Monitoring equipment required [a]	Parameters to be monitored	Recordkeeping requirements	Parameter boundary exceedances to report
Boiler or process heater (design heat input capacity <44 MW, except where vent stream used as primary fuel).	Temperature monitoring device with continuous recorder [60.703(c)(2)].	Average combustion temperature.	Continuous records	All 3-hour periods of operation when average combustion temperature is >28 °C (50 °F) below the average value from the most recent performance test where the vent stream is introduced with the combustion air or as a secondary fuel [60.705(c)(3)].

[a] Regulatory citations are listed in brackets.

[b] Where the by-pass line is secured in the closed position with a car-seal or lock-and-key type configuration, a flow indicator is not required. Visual inspection is required at least once per month.

TABLE 2.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR AFFECTED FACILITIES COMPLYING WITH FLARE SPECIFICATIONS

Type of control device used for compliance	Monitoring equipment required [a]	Parameters to be monitored	Recordkeeping requirements	Parameter boundary exceedances to report
Flare	Heat sensing device [60.703(b)(1)].	Presence of a flame at the pilot light.	Continuous records	All periods when the pilot flame is absent [60.705(l)(3)].
	Flow indicator [b] [60.703(b)(2)(i)]	Presence of flow diverted away from flare, at least once every 15 minutes.	Continuous records; schematic diagrams.	Periods when the vent stream is diverted from the combustion device [60.705(l)(2)].

[a] Regulatory citations are listed in brackets.

[b] Where the by-pass line is secured in the closed position with a car-seal or lock-and-key type configuration, a flow indicator is not required. Visual inspection is required at least once per month.

TABLE 3.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR MAINTAINING A TOTAL RESOURCE EFFECTIVENESS INDEX VALUE >1.0

Final recovery device	Monitoring equipment required [a]	Parameters to be monitored	Recordkeeping requirements	Boundary exceedances to report [a]
Absorber	Scrubbing liquid temperature monitor equipped with a continuous recorder [60.703(d) (1)(i)].	Average exit temperature of the absorbing liquid.	Continuous records	All 3-hour periods of operation when average temperature is >11 °C (20 °F) above the average value from the most recent performance test [60.705(f)(1)(i)].
	Specific gravity monitor equipped with a continuous recorder [60.703(d) (1)(i)].	Exit specific gravity (or alternative parameter that measures the degree of absorbing liquid saturation, if approved by the Administrator.	Continuous records	All 3-hour periods of operation when average liquid specific gravity is >0.1 unit above or below the average value from the most recent performance test [60.705(f)(1)(ii)].
	Organic monitoring device equipped with continous recorder [60.703(d) (1)(ii)] [b].	Concentration level or reading indicated by the organic monitoring device at the outlet of the absorber.	Continuous records	All 3 hour periods of operation showing >20 percent of the amount measured by the monitoring device during the most recent performance test [60.705(f)(4)].
Condenser	Condenser exit temperature monitoring device equipped with continuous recorder [60.703(d)(2)(i)].	Average exit (product side) temperature.	Continuous records	All 3-hour periods of operation when average temperature is >6 °C (11 °F) above the average value from the most recent performance test [60.705(f)(2)].

TABLE 3.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR MAINTAINING A TOTAL RESOURCE EFFECTIVENESS INDEX VALUE >1.0—Continued

Final recovery device	Monitoring equipment required[a]	Parameters to be monitored	Recordkeeping requirements	Boundary exceedances to report[a]
	Organic monitoring device equipped with continous recorder [60.703(d)(2)(ii)][b].	Concentration level or reading indicated by the organic monitoring device at the outlet of the condenser.	Continuous records	All 3-hour periods of operation showing >20 percent of the amount measured by the monitoring device during the most recent performance test [60.705(f)(4)].
Carbon adsorber	Integrating steam flow monitoring device and carbon bed temperature monitoring device, each equipped with a continous recorder [60.703(d) (3)(i)].	Total steam mass flow during carbon bed regeneration cycle(s).	Continuous records	When <10 percent below the value measured during most recent performance test [60.705(f)(3)(i)].
		Temperature of the carbon bed after regeneration [and within 15 minutes of completing any cooling cycle(s)].	Continuous records	When >10 percent or 5 °C more than the value measured during the most recent performance test [60.705(f)(3)(ii)].
	Organic monitoring device equipped with continuous recorder [60.703(d)(3)(ii)][b].	Concentration level or reading indicated by the organic monitoring device at the outlet of the carbon adsorber.	Continuous records	All 3-hour periods of operation showing >20 percent of the amount measured by the monitoring device during the most recent performance test [60.705(f) (4)].

[a] Regulatory citations are listed in brackets.

[b] The organic concentration level may be monitored as an alternative to monitoring the other parameter(s) listed for this device.

Semiannual reports for each affected facility are required under § 60.705(l) of the reactors NSPS. The semiannual report should include the following types of information:

1. Any exceedances of monitored parameters;
2. Any periods of time and duration when the vent stream is diverted to the atmosphere from the control device;
3. Any periods of time when the pilot flame of a flare is absent;
4. Any change made in equipment or process operations that increases the operating vent stream flow rate above the low flow exemption level;
5. Any change made in equipment or process operation that increases the design production capacity above the low capacity exemption level;
6. Any recalculation of the TRE index;
7. Any periods of time and duration when the seal mechanism is broken or the by-pass line valve position changes; and
8. Any change made in equipment or process operations that increases the vent stream concentration above the low concentration exemption level.

An exact month for submitting the report is not specified. The initial report would be submitted 6 months following the startup date of the affected facility, and subsequent reports would be submitted in 6-month intervals following that date.

Initial Notification Requirements. Four commenters requested that guidance be provided for the initial notification requirements for facilities that are constructed, reconstructed, or modified between the date of proposal and the date of promulgation of the Reactors NSPS. One commenter noted that the requirement in 40 CFR 60.7 specifies the timetable for facilities to submit initial notification to EPA; however, no specific provision is given for facilities that are constructed, modified, or reconstructed between proposal and promulgation. All 4 commenters felt that the timing requirement of 30 days for initial notification is unrealistically tight. They recommended allowing a minimum of 90 days after promulgation for the initial notification.

The owner or operator of an affected source must submit a notification of the anticipated date of initial startup of the facility no more than 60 days nor less than 30 days prior to such date (§ 60.7(a)(2) of the reactors NSPS) and a notification of the actual date of initial startup of the affected facility within 15 days after such date (§ 60.7(a)(3) of the reactors NSPS). In some instances, however, the initial startup of the facility may occur before the date of promulgation. In cases such as this, EPA has a policy of allowing these facilities to make initial notification within 30 days after the date of promulgation.

Startup/Shutdown Exceedances. One commenter requested that the Reactors NSPS address exceedances that occur during startup or shutdown. The commenter also pointed out that § 60.8(c) of the General Provisions states that such exceedances would not be considered a violation unless specified in the applicable standard. The commenter suggested that § 60.705 of the Reactors NSPS be modified to address startup/shutdown exceedances.

Section 60.8(c) of the General Provisions specifies that emissions in excess of the level of the applicable emission limit during periods of startup and shutdown are not considered a violation of the applicable emission limit. This means that emission levels during these periods are not counted as violations if they exceed the levels specified in the standards. Because the commenter neither provided information on controls that would be applicable in this situation nor indicated knowledge of any such technology, no basis exists for modifying the standard to require emissions control during the startup or shutdown period. Because exceedances are not addressed in the Reactors NSPS, the language of § 60.8(c) applies. Therefore, exceedances that occur during startup or shutdown should not be reported as violations.

V. *Administrative Requirements*

A. Docket

The docket is an organized and complete file of all the information considered by EPA in development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis, purpose of the proposed and promulgated standards, and EPA responses to significant comments, the contents of the docket, except for intragency review materials, will serve as the record in case of judicial review (Section 307(d)(7)(A)).

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1178.03) and a copy may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M St., SW.; Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them and a technical amendment to that effect is published in the Federal Register.

This collection of information is estimated to have a burden averaging 57 hours per response for reporting and 129 hours per recordkeeper annually. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M St., SW.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

C. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The EPA has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The impact of this regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards, total less than $100 million; and (2) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets. The EPA has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Miscellaneous

The effective date of this regulation is August 31, 1993. Section 111 of the CAA provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities of which the construction or modification was commenced after the date of proposal, June 29, 1990.

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that reactor processes in the SOCMI contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the CAA, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 8 years from the date of promulgation as required by the CAA. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the CAA requires the Administrator to prepare an economic assessment for any new source standard of performance promulgated under section 111(b) of the CAA. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining the BDT. The economic impact assessment is included in the BID for the proposed standards.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Industrial organic chemicals.

Dated: August 24, 1993.

Carol M. Browner,

Administrator.

40 CFR part 60 is amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act (CAA) as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Section 60.17 is amended in paragraph (a)(6) by removing the period at the end of the paragraph and adding the phrase ", 60.704(d)(2)(ii) and 60.704(d)(4)" and in paragraph (a)(38) by removing the period at the end of the paragraph and adding the phrase ", and 60.704(d)(4)."

3. By adding subpart RRR to read as follows:

Subpart RRR—Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

TABLE 3.—MONITORING AND REPORTING/RECORDKEEPING REQUIREMENTS FOR MAINTAINING A TOTAL RESOURCE EFFECTIVENESS INDEX VALUE >1.0—Continued

Final recovery device	Monitoring equipment required [a]	Parameters to be monitored	Recordkeeping requirements	Boundary exceedances to report [a]
	Organic monitoring device equipped with continous recorder [60.703(d)(2)(ii)] [b].	Concentration level or reading indicated by the organic monitoring device at the outlet of the condenser.	Continuous records	All 3-hour periods of operation showing >20 percent of the amount measured by the monitoring device during the most recent performance test [60.705(f)(4)].
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		Temperature of the carbon bed after regeneration [and within 15 minutes of completing any cooling cycle(s)].	Continuous records	When >10 percent or 5 °C more than the value measured during the most recent performance test [60.705(f)(3)(ii)].
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List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Industrial organic chemicals.

Dated: August 24, 1993.

Carol M. Browner,

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Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act (CAA) as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

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Subpart RRR—Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

Subpart RRR—Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

§ 60.700 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that is part of a process unit that produces any of the chemicals listed in § 60.707 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c) of this section.

(b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after June 29, 1990:

(1) Each reactor process not discharging its vent stream into a recovery system.

(2) Each combination of a reactor process and the recovery system into which its vent stream is discharged.

(3) Each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged.

(c) Exemptions from the provisions of paragraph (a) of this section are as follows:

(1) Any reactor process that is designed and operated as a batch operation is not an affected facility.

(2) Each affected facility that has a total resource effectiveness (TRE) index value greater than 8.0 is exempt from all provisions of this subpart except for §§ 60.702(c); 60.704 (d), (e), and (f); and 60.705 (g), (l), and (t).

(3) Each affected facility in a process unit with a total design capacity for all chemicals produced within that unit of less than 1 gigagram per year (1,100 tons per year) is exempt from all provisions of this subpart except for the recordkeeping and reporting requirements in paragraphs (i), (l)(6), and (n) of § 60.705.

(4) Each affected facility operated with a vent stream flow rate less than 0.011 scm/min is exempt from all provisions of this subpart except for the test method and procedure and the recordkeeping and reporting requirements in § 60.704(g) and paragraphs (h), (l)(5), and (o) of § 60.705.

(5) If the vent stream from an affected facility is routed to a distillation unit subject to subpart NNN and has no other releases to the air except for a pressure relief valve, the facility is exempt from all provisions of this subpart except for § 60.705(r).

(6) Any reactor process operating as part of a process unit which produces beverage alcohols, or which uses, contains, and produces no VOC is not an affected facility.

(7) Any reactor process that is subject to the provisions of subpart DDD is not an affected facility.

(8) Each affected facility operated with a concentration of total organic compounds (TOC) (less methane and ethane) in the vent stream less than 300 ppmv as measured by Method 18 or a concentration of TOC in the vent stream less than 150 ppmv as measured by Method 25A is exempt from all provisions of this subpart except for the test method and procedure and the reporting and recordkeeping requirements in § 60.704(h) and paragraphs (j), (l)(8), and (p) of § 60.705.

(Note: The intent of these standards is to minimize emissions of VOC through the application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of TOC, measured as TOC less methane and ethane. This emission limit reflects the performance of BDT.)

§ 60.701 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in subpart A of part 60, and the following terms shall have the specific meanings given them.

Batch operation means any noncontinuous reactor process that is not characterized by steady-state conditions and in which reactants are not added and products are not removed simultaneously.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator.

By compound means by individual stream components, not carbon equivalents.

Car-seal means a seal that is placed on a device that is used to change the position of a valve (e.g., from opened to closed) in such a way that the position of the valve cannot be changed without breaking the seal.

Combustion device means an individual unit of equipment, such as an incinerator, flare, boiler, or process heater, used for combustion of a vent stream discharged from the process vent.

Continuous recorder means a data recording device recording an instantaneous data value at least once every 15 minutes.

Flame zone means the portion of the combustion chamber in a boiler occupied by the flame envelope.

Flow indicator means a device which indicates whether gas flow is present in a line.

Halogenated vent stream means any vent stream determined to have a total concentration (by volume) of compounds containing halogens of 20 ppmv (by compound) or greater.

Incinerator means an enclosed combustion device that is used for destroying organic compounds. If there is energy recovery, the energy recovery section and the combustion chambers are not of integral design. That is, the energy recovery section and the combustion section are not physically formed into one manufactured or assembled unit but are joined by ducts or connections carrying flue gas.

Primary fuel means the fuel fired through a burner or a number of similar burners. The primary fuel provides the principal heat input to the device, and the amount of fuel is sufficient to sustain operation without the addition of other fuels.

Process heater means a device that transfers heat liberated by burning fuel directly to process streams or to heat transfer liquids other than water.

Process unit means equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more of the chemicals in § 60.707. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient product storage facilities.

Product means any compound or chemical listed in § 60.707 which is produced for sale as a final product as that chemical, or for use in the production of other chemicals or compounds. By-products, co-products, and intermediates are considered to be products.

Reactor processes are unit operations in which one or more chemicals, or reactants other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

Recovery device means an individual unit of equipment, such as an absorber, carbon adsorber, or condenser, capable of and used for the purpose of recovering chemicals for use, reuse, or sale.

Recovery system means an individual recovery device or series of such devices applied to the same vent stream.

Relief valve means a valve used only to release an unplanned, nonroutine discharge. A relief valve discharge results from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage.

Secondary fuel means a fuel fired through a burner other than a primary fuel burner. The secondary fuel may provide supplementary heat in addition to the heat provided by the primary fuel.

Total organic compounds or TOC means those compounds measured according to the procedures in § 60.704(b)(4). For the purposes of measuring molar composition as required in § 60.704(d)(2)(i) and § 60.704(d)(2)(ii), hourly emission rate as required in § 60.704(d)(5) and § 60.704(e), and TOC concentration as required in § 60.705(b)(4) and § 60.705(f)(4), those compounds which the Administrator has determined do not contribute appreciably to the formation of ozone are to be excluded.

Total resource effectiveness or TRE index value means a measure of the supplemental total resource requirement per unit reduction of TOC associated with a vent stream from an affected reactor process facility, based on vent stream flow rate, emission rate of TOC, net heating value, and corrosion properties (whether or not the vent stream contains halogenated compounds), as quantified by the equation given under § 60.704(e).

Vent stream means any gas stream discharged directly from a reactor process to the atmosphere or indirectly to the atmosphere after diversion through other process equipment. The vent stream excludes relief valve discharges and equipment leaks.

§ 60.702 Standards.

Each owner or operator of any affected facility shall comply with paragraph (a), (b), or (c) of this section for each vent stream on and after the date on which the initial performance test required by § 60.8 and § 60.704 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall either:

(a) Reduce emissions of TOC (less methane and ethane) by 98 weight-percent, or to a TOC (less methane and ethane) concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater; or

(b) Combust the emissions in a flare that meets the requirements of § 60.18; or

(c) Maintain a TRE index value greater than 1.0 without use of a VOC emission control device.

§ 60.703 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses an incinerator to seek to comply with the TOC emission limit specified under § 60.702(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C, whichever is greater.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange is encountered.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) A flow indicator that provides a record of vent stream flow diverted from being routed to the incinerator at least once every 15 minutes for each affected facility, except as provided in paragraph (a)(2)(ii) of this section.

(i) The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream from being routed to the incinerator, resulting in its emission to the atmosphere.

(ii) Where the bypass line valve is secured in the closed position with a car-seal or a lock-and-key type configuration, a flow indicator is not required. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

(b) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.702(b) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate the continuous presence of a flame.

(2) A flow indicator that provides a record of vent stream flow diverted from being routed to the flare at least once every 15 minutes for each affected facility, except as provided in paragraph (b)(2)(ii) of this section.

(i) The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream from being routed to the flare, resulting in its emission to the atmosphere.

(ii) Where the bypass line valve is secured in the closed position with a car-seal or a lock-and-key type configuration, a flow indicator is not required. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

(c) The owner or operator of an affected facility that uses a boiler or process heater to seek to comply with § 60.702(a) shall install, calibrate, maintain and operate according to the manufacturer's specifications the following equipment:

(1) A flow indicator that provides a record of vent stream flow diverted from being routed to the boiler or process heater at least once every 15 minutes for each affected facility, except as provided in paragraph (c)(1)(ii) of this section.

(i) The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream from being routed to the boiler or process heater, resulting in its emission to the atmosphere.

(ii) Where the bypass line valve is secured in the closed position with a car-seal or a lock-and-key type configuration, a flow indicator is not required. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

(2) A temperature monitoring device in the firebox equipped with a continuous recorder and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C, whichever is greater, for boilers or process heaters of less than 44 MW (150 million Btu/hr) design heat input capacity. Any vent stream introduced with primary fuel into a boiler or process heater is exempt from this requirement.

(d) The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under § 60.702(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final recovery device in the recovery system:

(i) A scrubbing liquid temperature monitoring device having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C, whichever is greater, and a specific gravity monitoring device having an accuracy of ±0.02 specific gravity units, each equipped with a continuous recorder; or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(2) Where a condenser is the final recovery device in the recovery system:

(i) A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C, whichever is greater; or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(3) Where a carbon adsorber is the final recovery device unit in the recovery system:

(i) An integrating steam flow monitoring device having an accuracy of ±10 percent, and a carbon bed temperature monitoring device having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5 °C, whichever is greater, both equipped with a continuous recorder; or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(e) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.702 with a control device other than an incinerator, boiler, process heater, or flare; or a recovery device other than an absorber, condenser, or carbon adsorber, shall provide to the Administrator information describing the operation of the control device or recovery device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

§ 60.704 Test methods and procedures.

(a) For the purpose of demonstrating compliance with § 60.702, all affected facilities shall be run at full operating conditions and flow rates during any performance test.

(b) The following methods in Appendix A to this part, except as provided under § 60.8(b), shall be used as reference methods to determine compliance with the emission limit or percent reduction efficiency specified under § 60.702(a).

(1) Method 1 or 1A, as appropriate, for selection of the sampling sites. The control device inlet sampling site for determination of vent stream molar composition or TOC (less methane and ethane) reduction efficiency shall be prior to the inlet of the control device and after the recovery system.

(2) Method 2, 2A, 2C, or 2D, as appropriate, for determination of the gas volumetric flow rates.

(3) The emission rate correction factor, integrated sampling and analysis procedure of Method 3B shall be used to determine the oxygen concentration ($\%O_{2d}$) for the purposes of determining compliance with the 20 ppmv limit. The sampling site shall be the same as that of the TOC samples, and the samples shall be taken during the same time that the TOC samples are taken. The TOC concentration corrected to 3 percent O_2 (C_c) shall be computed using the following equation:

$$C_C = C_{TOC}\frac{17.9}{20.9-\%O_{2d}}$$

where:

C_c=Concentration of TOC corrected to 3 percent O_2, dry basis, ppm by volume.

C_{TOC}=Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

$\%O_{2d}$=Concentration of O_2, dry basis, percent by volume.

(4) Method 18 to determine the concentration of TOC in the control device outlet and the concentration of TOC in the inlet when the reduction efficiency of the control device is to be determined.

(i) The minimum sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately 15-minute intervals.

(ii) The emission reduction (R) of TOC (minus methane and ethane) shall be determined using the following equation:

$$R=\frac{E_i-E_o}{E_i}\times 100$$

where:

R=Emission reduction, percent by weight.

E_i=Mass rate of TOC entering the control device, kg TOC/hr.

E_o=Mass rate of TOC discharged to the atmosphere, kg TOC/hr.

(iii) The mass rates of TOC (E_i, E_o) shall be computed using the following equations:

$$E_i = K_2\sum_{j=1}^{n} C_{ij}M_{ij}\,Q_i$$

$$E_i = K_2\sum_{j=1}^{n} C_{oj}M_{ij}\,Q_o$$

where:

C_{ij}, C_{oj}=Concentration of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppm by volume.

M_{ij}, M_{oj}=Molecular weight of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, g/g-mole (lb/lb-mole).

Q_i, Q_o=Flow rate of gas stream at the inlet and outlet of the control device, respectively, dscm/min (dscf/hr).

K_2=Constant, 2.494×10^{-6} (l/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

(iv) The TOC concentration (C_{TOC}) is the sum of the individual components and shall be computed for each run using the following equation:

$$C_{TOC} = \sum_{j=1}^{n} C_j$$

where:

C_{TOC}=Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

C_j=Concentration of sample components "j", dry basis, ppm by volume.

n=Number of components in the sample.

(5) The requirement for an initial performance test is waived, in accordance with § 60.8(b), for the following:

(i) When a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to seek compliance with § 60.702(a).

(ii) When a vent stream is introduced into a boiler or process heater with the primary fuel.

(iii) The Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(6) For purposes of complying with the 98 weight-percent reduction in § 60.702(a), if the vent stream entering a

boiler or process heater with a design capacity less than 44 MW (150 million Btu/hour) is introduced with the combustion air or as secondary fuel, the weight-percent reduction of TOC (minus methane and ethane) across the combustion device shall be determined by comparing the TOC (minus methane and ethane) in all combusted vent streams, primary fuels, and secondary fuels with the TOC (minus methane and ethane) exiting the combustion device.

(c) When a flare is used to seek to comply with § 60.702(b), the flare shall comply with the requirements of § 60.18.

(d) The following test methods in Appendix A to this part, except as provided under § 60.8(b), shall be used for determining the net heating value of the gas combusted to determine compliance under § 60.702(b) and for determining the process vent stream TRE index value to determine compliance under § 60.700(c)(2) and § 60.702(c).

(1)(i) Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flow rate and molar composition determination prescribed in § 60.704 (d)(2) and (d)(3) shall be, except for the situations outlined in paragraph (d)(1)(ii) of this section, prior to the inlet of any control device, prior to any postreactor dilution of the stream with air, and prior to any postreactor introduction of halogenated compounds into the process vent stream. No traverse site selection method is needed for vents smaller than 4 inches in diameter.

(ii) If any gas stream other than the reactor vent stream is normally conducted through the final recovery device:

(A) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor stream or stream from a nonaffected reactor process is introduced.

(B) The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of any vent stream and at the outlet of the final recovery device.

(C) This efficiency of the final recovery device shall be applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of any nonreactor stream or stream from a nonaffected reactor process to determine the concentration of TOC in the reactor process vent stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in § 60.704(d) (4) and (5).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Method 18 to measure the concentration of TOC including those containing halogens.

(ii) ASTM D1946–77 (incorporation by reference as specified in § 60.17 of this part) to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 to measure the content of water vapor.

(3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the vent stream shall be calculated using the following equation:

$$H_T = K_1 \sum_{j=1}^{n} C_j H_j \; 1 - B_{ws}$$

where:

H_T=Net heating value of the sample, MJ/scm, where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C, as in the definition of Q_s (vent stream flow rate).

K_1=Constant, 1.740×10^{-7} (l/ppm) (g-mole/scm) (MJ/kcal), where standard temperature for (g-mole/scm) is 20 °C.

C_j=Concentration on a dry basis of compound j in ppm, as measured for organics by Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946–77 (incorporation by reference as specified in § 60.17 of this part) as indicated in § 60.704(d)(2).

H_j=Net heat of combustion of compound j, kcal/g-mole, based on combustion at 25 °C and 760 mm Hg. The heats of combustion of vent stream components would be required to be determined using ASTM D2382–76 (incorporation by reference as specified in § 60.17 of this part) if published values are not available or cannot be calculated.

B_{ws}=Water vapor content of the vent stream, proportion by volume.

(5) The emission rate of TOC in the vent stream shall be calculated using the following equation:

$$E_{TOC} = K_2 \sum_{j=1}^{n} C_j M_j Q_s$$

where:

E_{TOC}=Emission rate of TOC in the sample, kg/hr.

K_2=Constant, 2.494×10^{-6} (l/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

C_j=Concentration on a dry basis of compound j in ppm as measured by Method 18 as indicated in § 60.704(d)(2).

M_j=Molecular weight of sample j, g/g-mole.

Q_s=Vent stream flow rate (dscm/min) at a temperature of 20 °C.

(6) The total vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18.

(e) For purposes of complying with § 60.700(c)(2) and § 60.702(c), the owner or operator of a facility affected by this subpart shall calculate the TRE index value of the vent stream using the equation for incineration in paragraph (e)(1) of this section for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in (e)(1) of this section and the flare equation in (e)(2) of this section and selecting the lower of the two values.

(1) The equation for calculating the TRE index value of a vent stream controlled by an incinerator is as follows:

$$TRE = \frac{1}{E_{TOC}}\left[a + b(Q_s)0.88 + c(Q_s) + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(Y_s)^{0.5}\right]$$

(i) Where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is greater than or equal to 14.2 scm/min:

TRE=TRE index value.
Q_s=Vent stream flow rate (scm/min) at a standard temperature of 20 °C.
H_T=Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s.
Y_s=Q_s for all vent stream categories listed in Table 1 except for Category E vent streams where Y_s=$(Q_s)(H_T)/3.6$.
E_{TOC}=Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients. The set of coefficients that apply to a vent stream can be obtained from Table 1.

TABLE 1.—TOTAL RESOURCE EFFECTIVENESS COEFFICIENTS FOR VENT STREAMS CONTROLLED BY AN INCINERATOR SUBJECT TO THE NEW SOURCE PERFORMANCE STANDARDS FOR REACTOR PROCESSES

	a	b	c	d	e	f
DESIGN CATEGORY A1. FOR HALOGENATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm)≤3.5: *Q_s=Vent Stream Flow Rate (scm/min)*						
$14.2 \le Q_s \le 18.8$	19.18370	0.27580	0.75762	−0.13064	0	0.01025
$18.8 < Q_s \le 699$	20.00563	0.27580	0.30387	−0.13064	0	0.01025
$699 < Q_s \le 1{,}400$	39.87022	0.29973	0.30387	−0.13064	0	0.01449
$1{,}400 < Q_s \le 2{,}100$	59.73481	0.31467	0.30387	−0.13064	0	0.01775
$2{,}100 < Q_s \le 2{,}800$	79.59941	0.32572	0.30387	−0.13064	0	0.02049
$2{,}800 < Q_s \le 3{,}500$	99.46400	0.33456	0.30387	−0.13064	0	0.02291
DESIGN CATEGORY A2. FOR HALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE (MJ/scm)>3.5: *Q_s=Vent Stream Flow Rate (scm/min)*						
$14.2 < Q_s \le 18.8$	18.84466	0.26742	−0.20044	0	0	0.01025
$18.8 < Q_s \le 699$	19.66658	0.26742	−0.25332	0	0	0.01025
$699 < Q_s \le 1{,}400$	39.19213	0.29062	−0.25332	0	0	0.01449
$1{,}400 < Q_s \le 2{,}100$	58.71768	0.30511	−0.25332	0	0	0.01775
$2{,}100 < Q_s \le 2{,}800$	78.24323	0.31582	−0.25332	0	0	0.02049
$2{,}800 < Q_s \le 3{,}500$	97.76879	0.32439	−0.25332	0	0	0.02291
DESIGN CATEGORY B. FOR NONHALOGENATED PROCESS VENT STREAMS, IF 0≤NET HEATING VALUE (MJ/scm)≤0.48: *Q_s=Vent Stream Flow Rate (scm/min)*						
$14.2 \le Q_s \le 1{,}340$	8.54245	0.10555	0.09030	−0.17109	0	0.01025
$1{,}340 < Q_s \le 2{,}690$	16.94386	0.11470	0.09030	−0.17109	0	0.01449
$2{,}690 < Q_s \le 4{,}040$	25.34528	0.12042	0.09030	−0.17109	0	0.01775
DESIGN CATEGORY C. FOR NONHALOGENATED PROCESS VENT STREAMS, IF 0.48<NET HEATING VALUE (MJ/scm)≤1.9: *Q_s=Vent Stream Flow Rate (scm/min)*						
$14.2 \le Q_s \le 1{,}340$	9.25233	0.06105	0.31937	−0.16181	0	0.01025
$1{,}340 < Q_s \le 2{,}690$	18.36363	0.06635	0.31937	−0.16181	0	0.01449
$2{,}690 < Q_s \le 4{,}040$	27.47492	0.06965	0.31937	−0.16181	0	0.01775
DESIGN CATEGORY D. FOR NONHALOGENATED PROCESS VENT STREAMS, IF 1.9<NET HEATING VALUE (MJ/scm)≤3.6: *Q_s=Vent Stream Flow Rate (scm/min)*						
$14.2 \le Q_s \le 1{,}180$	6.67868	0.06943	0.02582	0	0	0.01025
$1{,}180 < Q_s \le 2{,}370$	13.21633	0.07546	0.02582	0	0	0.01449
$2{,}370 < Q_s \le 3{,}550$	19.75398	0.07922	0.02582	0	0	0.01755
DESIGN CATEGORY E. FOR NONHALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE (MJ/scm)>3.6: *Y_s=Dilution Flow Rate (scm/min)=(Q_s) $(H_T)/3.6$*						
$14.2 \le Y_s \le 1{,}180$	6.67868	0	0	−0.00707	0.02220	0.01025
$1{,}180 < Y_s \le 2{,}370$	13.21633	0	0	−0.00707	0.02412	0.01449
$2{,}370 < Y_s \le 3{,}550$	19.75398	0	0	−0.00707	0.02533	0.01755

(ii) For a vent stream flow rate (scm/min) at a standard temperature of 20 °C that *is less than* 14.2 scm/min:

TRE=TRE index value.

Q_s=14.2 scm/min.

H_T=(FLOW)(HVAL)/14.2

where the following inputs are used:

FLOW=Vent stream flow rate (scm/min), at a standard temperature of 20 °C.

HVAL=Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in definition of Q_s.

Y_s=14.2 scm/min for all vent streams except for Category E vent streams, where Y_s=(14.2)(H_T)/3.6.

E_{TOC}=Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients. The set of coefficients that apply to a vent stream can be obtained from Table 1.

(2) The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$TRE = \frac{1}{E_{TOC}}\left[a(Q_s) + b(Q_s)^{0.8} + c(Q_s)(H_T) + d(E_{TOC}) + e\right]$$

where:

TRE=TRE index value.

E_{TOC}=Hourly emission rate of TOC reported in kg/hr.

Q_s=Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T=Vent stream net heating value (MJ/scm) where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s.

a, b, c, d, and e are coefficients. The set of coefficients that apply to a vent stream can be obtained from Table 2.

TABLE 2.—TOTAL RESOURCE EFFECTIVENESS COEFFICIENTS FOR VENT STREAMS CONTROLLED BY A FLARE SUBJECT TO THE NEW SOURCE PERFORMANCE STANDARDS FOR REACTOR PROCESSES

	a	b	c	d	e
H_T<11.2 MJ/scm	2.25	0.288	−0.193	−0.0051	2.08
H_T≥11.2 MJ/scm	0.309	0.0619	−0.0043	−0.0034	2.08

(f) Each owner or operator of an affected facility seeking to comply with § 60.700(c)(2) or § 60.702(c) shall recalculate the TRE index value for that affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change on the recovery system.

(1) Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Administrator within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by § 60.704 in order to determine compliance with § 60.702(a). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(2) Where the recalculated TRE index value is less than or equal to 8.0 but greater than 1.0, the owner or operator shall conduct a performance test in accordance with § 60.8 and § 60.704 and shall comply with § 60.703, § 60.704 and § 60.705. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(g) Any owner or operator subject to the provisions of this subpart seeking to demonstrate compliance with § 60.700(c)(4) shall use Method 2, 2A, 2C, or 2D of appendix A to 40 CFR part 60, as appropriate, for determination of volumetric flow rate.

(h) Each owner or operator seeking to demonstrate that a reactor process vent stream has a TOC concentration for compliance with the low concentration exemption in § 60.700(c)(8) shall conduct an initial test to measure TOC concentration.

(1) The sampling site shall be selected as specified in paragraph (d)(1)(i) of this section.

(2) Method 18 or Method 25A of part 60, appendix A shall be used to measure concentration.

(3) Where Method 18 is used to qualify for the low concentration exclusion in § 60.700(c)(8), the procedures in § 60.704(b)(4) (i) and (vii) shall be used to measure TOC concentration, and the procedures of § 60.704(b)(3) shall be used to correct the TOC concentration to 3 percent oxygen. To qualify for the exclusion, the results must demonstrate that the concentration of TOC, corrected to 3 percent oxygen, is below 300 ppm by volume.

(4) Where Method 25A is used, the following procedures shall be used to calculate ppm by volume TOC concentration, corrected to 3 percent oxygen:

(i) Method 25A shall be used only if a single organic compound is greater than 50 percent of total TOC, by volume, in the reactor process vent stream. This compound shall be the principal organic compound.

(ii) The principal organic compound may be determined by either process knowledge or test data collected using an appropriate EPA Reference Method. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current reactor process vent stream conditions.

(iii) The principal organic compound shall be used as the calibration gas for Method 25A.

(iv) The span value for Method 25A shall be 300 ppmv.

(v) Use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(vi) The owner or operator shall demonstrate that the concentration of TOC including methane and ethane measured by Method 25A, corrected to 3 percent oxygen, is below 150 ppm by volume to qualify for the low concentration exclusion in § 60.700(c)(8).

(vii) The concentration of TOC shall be corrected to 3 percent oxygen using the procedures and equation in paragraph (b)(3) of this section.

§ 60.705 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.702 shall notify the Administrator of the specific provisions of § 60.702 (§ 60.702 (a), (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.702 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.704 no later than 180 days from initial start-up.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used or where the reactor process vent stream is introduced as the primary fuel to any size boiler or process heater to comply with § 60.702(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.705(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(a) through use of either a thermal or catalytic incinerator:

(i) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same time period of the performance testing, and

(ii) The percent reduction of TOC determined as specified in § 60.704(b) achieved by the incinerator, or the concentration of TOC (ppmv, by compound) determined as specified in § 60.704(b) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(a) through use of a boiler or process heater:

(i) A description of the location at which the vent stream is introduced into the boiler or process heater, and

(ii) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured at least every 15 minutes and averaged over the same time period of the performance testing.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(b) through use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted or nonassisted), all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(c):

(i) Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average exit temperature, of the absorbing liquid measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted); or

(ii) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is routed and constituted normally; or

(iii) Where a carbon adsorber is the final recovery device in the recovery system, the total steam mass flow measured at least every 15 minutes and averaged over the same time period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration [and within 15 minutes of completion of any cooling cycle(s)], and duration of the carbon bed steaming cycle (all measured while the vent stream is routed and constituted normally); or

(iv) As an alternative to § 60.705(b)(4) (i), (ii) or (iii), the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted.

(v) All measurements and calculations performed to determine the TRE index value of the vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.703 (a) and (c) as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where a combustion device is used to comply with § 60.702(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incinerators, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.702(a) was determined.

(2) For catalytic incinerators, all 3-hour periods of operation during which the average temperature of the vent stream immediately before the catalyst bed is more than 28 °C (50 °F) below the average temperature of the vent stream during the most recent performance test at which compliance with § 60.702(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average

temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the bed during the most recent performance test at which compliance with § 60.702(a) was determined.

(3) All 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.702(a) was determined for boilers or process heaters with a design heat input capacity of less than 44 MW (150 million Btu/hr) where the vent stream is introduced with the combustion air or as a secondary fuel.

(4) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under § 60.702(a).

(d) Each owner or operator subject to the provisions of this subpart shall keep records of the following:

(1) Up-to-date, readily accessible continuous records of the flow indication specified under § 60.703(a)(2)(i), § 60.703(b)(2)(i) and § 60.703(c)(1)(i), as well as up-to-date, readily accessible records of all periods and the duration when the vent stream is diverted from the control device.

(2) Where a seal mechanism is used to comply with § 60.703(a)(2)(ii), § 60.703(b)(2)(ii), and § 60.703(c)(1)(ii), a record of continuous flow is not required. In such cases, the owner or operator shall keep up-to-date, readily accessible records of all monthly visual inspections of the seals as well as readily accessible records of all periods and the duration when the seal mechanism is broken, the bypass line valve position has changed, the serial number of the broken car-seal has changed, or when the key for a lock-and-key type configuration has been checked out.

(e) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flare pilot flame monitoring specified under § 60.703(b), as well as up-to-date, readily accessible records of all periods of operations in which the pilot flame is absent.

(f) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.703(d), as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where an owner or operator seeks to comply with § 60.702(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final recovery device in a recovery system, and where an organic compound monitoring device is not used:

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final recovery device in a system, and where an organic compound monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final recovery device in a system, and where an organic compound monitoring device is not used:

(i) All carbon bed regeneration cycles during which the total mass steam flow was more than 10 percent below the total mass steam flow during the most recent performance test, or

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration (and after completion of any cooling cycle(s)) was more than 10 percent or 5 °C greater, whichever is less stringent, than the carbon bed temperature (in degrees Celsius) during the most recent performance test.

(4) Where an absorber, condenser, or carbon adsorber is the final recovery device in the recovery system and where an organic compound monitoring device is used, all 3-hour periods of operation during which the average organic compound concentration level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.

(g) Each owner or operator of an affected facility subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.702(c) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of recovery equipment or reactors;

(2) Any recalculation of the TRE index value performed pursuant to § 60.704(f); and

(3) The results of any performance test performed pursuant to the methods and procedures required by § 60.704(d).

(h) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the flow rate cutoff in § 60.700(c)(4) shall keep up-to-date, readily accessible records to indicate that the vent stream flow rate is less than 0.011 scm/min and of any change in equipment or process operation that increases the operating vent stream flow rate, including a measurement of the new vent stream flow rate.

(i) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the design production capacity provision in § 60.700(c)(3) shall keep up-to-date, readily accessible records of any change in equipment or process operation that increases the design production capacity of the process unit in which the affected facility is located.

(j) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the low concentration exemption in § 60.700(c)(8) shall keep up-to-date, readily accessible records of any change in equipment or process operation that increases the concentration of the vent stream of the affected facility.

(k) Each owner or operator subject to the provisions of this subpart is exempt from the quarterly reporting requirements contained in § 60.7(c) of the General Provisions.

(l) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.700 (c)(2), (c)(3), or (c)(4) or § 60.702 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

(1) Exceedances of monitored parameters recorded under § 60.705 (c) and (g).

(2) All periods and duration recorded under § 60.705(d) when the vent stream is diverted from the control device to the atmosphere.

(3) All periods recorded under § 60.705(f) in which the pilot flame of the flare was absent.

(4) Any change in equipment or process operation that increases the operating vent stream flow rate above the low flow exemption level in § 60.700(c)(4), including a measurement of the new vent stream flow rate, as recorded under § 60.705(i). These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed within the same time period to verify the recalculated flow value and to obtain the vent stream characteristics of heating value and E_{TOC}. The performance test is subject to the requirements of § 60.8 of the General Provisions. Unless the facility qualifies for an exemption under any of the exemption provisions listed in § 60.700(c), except for the total resource effectiveness index greater than 8.0 exemption in § 60.700(c)(2), the facility must begin compliance with the requirements set forth in § 60.702.

(5) Any change in equipment or process operation, as recorded under § 60.705(i), that increases the design production capacity above the low capacity exemption level in § 60.700(c)(3) and the new capacity resulting from the change for the reactor process unit containing the affected facility. These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed within the same time period to obtain the vent stream flow rate, heating value, and E_{TOC}. The performance test is subject to the requirements of § 60.8 of the General Provisions. Unless the facility qualifies for an exemption under any of the exemption provisions listed in § 60.700(c), the facility must begin compliance with the requirements set forth in § 60.702.

(6) Any recalculation of the TRE index value, as recorded under § 60.705(g).

(7) All periods recorded under § 60.705(d) in which the seal mechanism is broken or the by-pass line valve position has changed. A record of the serial number of the car-seal or a record to show that the key to unlock the bypass line valve was checked out must be maintained to demonstrate the period, the duration, and frequency in which the bypass line was operated.

(8) Any change in equipment or process operation that increases the vent stream concentration above the low concentration exemption level in § 60.700(c)(8), including a measurement of the new vent stream concentration, as recorded under § 60.705(j). These must be reported as soon as possible after the change and no later than 180 days after the change. If the vent stream concentration is above 300 ppmv as measured using Method 18 or above 150 ppmv as measured using Method 25A, a performance test must be completed within the same time period to obtain the vent stream flow rate, heating value, and E_{TOC}. The performance test is subject to the requirements of § 60.8 of the General Provisions. Unless the facility qualifies for an exemption under any of the exemption provisions listed in § 60.700(c), except for the TRE index greater than 8.0 exemption in § 60.700(c)(2), the facility must begin compliance with the requirements set forth in § 60.702.

(m) The requirements of § 60.705(l) remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.705(l), provided that they comply with the requirements established by the State.

(n) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(3) must submit to the Administrator an initial report detailing the design production capacity of the process unit.

(o) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(4) must submit to the Administrator an initial report including a flow rate measurement using the test methods specified in § 60.704.

(p) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(8) must submit to the Administrator an initial report including a concentration measurement using the test method specified in § 60.704.

(q) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility complies with the standards specified under § 60.702 other than as provided under § 60.703 (a), (b), (c), and (d).

(r) Each owner or operator whose reactor process vent stream is routed to a distillation unit subject to subpart NNN and who seeks to demonstrate compliance with § 60.700(c)(5) shall submit to the Administrator a process design description as part of the initial report. This process design description must be retained for the life of the process. No other records or reports would be required unless process changes are made.

(s) Each owner or operator who seeks to demonstrate compliance with § 60.702 (a) or (b) using a control device must maintain on file a schematic diagram of the affected vent streams, collection system(s), fuel systems, control devices, and bypass systems as part of the initial report. This schematic diagram must be retained for the life of the system.

(t) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(2) must maintain a record of the initial test for determining the total resource effectiveness index and the results of the initial total resource effectiveness index calculation.

§ 60.706 Reconstruction.

(a) For purposes of this subpart "fixed capital cost of the new components," as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following June 29, 1990. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

§ 60.707 Chemicals affected by Subpart RRR.

Chemical	CAS No.[1]
Acetaldehyde	75–07–0
Acetic acid	64–19–7
Acetic anhydride	108–24–7
Acetone	67–64–1
Acetone cyanohydrin	75–86–5
Acetylene	74–86–2
Acrylic acid	79–10–7
Acrylonitrile	107–13–1
Adipic acid	124–04–9
Adiponitrile	111–69–3
Alcohols, C–11 or lower, mixtures.	
Alcohols, C–12 or higher, mixtures.	
Alcohols, C–12 or higher, unmixed.	
Allyl chloride	107–05–1
Amylene	513–35–9
Amylenes, mixed.	
Aniline	62–53–3
Benzene	71–43–2

Chemical	CAS No.[1]
Benzenesulfonic acid	98-11-3
Benzenesulfonic acid C_{10-16} alkyl derivatives, sodium salts	68081-81-2
Benzyl chloride	100-44-7
Bisphenol A	80-05-7
Brometone	76-08-4
1,3-Butadiene	106-99-0
Butadiene and butene fractions:	
n-Butane	106-97-8
1,4-Butanediol	110-63-4
Butanes, mixed.	
1-Butene	106-98-9
2-Butene	25167-67-3
Butenes, mixed.	
n-Butyl acetate	123-86-4
Butyl acrylate	141-32-2
n-Butyl alcohol	71-36-3
sec-Butyl alcohol	78-92-2
tert-Butyl alcohol	75-65-0
Butylbenzyl phthalate	85-68-7
tert-Butyl hydroperoxide	75-91-2
2-Butyne-1,4-diol	110-65-6
Butyraldehyde	123-72-8
Butyric anhydride	106-31-0
Caprolactam	105-60-2
Carbon disulfide	75-15-0
Carbon tetrachloride	56-23-5
Chloroacetic acid	79-11-8
Chlorobenzene	108-90-7
Chlorodifluoromethane	75-45-6
Chloroform	67-66-3
p-Chloronitrobenzene	100-00-5
Citric acid	77-92-9
Cumene	98-82-8
Cumene hydroperoxide	80-15-9
Cyanuric chloride	108-77-0
Cyclohexane	110-82-7
Cyclohexane, oxidized	68512-15-2
Cyclohexanol	108-93-0
Cyclohexanone	108-94-1
Cyclohexanone oxime	100-64-1
Cyclohexene	110-83-8
Cyclopropane	75-19-4
Diacetone alcohol	123-42-2
1,4-Dichlorobutene	110-57-6
3,4-Dichloro-1-butene	64037-54-3
Dichlorodifluoromethane	75-71-8
Dichlorodimethylsilane	75-78-5
Dichlorofluoromethane	75-43-4
Diethanolamine	111-42-2
Diethylbenzene	25340-17-4
Diethylene glycol	111-46-6
Di-isodecyl phthalate	26761-40-0
Dimethyl terephthalate	120-61-6
2,4-(and 2,6)-dinitrotoluene	121-14-2 606-20-2
Dioctyl phthalate	117-81-7
Dodecene	25378-22-7
Dodecylbenzene, nonlinear.	
Dodecylbenzenesulfonic acid	27176-87-0
Dodecylbenzenesulfonic acid, sodium salt	25155-30-0
Epichlorohydrin	106-89-8
Ethanol	64-17-5
Ethanolamine	141-43-5
Ethyl acetate	141-78-6
Ethyl acrylate	140-88-5
Ethylbenzene	100-41-4
Ethyl chloride	75-00-3
Ethylene	74-85-1
Ethylene dibromide	106-93-4
Ethylene dichloride	107-06-2
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether	111-76-2
Ethylene glycol monoethyl ether acetate	111-15-9
Ethylene glycol monomethyl ether	109-86-4
Ethylene oxide	75-21-8
2-Ethylhexyl alcohol	104-76-7
(2-Ethylhexyl) amine	104-75-6
6-Ethyl-1,2,3,4-tetrahydro 9,10-antracenedione	15547-17-8
Formaldehyde	50-00-0
Glycerol	56-81-5
n-Heptane	142-82-5
Heptenes (mixed).	
Hexamethylene diamine	124-09-4
Hexamethylene diamine adipate	3323-53-3
Hexamethylenetetramine	100-97-0
Hexane	110-54-3
Isobutane	75-28-5
Isobutanol	78-83-1
Isobutylene	115-11-7
Isobytyraldehyde	78-84-2
Isopentane	78-78-4
Isoprene	78-79-5
Isopropanol	67-63-0
Ketene	463-51-4
Linear alcohols, ethoxylated, mixed.	
Linear alcohols, ethoxylated, and sulfated, sodium salt, mixed.	
Linear alcohols, sulfated, sodium salt, mixed.	
Linear alkylbenzene	123-01-3
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methanol	67-56-1
Methylamine	74-89-5
ar-Methylbenzenediamine	25376-45-8
Methyl chloride	74-87-3
Methylene chloride	75-09-2
Methyl ethyl ketone	78-93-3
Methyl isobutyl ketone	108-10-1
Methyl methacrylate	80-62-6
1-Methyl-2-pyrrolidone	872-50-4
Methyl tert-butyl ether.	
Naphthalene	91-20-3
Nitrobenzene	98-95-3
1-Nonene	27215-95-8
Nonyl alcohol	143-08-08
Nonylphenol	25154-52-3
Nonylphenol, ethoxylated	9016-45-9
Octene	25377-83-7
Oil-soluble petroleum sulfonate, calcium salt.	
Pentaerythritol	115-77-5
3-Pentanenitrile	4635-87-4
Pentenes, mixed	109-67-1
Perchloroethylene	127-18-4
Phenol	108-95-2
1-Phenylethyl hydroperoxide	3071-32-7
Phenylpropane	103-65-1
Phosgene	75-44-5
Phthalic anhydride	85-44-9
Propane	74-98-6
Propionaldehyde	123-38-6
Propyl alcohol	71-23-8
Propylene	115-07-1
Propylene glycol	57-55-6
Propylene oxide	75-56-9
Sorbitol	50-70-4
Styrene	100-42-5
Terephthalic acid	100-21-0
Tetraethyl lead	78-00-2
Tetrahydrofuran	109-99-9
Tetra (methyl-ethyl) lead.	
Tetramethyl lead	75-74-1
Toluene	108-88-3
Toluene-2,4-diamine	95-80-7
Toluene-2,4-(and, 2,6)-diisocyanate (80/20 mixture)	26471-62-5
1,1,1-Trichloroethane	71-55-6
1,1,2-Trichloroethane	79-00-5
Trichloroethylene	79-01-6
Trichlorofluoromethane	75-69-4
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol	112-27-6
Vinyl acetate	108-05-4
Vinyl chloride	75-01-4
Vinylidene chloride	75-35-4
m-Xylene	108-38-3
o-Xylene	95-47-6
p-Xylene	106-42-3
Xylenes (mixed)	1330-20-7

[1] CAS numbers refer to the Chemical Abstracts Registry numbers assigned to specific chemicals, isomers, or mixtures of chemicals. Some isomers or mixtures that are covered by the standards do not have CAS numbers assigned to them. The standards apply to all of the chemicals listed, whether CAS numbers have been assigned or not.

§ 60.708 Delegation of Authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: § 60.703(e).

SOCMI Reactors NSPS

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

Court or Statutory Deadline

None.

Summary

This new source performance standard (NSPS), being established under Section 111 of the Clean Air Act, will require reduction of emissions of volatile organic compounds (VOC) from new, modified, and reconstructed reactor processes in the Synthetic Organic Chemical Manufacturing Industry (SOCMI). The standard is expected to result in a VOC emission reduction of about 2,100 megagrams per year at an annualized cost to the industry of about $3.7 million per year.

The standard requires VOC emissions from reactors to be reduced by 98 weight-percent or to an outlet concentration of 20 parts per million by volume. Product recovery for an affected reactor could also be increased to reduce the amount of VOC in the vent stream to a level that would result in a total resource effectiveness (TRE) level >1.0, which would exempt the reactor from the VOC emission reduction requirements. The TRE is an index to approximate the cost-effectiveness of controlling emissions from a reactor vent, and a TRE of 1.0 is equivalent to a cost-effectiveness of about $2,500 (1982 $) per megagram of VOC.

Expected Public Reaction

No adverse reaction is expected. Promulgation of this rule will be consistent with the final NSPS for the other two types of SOCMI process vents (air oxidation and distillation) which were published in the Federal Register in June 1990.

Probable OMB Reaction

OMB has already cleared this rule for publication.

Coordination

The proposed rule was developed in consultation with the affected industry, the National Air Pollution Control Techniques Advisory Committee, and environmental and State and local representatives. Comments on the proposed rule were received from 14 industry representatives and one State agency, and appropriate changes were made to the rule in response to the comments.

[FR Doc. 93-20964 Filed 8-30-93; 8:45 am]

BILLING CODE 6560-50-P

2-3-94
Vol. 59 No. 23
Pages 5071-5312

federal register

Thursday
February 3, 1994

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(TWO BRIEFINGS)

WHEN: February 17 at 9:00 am and 1:30 pm

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their place, the words "a disease associated with exposure to certain herbicide agents".

4. In § 3.309, paragraph (e) is revised to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(e) *Disease associated with exposure to certain herbicide agents.* If a veteran was exposed to an herbicide agent during active military, naval, or air service, the following diseases shall be service-connected if the requirements of § 3.307(a)(6) are met even though there is no record of such disease during service, provided further that the rebuttable presumption provisions of § 3.307(d) are also satisfied.

Chloracne or other acneform disease consistent with chloracne
Hodgkin's disease
Non-Hodgkin's lymphoma
Porphyria cutanea tarda
Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma)

Note: The term "soft-tissue sarcoma" includes the following:

Adult fibrosarcoma
Dermatofibrosarcoma protuberans
Malignant fibrous histiocytoma
Liposarcoma
Leiomyosarcoma
Epithelioid leiomyosarcoma (malignant leiomyoblastoma)
Rhabdomyosarcoma
Ectomesenchymoma
Angiosarcoma (hemangiosarcoma and lymphangiosarcoma)
Proliferating (systemic) angioendotheliomatosis
Malignant glomus tumor
Malignant hemangiopericytoma
Synovial sarcoma (malignant synovioma)
Malignant giant cell tumor of tendon sheath
Malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannomas
Malignant mesenchymoma
Malignant granular cell tumor
Alveolar soft part sarcoma
Epithelioid sarcoma
Clear cell sarcoma of tendons and aponeuroses
Extraskeletal Ewing's sarcoma
Congenital and infantile fibrosarcoma
Malignant ganglioneuroma

§ 3.311a [Removed]

§ 3.311b [Redesignated as § 3.311]

5. Section 3.311a is removed and § 3.311b is redesignated as § 3.311.

[FR Doc. 94-2403 Filed 2-2-94; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-4833-1]

Standards of Performance for New Stationary Sources; Sewage Treatment Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment of requirements.

SUMMARY: This action amends 40 CFR part 60, subpart O, Standards of Performance for Sewage Treatment Plants. Specifically, provisions requiring metals analysis of air samples and sludge samples are deleted. This deletion is occasioned by the promulgation of final regulations under section 405(a) of the Clean Water Act (CWA) on February 19, 1993, which eliminates the reason for metals testing under this subpart.

EFFECTIVE DATE: This action will be effective April 4, 1994 unless notice has been received, within 30 days from the publication of this rule, that adverse or critical comments will be submitted by an interested party. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be submitted to: Mr. Eugene Crumpler, U.S. Environmental Protection Agency, Industrial Studies Branch, Emission Standards Division (MD-13), Research Triangle Park, North Carolina, 27711. Telephone: (919) 541-0881.

FOR FURTHER INFORMATION CONTACT: Eugene P. Crumpler, Industrial Studies Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-0881.

SUPPLEMENTARY INFORMATION:

Background

Subpart O of 40 CFR part 60 establishes New Source Performance Standards (NSPS), pursuant to section 111 of the Clean Air Act (Act) for new, modified or reconstructed sewage sludge incinerators. The NSPS limits emissions of particulate matter (PM) discharged to the atmosphere to 0.65 g/kg dry sludge input (1.30 lb/ton dry sludge input) and the opacity of any gases discharged to 20 percent.

Furthermore, the NSPS presents test methods and procedures for compliance demonstration. Among these is paragraph 60.154(d) (3)-(5) which calls for the analysis of air emissions samples collected by EPA method 5 and composite samples of sludge for ten metals. This requirement was added to the October 6, 1988 regulation because, "* * * EPA's intention (is) to consolidate existing waste management authorities with the broad authorities provided under section 405 of the CWA. Section 405(d) of the CWA requires EPA to develop regulations for the use and disposal of sewage sludge. The measurement of metals will assist the Agency in establishing guidelines for State and local sludge management programs. Also, this will assist the Agency in determining if future regulatory action is warranted."

Need for the Action

As EPA has promulgated the final sewage sludge regulations pursuant to section 405(d) of the CWA (published ~~February 19, 1993 (58 FR 9248)~~), with requirements for testing and control of metals from sewage sludge incinerators ~~that supersede the provisions of~~ § 60.154(d)(3) through (5), there is no longer a need to collect data on metals emissions and the metals content of sludge for the development of the CWA regulations pursuant to § 60.154(d)(3) through (5). Therefore, 60 days after the date of publication of this notice, paragraphs (d)(3) through (5) shall be deleted from § 60.154.

The EPA hereby publishes this amendment to Subpart O to delete paragraphs (d)(3) through (5) to eliminate duplicate and conflicting metal testing requirements for sewage sludge incinerators that are regulated under the Act and the CWA.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 4, 1994 unless, within 30 days of publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publication of a further notice. That notice will withdraw the final action and begin a new rulemaking by *proposing the action and establishing a* comment period.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sewage treatment plants.

For the reason set out in the preamble, 40 CFR part 60 is amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301, of the Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

§ 60.154 [Amended]

2. In § 60.154, paragraphs (d) (3) through (5) are removed.

Dated: January 27, 1994.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 94–2437 Filed 2–2–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 185 and 186

[FAP 3H5659/R2021; FRL–4738–3]

RIN 2070–AB78

Food/Feed Additive Regulations for Hexakis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes or increases tolerances for the combined residues of the miticide hexakis (2-methyl-2-phenylpropyl) distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl) distannoxane in or on the food commodity citrus oil and the feed commodities dried citrus pulp, dried apple pomace, and raisin waste. The regulation to establish maximum permissible levels for residues of the miticide was requested in a petition submitted by E.I. Du Pont de Nemours & Co., Inc.

EFFECTIVE DATE: This regulation becomes effective February 3, 1994.

ADDRESSES: Written objections, identified by the document control number, [FAP 3H5659/R2021], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6386.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 21, 1993 (58 FR 54355), EPA issued a notice announcing that E.I. Du Pont de Nemours & Co., Inc., had submitted a food/feed additive petition (FAP 3H5659) to EPA proposing to amend 40 CFR parts 185 and 186, under section 409 of the FFDCA, 21 U.S.C. 348, by establishing a tolerance in or on citrus oil and increasing tolerances in or on dried citrus pulp, dried apple pomace, and raisin waste for the combined residues of hexakis (2-methyl-2-phenylpropyl) distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl) distannoxane. The Agency has determined that citrus oil may be a human food, and a tolerance in or on citrus oil must be included in 40 CFR 185.3550.

Tolerances exist for residues in citrus fruits, apples, and grapes (40 CFR 180.362). Studies submitted in support of the reregistration of hexakis (2-methyl-2-phenylpropyl) distannoxane showed that it concentrates during the processing of these commodities. The Agency requested that Du Pont submit a food additive petition that proposed tolerances that would be adequate for the increased concentrations of residues.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought and capable of achieving its intended physical or technical effect. The toxicological data considered in support of the proposed tolerances include the following:

1. A subchronic rat feeding study (data requirements satisfied by the chronic rat study) with a no-observed-effect level (NOEL) of 50 parts per million (ppm) and a lowest-effect level (LEL) of 100 ppm, based on increased BUN.

2. A 21-day rabbit dermal toxicity study with systemic NOEL greater than 5 milligrams (mg)/kilogram (kg) of body weight/day and dermal NOEL of 0.05 mg/kg of body weight/day, based on erythema and edema.

3. A chronic rat feeding/carcinogenicity study with NOEL of 100 ppm (equivalent to 5 mg/kg of body weight/day) and LEL of 600 ppm (equivalent to 30 mg/kg of body weight/day), based on increased alkaline phosphatase and testes weight. Under the study conditions carcinogenic potential was not demonstrated.

4. A chronic dog feeding study with NOEL of 5 mg/kg of body weight/day and LEL of 15 mg/kg of body weight/day, based on vomiting and diarrhea.

5. A mouse carcinogenicity study with NOEL of 100 ppm (equivalent to 15 mg/kg of body weight/day) and LEL of 300 ppm (equivalent to 45 mg/kg of body weight/day) based on decreased body weights. Under the study conditions carcinogenic potential was not demonstrated.

6. A rat developmental toxicity study with maternal NOEL of 15 mg/kg of body weight/day and maternal LEL of 30 mg/kg of body weight/day, based on postimplantation loss and decreased body weight. The developmental NOEL was 30 mg/kg of body weight/day.

7. A rabbit developmental toxicity study with a maternal/developmental NOEL of 1 mg/kg of body weight/day and a maternal/developmental LEL of 5 mg/kg of body weight/day, based on slightly decreased maternal body weight/intrauterine mortality. Maternal death resulted at 10 mg/kg of body weight/day.

8. A two-generation rat reproduction study with maternal/reproductive NOEL of 75 ppm (5.2 mg/kg of body weight/day in males and 5.98 mg/kg of body weight/day in females) and maternal/reproductive LEL of 250 ppm (17.4 mg/kg of body weight/day in males and 20.3 mg/kg of body weight/day in females), based on decreased maternal body weight and food consumption and decreased pup body weight during lactation.

9. The Ames gene mutation assay was negative up to cytotoxic levels.

10. Several other mutagenicity studies that were all negative. These include a Chinese hamster ovary cell mutation assay, a human lymphocyte assay for chromosomal aberration, and an unscheduled DNA synthesis assay.

11. A general metabolism study in rats shows that bioaccumulation is low, with the highest levels found in the liver, heart, and kidneys. Most is excreted unchanged within 72 hours in the feces.

The reference dose (RfD) based on the two-generation rat reproduction study (NOEL of 5.2 mg/kg of body weight/day for reduced body weight and food consumption in both sexes of pups of the first and second generations) and using a 100-fold uncertainty factor is calculated to be 0.05 mg/kg of body weight/day. The theoretical maximum residue contribution (TMRC) from existing tolerances is calculated to be 0.068104 mg/kg of body weight/day. The current action will not increase the TMRC, and no dietary risk exposure analysis was conducted. Published tolerances for meat and milk will cover any secondary residues that may result from use as feed items.

Adequate gas chromatographic analytical methods are available in the Pesticide Analytical Manual, Vol. II (PAM II), for enforcement purposes. There are currently no actions pending against continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40

V. Administrative Requirements

A. Docket

The docket for this rulemaking is A–91–09. The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act). The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the ADDRESSES section of this notice.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulation is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for determining whether a regulation is a significant rule are as follows:

(1) Is likely to have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Is likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligation of recipients thereof; or

(4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the OMB has notified the EPA that this action is a "significant regulatory action" within the meaning of the Executive Order. For this reason, this action was submitted to the OMB for review. Changes made in response to the OMB suggestions or recommendations will be documented in the public record.

Any written comments from the OMB to the EPA and any written EPA response to any of those comments will be included in the docket listed at the beginning of today's notice under ADDRESSES. The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, (6102), ATTN: Docket No. A–91–09, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

C. Paperwork Reduction Act

As required by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, the OMB must clear any reporting and recordkeeping requirements that qualify as an "information collection request" under the PRA. Approval of an information collection request is not required for this rulemaking because, for sources affected by section 112 only, the General Provisions do not require any activities until source category-specific standards have been promulgated or until title V permit programs become effective. The actual recordkeeping and reporting burden that would be imposed by the General Provisions for each source category covered by part 63 will be estimated when a standard applicable to such category is promulgated.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that have "significant impact on a substantial number of small entities." Small entities are small businesses, organizations, and governmental jurisdictions. This analysis is not necessary for this rulemaking, however, because it is unknown at this time which requirements from the General Provisions will be applicable to any particular source category, whether such category includes small businesses, and how significant the impacts of those requirements would be on small businesses. Impacts on small entities associated with the General Provisions will be assessed when emission standards affecting those sources are developed.

List of Subjects

40 CFR Part 60

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference.

40 CFR Part 61

Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Incorporation by reference.

40 CFR Part 63

Environmental Protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 28, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Section 60.1 is amended by adding paragraph (c) to read as follows:

§ 60.1 Applicability.

* * * * *

(c) In addition to complying with the provisions of this part, the owner or operator of an affected facility may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see part 70 of this chapter.

3. Section 60.2 is amended by revising the definitions of "Act" and "Malfunction" and by adding in alphabetical order the definitions "Approved permit program," "Issuance," "Part 70 permit," "Permit program," "Permitting authority," "State," "Stationary source," and "Title V permit" to read as follows:

§ 60.2 Definitions.

* * * * *

Act means the Clean Air Act (42 U.S.C. 7401 et seq.)

* * * * *

Approved permit program means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

* * * * *

Issuance of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

* * * * *

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

* * * * *

Part 70 permit means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

* * * * *

Permit program means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

Permitting authority means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

* * * * *

State means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement: (1) The provisions of this part; and/or (2) the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant.

* * * * *

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

* * * * *

4. In § 60.7, paragraphs (e), (f), and (g) are redesignated as paragraphs (f), (g), and (h), respectively, and new paragraph (e) is added to read as follows:

§ 60.7 Notification and recordkeeping.

* * * * *

(e)(1) Notwithstanding the frequency of reporting requirements specified in paragraph (c) of this section, an owner or operator who is required by an applicable subpart to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(i) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this part continually demonstrate that the facility is in compliance with the applicable standard;

(ii) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the applicable standard; and

(iii) The Administrator does not object to a reduced frequency of reporting for the affected facility, as provided in paragraph (e)(2) of this section.

(2) The frequency of reporting of excess emissions and monitoring systems performance (and summary) reports may be reduced only after the owner or operator notifies the Administrator in writing of his or her intention to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the required recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the grounds on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(3) As soon as monitoring data indicate that the affected facility is not in compliance with any emission limitation or operating parameter specified in the applicable standard, the frequency of reporting shall revert to the frequency specified in the applicable standard, and the owner or operator shall submit an excess emissions and monitoring systems performance report (and summary report, if required) at the next appropriate reporting period following the noncomplying event. After demonstrating compliance with the applicable standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard as provided for in paragraphs (e)(1) and (e)(2) of this section.

5. Section 60.19 is added to subpart A to read as follows:

§ 60.19 General notification and reporting requirements.

(a) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(e) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 61, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this part, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR part 61 or part 63 of this chapter standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

6. The authority citation for part 61 continues to read as follows:

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

7. Section 61.01 is amended by adding paragraph (d) to read as follows:

§ 61.01 List of pollutants and applicability of part 61.

* * * * *

(d) In addition to complying with the provisions of this part, the owner or operator of a stationary source subject to a standard in this part may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see part 70 of this chapter.

* * * * *

8. Section 61.02 is amended by adding in alphabetical order the definitions "Approved permit program," "Issuance," "Part 70 permit," "Permit program," "Permitting authority," "State," and "Title V permit" to read as follows:

§ 61.02 Definitions.

* * * * *

Approved permit program means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

* * * * *

Issuance of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

* * * * *

Part 70 permit means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

* * * * *

Permit program means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

* * * * *

Permitting authority means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

State means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement:

(1) The provisions of this part; and/or

(2) The permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

* * * * *

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

* * * * *

9. Section 61.10 is amended by adding paragraphs (e) through (j) to read as follows:

§ 61.10 Source reporting and waiver request.

* * * * *

(e) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(f) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(g) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(h) If an owner or operator of a stationary source in a State with delegated authority is required to submit reports under this part to the State, and if the State has an established timeline for the submission of reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(i) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 60, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part, or 1 year after the source is required to be in compliance with the applicable part 60 or part 63 standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(j)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (j)(2) and (j)(3) of this section, the owner or operator of an affected source remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (j)(2) and (j)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act as amended by Pub. L. 101–549 (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

11. Part 63 is amended by adding subpart A to read as follows:

Subpart A—General Provisions

Sec.

Subpart A—General Provisions

§ 63.1 Applicability.

(a) *General.* (1) Terms used throughout this part are defined in § 63.2 or in the Clean Air Act (Act) as amended in 1990, except that individual subparts of this part may include specific definitions in addition to or that supersede definitions in § 63.2.

(2) This part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the Act as amended November 15, 1990. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more

federal register

Friday
April 22, 1994

Part IV

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Final Rule

NVIRONMENTAL PROTECTION
GENCY

0 CFR Part 60

AD–FRL–4846–9]

Standards of Performance for New Stationary Sources; Appendix A—Test Methods; Revisions to Methods 18 and 26 and Addition of Methods 25D and 26A to Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to make revisions to Method 18, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography" and to Method 26, "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—Midget Impinger Method," and to add Method 25D, "Determination of the Volatile Organic Concentration of Waste Samples" and Method 26A, "Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources—*Isokinetic Method*," to appendix A of 40 CFR part 60. Method 18 is being revised to clarify the phrase "engineering judgment" as it relates to choosing a sampling methodology. Method 26 for an isokinetic determination of hydrogen chloride emissions is being revised to add provisions for determining emissions of other hydrogen halides and halogens. Method 25D is being added as the applicable test method for the determination of the volatile organic concentration of wastes. Method 26A is being added as an isokinetic version of Method 26.

A result of this action is that these standard methods will be available to support compliance determinations with regulations being promulgated in other rulemaking.

DATES: *Effective Date:* April 22, 1994.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Office of the Federal Register as of April 22, 1994.

See SUPPLEMENTARY INFORMATION section concerning judicial review.

ADDRESSES: *Docket*. Docket No. A–90–19, containing material relevant to this rulemaking for Methods 18, 26, and 26A, and Docket No. A–90–23, containing material relevant to Method 25D, are available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air Docket, room M–1500, 1st Floor, erside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

Two additional dockets pertain to development of the method and the rulemaking for reference method 25D: (1) Docket No. F–91–CESP–FFFFF, which contains copies of all BID references and other information related to the development of the reference method 25D proposal; (2) Docket No. F–92–CESF–FFFFF, which contains copies of all BID references and other information related to development of the final reference method 25D following proposal. The public may review all materials in these dockets at the EPA RCRA Docket Office.

The EPA RCRA Docket Office is located in room 2427 of the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Docket Office is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. The public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (202) 260–9327.

FOR FURTHER INFORMATION CONTACT: For information concerning Method 26 or Method 26A contact Terry Harrison, Emission Measurement Branch, ((919) 541–5233) or Robin R. Segall, Emission Measurement Branch ((919) 541–0893). For information concerning Method 18 or 25D contact Rima Dishakjian, Emission Measurement Branch, ((919) 541–0443). The address for each of these contacts is Emission Measurement Branch (MD–19), Technical Support Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the actions taken by this notice is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are subject to today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Background Information Document

A background information document (BID) summarizing and responding to legal comments and technical comments pertaining to this rulemaking may be obtained from either: (1) The National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650, or (2) the EPA Technology Transfer Network (TTN). The TTN is an electronic bulletin board system which is free, except for the normal long distance charges. To access the HON BID: (1) Set software to data bits: 8, N, stop bits: 1; (2) Use access number (919) 541–5742 for 1200, 2400, or 9600 bps modems [access problems should be directed to the system operator at (919) 541–5384]; (3) Specify TTN Bulletin Board: Clean Air Act Amendments; and (4) Select menu item: Recently Signed Rules. Please refer to "Hazardous Air Pollutant Emissions from Process Units in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Promulgated Standards", and specify volume number(s).

Volume 2E: Comments on Recordkeeping, Reporting, Compliance, and Test Methods (EPA–453/R–94–003e)

Volume 2F: Commenter Identification List (EPA–453/R–94–003f)

I. The Rulemaking

Method 18 was developed for and is currently applicable to the speciation of total gaseous organics in a sample to determine emissions of individual organic compounds. In response to questions from industry representatives seeking to use the method for compliance demonstrations, the EPA is clarifying the phrase "engineering judgment" as it relates to choosing a sampling and analytical methodology. In the revision, an owner or operator will perform an on-site field and laboratory evaluation of the methodology chosen to sample and analyze the compounds of interest. This evaluation is used to characterize the effectiveness of the methodology and correct for any inefficiency in the chosen technique.

Method 25D is the applicable test method for the determination of the volatile organic concentration of wastes. The sampling requirements in the version of Method 25D promulgated today in 40 CFR part 60, appendix A, have been changed since proposal. The final version of Method 25D requires that samples of waste be collected from a source following specific procedures for sampling a single-phase or well-mixed waste, a multiple-phase waste, and solid materials. Each sample is suspended in an organic/aqueous matrix, then heated and purged with nitrogen for 30 minutes to separate certain organic compounds. A portion of the sample is analyzed for carbon concentration, as methane, with a flame ionization detector. The other portion of the sample is analyzed for chlorine concentration, as chloride, with an electrolytic conductivity detector. The volatile organic concentration of the waste is then computed as the sum of the measured carbon and chlorine contents. Responses to comments on the proposed Method 25D are included in docket A–90–23.

Under subpart G of part 63, EPA is issuing standards to limit emissions of halides and halogens from incineration or control of halogenated organic vent streams at SOCMI facilities. Method 26 currently prescribes only measurement of hydrogen chloride emissions with sampling at a constant rate. The revisions being made in this action will expand the method's applicability to other hydrogen halides and halogens. The addition of Method 26A will provide an alternative to the revised Method 26 and will allow for isokinetic sampling of gas streams that are saturated with moisture.

Method 26 was developed for and is currently applicable to determining hydrogen chloride emissions from municipal waste combustors. Methods similar to Method 26 and Method 26A were developed for the measurement of hydrogen chloride (HCl) and chlorine (Cl_2) in emissions from hazardous waste incinerators and boilers and industrial furnaces burning hazardous waste (56 FR 32728).

The revisions to Method 26 as well as Method 26A also extend the applicability to measurement of hydrogen bromide (HBr), hydrogen fluoride (HF), and bromine (Br_2).

The Agency assessed the methods further, prior to promulgation, through laboratory and field evaluations. A study concerning the potential negative bias in Method 26A at HCl levels below 20 ppm was performed; specifically, the study was to determine the need to replace certain glass components in the sampling train with Teflon® to reduce surface adsorption effects. Another study to address sample stability was performed, particularly in regard to the species created by hydrolysis of the halogens in the alkaline solution in the sampling train. Finally, a laboratory evaluation of Method 26A was conducted to assess the bias and precision of the method for the target analyses. To assist in its assessment, the Agency also solicited comments on available information on the proposed methodology. Specifically, the Agency solicited comments with supporting data to better define the compounds present in the gas matrices which may, for the hydrogen halides and halogens specified in the methods: (1) Be analytical interferences, (2) interfere with their quantitative collection in the impinger solutions, or (3) affect sample stability.

II. Public Participation

The opportunity to hold a public hearing specifically on these methods was provided, but no one requested a hearing.

III. Significant Comments and Changes to the Proposed Rulemaking

A. Revisions to Methods 18 and 26 and Addition of Method 26A

Several comment letters were received on the proposed test method changes and additions. These comments have been carefully considered and, when deemed appropriate by the Administrator, changes have been made to proposed Method 26A and the proposed revisions to Methods 18 and 26. A detailed discussion of these comments is contained in the background document which is referred to in the ADDRESSES section of this preamble.

The following changes were made to Method 18 as a result of public comments received: Several commenters expressed concern that the recovery study in the proposal did not take matrix interferences into account, since it called for studies in the laboratories. In response to these comments, the recovery study will be carried out on site, on actual test samples. For bag and adsorbent sampling, spiked and unspiked samples will be analyzed in order to quantify the fraction of sample spike recovered. A correction factor will be required, as in the proposed version of the method. For direct interface sampling, a calibration gas will be introduced at the probe in order to check for leaks in the sampling system. In response to a commenter, the calibration gas can be introduced anywhere on the probe, but before the filter. The commenter had expressed concern that on tall stacks, it would be difficult to introduce a gaseous standard at the tip of the probe.

Five minor changes were made to Method 26 and Method 26A between proposal and promulgation as a result of the laboratory and field studies cited earlier.

The use of Teflon® probes and filter holders were optionally allowed as well as quartz and borosilicate glass. This gives the affected sources more options and does not affect the Agency's ability to determine compliance. The data gathered was not sufficient to show that use of Teflon® probes and filter holders should be required however.

The probe and filter temperature requirement was changed for Method 26A from 120 °C±14 °C to require that the temperature never be less than 120 °C during the sampling run. Again this approach was taken to allow more flexibility. The Agency determined that a minimum temperature requirement would minimize the potential for condensation of acid gases in the probe and on the filter; with these methods the filter is used to separate halide particulate matter from the acid gases and is not recovered or analyzed as part of the method. Therefore allowing the option of collection at higher temperatures would be acceptable from an Agency perspective. The source owner should be aware, however, that in some cases, operation at a higher temperature could result in a positive bias by allowing of certain compounds such as NH_4Cl to pass through the filter.

Following a similar logic, the temperature requirement for the post test sample train purge (required when the optional use of a cyclone is used in high moisture environments) was changed to a minimum temperature of 120 °C. The Agency concluded from the field and laboratory studies that it is imperative that all of the moisture collected in the cyclone be evaporated and captured during this purge to assure quantitative recovery of the acid gases. Allowing higher temperatures will allow this to be accomplished in a shorter time than at 120 °C and potentially reduce the economic burden on the source. There are, however, practical limitations which the tester will need to consider in establishing an upper limit for that source to avoid compromising the filter material or vaporizing halide particulate matter captured on the filter.

A requirement was added that sodium thiosulfate be added, in excess of theoretical amounts needed, to the alkaline impinger contents and wash after sample collection to assure that the hypohalous acid formed would be reacted to form a second Cl^- ion. This then lead to the equation in Section 8.8 being changed by deleting the factor of 2 since now 2 halide (Cl^- and Br^-) ions are formed for each molecule of halogen captured and measured instead of only one.

Maximum allowable absorbing solution blank correction values were added to assure that large uncertainties in the compliance status of a source will not result from laboratories employing poor laboratory practices. The maximum values reflect attainable goals of current technology.

Similar changes were made in Method 26 since both methods are intended to measure the same compounds.

One commenter suggested that Method 13 and Method 13A might, in some cases, be a better alternative to Method 26A for fluoride emissions. The cited methods are for total fluoride emissions while Method 26 and Method 26A are intended specifically for the gaseous hydrogen fluoride (as well as other halogens and halides); some modification of Method 13A and Method 13B would be needed to accomplish this and would likely be source specific. Testers always have the option of requesting alternative methods; requests should be submitted in writing and should be accompanied by supporting data.

B. Addition of Method 25D

On July 22, 1991, the EPA proposed a new test method (refer to 56 FR 33491) to be added to appendix A of 40 CFR part 60 for determining the volatile organic concentration of a waste (Method 25D). Based on public comments on this proposed test method and EPA's evaluation of additional technical analyses performed after proposal, certain requirements of the test method were changed by the EPA from those proposed. The substantive changes since proposal to Method 25D are summarized below.

Changes since proposal were made to the sampling requirements for Method 25D, being promulgated today in appendix A to 40 CFR part 60. The sampling requirements for Method 25D have been revised to include procedures for single-phase or well-mixed waste, multiple-phase waste, and solid waste in addition to an alternative to sampling tap installation. The final test method still provides a provision for alternative sampling techniques subject to the approval of the EPA Administrator.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials) [Section 307(d)(7)(A)].

B. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51736), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities,

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency,

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the methods are not used until required in relevant standards, there are no environmental, economic, or energy impacts associated with the promulgated methods. Thus, this action is not considered a "significant" regulatory action within the meaning of Executive Order 12866.

D. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the EPA to consider potential impacts of Federal regulations on small business entities. Because these test methods impose no impacts, a Regulatory Flexibility analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have an economic impact on small entities because no additional costs will be incurred.

List of Subjects in 40 CFR Part 60

Environmental Protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Synthetic organic chemical manufacturing, Test method, Vapor-phase organic concentration, Volatile organic concentration, Waste, Waste testing.

Dated: February 28, 1994.

Carol M. Browner,

The Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority of citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

2. Section 60.17 is amended by revising paragraph (a)(22) to read as follows:

§ 60.17 Incorporation by reference.

* * * * *

(a) * * *

(22) ASTM D 1193–77, Standard Specification for Reagent Water, for appendix A to part 60, Method 6, par. 3.1.1; Method 7, par. 3.2.2; Method 7C, par. 3.1.1; Method 7D, par. 3.1.1; Method 8, par. 3.1.3; Method 12, par. 4.1.3; Method 25D, par. 3.2.2.4; Method 26A, par. 3.1.1.

* * * * *

Appendix A—Test Methods [Amended]

3. In appendix A, Method 18 is amended by revising section 2.1; by adding paragraph (c) to section 3; by revising sections 7.4.4.1 and 7.4.4.5; and adding section 7.6 to read as follows:

Method 18—Measurement of Gaseous Organic Compound Emissions by Gas Chromatography

* * * * *

2.1 Range. The lower range of this method is determined by the sampling system; adsorbents may be used to concentrate the sample, thus lowering the limit of detection below the 1 part per million (ppm) typically achievable with direct interface or bag sampling. The upper limit is governed by GC detector saturation or column overloading; the upper range can be extended by dilution of sample with an inert gas or by using smaller volume gas sampling loops. The upper limit can also be governed by condensation of higher boiling compounds.

* * * * *

3. Precision and Accuracy

* * * * *

(c) Recovery. After developing an appropriate sampling and analytical system for the pollutants of interest, conduct the procedure in Section 7.6. Conduct the appropriate recovery study in Section 7.6 at each sampling point where the method is being applied. Submit the data and results of the recovery procedure with the reporting of results under Section 7.5.

* * * * *

7. Final Sampling and Analysis Procedure

* * * * *

7.4.4 Quality Assurance.

7.4.4.1 Determine the recovery efficiency of the pollutants of interest according to Section 7.6.

7.4.4.2 * * *

7.4.4.3 * * *

7.4.4.4 * * *

7.4.4.5 Calculations. All calculations can be performed according to the respective NIOSH method. Correct all sample volumes to standard conditions. If a sample dilution system has been used, multiply the results by the appropriate dilution ratio. Correct all results according to the applicable procedure in Section 7.6. Report results as ppm by volume, dry basis.

* * * * *

7.6 Recovery Study. After conducting the presurvey and identifying all of the pollutants of interest, conduct the appropriate recovery study during the test based on the sampling system chosen for the compounds of interest.

7.6.1 Recovery Study for Direct Interface or Dilution Interface Sampling. If the procedures in Section 7.2 or 7.3 are to be used to analyze the stack gas, conduct the calibration procedure as stated in Section 7.2.2 or 7.3.2, as appropriate. Upon successful completion of the appropriate calibration procedure, attach the mid-level calibration gas for at least one target compound to the inlet of the probe or as close as possible to the inlet of the probe, but before the filter. Repeat the calibration procedure by sampling and analyzing the mid-level calibration gas through the entire sampling and analytical system until two consecutive samples are within 5 percent of their mean value. The mean of the calibration gas response directly to the analyzer and the mean of the calibration gas response sampled through the probe shall be within 10 percent of each other. If the difference in the two means is greater than 10 percent, check for leaks throughout the sampling system and repeat the analysis of the standard through the sampling system until this criterion is met.

7.6.2 Recovery Study for Bag Sampling. Follow the procedures for bag sampling and analysis in Section 7.1. After analyzing all three bag samples, choose one of the bag samples and analyze twice more (this bag will become the spiked bag). Spike the chosen bag sample with a known mixture (gaseous or liquid) of all of the target pollutants. Follow a procedure similar to the calibration standard preparation procedure listed in Section 6.2, as appropriate. The theoretical concentration, in ppm, of each spiked compound in the bag shall be 40 to 60 percent of the average concentration measured in the three bag samples. If a target compound was not detected in the bag samples, the concentration of that compound to be spiked shall be 5 times the limit of detection for that compound. Analyze the bag three times after spiking. Calculate the average fraction recovered (R) of each spiked target compound with the following equation:

$$R = \frac{t - u}{s}$$

where

t = measured average concentration (ppm) of target compound and source sample (analysis results subsequent to bag spiking)

u = source sample average concentration (ppm) of target compound in the bag (analysis results before bag spiking)

s = theoretical concentration (ppm) of spiked target compound in the bag

For the bag sampling technique to be considered valid for a compound, $0.70 \leq R \leq 1.30$. If the R value does not meet this criterion for a target compound, the sampling technique is not acceptable for that compound, and therefore another sampling technique shall be evaluated for acceptance (by repeating the recovery study with another sampling technique). Report the R value in the test report and correct all field measurements with the calculated R value for that compound by using the following equation:

$$\text{Reported Result} = \frac{\text{Measured Concentration (ppm)}}{R}$$

7.6.3 Recovery Study for Adsorption Tube Sampling. If following the adsorption tube procedure in Section 7.4, conduct a recovery study of the compounds of interest during the actual field test. Set up two identical sampling trains. Collocate the two sampling probes in the stack. The probes shall be placed in the same horizontal plane, where the first probe tip is 2.5 cm from the outside edge of the other and with a pitot tube on the outside of each probe. One of the sampling trains shall be designated the spiked train and the other the unspiked train. Spike all of the compounds of interest (in gaseous or liquid form) onto the adsorbent tube(s) in the spiked train before sampling. The mass of each spiked compound shall be 40 to 60 percent of the mass expected to be collected with the unspiked train. Sample the stack gas into the two trains simultaneously. Analyze the adsorbents from the two trains utilizing the same analytical procedure and instrumentation. Determine the fraction of spiked compound recovered (R) using the following equations.

$$m_v = \frac{m_s}{v_s} - \frac{m_u}{v_u}$$

where

m_v = mass per volume of spiked compound measured (µg/L).

m_s = total mass of compound measured on adsorbent with spiked train (µg).

v_s = volume of stack gas sampled with spiked train (L).

m_u = total mass of compound measured on adsorbent with unspiked train (µg).

v_u = volume of stack gas sampled with unspiked train (L).

$$R = \frac{m_v \times v_s}{S}$$

where S = theoretical mass of compound spiked onto adsorbent in spiked train (µg).

7.6.3.1 Repeat the procedure in Section 7.6.3 twice more, for a total of three runs. In order for the adsorbent tube sampling and analytical procedure to be acceptable for a compound, $0.70 \leq R \leq 1.30$ (R in this case is the average of three runs). If the average R value does not meet this criterion for a target compound, the sampling technique is not acceptable for that compound, and therefore another sampling technique shall be evaluated for acceptance (by repeating the recovery study with another sampling technique). Report the R value in the test report and correct all field measurements with the calculated R value for that compound by using the following equation:

$$\text{Reported Result} = \frac{\text{Measured Concentration (ppm)}}{R}$$

* * * * *

4. Method 26 of appendix A is amended by revising Sections 1.1, 1.2, 1.3, 1.5, 1.6, 2.1.5, 2.2.2, 3.2.2, 3.2.3, 4.1.1, 4.2, 4.3, 4.4.2, 4.4.3, 5.2, and 7.2; in Section 2.1, revising Figure 26A–1; in Section 3.1.2, by revising the words "Absorbing solution" in the first sentence to read, "Acidic Absorbing Solution"; in Section 3.1.3, by revising the words "Chlorine Scrubber Solution" in the first sentence to read, "Alkaline Absorbing Solution"; adding new Sections 3.1.4, 7.3, and 7.4; and adding Citations 4 and 5 to Section 8. Bibliography; to read as follows:

Appendix A—Test Methods

* * * * *

Method 26—Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources - Midget Impinger Method

* * * * *

1. * * *

1.1 Applicability. This method is applicable for determining emissions of hydrogen halides (HX) [hydrogen chloride (HCl), hydrogen bromide (HBr), and hydrogen fluoride (HF)] and halogens (X_2) [chlorine (Cl_2) and bromine (Br_2)] from stationary sources. Sources, such as those controlled by wet scrubbers, that emit acid particulate matter must be sampled using Method 26A.

[Note: Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.]

1.2 Principle. An integrated sample is extracted from the source and passed through a prepurged heated probe and filter into dilute sulfuric acid and dilute sodium hydroxide solutions which collect the gaseous hydrogen halides and halogens, respectively. The filter collects other particulate matter including halide salts. The hydrogen halides are solubilized in the acidic solution and form chloride (Cl^-), bromide (Br^-), and fluoride (F^-) ions. The halogens have a very low solubility in the acidic solution and pass through to the alkaline solution where they are hydrolyzed to form a proton (H^+), the halide ion, and the hypohalous acid (HClO or HBrO). Sodium thiosulfate is added in excess to the alkaline solution to assure reaction with the hypohalous acid to form a second halide ion such that 2 halide ions are formed for each molecule of halogen gas. The halide ions in the separate solutions are measured by ion chromatography (IC).

1.3 Interferences. Volatile materials, such as chlorine dioxide (ClO_2) and ammonium chloride (NH_4Cl), which produce halide ions upon dissolution during sampling are potential interferents. Interferents for the halide measurements are the halogen gases which disproportionate to a hydrogen halide and a hydrohalous acid upon dissolution in water. However, the use of acidic rather than neutral or basic solutions for collection of the hydrogen halides greatly reduces the dissolution of any halogens passing through this solution. The simultaneous presence of HBr and Cl_2 may cause a positive bias in the HCL result with a corresponding negative bias in the Cl_2 result as well as affecting the HBr/Br_2 split. High concentrations of nitrogen oxides (NO_X) may produce sufficient nitrate (NO_3^-) to interfere with measurements of very low Br^- levels.

* * * * *

1.5 *Sample Stability.* The collected Cl^- samples can be stored for up to 4 weeks.

1.6 *Detection Limit.* The analytical detection limit for Cl^- is 0.1 µg/ml. Detection limits for the other analyses should be similar.

* * * * *

2. * * *

2.1 * * *

BILLING CODE 6560-50-P

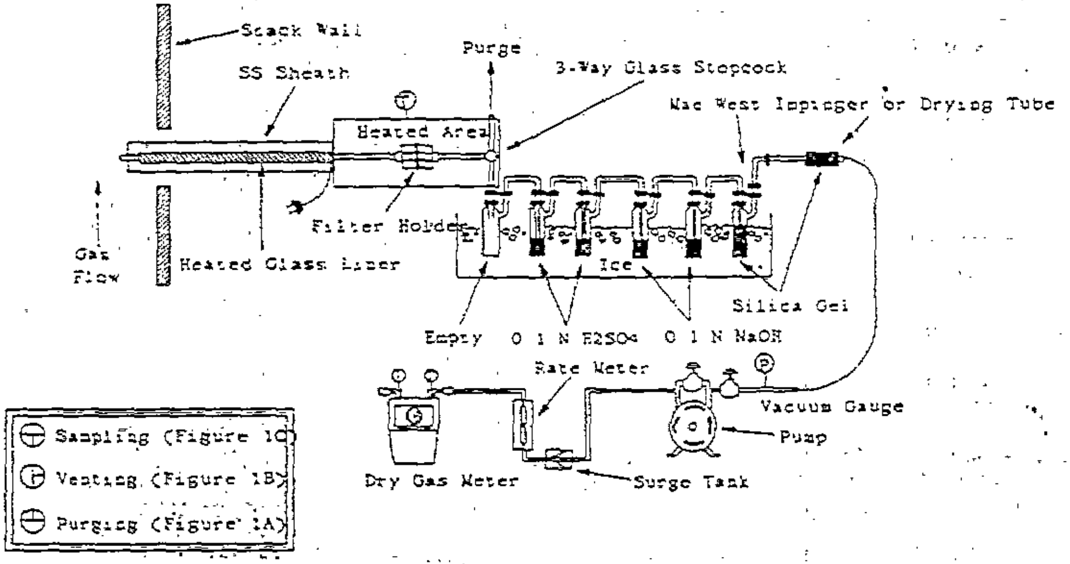

Figure 26-1 Sampling train

BILLING CODE 6560-50-C

2.1.5 * * *

When the stack gas temperature exceeds 210°C (410°F) and the HCl concentration is greater than 20 ppm, a quartz-fiber filter may be used.

* * * * *

2.2 * * *

2.2.2 Storage Bottles. 100- or 250-ml high-density polyethylene bottles with Teflon® screw cap liners to store impinger samples.

* * * * *

3. * * *

3.1.2 Acidic Absorbing Solution * * *

3.1.3 Alkaline Absorbing Solution * * *

3.1.4 Sodium Thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$)

3.2 * * *

3.2.2 Absorbing Solution Blanks. A separate blank solution of each absorbing reagent should be prepared for analysis with the field samples. Dilute 30 ml of each absorbing solution to approximately the same final volume as the field samples using the blank sample of rinse water.

3.2.3 Halide Salt Stock Standard Solutions. Prepare concentrated stock solutions from reagent grade sodium chloride (NaCl), sodium bromide (NaBr), and sodium fluoride (NaF). Each must be dried at 110°C for two or more hours and then cooled to room temperature in a desiccator immediately before weighing. Accurately weigh 1.6 to 1.7 g of the dried NaCl to within 0.1 mg, dissolve in water, and dilute to 1 liter. Calculate the exact Cl^- concentration using Equation 26-1.

$$\mu g\ Cl^-/ml = g\ of\ NaCl \times 10^3 \times 35.453/58.44$$

Eq. 26-1

In a similar manner, accurately weigh and solubilize 1.2 to 1.3 g of dried NaBr and 2.2 to 2.3 g of NaF to make 1-liter solutions. Use Equations 26–2 and 26–3 to calculate the Br^- and F^- concentrations.

$\mu g\ Br^-/ml = g\ of\ NaBr \times 10^3 \times 79.904/102.90$ Eq. 26–2

$\mu g\ F^-/ml = g\ of\ NaF \times 10^3 \times 18.998/41.99$ Eq. 26–3

Alternately, solutions containing a nominal certified concentration of 1000 mg/l NaCl are commercially available as convenient stock solutions from which standards can be made by appropriate volumetric dilution. Refrigerate the stock standard solutions and store no longer than one month.

* * * * *

4. * * *

4.1 * * *

4.1.1 Preparation of Collection Train. Prepare the sampling train as follows: Pour 15 ml of the acidic absorbing solution into each one of the first pair of impingers, and 15 ml of the alkaline absorbing solution into each one of the second pair of impingers. Connect the impingers in series with the knockout impinger first, if used, followed by the two impingers containing the acidic absorbing solution and the two impingers containing the alkaline absorbing solution. Place a fresh charge of silica gel, or equivalent, in the drying tube or impinger at the end of the impinger train.

* * * * *

4.2 Sample Recovery. Disconnect the impingers after sampling. Quantitatively transfer the contents of the acid impingers and the knockout impinger, if used, to a leak-free storage bottle. Add the water rinses of each of these impingers and connecting glassware to the storage bottle. Repeat this procedure for the alkaline impingers and connecting glassware using a separate storage bottle. Add 25 mg sodium thiosulfate per the product of ppm of halogen anticipated to be in the stack gas times the dscm stack gas sampled. (Note: This amount of sodium thiosulfate includes a safety factor of approximately 5 to assure complete reaction with the hypohalous acid to form a second Cl^- ion in the alkaline solution.) Save portions of the absorbing reagents (0.1 N H_2SO_4 and 0.1 N NaOH) equivalent to the amount used in the sampling train (these are the absorbing solution blanks described in Section 3.2.2); dilute to the approximate volume of the corresponding samples using rinse water directly from the wash bottle being used. Add the same amount of sodium thiosulfate solution to the 0.1 N NaOH absorbing solution blank. Also, save a portion of the rinse water used to rinse the sampling train. Place each in a separate, prelabeled storage bottle. The sample storage bottles should be sealed, shaken to mix, and labeled. Mark the fluid level.

4.3 Sample Preparation for Analysis. Note the liquid levels in the storage bottles and confirm on the analysis sheet whether or not leakage occurred during transport. If a noticeable leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Quantitatively transfer the sample solutions to 100-ml volumetric flasks, and dilute to 100 ml with water.

4.4 * * *

4.4.2 Before sample analysis, establish a stable baseline. Next, inject a sample of water, and determine if any Cl^-, Br^-, or F^- appears in the chromatogram. If any of these ions are present, repeat the load/injection procedure until they are no longer present. Analysis of the acid and alkaline absorbing solution samples requires separate standard calibration curves; prepare each according to Section 5.2. Ensure adequate baseline separation of the analyses.

4.4.3 Between injections of the appropriate series of calibration standards, inject in duplicate the reagent blanks, quality control sample, and the field samples. Measure the areas or heights of the Cl^-, Br^-, and F^- peaks. Use the mean response of the duplicate injections to determine the concentrations of the field samples and reagent blanks using the linear calibration curve. The values from duplicate injections should agree within 5 percent of their mean for the analysis to be valid. Dilute any sample and the blank with equal volumes of water if the concentration exceeds that of the highest standard.

* * * * *

5. * * *

5.2 Ion Chromatograph. To prepare the calibration standards, dilute given amounts (1.0 ml or greater) of the stock standard solutions to convenient volumes, using 0.1 N H_2SO_2 or 0.1 N NaOH, as appropriate. Prepare at least four calibration standards for each absorbing reagent containing the appropriate stock solutions such that they are within the linear range of the field samples. Using one of the standards in each series, ensure adequate baseline separation for the peaks of interest. Inject the appropriate series of calibration standards, starting with the lowest concentration standard first both before and after injection of the quality control check sample, reagent blanks, and field samples. This allows compensation for any instrument drift occurring during sample analysis.

Determine the peak areas, or heights, for the standards and plot individual values versus halide ion concentrations in µg/ml. Draw a smooth curve through the points. Use linear regression to calculate a formula describing the resulting linear curve.

* * * * *

7. * * *

7.2 Total µg HCl, HBr, or HF Per Sample.

$m_{HX} = K\ V_s\ (S_{X^-} - B_{X^-})$ Eq. 26–4

where:

B_{X^-}=Mass concentration of applicable absorbing solution blank, µg halide ion (Cl^-, Br^-, F^-)/ml, not to exceed 1 µg/ml which is 10 times the published analytical detection limit of 0.1 µg/ml.

m_{HX}=Mass of HCl, HBr, or HF in sample, µg.

S_{X^-}=Analysis of sample, µg halide ion (Cl^-, Br^-, F^-)/ml.

V_s=Volume of filtered and diluted sample, ml.

K_{HCl}=1.028 (µg HCl/µg−mole)/(µg Cl^-/µg−mole).

K_{HBr}=1.013 (µg HBr/µg−mole)/(µg Br^-/µg−mole).

K_{HF}=1.053 (µg HF/µg−mole)/(µg F^-/µg−mole).

7.3 Total µg Cl_2 or Br_2 Per Sample.

$m_{X_2} = V_s\ (S_{X^-} - B_{X^-})$ Eq. 26–5

where:

m_{X_2}=Mass of Cl_2 or Br_2 in sample, µg.

7.4 Concentration of Hydrogen Halide or Halogen in Flue Gas.

$C = K\ m_{HX,X_2}/V_{m(std)}$ Eq. 26–6

where:

C=Concentration of hydrogen halide (HX) or halogen (X_2), dry basis, mg/dscm.

$V_{m(std)}$= Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm.

$K=10^{-3}$ mg/µg.

8. * * *

4. Stern, D. A., B. M. Myatt, J. F. Lachowski, and K. T. McGregor. Speciation of Halogen and Hydrogen Halide Compounds in Gaseous Emissions. In: Incineration and Treatment of Hazardous Waste: Proceedings of the 9th Annual Research Symposium, Cincinnati, Ohio, May 2–4, 1983. Publication No. 600/9–84–015. July 1984. Available from National Technical Information Service, Springfield, VA 22161 as PB84–234525.

5. Holm, R. D. and S. A. Barksdale. Analysis of Anions in Combustion Products. In: Ion Chromatographic Analysis of Environmental Pollutants. E. Sawicki, J. D. Mulik, and E. Wittgenstein (eds.). Ann Arbor, Michigan, Ann Arbor Science Publishers. 1978. pp. 99–110.

* * * * *

5. Part 60 is amended by adding and reserving Method 25C and adding Method 25D to Appendix A as follows:

Appendix A—Test Methods

* * * * *

Method 25D—Determination of the Volatile Organic Concentration of Waste Samples

Introduction

Performance of this method should not be attempted by persons unfamiliar with the operation of a flame ionization detector (FID) or an electrolytic conductivity detector (ELCD) because knowledge beyond the scope of this presentation is required.

1. Applicability and Principle

1.1 Applicability. This method is applicable for determining the volatile organic (VO) concentration of a waste sample.

1.2 Principle. A sample of waste is obtained at a point which is most representative of the unexposed waste (where the waste has had minimum opportunity to volatilize to the atmosphere). The sample is suspended in an organic/aqueous matrix, then heated and purged with nitrogen for 30 min in order to separate certain organic compounds. Part of the sample is analyzed for carbon concentration, as methane, with an FID, and part of the sample is analyzed for chlorine concentration, as chloride, with an ELCD. The VO concentration is the sum of the carbon and chlorine content of the sample.

2. Apparatus

2.1 Sampling. The following equipment is required:

2.1.1 Sampling Tube. Flexible Teflon, 0.25 in. ID.

Note: Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

2.1.2 Sample Container. Borosilicate glass, 40 mL, and a Teflon lined screw cap capable of forming an air tight seal.

2.1.3 Cooling Coil. Fabricated from 0.25 in. ID 304 stainless steel tubing with a thermocouple at the coil outlet.

2.2 Analysis. The following equipment is required:

2.2.1 Purging Apparatus. For separating the VO from the waste sample. A schematic of the system is shown in Figure 25D–1. The purging apparatus consists of the following major components.

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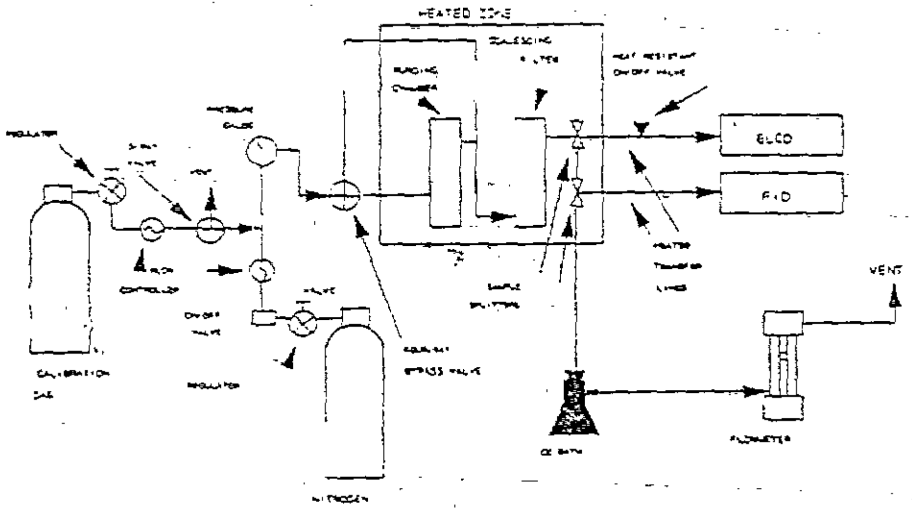

Figure 25D-1. Schematic of Purging Apparatus.

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2.2.1.1 Purging Flask. A glass container to hold the sample while it is heated and purged with dry nitrogen. The cap of the purging flask is equipped with three fittings: one for a purging lance (fitting with the #7 Ace-thread), one for the Teflon exit tubing (side fitting, also a #7 Ace-thread), and a third (a 50-mm Ace-thread) to attach the base of the purging flask as shown in Figure 25D–2. The base of the purging flask is a 50-mm ID cylindrical glass tube. One end of the tube is open while the other end is sealed. Exact dimensions are shown in Figure 25D–2.

2.2.1.2 Purging Lance. Glass tube, 6-mm OD by 30 cm long. The purging end of the tube is fitted with a four-arm bubbler with each tip drawn to an opening 1 mm in diameter.

Details and exact dimensions are shown in Figure 25D–2.

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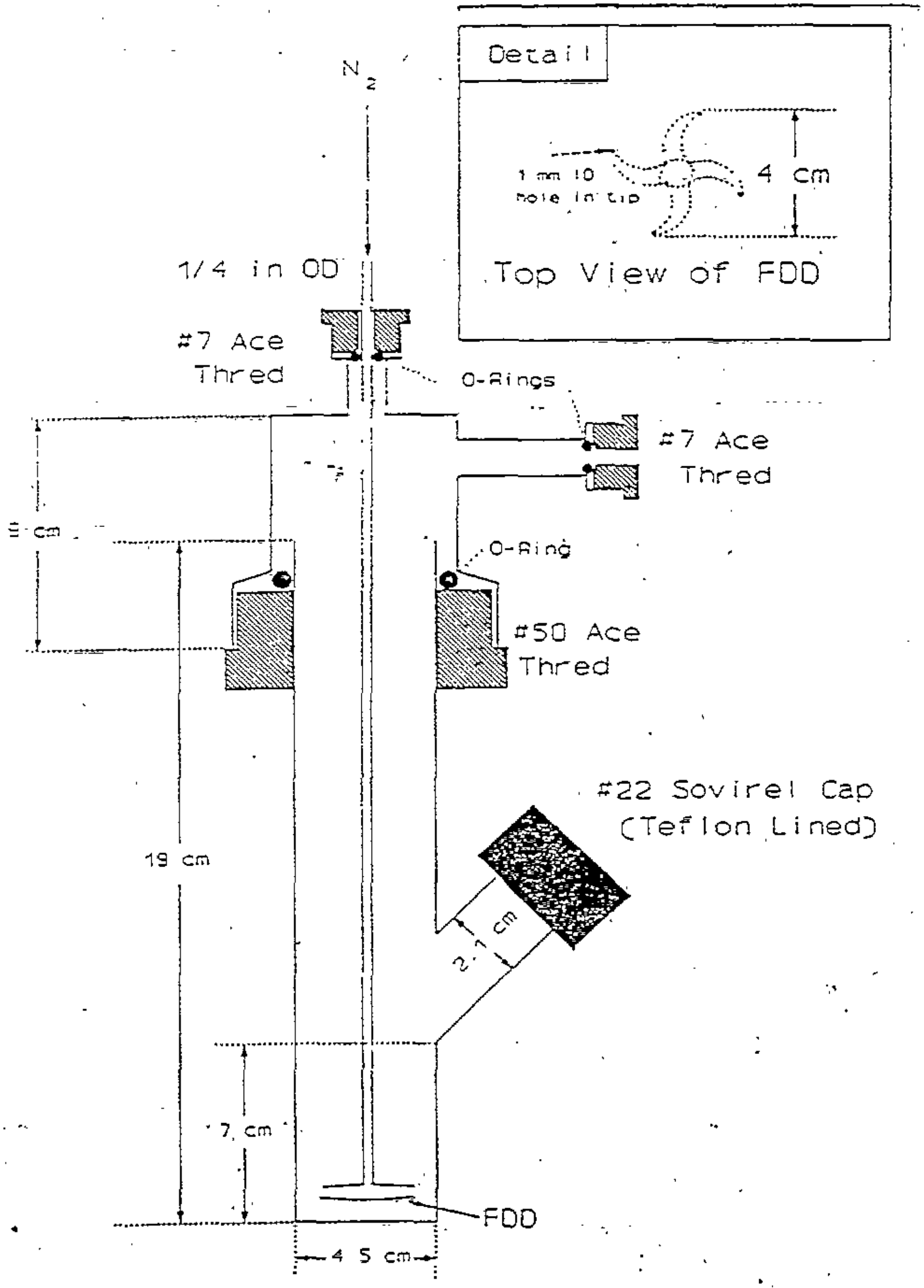

Figure 25D-2. Schematic of Purge Chamber

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2.2.1.3 Coalescing Filter. Porous fritted disc incorporated into a container with the same dimensions as the purging flask. The details of the design are shown in Figure 25D-3.

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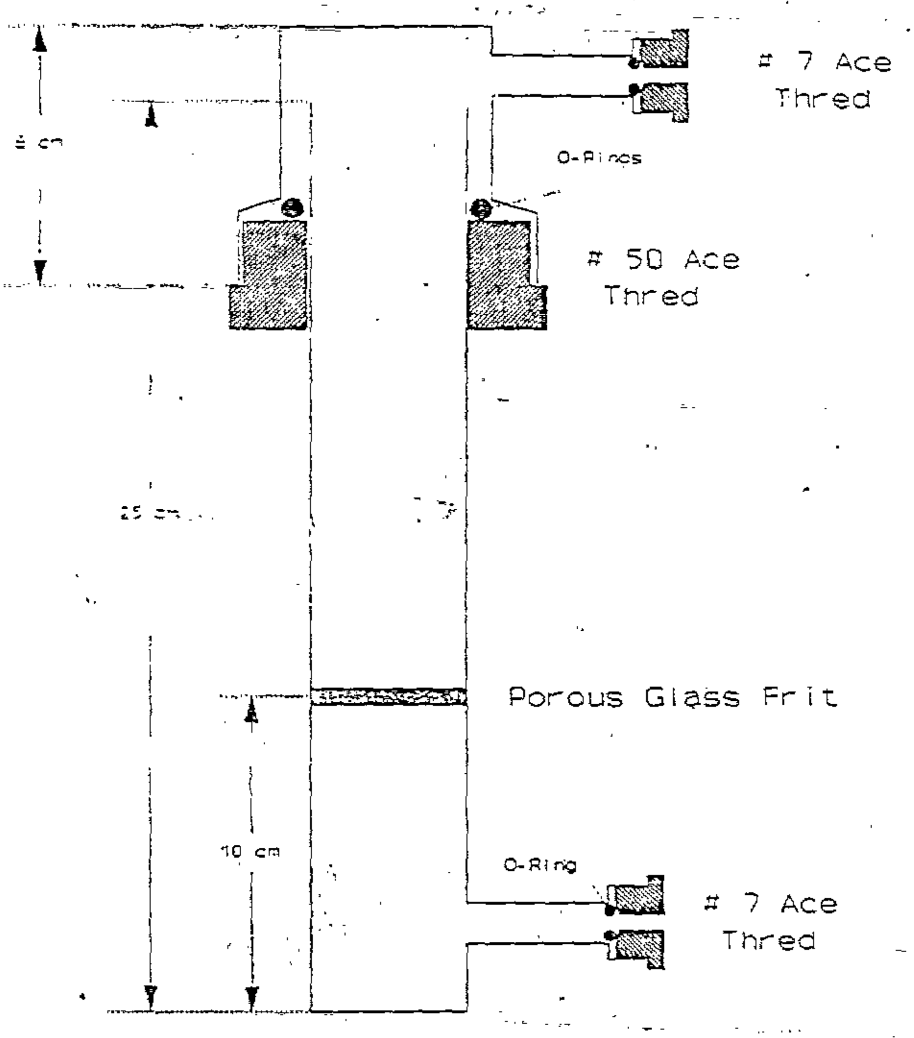

Figure 25D-3. Schematic of Coalescing Filter

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2.2.1.4 Constant Temperature Chamber. A forced draft oven capable of maintaining a uniform temperature around the purging flask and coalescing filter of 75±2°C.

2.2.1.5 Three-way Valve. Manually operated, stainless steel. To introduce calibration gas into system.

2.2.1.6 Flow Controllers. Two, adjustable. One capable of maintaining a purge gas flow rate of 6±.06 L/min. The other capable of maintaining a calibration gas flow rate of 1–100 mL/min.

2.2.1.7 Rotameter. For monitoring the air flow through the purging system (0–10 L/min).

2.2.1.8 Sample Splitters. Two heated flow restrictors (placed inside oven or heated to 120±10°C). At a purge rate of 6 L/min, one will supply a constant flow to the first detector (the rest of the flow will be directed to the second sample splitter). The second splitter will split the analytical flow between the second detector and the flow restrictor. The approximate flow to the FID will be 40 mL/min and to the ELCD will be 15 mL/min, but the exact flow must be adjusted to be compatible with the individual detector and to meet its linearity requirement. The two sample splitters will be connected to each other by ⅛″ OD stainless steel tubing.

2.2.1.9 Flow Restrictor. Stainless steel tubing, ⅛″ OD, connecting the second sample splitter to the ice bath. Length is determined by the resulting pressure in the purging flask (as measured by the pressure gauge). The resulting pressure from the use of the flow restrictor shall be 6–7 psiG.

2.2.1.10 Filter Flask. With one-hole stopper. Used to hold ice bath. Excess purge gas is vented through the flask to prevent condensation in the flowmeter and to trap volatile organic compounds.

2.2.1.11 Four-way Valve. Manually operated, stainless steel. Placed inside oven, used to bypass purging flask.

2.2.1.12 On/Off Valves. Two, stainless steel. One heat resistant up to 130°C and placed between oven and ELCD. The other a toggle valve used to control purge gas flow.

2.2.1.13 Pressure Gauge. Range 0–40 psi. To monitor pressure in purging flask and coalescing filter.

2.2.1.14 Sample Lines. Teflon®, 1/4″ OD, used inside the oven to carry purge gas to and from purging chamber and to and from coalescing filter to four-way valve. Also used to carry sample from four-way valve to first sample splitter.

2.2.1.15 Detector Tubing. Stainless steel, ⅛″ OD, heated to 120±10°C. Used to carry sample gas from each sample splitter to a detector. Each piece of tubing must be wrapped with heat tape and insulating tape in order to insure that no cold spots exist. The tubing leading to the ELCD will also contain a heat-resistant on-off valve (Section 2.2.1.12) which shall also be wrapped with heat-tape and insulation.

2.2.2 Volatile Organic Measurement System. Consisting of an FID to measure the carbon concentration of the sample and an ELCD to measure the chlorine concentration.

2.2.2.1 FID. A heated FID meeting the following specifications is required.

2.2.2.1.1 Linearity. A linear response (+ 5 percent) over the operating range as demonstrated by the procedures established in Section 5.1.1.

2.2.2.1.2 Range. A full scale range of 50 pg carbon/sec to 50 μKg carbon/sec. Signal attenuators shall be available to produce a minimum signal response of 10 percent of full scale.

2.2.2.1.3 Data Recording System. A digital integration system compatible with the FID for permanently recording the output of the detector. The recorder shall have the capability to start and stop integration at points selected by the operator or it shall be capable of the "integration by slices" technique (this technique involves breaking down the chromatogram into smaller increments, integrating the area under the curve for each portion, subtracting the background for each portion, and then adding all of the areas together for the final area count).

2.2.2.2 ELCD. An ELCD meeting the following specifications is required. The ELCD components shall consist of quartz reactor tubing and 1-propanol as electrolyte. The electrolyte flow through the conductivity cell shall be 1 to 2 mL/min.

Note: A ¼-in. ID quartz reactor tube is recommended to reduce carbon buildup and the resulting detector maintenance.

2.2.2.2.1 Linearity. A linear response (± 10 περψεντ) οωερ τηε ρεσπονσε ρανγε ασ δεμονστρατεδ βυ τηε προψεδθρεσ ιν Σεψτιον 5.1.2.

2.2.2.2.2 Range. A full scale range of 5.0 pg/sec to 500 ng/sec chloride. Signal attenuators shall be available to produce a minimum signal response of 10 percent of full scale.

2.2.2.2.3 Data Recording System. A digital integration system compatible with the output voltage range of the ELCD. The recorder must have the capability to start and stop integration at points selected by the operator or it shall be capable of performing the "integration by slices" technique.

3. Reagents

3.1 Sampling.

3.1.1 Polyethylene Glycol (PEG). Ninety-eight percent pure with an average molecular weight of 400. Before using the PEG, remove any organic compounds that might be detected as volatile organics by heating it to 120°C and purging it with nitrogen at a flow rate of 1 to 2 L/min for 2 hours. The cleaned PEG must be stored under a 1 to 2 L/min nitrogen purge until use. The purge apparatus is shown in Figure 25D-4.

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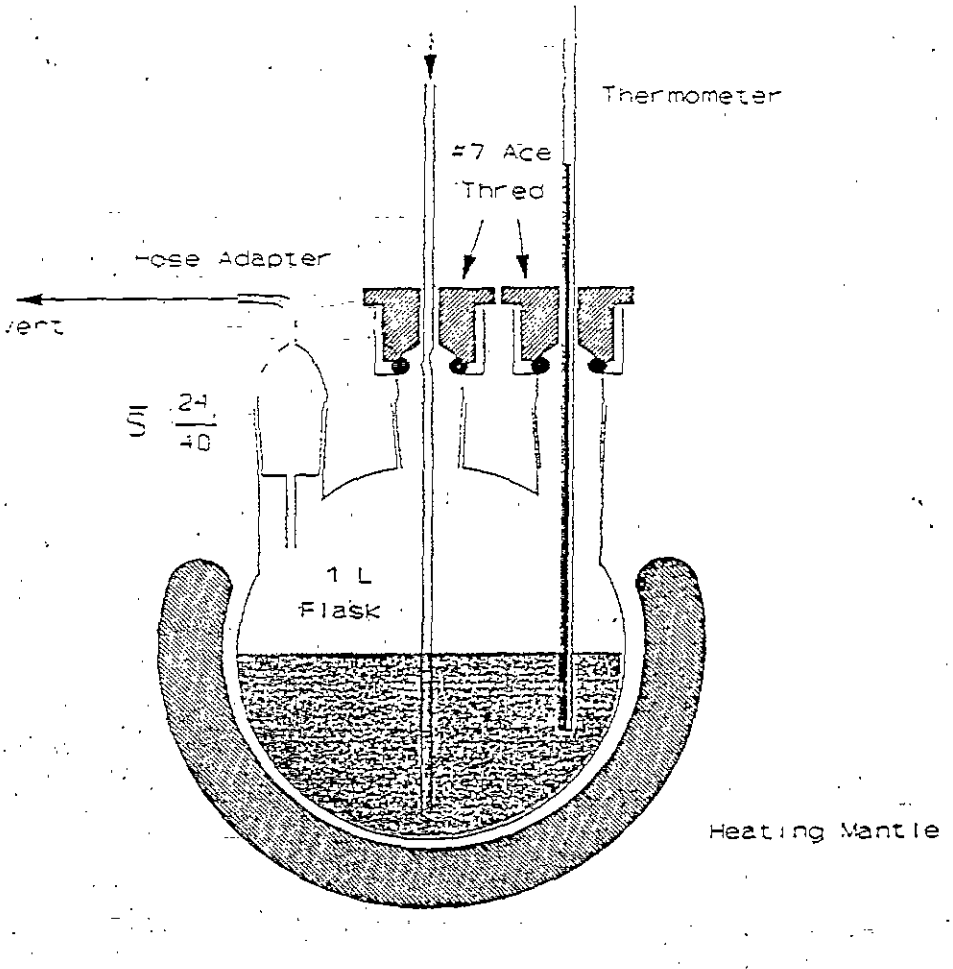

Figure 25D-4. Schematic of PEG Cleaning System

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3.2 Analysis.

3.2.1 Sample Separation. The following are required for the sample purging step.

3.2.1.1 PEG. Same as Section 3.1.1.

3.2.1.2 Purge Gas. Zero grade nitrogen (N_2), containing less than 1 ppm carbon.

3.2.2 Volatile Organics Measurement. The following are required for measuring the VO concentration.

3.2.2.1 Hydrogen (H_2). Zero grade H_2, 99.999 percent pure.

3.2.2.2 Combustion Gas. Zero grade air or oxygen as required by the FID.

3.2.2.3 Calibration Gas. Pressurized gas cylinder containing 10 percent propane and 1 percent 1,1-dichloroethylene by volume in nitrogen.

3.2.2.4 Water. Deionized distilled water that conforms to American Society for Testing and Materials Specification D 1193–77, Type 3 (incorporated by reference as specified in § 60.17), is required for analysis. At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations are not expected to be present.

3.2.2.5 1-Propanol. ACS grade or better. Electrolyte Solution. For use in the ELCD.

4. Procedure

4.1 Sampling.

4.1.1 Sampling Plan Design and Development. Use the procedures in chapter nine of the Office of Solid Waste's publication, *Test Methods for Evaluating Solid Waste*, third edition (SW–846), as guidance in developing a sampling plan.

4.1.2 Single Phase or Well-mixed Waste. Well-mixed in the context of this method refers to turbulent flow which results in multiple-phase waste in effect behaving as single-phase waste due to good mixing.

4.1.2.1 Install a sampling tap to obtain the sample at a point which is most representative of the unexposed waste (where the waste has had minimum opportunity to volatilize to the atmosphere). Assemble the sampling apparatus as shown in Figure 25D–5.

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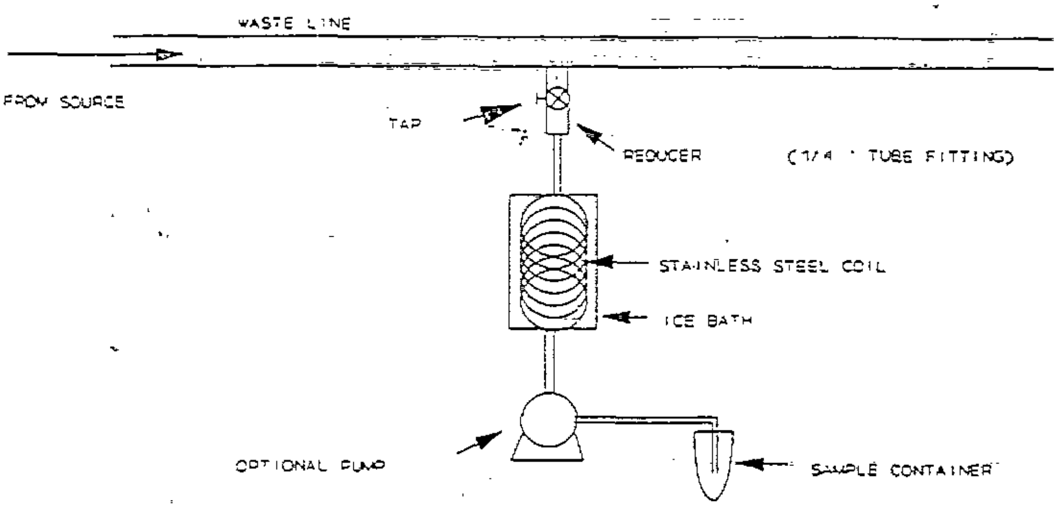

Figure 25D-5. Schematic of Sampling Apparatus.

BILLING CODE 6560–50–C

4.1.2.2 Prepare the sampling containers as follows: Pour 30 mL of clean PEG into the container. PEG will reduce but not eliminate the loss of organics during sample collection. Weigh the sample container with the screw cap, the PEG, and any labels to the nearest 0.01 g and record the weight (m_{ti}). Store the containers in an ice bath until 1 h before sampling (PEG will solidify at ice bath temperatures; allow the containers to reach room temperature before sampling).

4.1.2.3 Begin sampling by purging the sample lines and cooling coil with at least four volumes of waste. Collect the purged material in a separate container and dispose of it properly.

4.1.2.4 After purging, stop the sample flow and direct the sampling tube to a preweighed sample container, prepared as described in Section 4.1.2.2. Keep the tip of the tube below the surface of the PEG during sampling to minimize contact with the atmosphere. Sample at a flow rate such that the temperature of the waste is less than 10°C. Fill the sample container and immediately cap it (within 5 seconds) so that a minimum headspace exists in the container. Store immediately in a cooler and cover with ice.

4.1.3 Multiple-phase Waste. Collect a 10 g sample of each phase of waste generated using the procedures described in Section 4.1.2 or 4.1.5. Each phase of the waste shall be analyzed as a separate sample. Calculate the weighted average VO concentration of the waste using Equation 13 (Section 6.14).

4.1.4 Solid waste. Add approximately 10 g of the solid waste to a container prepared in the manner described in Section 4.1.2.2, minimizing headspace. Cap and chill immediately.

4.1.5 Alternative to Tap Installation. If tap installation is impractical or impossible, fill a large, clean, empty container by submerging the container into the waste below the surface of the waste. Immediately fill a container prepared in the manner described in Section 4.1.2.2 with approximately 10 g of the waste collected in the large container. Minimize headspace, cap and chill immediately.

4.1.6 Alternative sampling techniques may be used upon the approval of the Administrator.

4.2 Sample Recovery.

4.2.1 Assemble the purging apparatus as shown in Figures 25D–1 and 25D–2. The oven shall be heated to 75 ± 2°C. The sampling lines leading from the oven to the detectors shall be heated to 120 ± 10°C with no cold spots. The flame ionization detector shall be operated with a heated block. Adjust the purging lance so that it reaches the bottom of the chamber.

4.2.2 Remove the sample container from the cooler, and wipe the exterior of the container to remove any extraneous ice, water, or other debris. Reweigh the sample container to the nearest 0.01 g, and record the weight (m_{tf}). Pour the contents of the sample container into the purging flask, rinse the sample container three times with a total of 20 mL of PEG (since the sample container originally held 30 mL of PEG, the total volume of PEG added to the purging flask will be 50 mL), transferring the rinsings to the purging flask after each rinse. Cap purging flask between rinses. The total volume of PEG in the purging flask shall be 50 mL. Add 50 mL of water to the purging flask.

4.3 Sample Analysis.

4.3.1 Turn on the constant temperature chamber and allow the temperature to equilibrate at 75 ±2°C. Turn the four-way valve so that the purge gas bypasses the purging flask, the purge gas flowing through the coalescing filter and to the detectors (standby mode). Turn on the purge gas. Allow both the FID and the ELCD to warm up until a stable baseline is achieved on each detector. Pack the filter flask with ice. Replace ice after each run and dispose of the waste water properly. When the temperature of the oven reaches 75±2°C, start both integrators and record baseline. After 1 min, turn the four-way valve so that the purge gas flows through the purging flask, to the coalescing filter and to the sample splitters (purge mode). Continue recording the response of the FID and the ELCD. Monitor the readings of the pressure gauge and the rotameter. If the readings fall below established setpoints, stop the purging, determine the source of the leak, and resolve the problem before resuming. Leaks detected during a sampling period invalidate that sample.

4.3.2 As the purging continues, monitor the output of the detectors to make certain that the analysis is proceeding correctly and that the results are being properly recorded. Every 10 minutes read and record the purge flow rate, the pressure and the chamber temperature. Continue the purging for 30 minutes.

4.3.3 For each detector output, integrate over the entire area of the peak starting at 1 minute and continuing until the end of the run. Subtract the established baseline area from the peak area. Record the corrected area of the peak. See Figure 25D–6 for an example integration.

4.4 Water Blank. A water blank shall be analyzed for each batch of cleaned PEG prepared. Transfer about 60 mL of water into the purging flask. Add 50 mL of the cleaned PEG to the purging flask. Treat the blank as described in Sections 4.2 and 4.3, excluding Section 4.2.2. Calculate the concentration of carbon and chlorine in the blank sample (assume 10 g of waste as the mass). A VO concentration equivalent to ≤10 percent of the applicable standard may be subtracted from the measured VO concentration of the waste samples. Include all blank results and documentation in the test report.

5. Operational Checks and Calibration.

Maintain a record of performance of each item.

5.1 *Initial Performance Check of Purging System.*

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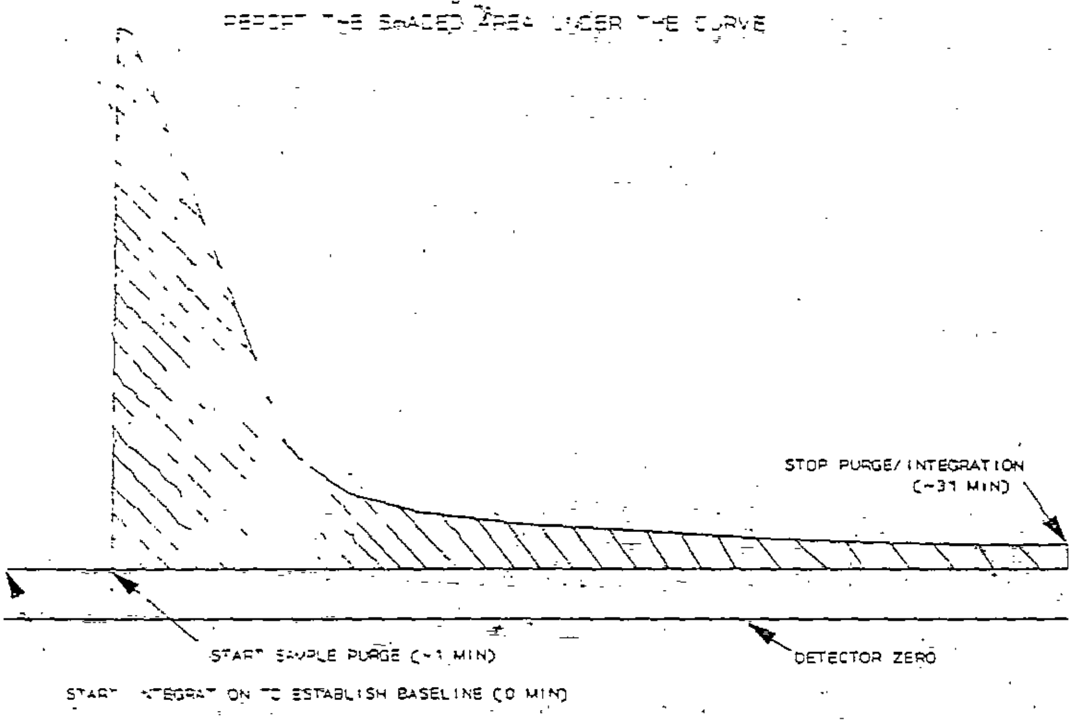

Figure 25D-6. Example integration for either detector.

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Before placing the system in operation, after a shutdown of greater than six months, after any major modifications, and at least once per month during continuous operation, conduct the linearity checks described in Sections 5.1.1 and 5.1.2. Install calibration gas at the three-way calibration gas valve. See Figure 25D–1.

5.1.1 Linearity Check Procedure. Using the calibration standard described in Section 3.2.2.3 and by varying the injection time, it is possible to calibrate at multiple concentration levels. Use Equation 3 to calculate three sets of calibration gas flow rates and run times needed to introduce a total methane mass (m_{co}) of 1, 5, and 10 mg into the system (low, medium and high FID calibration, respectively). Use Equation 4 to calculate three sets of calibration gas flow rates and run times needed to introduce a total chloride mass (m_{ch}) of 1, 5, and 10 mg into the system (low, medium and high ELCD calibration, respectively). With the system operating in standby mode, allow the FID and the ELCD to establish a stable baseline. Set the secondary pressure regulator of the calibration gas cylinder to the same pressure as the purge gas cylinder and set the proper flow rate with the calibration flow controller (see Figure 25D–1). The calibration gas flow rate can be measured with a flowmeter attached to the vent position of the calibration gas valve. Set the four-way bypass valve to standby position so that the calibration gas flows through the coalescing filter only. Inject the calibration gas by turning the calibration gas valve from vent position to inject position. Continue the calibration gas flow for the appropriate period of time before switching the calibration valve to vent position. Continue recording the response of the FID and the ELCD for 5 min after switching off calibration gas flow. Make triplicate injections of all six levels of calibration.

5.1.2 Linearity Criteria. Calculate the average response factor (Equations 5 and 6) and the relative standard deviation (RSD) (Equation 10) at each level of the calibration curve for both detectors. Calculate the overall mean of the three response factor averages for each detector. The FID linearity is acceptable if each response factor is within 5 percent of the overall mean and if the RSD for each set of triplicate injections is less than 5 percent. The ELCD linearity is acceptable if each response factor is within 10 percent of the overall mean and if the RSD for each set of triplicate injections is less than 10 percent. Record the overall mean value of the response factors for the FID and the ELCD. If the calibration for either the FID or the ELCD does not meet the criteria, correct the detector/system problem and repeat Sections 5.1.1 and 5.1.2.

5.2 Daily Calibrations.

5.2.1 Daily Linearity Check. Follow the procedures outlined in Section 5.1.1 to analyze the medium level calibration for both the FID and the ELCD in duplicate at the start of the day. Calculate the response factors and the RSDs for each detector. For the FID, the calibration is acceptable if the average response factor is within 5 percent of the overall mean response factor (Section 5.1.2) and if the RSD for the duplicate injection is less than 5 percent. For the ELCD, the calibration is acceptable if the average response factor is within 10 percent of the overall mean response factor (Section 5.1.2) and if the RSD for the duplicate injection is less than 10 percent. If the calibration for either the FID or the ELCD does not meet the criteria, correct the detector/system problem and repeat Sections 5.1.1 and 5.1.2.

5.2.2 Calibration Range Check.

5.2.2.1 If the waste concentration for either detector falls below the range of calibration for that detector, use the procedure outlined in Section 5.1.1 to choose 2 calibration points that bracket the new target concentration. Analyze each of these points in triplicate (as outlined in Section 5.1.1) and use the criteria in Section 5.1.2 to determine the linearity of the detector in this "mini-calibration" range.

5.2.2.2 After the initial linearity check of the minicalibration curve, it is only necessary to test one of the points in duplicate for the daily calibration check (in addition to the points specified in Section 5.2.1). The average daily mini-calibration point should fit the linearity criteria specified in Section 5.2.1. If the calibration for either the FID or the ELCD does not meet the criteria, correct the detector/system problem and repeat the calibration procedure mentioned in the first paragraph of Section 5.2.2. A mini-calibration curve for waste concentrations above the calibration curve for either detector is optional.

5.3 Analytical Balance. Calibrate against standard weights.

5.4 Audit Procedure. Concurrently analyze the audit sample and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for compliance samples and the EPA audit sample. If this condition is met, auditing of subsequent compliance analyses for the same enforcement agency within 30 days is not required. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies, unless prior arrangements are made with both enforcement agencies.

5.5 Audit Samples. Audit Sample Availability. Audit samples will be supplied only to enforcement agencies for compliance tests. The availability of audit samples may be determined by writing: Source Test Audit Coordinator (MD–77B), Quality Assurance Division, Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 or by calling the Source Test Audit Coordinator (STAC) at (919) 541–7834. The request for the audit sample must be made at least 30 days prior to the scheduled compliance sample analysis. If audit samples are not available, follow the quality control sample procedures in Section 5.7.

5.6 Audit Results. Calculate the audit sample concentration according to the calculation procedure described in the audit instructions included with the audit sample. Fill in the audit sample concentration and the analyst's name on the audit response form included with the audit instructions. Send one copy to the EPA Regional Office or the appropriate enforcement agency and a second copy to the STAC. The EPA Regional office or the appropriate enforcement agency will report the results of the audit to the laboratory being audited. Include this response with the results of the compliance samples in relevant reports to the EPA Regional Office or the appropriate enforcement agency.

5.7 Quality Control Samples. If audit samples are not available, prepare and analyze the two types of quality control samples (QCS) listed in Sections 5.7.1 and 5.7.2. Before placing the system in operation, after a shutdown of greater than six months, and after any major modifications, analyze each QCS in triplicate. For each detector, calculate the percent recovery by dividing measured concentration by theoretical concentration and multiplying by 100. Determine the mean percent recovery for each detector for each QCS triplicate analysis. The RSD for any triplicate analysis shall be ≤10 percent. For QCS 1 (methylene chloride), the percent recovery shall be ≥90 percent for carbon as methane, and ≥55 percent for chlorine as chloride. For QCS 2 (1,3-dichloro-2-propanol), the percent recovery shall be ≤15 percent for carbon as methane, and ≤6 percent for chlorine as chloride. If the analytical system does not meet the above-mentioned criteria for both detectors, check the system parameters (temperature, system pressure, purge rate, etc.), correct the problem, and repeat the triplicate analysis of each QCS.

5.7.1 QCS 1, Methylene Chloride. Prepare a stock solution by weighing, to the nearest 0.1 mg, 55 μL of HPLC grade methylene chloride in a tared 5 mL volumetric flask. Record the weight in milligrams, dilute to 5 mL with cleaned PEG, and inject 100 μL of the stock solution into a sample prepared as a water blank (50 mL of cleaned PEG and 60 mL of water in the purging flask). *Analyze* the QCS according to the procedures described in Sections 4.2 and 4.3, excluding Section 4.2.2. To calculate the theoretical carbon concentration (in mg) in QCS 1, multiply mg of methylene chloride in the stock solution by 3.777×10^{-3}. To calculate the theoretical chlorine concentration (in mg) in QCS 1, multiply mg of methylene chloride in the stock solution by 1.670×10^{-2}.

5.7.2 QCS 2, 1,3-dichloro-2-propanol. Prepare a stock solution by weighing, to the nearest 0.1 mg, 60 μL of high purity grade 1,3-dichloro-2-propanol in a tared 5 mL volumetric flask. Record the weight in milligrams, dilute to 5 mL with cleaned PEG, and inject 100 μL of the stock solution into a sample prepared as a water blank (50 mL of cleaned PEG and 60 mL of water in the purging flask).

Analyze the QCS according to the procedures described in Sections 4.2 and 4.3, excluding Section 4.2.2. To calculate the theoretical carbon concentration (in mg) in QCS 2, multiply mg of 1,3-dichloro-2-propanol in the stock solution by 7.461×10^{-3}. To calculate the theoretical chlorine concentration (in mg) in QCS 2, multiply mg of 1,3-dichloro-2-propanol in the stock solution by 1.099×10^{-2}.

5.7.3 Routine QCS Analysis. For each set of compliance samples (in this context, set is per facility, per compliance test), analyze one QCS 1 and one QCS 2 sample. The percent recovery for each sample for each detector shall be ± 13 percent of the mean recovery established for the most recent set of QCS triplicate analysis (Section 5.7). If the sample does not meet this criteria, check the system components and analyze another QCS 1 and 2 until a single set of QCS meet the ± 13 percent criteria.

6. Calculations

6.1 Nomenclature.

A_b=Area under the water blank response curve, counts.
A_c=Area under the calibration response curve, counts.
A_s=Area under the sample response curve, counts.
C=Concentration of volatile organics in the sample, ppmw.
C_c=Concentration of carbon, as methane, in the calibration gas, mg/L.
C_{ch}=Concentration of chloride in the calibration gas, mg/L.
C_j=VO concentration of phase j, ppmw.
DR_c=Average daily response factor of the FID, mg CH_4 counts.
DR_{ch}=Average daily response factor of the ELCD, mg Cl^- counts.
F_j= Weight fraction of phase j present in the waste.
m_{cc}=Mass of carbon, as methane, in a calibration run, mg.
m_{ch}=Mass of chloride in a calibration run, mg.
m_s=Mass of the waste sample, g.
m_{sc}=Mass of carbon, as methane, in the sample, mg.
m_t=Mass of sample container and waste sample, g.

m_{sh}=Mass of chloride in the sample, mg.
m_{st}=Mass of sample container prior to sampling, g.
m_{vo}=Mass of volatile organics in the sample, mg.
n=Total number of phases present in the waste.
P_p=Percent propane in calibration gas (L/L).
P_{vc}=Percent 1,1-dichloroethylene in calibration gas (L/L).
Q_c=Flow rate of calibration gas, L/min.
t_c=Length of time standard gas is delivered to the analyzer, min.
W=Weighted average VO concentration, ppmw.

6.2 Concentration of Carbon, as Methane, in the Calibration Gas.

$C_c=(19.681 \times P_p)+(13.121 \times P_{vc})$ Eq. 1

6.3 Concentration of Chloride in the Calibration Gas.

$C_h=28.998 \times P_{vc}$ Eq. 2

6.4 Mass of Carbon, as Methane, in a Calibration Run.

$m_{cc}=C_c \times Q_c \times t_c$ Eq. 3

6.5 Mass of Chloride in a Calibration Run.

$m_{ch}=C_{ch} \times Q_c \times t_c$ Eq. 4

6.6 FID Response Factor, mg/counts.

$R_c=m_{cc}/A_c$ Eq. 5

6.7 ELCD Response Factor, mg/counts.

$R_{ch}=m_{ch}/A_c$ Eq. 6

6.8 Mass of Carbon in the Sample.

$m_{sc}=DR_c\,(A_s-A_b)$ Eq. 7

6.9 Mass of Chloride in the Sample.

$m_{sh}=DR_{ch}\,(A_s-A_b)$ Eq. 8

6.10 Mass of Volatile Organics in the Sample.

$m_{vo}=m_{sc}+m_{sh}$ Eq. 9

6.11 Relative Standard Deviation.

$$\mathrm{RSD}=\frac{100}{\overline{X}}\sqrt{\frac{\sum_{i=1}^{n}\left(X_i-\overline{X}\right)^2}{n-1}} \quad \text{Eq. 10}$$

6.12 Mass of Sample.

$m_s=m_{sf}-m_{st}$ Eq. 11

6.13 Concentration of Volatile Organics in Waste.

$C=(m_{vo} \times 1000)/m_s$ Eq. 12

6.14 Weighted Average VO Concentration of Multi-phase Waste.

$$W=\sum_{j=1}^{n} F_j \times \overline{C}_j \quad \text{Eq. 13}$$

6. 40 CFR Part 60 is amended by adding Method 26A to Appendix A as follows:

Appendix A—Test Methods

* * * * *

Method 26A—Determination of Hydrogen *Halide and Halogen Emissions from* Stationary Sources—Isokinetic Method

1. Applicability, Principle, Interferences, Precision, Bias, and Stability

1.1 Applicability. This method is applicable for determining emissions of hydrogen halides (HX) [hydrogen chloride (HCl), hydrogen bromide (HBr), and hydrogen fluoride (HF)] and halogens (X_2) [chlorine (Cl_2) and bromine (Br_2)] from stationary sources. This method collects the emission sample isokinetically and is therefore particularly suited for sampling at sources, such as those controlled by wet scrubbers, emitting acid particulate matter (e.g., hydrogen halides dissolved in water droplets). [Note: Mention of trade names or specific products does not constitute endorsement by the Environmental *Protection Agency.*]

1.2 Principle. Gaseous and particulate pollutants are withdrawn isokinetically from the source and collected in an optional cyclone, on a filter, and in absorbing solutions. The cyclone collects any liquid droplets and is not necessary if the source emissions do not contain them; however, it is preferable to include the cyclone in the sampling train to protect the filter from any moisture present. The filter collects other particulate matter including halide salts. Acidic and alkaline absorbing solutions collect the gaseous hydrogen halides and halogens, respectively. Following sampling of emissions containing liquid droplets, any halides/halogens dissolved in the liquid in the cyclone and on the filter are vaporized to gas and collected in the impingers by pulling conditioned ambient air through the sampling train. The hydrogen halides are solubilized in the acidic solution and form chloride (Cl^-), bromide (Br^-), and fluoride (F^-) ions. The halogens have a very low solubility in the acidic solution and pass through to the alkaline solution where they are hydrolyzed to form a proton (H^+), the halide ion, and the hypohalous acid (HClO or HBrO). Sodium thiosulfate is added to the alkaline solution to assure reaction with the hypohalous acid to form a second halide ion such that 2 halide ions are formed for each molecule of halogen gas. The halide ions in the separate solutions are measured by ion chromatography (IC). If desired, the particulate matter recovered from the filter and the probe is analyzed following the procedures in Method 5. [Note: If the tester intends to use this sampling arrangement to sample concurrently for particulate matter, the alternative Teflon^R probe liner, cyclone, and filter holder should not be used. The Teflon^R filter support must be used. The tester must also meet the probe and filter temperature requirements of both sampling trains.]

1.3 Interferences. Volatile materials, such as chlorine dioxide (ClO_2) and ammonium chloride (NH_4Cl), which produce halide ions upon dissolution during sampling are potential interferents. Interferents for the halide measurements are the halogen gases which disproportionate to a hydrogen halide and an hypohalous acid upon dissolution in water. The use of acidic rather than neutral or basic solutions for collection of the hydrogen halides greatly reduces the dissolution of any halogens passing through this solution. The simultaneous presence of both HBr and $C1_2$ may cause a positive bias in the HCl result with a corresponding negative bias in the $C1_2$ result as well as affecting the HBr/Br_2 split. High concentrations of nitrogen oxides (NO_x) may produce sufficient nitrate (NO_3^-) to interfere with measurements of very low Br- levels.

1.4 Precision and Bias. The method has a possible measurable negative bias below 20 ppm HCl perhaps due to reaction with small amounts of moisture in the probe and filter. Similar bias for the other hydrogen halides is possible.

1.5 Sample Stability. The collected Cl^- samples can be stored for up to 4 weeks for analysis for HCl and $C1_2$.

1.6 Detection Limit. The in-stack detection limit for HCl is approximately 0.02µg per liter of stack gas; the analytical detection limit for HCl is 0.1 1µg/ml. Detection limits for the other analyses should be similar.

2. Apparatus

2.1 Sampling. The sampling train is shown in Figure 26A–1; the apparatus is similar to the Method 5 train where noted as *follows*:

BILLING CODE 6560-50-P

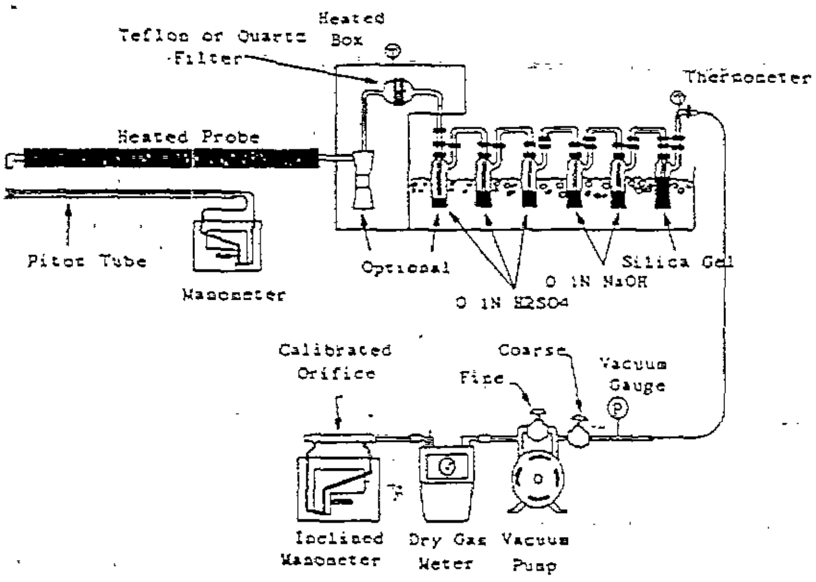

Figure 26A-1. Sampling Train

BILLING CODE 6560-50-C

2.1.1 Probe Nozzle. Borosilicate or quartz glass; constructed and calibrated according to Method 5, Sections 2.1.1 and 5.1, and coupled to the probe liner using a Teflon ® union; a stainless steel nut is recommended for this union. When the stack temperature exceeds 210 °C (410 °F), a one-piece glass nozzle/liner assembly must be used.

2.1.2 Probe Liner. Same as Method 5, Section 2.1.2, except metal liners shall not be used. Water-cooling of the stainless steel sheath is recommended at temperatures exceeding 500 °C. Teflon ® may be used in limited applications where the minimum stack temperature exceeds 120 °C (250 °F) but never exceeds the temperature where Teflon® is estimated to become unstable (approximately 210 °C).

2.1.3 Pitot Tube, *Differential Pressure* Gauge, Filter Heating System, Metering *System, Barometer, Gas Density* Determination Equipment. Same as Method 5, Sections 2.1.3, 2.1.4, 2.1.6, 2.1.8, 2.1.9, and 2.1.10.

2.1.4 Cyclone (Optional). Glass or Teflon ®. Use of the cyclone is required only when the sample gas stream is saturated with moisture; however, the cyclone is recommended to protect the filter from any moisture droplets present.

2.1.5 Filter Holder. Borosilicate or quartz glass, or Teflon® filter holder, with a Teflon® filter support and a sealing gasket. The sealing gasket shall be constructed of Teflon® or equivalent materials. The holder design shall provide a positive seal against leakage at any point along the filter circumference. The holder shall be attached immediately to the outlet of the cyclone.

2.1.6 Impinger Train. The following system shall be used to determine the stack gas moisture content and to collect the hydrogen halides and halogens: five or six impingers connected in series with leak-free ground glass fittings or any similar leak-free noncontaminating fittings. The first impinger shown in Figure 26A-1 (knockout or condensate impinger) is optional and is recommended as a water knockout trap for use under high moisture conditions. If used, this impinger should be constructed as described below for the alkaline impingers, but with a shortened stem, and should contain 50 ml of 0.1 N H_2SO_4. The following two impingers (acid impingers which each contain 100 ml of 0.1 N H_2SO_4) shall be of the Greenburg-Smith design with the standard tip (Method 5, Section 2.1.7). The next two impingers (alkaline impingers which each contain 100 ml of 0.1 N NaOH) and the last impinger (containing silica gel) shall be of the modified Greenburg-Smith design (Method 5, Section 2.1.7). The condensate, acid, and alkaline impingers shall contain known quantities of the appropriate absorbing reagents. The last impinger shall contain a known weight of silica gel or equivalent desiccant. Teflon® impingers are an acceptable alternative.

2.1.7 Ambient Air Conditioning Tube (Optional). Tube tightly packed with approximately 150 g of fresh 8 to 20 mesh sodium hydroxide-coated silica, or equivalent, (Ascarite II® has been found suitable) to dry and remove acid gases from the ambient air used to remove moisture from the filter and cyclone, when the cyclone is used. The inlet and outlet ends of the tube should be packed with at least 1-cm thickness of glass wool or filter material suitable to prevent escape of fines. Fit one end with flexible tubing, etc. to allow connection to probe nozzle following the test run.

2.2 Sample Recovery. The following items are needed:

2.2.1 Probe-Liner and Probe-Nozzle Brushes, Wash Bottles,

Glass Sample Storage Containers, Petri Dishes, Graduated Cylinder or Balance, and Rubber Policeman. Same as Method 5, Sections 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, and 2.2.7.

2.2.2 Plastic Storage Containers. Screw-cap polypropylene or polyethylene containers to store silica gel. High-density polyethylene bottles with Teflon screw cap liners to store impinger reagents, 1-liter.

2.2.3 Funnels. Glass or high-density polyethylene, to aid in sample recovery.

2.3 Analysis. For analysis, the following equipment is needed:

2.3.1 Volumetric Flasks. Class A, various sizes.

2.3.2 Volumetric Pipettes. Class A, assortment, to dilute samples to calibration range of the ion chromatograph (IC).

2.3.3 Ion Chromatograph. Suppressed or nonsuppressed, with a conductivity detector and electronic integrator operating in the peak area mode. Other detectors, a strip chart recorder, and peak heights may be used.

3. Reagents

Unless otherwise Indicated, all reagents must conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society (ACS reagent grade). When such specifications are not available, the best available grade shall be used.

3.1 Sampling.

3.1.1 Water. Deionized, distilled water that conforms to American Society of Testing and Materials (ASTM) Specification D 1193-77, Type 3 (incorporated by reference as specified in § 60.17).

3.1.2 Acidic Absorbing Solution, 0.1 N Sulfuric Acid (H_2SO_4). To prepare 1 L, slowly add 2.80 ml of concentrated H_2SO_4 to about

900 ml of water while stirring, and adjust the final volume to 1 L using additional water. Shake well to mix the solution.

3.1.3 Alkaline Absorbing Solution, 0.1 N Sodium Hydroxide (NaOH). To prepare 1 L, dissolve 4.00 g of solid NaOH in about 900 ml of water and adjust the final volume to 1 L using additional water. Shake well to mix the solution.

3.1.4 Filter. Teflon® mat (e.g., Pallflex® TX40H145) filter. When the stack gas temperature exceeds 210 °C (410 °F) a quartz fiber filter may be used.

3.1.5 Silica Gel, Crushed Ice, and Stopcock Grease. Same as Method 5, Sections 3.1.2, 3.1.4, and 3.1.5, respectively.

3.1.6 Sodium Thiosulfate, ($Na_2S_2O_3$3.5 H_2O).

3.2 Sample Recovery

3.2.1 Water. Same as Section 3.1.1.

3.2.2 Acetone. Same as Method 5, Section 3.2.

3.3 Sample Analysis.

3.3.1 Water. Same as Section 3.1.1.

3.3.2 Reagent Blanks. A separate blank solution of each absorbing reagent should be prepared for analysis with the field samples. Dilute 200 ml of each absorbing solution (250 ml of the acidic absorbing solution, if a condensate impinger is used) to the same final volume as the field samples using the blank sample of rinse water. If a particulate determination is conducted, collect a blank sample of acetone.

3.3.3 Halide Salt Stock Standard Solutions. Prepare concentrated stock solutions from reagent grade sodium chloride (NaCl), sodium bromide (NaBr), and sodium fluoride (NaF). Each must be dried at 110 °C for 2 or more hours and then cooled to room temperature in a desiccator immediately before weighing. Accurately weigh 1.6 to 1.7 g of the dried NaCl to within 0.1 mg, dissolve in water, and dilute to 1 liter. Calculate the exact Cl^- concentration using Equation 26A–1.

$$\mu g\ Cl^-/ml = g\ of\ NaCl \times 10^3 \times 35.453/58.44$$

Eq. 26A–1

In a similar manner, accurately weigh and solubilize 1.2 to 1.3 g of dried NaBr and 2.2 to 2.3 g of NaF to make 1-liter solutions. Use Equations 26A–2 and 26A–3 to calculate the Br^- and F^- concentrations.

$$\mu g\ Br^-/ml = g\ of\ NaBr \times 10^3 \times 79.904/102.90$$

Eq. 26A–2

$$\mu g\ F^-/ml = g\ of\ NaF \times 10^3 \times 18.998/41.99$$

Eq. 26A–3

Alternately, solutions containing a nominal certified concentration of 1000 mg/L NaCl are commercially available as convenient stock solutions from which standards can be made by appropriate volumetric dilution. Refrigerate the stock standard solutions and store no longer than 1 month.

3.3.4 Chromatographic Eluent. Same as Method 26, Section 3.2.4.

4. Procedure

Because of the complexity of this method, testers and analysts should be trained and experienced with the procedures to ensure reliable results.

4.1 Sampling.

4.1.1 Pretest Preparation. Follow the general procedure given in Method 5, Section 4.1.1, except the filter need only be desiccated and weighed if a particulate determination will be conducted.

4.1.2 Preliminary Determinations. Same as Method 5, Section 4.1.2.

4.1.3 Preparation of Sampling Train. Follow the general procedure given in Method 5, Section 4.1.3, except for the following variations:

Add 50 ml of 0.1 N H_2SO_4 to the condensate impinger, if used. Place 100 ml of 0.1 N H_2SO_4 in each of the next two impingers. Place 100 ml of 0.1 N NaOH in each of the following two impingers. Finally, transfer approximately 200–300 g of preweighed silica gel from its container to the last impinger. Set up the train as in Figure 26A–1. When used, the optional cyclone is inserted between the probe liner and filter holder and located in the heated filter box.

4.1.4 Leak-Check Procedures. Follow the leak-check procedures given in Method 5, Sections 4.4.1 (Pretest Leak-Check), 4.1.4.2 (Leak-Checks During the Sample Run), and 4.1.4.3 (Post-Test Leak-Check).

4.1.5 Train Operation. Follow the general procedure given in Method 5, Section 4.1.5. Maintain a temperature around the filter and (cyclone, if used) of greater than 120 °C (248 °F).

For each run, record the data required on a data sheet such as the one shown in Method 5, Figure 5–2. If the condensate impinger becomes too full, it may be emptied, recharged with 50 ml of 0.1 N H_2SO_4, and replaced during the sample run. The condensate emptied must be saved and included in the measurement of the volume of moisture collected and included in the sample for analysis. The additional 50 ml of absorbing reagent must also be considered in calculating the moisture. After the impinger is reinstalled in the train, conduct a leak-check as described in Method 5, Section 4.1.4.2.

4.1.6 Post-Test Moisture Removal (Optional). When the optional cyclone is included in the sampling train or when moisture is visible on the filter at the end of a sample run even in the absence of a cyclone, perform the following procedure. Upon completion of the test run, connect the ambient air conditioning tube at the probe inlet and operate the train with the filter heating system at least 120 °C (248 °F) at a low flow rate (e.g., ΔH=1 in. H_2O) to vaporize any liquid and hydrogen halides in the cyclone or on the filter and pull them through the train into the impingers. After 30 minutes, turn off the flow, remove the conditioning tube, and examine the cyclone and filter for any visible moisture. If moisture is visible, repeat this step for 15 minutes and observe again. Keep repeating until the cyclone is dry. [Note: It is critical that this is repeated until the cyclone is completely dry.]

4.2 Sample Recovery. Allow the probe to cool. When the probe can be handled safely, wipe off all the external surfaces of the tip of the probe nozzle and place a cap loosely over the tip. Do not cap the probe tip tightly while the sampling train is cooling down because this will create a vacuum in the filter holder, drawing water from the impingers into the holder. Before moving the sampling train to the cleanup site, remove the probe, wipe off any silicone grease, and cap the open outlet of the impinger train, being careful not to lose any condensate that might be present. Wipe off any silicone grease and cap the filter or cyclone inlet. Remove the umbilical cord from the last impinger and cap the impinger. If a flexible line is used between the first impinger and the filter holder, disconnect it at the filter holder and let any condensed water drain into the first impinger. Wipe off any silicone grease and cap the filter holder outlet and the impinger inlet. Ground glass stoppers, plastic caps, serum caps, Teflon® tape, Parafilm®, or aluminum foil may be used to close these openings. Transfer the probe and filter/impinger assembly to the cleanup area. This area should be clean and protected from the weather to minimize sample contamination or loss. Inspect the train prior to and during disassembly and note any abnormal conditions. Treat samples as follows:

4.2.1 Container No. 1 (Optional; Filter Catch for Particulate Determination). Same as Method 5, Section 4.2, Container No. 1.

4.2.2 Container No. 2 (Optional; Front-Half Rinse for Particulate Determination). Same as Method 5, Section 4.2, Container No. 2.

4.2.3 Container No. 3 (Knockout and Acid Impinger Catch for Moisture and Hydrogen Halide Determination). Disconnect the impingers. Measure the liquid in the acid and knockout impingers to ±1 ml by using a graduated cylinder or by weighing it to ±0.5 g by using a balance. Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas. Quantitatively transfer this liquid to a leak-free sample storage container. Rinse these impingers and connecting glassware including the back portion of the filter holder (and flexible tubing, if used) with water and add these rinses to the storage container. Seal the container, shake to mix, and label. The fluid level should be marked so that if any sample is lost during transport, a correction proportional to the lost volume can be applied. Retain rinse water and acidic absorbing solution blanks and analyze with the samples.

4.2.4 Container No. 4 (Alkaline Impinger Catch for Halogen and Moisture Determination). Measure and record the liquid in the alkaline impingers as described in Section 4.2.3. Quantitatively transfer this liquid to a leak-free sample storage container. Rinse these two impingers and connecting glassware with water and add these rinses to the container. Add 25 mg of sodium thiosulfate per ppm halogen-dscm of stack gas sampled. [Note: This amount of sodium thiosulfate includes a safety factor of approximately 5 to assure complete reaction with the hypohalous acid to form a second Cl^- ion in the alkaline solution.] Seal the container, shake to mix, and label; mark the fluid level. Retain alkaline absorbing solution blank and analyze with the samples.

4.2.5 Container No. 5 (Silica Gel for Moisture Determination). Same as Method 5, Section 4.2, Container No. 3.

4.2.6 Container Nos. 6 through 9 (Reagent Blanks). Save portions of the absorbing reagents (0.1 N H_2SO_4 and 0.1 N NaOH) equivalent to the amount used in the sampling train; dilute to the approximate volume of the corresponding samples using rinse water directly from the wash bottle being used. Add the same ratio of sodium thiosulfate solution used in container No. 4 to the 0.1 N NaOH absorbing reagent blank. Also, save a portion of the rinse water alone and a portion of the acetone equivalent to the amount used to rinse the front half of the sampling train. Place each in a separate, prelabeled sample container.

4.2.7 Prior to shipment, recheck all sample containers to ensure that the caps are well-secured. Seal the lids of all containers around the circumference with Teflon® tape. Ship all liquid samples upright and all particulate filters with the particulate catch facing upward.

4.3 Sample Preparation and Analysis. Note the liquid levels in the sample containers and confirm on the analysis sheet whether or not leakage occurred during transport. If a noticeable leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results.

4.3.1 Container Nos. 1 and 2 and Acetone Blank (Optional; Particulate Determination). Same as Method 5, Section 4.3.

4.3.2 Container No. 5. Same as Method 5, Section 4.3 for silica gel.

4.3.3 Container Nos. 3 and 4 and Absorbing Solution and Water Blanks. Quantitatively transfer each sample to a volumetric flask or graduated cylinder and dilute with water to a final volume within 50 ml of the largest sample.

4.3.3.1 The IC conditions will depend upon analytical column type and whether suppressed or nonsuppressed IC is used. Prior to calibration and sample analysis, establish a stable baseline. Next, inject a sample of water, and determine if any Cl^-, Br^-, or F^- appears in the chromatogram. If any of these ions are present, repeat the load/injection procedure until they are no longer present. Analysis of the acid and alkaline absorbing solution samples requires separate standard calibration curves; prepare each according to Section 5.2. Ensure adequate baseline separation of the analyses.

4.3.3.2 Between injections of the appropriate series of calibration standards, inject in duplicate the reagent blanks and the field samples. Measure the areas or heights of the Cl^-, Br^-, and F^- peaks. Use the average response to determine the concentrations of the field samples and reagent blanks using the linear calibration curve. If the values from duplicate injections are not within 5 percent of their mean, the duplicate injection shall be repeated and all four values used to determine the average response. Dilute any sample and the blank with equal volumes of water if the concentration exceeds that of the highest standard.

4.4 Audit Sample Analysis. Audit samples must be analyzed subject to availability.

5. Calibration

Maintain a laboratory log of all calibrations.

5.1 Probe Nozzle, Pitot Tube, Dry Gas Metering System, Probe Heater, Temperature Gauges, Leak-Check of Metering System, and Barometer. Same as Method 5, Sections 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, and 5.7, respectively.

5.2 Ion Chromatograph. To prepare the calibration standards, dilute given amounts (1.0 ml or greater) of the stock standard solutions to convenient volumes, using 0.1 N H_2SO_4 or 0.1 N NaOH, as appropriate. Prepare at least four calibration standards for each absorbing reagent containing the three stock solutions such that they are within the linear range of the field samples. Using one of the standards in each series, ensure adequate baseline separation for the peaks of interest. Inject the appropriate series of calibration standards, starting with the lowest concentration standard first both before and after injection of the quality control check sample, reagent blanks, and field samples. This allows compensation for any instrument drift occurring during sample analysis. Determine the peak areas, or height, of the standards and plot individual values versus halide ion concentrations in μg/ml. Draw a smooth curve through the points. Use linear regression to calculate a formula describing the resulting linear curve.

6. Quality Control

Same as Method 5, Section 4.4.

7. Quality Assurance

7.1 Applicability. When the method is used to demonstrate compliance with a regulation, a set of two audit samples shall be analyzed.

7.2 Audit Procedure. The currently available audit samples are chloride solutions. Concurrently analyze the two audit samples and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for compliance samples and the Environmental Protection Agency (EPA) audit samples.

7.3 Audit Sample Availability. Audit samples will be supplied only to enforcement agencies for compliance tests. Audit samples may be obtained by writing the Source Test Audit Coordinator (MD-77B), Quality Assurance Division, Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Laboratory, Research Triangle Park, NC 27711 or by calling the Source Test Audit Coordinator (STAC) at (919) 541-7834. The request for the audit samples should be made at least 30 days prior to the scheduled compliance sample analysis.

7.4 Audit Results. Calculate the concentrations in mg/dscm using the specified sample volume in the audit instructions. Include the results of both audit samples, their identification numbers, and the analyst's name with the results of the compliance determination samples in appropriate reports to the EPA regional office or the appropriate enforcement agency. (NOTE: Acceptability of results may be obtained immediately by reporting the audit results in mg/dscm and compliance results in total μg HCl/sample to the responsible enforcement agency.) The concentrations of the audit samples obtained by the analyst shall agree within 10 percent of the actual concentrations. If the 10 percent specification is not met, reanalyze the compliance samples and audit samples, and include initial and reanalysis values in the test report. Failure to meet the 10 percent specification may require retests until the audit problems are resolved.

8. Calculations

Retain at least one extra decimal figure beyond those contained in the available data in intermediate calculations, and round off only the final answer appropriately.

8.1 Nomenclature. Same as Method 5, Section 6.1. In addition:

1 B_{X^-}=Mass concentration of applicable absorbing solution blank, μg halide ion (Cl^-, Br^-, F^-)/ml, not to exceed 1 μg/ml which is 10 times the published analytical detection limit of 0.1 μg/ml. (It is also approximately 5 percent of the mass concentration anticipated to result from a one hour sample at 10 ppmv HCl.)

C=Concentration of hydrogen halide (HX) or halogen (X_2), dry basis, mg/dscm.

m_{HX}=Mass of HCl, HBr, or HF in sample, μg.

m_{X_2}=Mass of Cl_2 or Br_2 in sample, μg.

S_{X^-}=Analysis of sample, μg halide ion (Cl^-, Br^-, F^-)/ml.

V_S=Volume of filtered and diluted sample, ml.

8.2 Average Dry Gas Meter Temperature and Average Orifice Pressure Drop. See data sheet (Figure 5–2 of Method 5).

8.3 Dry Gas Volume. Calculate $V_{m(std)}$ and adjust for leakage, if necessary, using the equation in Section 6.3 of Method 5.

8.4 Volume of Water Vapor and Moisture Content. Calculate the volume of water vapor $V_{w(std)}$ and moisture content B_{ws} from the data obtained in this method (Figure 5–2 of Method 5); use Equations 5–2 and 5–3 of Method 5.

8.5 Isokinetic Variation and Acceptable Results. Use Method 5, Sections 6.11 and 6.12.

8.6 Acetone Blank Concentration, Acetone Wash Blank Residue Weight, Particulate Weight, and Particulate Concentration. For particulate determination.

8.7 Total μg HCl, HBr, or HF Per Sample.

$$m_{HX}=K\,V_s\,(S_{X^-}-B_{X^-}) \qquad \text{Eq. 26A–4}$$

where:

K_{HCl} = 1.028 (μg HCl/μg-mole)/(μg Cl^-/μg-mole).

K_{HBr}=1.013 (μg HBr/μg-mole)/(μg Br^-/μg-mole).

K_{HF}=1.053 (μg HF/μg-mole)/(μg F^-/μg-mole).

8.8 Total μg Cl_2 or Br_2 Per Sample.

$$m_{X_2}=V_s\,(S_{X^-}-B_{X^-}) \qquad \text{Eq. 26A–5}$$

8.9 Concentration of Hydrogen Halide or Halogen in Flue Gas.

$$C=K\,m_{HX,X_2}/V_{m(std)} \qquad \text{Eq. 26A–6}$$

where: $K=10^{-3}$ mg/μg

8.10 Stack Gas Velocity and Volumetric Flow Rate. Calculate the average stack gas velocity and volumetric flow rate, if needed, using data obtained in this method and the equations in Sections 5.2 and 5.3 of Method 2.

9. Bibliography

1. Steinsberger, S. C. and J. H. Margeson. Laboratory and Field Evaluation of a

Methodology for Determination of Hydrogen Chloride Emissions from Municipal and Hazardous Waste Incinerators. U.S. Environmental Protection Agency, Office of Research and Development. Publication No. 600/3–89/064. April 1989. Available from National Technical Information Service, Springfield, VA 22161 as PB89220586/AS.

2. State of California Air Resources Board. Method 421—Determination of Hydrochloric Acid Emissions from Stationary Sources. March 18, 1987.

3. Cheney, J.L. and C.R. Fortune. Improvements in the Methodology for Measuring Hydrochloric Acid in Combustion Source Emissions. J. Environ. Sci. Health. *A19*(3): 337–350. 1984.

4. Stern, D.A., B.M. Myatt, J.F. Lachowski, and K.T. McGregor. Speciation of Halogen and Hydrogen Halide Compounds in Gaseous Emissions. In: Incineration and Treatment of Hazardous Waste: Proceedings of the 9th Annual Research Symposium, Cincinnati, Ohio, May 2–4, 1983. Publication No. 600/9–84–015. July 1984. Available from National Technical Information Service, Springfield, VA 22161 as PB84–234525.

5. Holm, R.D. and S.A. Barksdale. Analysis of Anions in Combustion Products. In: Ion Chromatographic Analysis of Environmental Pollutants. E. Sawicki, J.D. Mulik, and E. Wittgenstein (eds.). Ann Arbor, Michigan, Ann Arbor Science Publishers. 1978. pp. 99–110.

[FR Doc. 94–9574 Filed 4–21–94; 8:45 am]

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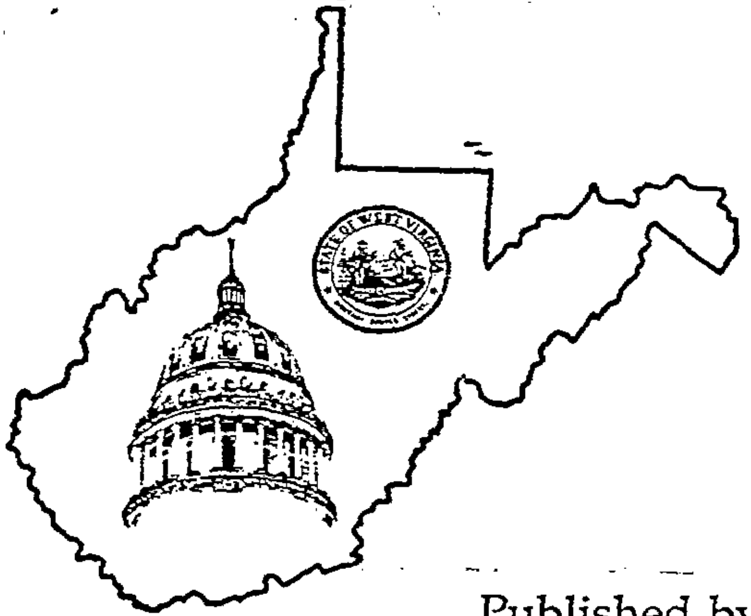

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WEST VIRGINIA REGISTER

Published by Ken Hechler, Secretary of State

Volume XI

Issue 25

June 24, 1994

Pages 876-913

A Weekly Publication

Administrative Law Division

Judy Cooper
Director

Missy Phalen
Pam Reece
Administrative Assistants

Secretary of State
Administrative Law Division
Bldg. 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0770

(304)558-6000

CONTENTS

LEGISLATIVE

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
rm #1

FILED
Jun 21 4 14 PM '94
OFFICE
SECRETARY

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Division of Environmental Protection TITLE NUMBER: 45

RULE TYPE: Legislative ; CITE AUTHORITY W.Va. Code §§22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES x NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Standards of Performance for New Stationary Sources

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: July 29, 1994 TIME: 9:00 am

LOCATION OF PUBLIC HEARING:
WVDEP - Office of Air Quality
1558 Washington Street East
Charleston WV 25311

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH x

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:
Office of Air Quality
1558 Washington Street E
Charleston WV 25311

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL.

Authorized Signature

~~SECRETARY OF STATE~~
~~KEN HECHLER~~
~~ADMINISTRATIVE LAW DIVISION~~
~~Form #1~~

~~FILED~~
~~Jun 21 4 14 PM '94~~
~~OFFICE OF SECRETARY OF STATE~~

~~NOTICE OF PUBLIC HEARING ON A PROPOSED RULE~~

~~AGENCY: Division of Environmental Protection TITLE NUMBER: 45~~

~~RULE TYPE: Legislative ; CITE AUTHORITY W.Va. Code §§22-5-1 et seq.~~

~~AMENDMENT TO AN EXISTING RULE: YES x NO~~

~~IF YES, SERIES NUMBER OF RULE BEING AMENDED: 19~~

~~TITLE OF RULE BEING AMENDED: Requirements for Pre-Construction Review, Determination of Emission Offsets for Proposed New or Modified Stationa Sources of Air Pollutants and Emission Trading for Intrasource Pollutant~~

~~IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:~~

~~TITLE OF RULE BEING PROPOSED:~~

~~DATE OF PUBLIC HEARING: July 29, 1994 TIME: 9:00 am~~

~~LOCATION OF PUBLIC HEARING:~~
~~WVDEP - Office of Air Quality~~
~~1558 Washington Street East~~
~~Charleston WV 25311~~

~~COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH x~~

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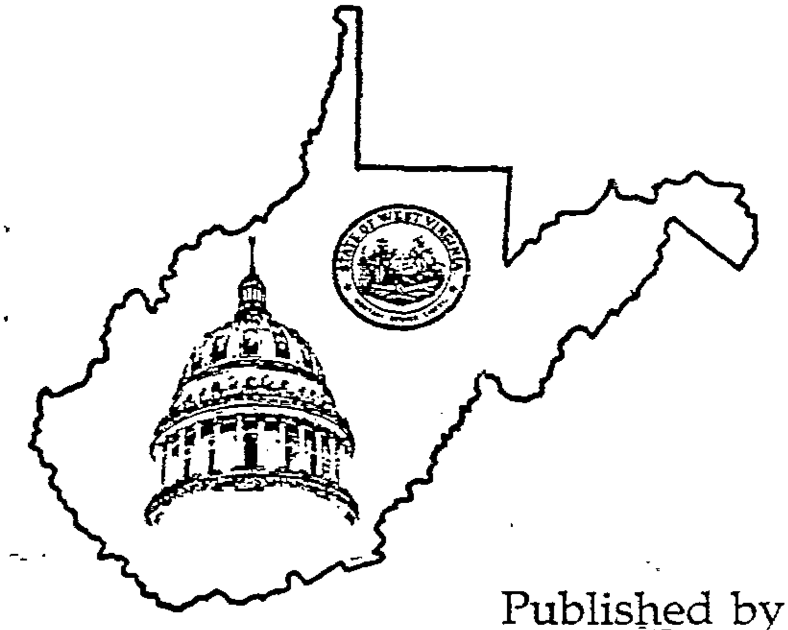
~~ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL.~~

~~Authorized Signature~~

Proposed Rules Filed for Public Hearing

AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION
Env Protection Air Quality (45-14)	Permits for Construction & Major Modification of Major Stationary Sources of Air Polluton for the Prevention of Significant Deterioration Legislative	§22-5-1	July 29, 1994, 9:00 a.m. WVDEP - Office of Air Quality 1558 Washington Street, E Charleston, WV 25311 Written Comments to: Office of Air Quality 1558 Washington Street E Charleston, WV 25311
Env Protection Air Quality (45-15)	Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61 Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-19)	Requirements for Pre-Construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants & Emission Trading for Intrasource Pollutants Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-33)	Acid Rain Provisions & Permits Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63 Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above



WEST VIRGINIA REGISTER

Published by Ken Hechler, Secretary of State

Volume XI

Issue 26

July 1, 1994

Pages 914-951

A Weekly Publication

Administrative Law Division

Judy Cooper
Director

Missy Phalen
Pam Reece
Administrative Assistants

Secretary of State
Administrative Law Division
Bldg. 1, Suite 157K
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Charleston, WV 25305-0770

(304)558-6000

CONTENTS

OTHER

FILED

JUN 23 2 51 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

<u>45CSR14</u> - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

<u>45CSR15</u> - Emission Standards for Hazardous Air Pollutants (Amendment).

<u>45CSR16</u> - Standards of Performance for New Stationary Sources (Amendment).

<u>45CSR19</u> - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

<u>45CSR33</u> - Acid Rain Provisions and Permits (New Rule).

<u>45CSR34</u> - Emission Standards for Hazardous Air Pollutants (New Rule).

<u>45CSR35</u> - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

FILED

JUN 23 2 58 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

PUBLIC NOTICE OF HEARING
G & L Coal Company, Inc.
PERMIT NUMBER S-3035-87

A hearing has been scheduled to be held on August 18, 1994, in the West Virginia Division of Environmental Protection Conference Room located at No. 10 McJunkin Road, Nitro, West Virginia, beginning at 10:00 AM for G & L Coal Company, Inc.

The purpose of this hearing is to show cause why G & L Coal Company, Inc., Permit Number S-3035-87 operating in the Valley District of Fayette County, should not be revoked and associated securities forfeited by David C. Callaghan, Director of the Division of Environmental Protection.

SHOW CAUSE #529

FILED

JUN 23 2 51 PM '94

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14 -	Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
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45CSR19 -	Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).
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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 22, 1994

The Wheeling News-Register and
Intelligencer
Legal Ad Department
1500 Main Street
Wheeling, WV 26003

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 23, 1994

Mr. Tim Carroll
Office of Air Quality
Northern Panhandle Regional Office
1911 Warwood Avenue
Wheeling, West Virginia 26003

Dear Mr. Carroll:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

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Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

The Parkersburg News
Legal Ad Department
519 Juliana Street
Parkersburg, WV 26102

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Dorothy Chittum
Librarian
Parkersburg/Wood County Public Library
3100 Emerson Avenue
Parkersburg, West Virginia 26104

Dear Ms. Chittum:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

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Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

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Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

The Herald-Dispatch
Legal Ad Department
P. O. Box 2017
Huntington, WV 25720

Dear Legal Ad Department:

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Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 23, 1994

Mr. Matt Onion
Cabell County Public Library
455 9th Street Plaza
Huntington, West Virginia 25701

Dear Mr. Onion:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

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Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

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Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

Charleston Daily Mail
Legal Ad Department
1001 Virginia Street, East
Charleston, WV 25301

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Jeanne Chandler
Librarian
Office of Air Quality
1558 Washington Street, East
Charleston, WV 25311

Dear Ms. Chandler:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14 -	Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
45CSR15 -	Emission Standards for Hazardous Air Pollutants (Amendment).
45CSR16 -	Standards of Performance for New Stationary Sources (Amendment).
45CSR19 -	Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).
45CSR33 -	Acid Rain Provisions and Permits (New Rule).
45CSR34 -	Emission Standards for Hazardous Air Pollutants (New Rule).
45CSR35 -	Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 22, 1994

Beckley Register/Herald
Legal Ad Department
P. O. Drawer P
Beckley, WV 25801

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Susan Vidovich
Librarian
Raleigh County Public Library
P. O. Box 1876
Beckley, West Virginia 25802

Dear Ms. Vidovich:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Raleigh County Public Library, P. O. Box 1876, Beckley, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

The Clarksburg Exponent
Legal Ad Department
P. O. Box 2000
Clarksburg, WV 26301

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Donna Riggs
Secretary
WV Office of Air Quality
North Central Regional Office
109 Adams Street, Room M-2
Fairmont, West Virginia 26554-2800

Dear Ms. Riggs:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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45CSR35 -	Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

Mineral Daily News Tribune
Legal Ad Department
P. O. Box 879
Keyser, West Virginia 26726

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Karen Hiser
Librarian
Keyser-Mineral County Public Library
105 North Main Street
Keyser, West Virginia 26726

Dear Ms. Hiser:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

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45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

The Record Delta
Legal Ad Department
P. O. Box 550
Buckhannon, WV 26201

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Ruth B. Six
Librarian
Gassaway Public Library
100 Birch Street
Gassaway, West Virginia 26624

Dear Ms. Six:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

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45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

Elkins Inter-Mountain
Legal Ad Department
P. O. Box 1339
Elkins, WV 26241

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Elkins-Randolph County Public Library
c/o Librarian
416 Davis Avenue
Elkins, West Virginia 26241

Dear Librarian:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 22, 1994

The Evening/Weekend Journal
Legal Ad Department
207 West King Street
Martinsburg, WV 25401

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Ms. Peggy Y. Batten
Librarian
Martinsburg-Berkeley County Public Library
101 West King Street
Martinsburg, West Virginia 25401

Dear Ms. Batten:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 23, 1994

Mr. Richard Poling
Office of Air Quality
Eastern Panhandle Regional Office
P. O. Box 99
Burlington, West Virginia 26710

Dear Mr. Poling:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 - Standards of Performance for New Stationary Sources (Amendment).

45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

45CSR33 - Acid Rain Provisions and Permits (New Rule).

45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P. O. Box 99, Burlington, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

Intel., June 29
N.R., June 29

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I, Bonnie Mattern *for the publisher of the* ~~WHEELING NEWS-REGISTER~~ WHEELING INTELLIGENCER *newspapers published in the CITY OF WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:*

June 29, 1994

commencing on the 29 *day of* June *, 19*94

Given under my hand this 29 *day of* June *, 19*94

Bonnie Mattern

Sworn to and subscribed before me this 29th *day of* June *19*94 *at WHEELING, OHIO COUNTY, WEST VIRGINIA*

Linda E. Miller
Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires August 9, 2002

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LINDA E. MILLER
67 E Brazier Avenue
Wheeling, West Virginia 26003
My Commission Expires Aug 9 2002

NOTICE OF PUBLIC HEARING

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 24311-2599

Jun. 28 N

HEATHER BYERS
being first duly sworn, says that the
NOTICE OF PUBLIC HEARING

hereto attached was printed in the Parkersburg News
a DAILY
in the City of Parkersburg, Wood County, West Virginia newspaper published
at the front door of the Court House for ONE
successive weeks, the first publication and posting thereon being on
he 28th day of June 19 94, and subse-
uent publication on the day of
he day of 19
19 , the day of
19 , the day of
, and the day of 19 .
inter's Fee $ 37.02
6/8 " x 103= 592.25 words @ .0625

Heather J Byers

Subscribed and sworn to before me this 26th day of June 19 94.

Notary Public for Wood County, West Virginia

commission expires 3-23-04

Parkersburg Printing Co. - 5/71

NOTICE
NOTICE OF
'UBLIC HEARING
n Friday, July 29,
4, beginning at 9:00
1. the West Virginia
'ision of Environmen-
Protection, Office of
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'pon authorization
d promulgation,
SR14, 45CSR19, and
SR35 will be submit-
to the U.S. Environ-
ntal Protection Agen-
for incorporation into
West Virginia Sta-
n Implementation
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ean Air Act, as
ended. Upon authori-
ion and promulgation
45CSR15, 45CSR16
45CSR34, the Direc-
of the Division of
vironmental Protec-
will erquest that
EPA delegate to the
st Virginia DEP the
hority to enforce
v Source Perform-
e Standards promul-
ed by USEPA under
FR60 and National
ission Standards for
ardous Air Pollut-
s promulgated by
EPA under 40CFR61
40CFR63 as of June
994. The DEP Direc-
will also request,
suant to legislative
roval and promulga-
, that USEPA ap-
ve 45CSR33 which
rporates the State's
rating permit pro-
n for facilities sub-
to the requirements
itle IV (Acid Rain
gram) of the Clean
Act.

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,
COUNTY OF CABELL, TO-WIT:

I, Connie Rappold being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, a independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for an on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH-877 was duly published in

The Herald-Dispatch

1 time
~~one time, once a week for XXXXXXX successive weeks~~, commencing with its issue of the 27th day of June, 19 94, and ending with the issue of the 27th day of June, 19 94, and was posted at the East door of the Cabell County Courthouse
on the 27th day of June, 19 94: that said legal advertisement was published on the following dates: June 27, 1994

; that the cost of publishing said annexed advertisement as aforesaid was $76.96 ; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and ;

that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Connie Rappold

Taken, subscribed and sworn to before me in my said county this 27th day of June, 19 94

My commission expires October 24, 2000

Melissa L Allen

Notary Public
Cabell County,
West Virginia

MELISSA L. ALLEN
Herald Dispatch P.O. Box 2017
HUNTINGTON, WV 25720
COMMISSION EXPIRES OCT. 24, 2000

10M Form A-135 (867H)

ence Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Cabell County Public Library, 455 9th Street Plaza, Huntington, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of
Environmental
Protection
1558 Washington St. E.
Charleston, WV
25311-2599
LH-877 6-27,94

P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS
FEIN 55-0676079

ACCOUNT NBR	037143002
SALES REP ID	0016
INVOICE NBR	371430020629005

Legal pricing is based upon 67 words per column inch at a rate of $.0725 per word.
Each successive insertion is discounted by 25% of the first insertion rate ($.054375 per word).

ISSUE DATE	AD TYPE	PUB	DESCRIPTION REFERENCE NBR PURCHASE ORDER #	AD NUMBER	AD SIZE TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
06/28	LEGF	DM	PUBLIC HEARING 121258001	L213020	3X0400 12.00	4.85	58.20	58.20
			TOTAL INVOICE AMOUNT					58.20

State of West Virginia,

AFFIDAVIT OF PUBLICATION

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SARAH J. WITHROW
1001-T LINCOLN DRIVE
SO. CHARLESTON, WV 25309
My Commission Expires April 28, 2003

I, ______________________ of

THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:
PUBLIC HEARING
was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 29TH day of JUNE 1994. Published during the following dates: 06/28/94-06/28/94

Subscribed and sworn to before me this 30 day of June

Printers fee $ 58.20

Sarah J Withrow
Notary Public of Kanawha County, West Virginia

LEGAL ADVERTISEMENT **LEGAL ADVERTISEMENT** **LEGAL ADVERTISEMENT**

NOTICE OF PUBLIC HEARING

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Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

(213020)

The Items listed hereon conform to specification, were received and are approved for payment.
Date: 07-21-94 Signed:

Appn. Yr. 95	Acct #: 7897-17			Line Item: 035	
Off. Code: 5	Fed. Code: 504	P.C.: 509			
Purchase Auth. SA	Vendor FEIN # 550-676-079			Off App/ Date	
No. 4	SS # ___-__-____				
FIMS FUND	FIMS FY	FIMS ORG	FIMS ACT	FIMS OBJ CODE	DOC #
8708	1995	0313	096	___	

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

June 28, 19 94

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Robert E. Zutaut being first duly sworn upon my oath, do depose and say that I am Advertising Manager of Beckley Newspapers Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily, for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of Public Hearing
(Description of notice)

was duly published in said newspaper once a week for one successive week (Class I), commencing with the issue of the ~~28th~~ day of ~~June, 1994~~ and ending with the issue of the 28th day of June, 1994, (and was posted at the ______ on the ______ day of ______); that said annexed notice was published on the following dates: June 28, 1994 and that the cost of publishing said annexed notice as aforesaid was $ 37.40

Signed R. E. Zutaut
Robert E. Zutaut, Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this 28th day of June, 19 94

My commission expires March 27, 2001

Notary Public of Raleigh County,
West Virginia

R/H

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY NEWSPAPER
P. O. DRAWER P OR R
BECKLEY, WV 25801
My Commission Expires March 27, 2001

COPY OF PUBLICATION

7-12-Tue-4-RH

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County Public Library, P.O. B
1876, Beckley, WV.

Please provide any writt
comments or questions to t
following contact and office:
Dale Farley, Office of Air Quali
Division of Environmen
Protection, 1558 Washingt
Street, East, Charleston, V
25311-2599.

6-28-Tue-1-RH

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

PUBLISHER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF HARRISON

I, Deborah S. Veltri

Classified Office Manager of THE CLARKSBURG EXPONENT, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

~~Notice of Public Hearing~~

was published in said THE CLARKSBURG EXPONENT one time, on the 25 day of June 1994.

The publisher's fee for said publication is $ 20.70

Classified Office Mgr. of The Clarksburg Exponent

SEAL

Subscribed and sworn to before me this 25 day of June, 1994

Debra Kay Swiger

Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003

Form CA-14 E

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Debra Kay Swiger
My Commission Expires August 25, 2003

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the Division of Environmental Protection in the case of Notice of Public Hearing: Proposed Legislative Rules

vs. ______________________

a copy whereof is hereto annexed has been published for 1 consecutive day in said NEWS-TRIBUNE, the first publication being on the 28th day of, June 19 94.

Given under my hand at Keyser this 28th day of June, 19 94.

Publisher

Publisher's Fee

$ 31.50

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9 a.m., the West Virginia Division of Environmental Protection, Office Fair Quality, will hold a public hear on on the following proposed legislative rules:

45CSR14- Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 - Standards of Performance for New Stationary Sources (Amendment).

45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

45CSR33 - Acid Rain Provisions and Permits (New Rule).

45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CS35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the Federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16, and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR 61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulagation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five mintues per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

Please providp any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

6: 28

tate of West Virginia, County of Upshur, ss:

. . . . Mark Davis . . . . Advertising Manager Record Delta, a newspaper published at Buckhannon in the said county, do hereby certify that the annexed . . . NOTICE OF PUBLIC HEARING . . . .

was published once a week for . . . ONE (1) . . . . successive weeks in said Record Delta newspaper published as aforesaid, commencing on the . 27th day . . .

. . . . of June . . . . days of 19 . . 94 . . . .

Given under my hand this . 29th. day .of. June . . . day of 19 . 94. . . . .

. . Mark Davis . . Advertising Manager

Printers fee $. 27.60. . . . .

WEST VIRGINIA, UPSHUR COUNTY, TO-WIT:

Subscribed and sworn to before me this 29th day of June day of 19 . 94 . . . .

. . . . Phyllis J. Neuwirth . . . . Notary Public.

My Commission expires May 26, 2003 . . . .

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PHYLLIS J. NEUWIRTH
My Commission Expires May 26, 2003

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 - Standards of Performance for New Stationary Sources (Amendment).

45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

45CSR33 - Acid Rain Provisions and Permits (New Rule).

45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of the Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599
6-27

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

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45CSR15 — Emmission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 — Standards of Performance for New Stationary Sources (Amendment).

45CSR19 — Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

45CSR33 — Acid Rain Provisions and Permits (New Rule).

45CSR34 — Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 — Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Peformance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comments will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

6—25

I, James Hoffman, Publisher of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

June 25

19 94 as required by law.

Given under my hand this 25 day of June 19 94

James Hoffman
Publisher

Printer's Fee: $ 41.69

ore me this 25 day of June, 19 94.

Shirley A Meneau
Notary Public

15 day of April ~~19~~ 2002

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Enviromental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14- Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15- Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16- Standards of Performance for New Stationary Sources (Amendment).

45CSR19- Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants (Amendment).

45CSR33- Acid Rain Provisions and Permits (New Rule).

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45CSR35- Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)(New Rule).

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P.O. Box 99, Burlington, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Fraley
Office of Air Quality
Division of
Enviromental Protection
1558 Washington Street, East

Certificate of Publication

This is to certify the annexed advertisement

WV DEPT.COMM.,LABOR,ENV.RES.
DIV. ENV.PROTECTION,MS.SITTON

NOTICE OF PUBLIC HEARING

appeared for 1 consecutive days weeks in The Journal Publishing Company a newspaper published in the City of Martinsburg, W. Va., in its issue beginning

6/29

and ending

The Journal

Fee $ 39.16

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Mr. Brian Broderick
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Washington, D.C. 20037

Mr. Greg Scandrett
ERM Midwest
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Charleston, WV 25313

Ms. Becky Fleming
Charleston Daily Mail
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Mr. Norm Steenstra
Environmental Coordinator
West Virginia Citizen Action Group
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Mr. Eric Niiler
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Scott Depot, WV 25560

Ms. Mildred Holt
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52 Bailes Drive
Nitro, WV 25143

Ms. Suzanne Tenkhoff
National Institute for Chemical Studies
Nitro/St. Albans Committee
31 Bailes Drive
Nitro, West Virginia 25143

Mr. Ray de Bolt
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Charleston Fire Department
808 Virginia Street, West
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The Honorable William Croye
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National Institute for Chemical Studies
Upper Kanawha Valley Committee
110 East DuPont Avenue
Belle, West Virginia 25015

Dr. Paul Hill, President
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Mr. Tim Carroll
Regional Office Supervisor
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WV Office of Air Quality
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Ms. Britt Bernheim
Office of Air Quality
1615 Washington Street, East
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PUBLIC HEARING

JULY 29, 1994

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Jeff Hedgecock	" " "	" " "
Jeanne Chandler	" " "	" " "
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Dave White	" " "	" " "
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Rupe Burford	" " "	" " "
Fred Durham	" " "	" " "
Karen Price	WV Manufacturers Assoc.	2001 Quarrier St.
Christy Morris	Superior Court Reporting	3719 Virginia Ave, S.E.

PUBLIC HEARING

JULY 29, 1994

NAME	COMPANY AFFILIATION	ADDRESS
Kim Brown Poland	Robinson & McElwee	P.O. Box 1791 - Chas.
Yvonne Clarkson	Allegheny Power	800 Cabin Hill Drive
C. J. Banner	Appalachian Power	P.O. Box 2021 Roanoke, Va.
Bob Foster	Charles Ryan Association	Chas.
David Yaussy	Robinson & McElwee	P.O. Box 1791 - Chas.
Karen Watson	Office of Air Quality	1615 Washington St.

PUBLIC HEARING

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

OFFICE OF AIR QUALITY

* want

The following is a transcript of a public hearing held at the West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, Charleston, Kanawha County, West Virginia, on July 29, 1994, at 9:00 a.m., and taken by Christy L. Morris, Certified Court Reporter and Notary Public, pursuant to notice.

* *

SUPERIOR COURT REPORTING
Christy L. Morris, CCR
3719 Virginia Avenue, S.E.
Charleston, West Virginia 25304
(304) 925-2244   Mobile 542-4606

ORIGINAL

PROCEEDINGS

MS. CHANDLER: Good morning. The public hearing will now come to order this 29th day of July, 1994 in the conference room of the West Virginia Division of Environmental Protection Office of Air Quality located at 1558 Washington Street, East, Charleston, West Virginia.

The purpose of the public hearing is to hear discussions on the seven rules filed in the Secretary of State's office on April 27, 1994, and noticed in the State register on April 29, 1994. In addition, the rules were noticed in Class 1 legal newspaper announcements throughout the State and to various individuals and organizations.

This public hearing is being held pursuant to the provisions of 29A of the West Virginia Code and Section 110 of the Clean Air Act.

By the way of introduction, my name is Jeanne Chandler of the Public Information Office of the West Virginia Division of Environmental Protection. I will be the moderator for these proceedings today.

The format of today's hearing may appear different than in the past for those of you familiar with the prior APCC rulemaking hearings. The 1994 legislature enacted legislation which became effective on June 10, 1994, which reorganized the Division of Environmental Protection.

One of the effects of the legislation was to make the Air Program one of the offices of DEP, and as a result, the Air Pollution Control Commission no longer conducts rulemaking.

Because of time restraints this year, the Office of Air Quality decided to make the close of the comment period coincide with the close of today's hearing and noticed that fact in the public announcement.

One change in the Administrative Procedures Act which became effective in 1994 was the prohibition of ex parte communication with the rulemaking agency once the comment period closed.

Therefore, written comments will be accepted at the close of today's hearing but no later. The next opportunity to enter comments will be when the legislative rule-making committee begins its hearings on the proposed rules.

The hearing procedure today will be to introduce each rule individually, allow time for oral comments, and close the hearing for that particular rule. Written comments for any rule may be submitted at the end of this public hearing.

Oral comments will be limited to five minutes per person, and for those of you wishing to make formal comments, a sign-up sheet was available, so if you haven't already signed up, please do so, now.

Also, if you're just a participant here today, we'd also like you to fill out the top page just for our record. I remind you that the comment period will close at the end of the public hearing today.

The court reporter is Ms. Christy Morris of Superior Court Reporting. If anyone desires a transcript of this proceeding, then please contact Ms. Morris at 925-2244, and her address is 3719 Virginia Avenue, S.E., Charleston, 25304.

45CSR14

The purpose of the public hearing is to hear discussions on proposed Rule 45CSR14.

Permits For Construction And Modification Of Major Stationary Sources Of Air Pollution For The Prevention Of Significant

Deterioration. That's an amendment.

45CSR14 is being revised to reflect USEPA's changes to 40 CFR Section 51.166. Changes include: maximum allowable emissions increases for particulate matter; changes which clarify PSD preconstruction review requirements of Title 1 of the 1990 Clean Air Act Amendments to air pollution abatement projects undertaken at electric utility steam generating units; and changes to response to a petition by the West Virginia Manufacturer's Association to remove the hazardous air pollutants from PSD-review in accordance with section 112(b) (6) of the 1990 Clean Air Act Amendment. Definitions in Section 2 have been alphabetized.

Changes also reflect enactment of DEP Code. Changes are indicated by underline and strikeout.

Upon authorization and promulgation, 45CSR14 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implemention Plan under the Federal Clean Air Act, as amended.

The floor is now open for any public comment. Oral comments, I will remind you, will be limited to five minutes, and if you are called upon for comments, please go to the podium, identify yourself and affiliation, if any, prior to making any of your comments.

Yvonne Clarkson, would you like to make a comment?

MS. CLARKSON: I will be submitting written comments.

MS. CHANDLER: Kim Brown Poland.

MS. POLAND: I'll be submitting written comments on behalf of the Manufacturer's Association.

MS. CHANDLER: Well, for time's sake, does anyone want to make any oral comments regarding 45CSR14?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR14 is now concluded.

45CSR15

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR15.

Emission Standards For Hazardous Air Pollutants Pursuant To 40 CFR Part 61. This is an amendment.

This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, and 40 CFR Part 61.

It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

Upon authorization and promulgation of 45CSR15, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 4-CFR63 as of June 1, 1994.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR15 is concluded.

45CSR16

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR16.

Standards Of Performance For New Stationary Sources. This is an amendment.

45CSR16, "Standards of Performance for New Stationary Sources", adopted by reference New Source Performance Standards (NSPS) promulgated by USEPA through May 1, 1993. This revision to the rule updates NSPS requirements through June 1, 1994.

Upon authorization and promulgation of 45CSR16, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards For Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45 CSR16 is concluded.

45CSR19

MS. CHANDLER: The purpose of the public

hearing is to hear discussions on proposed rule 45CSR19.

Requirements For Pre-construction Review, Determination Of Emission Offsets For Proposed New Or Modified Stationary Sources Of Air Pollutants And Emission Trading For Intrasource Pollutant. This is an amendment, also.

45CSR19 is currently being revised to reflect USEPA's changes to 40CFR Section 51.165. Changes include clarifying nonattainment area preconstruction review requirements of Title 1 of the 1990 Clean Air Act Amendments to projects undertaken at electric utility steam generating units in areas not attaining an ambient air quality standard; changes resulting from changes to the authorizing statue; and changes in Clean Air Act provisions.

Definitions in Section 2 have been alphabetized. Changes are indicated by underline and strikeout.

Upon authorization and promulgation, 45CSR19 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia state implementation plan under the federal Clean Air Act, as amended.

The floor is now open for any public

comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, the public hearing for 45CSR19 is concluded.

45CSR33

MS. CHANDLER: The purpose of this hearing is to hear discussions on proposed rule 45CSR33.

Acid Rain Provisions And Permits. This is a new rule. This rule adopts by reference the Title IV requirement of the Clean Air Act.

The Title IV requirements must be implemented by the State through adoption of the National Operating Permit System conforming to Title IV and V of the Clean Air Act.

Phase 1 permit applications were submitted to USEPA by February 15, 1993, and processed by EPA.

Phase II permit applications must be submitted by January 1, 1996, and will be processed by the State assuming the State has an approved Title V Operating Permit Program (via 45CSR30) and this approved Title IV rule.

Pursuant to legislative approval and

promulgation, the DEP Director will request that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR33 is concluded.

45CSR34

MS. CHANDLER: The purpose of this public hearing is to hear discussions on proposed rule 45CSR34.

Emission Standards For Hazardous Air Pollutants Pursuant To 40CFR Part 63. This is a new rule.

Title 45, Series 34 provides authority for the Director to determine and enforce case-by-case MACT standards for major hazardous air pollutant sources in the absence of a federal standard under certain circumstances as required for permit program approval under Title V of the Clean Air Act.

The proposed rule also establishes general provisions for emission standards for hazardous pollutants (NESHAPS) and other regulatory requirements pursuant to section 112 of the federal Clean Air Act.

The rule codifies general procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the hazardous air pollutants in or pursuant to section 112 (b) of the Clean Air Act.

This rule incorporates by reference provisions relating to perchloroethylene dry cleaners, coke ovens, and synthetic organic chemical manufacturing (HON).

Upon authorization and promulgation of 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by the EPA under 40CFR61 and 40CFR63 as of June 1, 1994.

This floor is now open for public comment.

MS. CRITES: Good morning. My name is Karen Crites. I'm president of the West Virginia Manufacturer's Association.

The WVMA recognizes that EPA has put the office of Air Quality in a difficult position by its failure to develop timely our rule implementing Section 112 (g) of the Clean Air Act.

The State cannot adopt a complete a rule establishing its own method of implementing Section 112 (g) because, eventually, the State rule will have to be changed to reflect a federal rule when EPA completes it.

On the other hand, the Clean Air Act requires the State to make case-by-case MACT determination as soon as the State permit program is approved.

In light of the OAQ's inability, through no fault of its own, to promulgate a complete rule addressing section 112 (g), the WVMA suggests this rule be withdrawn and that the OAQ asks EPA, Region 3, to delay approval of the State's permit program until the federal 112 (g) is finalized.

Without an approved permit program, there is no requirement for the State to act under section 112 (g). If that is not acceptable, the WVMA suggests that the rule be withdrawn because there is already authority in existing rules; notably thirteen and series 30 that would allow the OAQ to MACT determination on a temporary basis until a complete Rule 34 could be finalized.

Delaying Rule 34 until a federal rule is ready would efficiently conserve the Office of Air Quality's resources while still allowing the chief to comply with the requirements of the Clean Air Act through use of currently effective State rules.

Thank you for this opportunity to comment.

MS. CHANDLER: Is there any oral comments on 45CSR34?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, the public hearing for 45CSR34 is concluded.

45CSR35

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR35.

Requirements For Determining Conformity Of General Federal Actions To Applicable Air Quality Implementation Plans. (General Conformity) This is a new rule.

The purpose of this rule is to adopt

the requirements of 40CFR Part 93, Subpart B, "Determining Conformity of General Federal Actions to State or Federal Implementation Plans".

The federal rule was promulgated by the U. S. Environmental Protection Agency to implement Section 176 (c) of the Clean Air Act, as amended, which requires that all federal actions conform to applicable air quality implementation plans.

This rule sets forth policy, criteria and procedures for demonstrating and assuring conformity of such activities to all applicable implementation plans developed pursuant to Section 110 and Part D of the Clean Air Act.

The rule generally applies to federal actions except: (1) Those required under the transportation of conformity rule (40CFR Part 93, Subpart A); (2) Actions with associated emissions below specified de minimis levels; and (3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

Upon authorization and promulgation, 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia state implementation plan under the federal

Clean Air Act, as amended.

The floor is now open for public comment.

MR. DURHAM: Good morning, my name is Fred Durham. I work for the West Virginia Division of Environmental Protection Office of Air Quality as a air pollution specialist.

Our office submitted this general proposed conformity rule to the United States Environmental Agency, Region 3, for review and comments.

Yesterday, I spoke with a representative from USEPA, Region 3, who informed me that no formal comments would be complete by today's hearing.

However, the representative did conduct a preliminary evaluation of this proposed rule, and in her opinion no major flaws were evident. Thank you.

MS. CHANDLER: Are there any more public comments on 45CSR?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR35 is concluded.

Would anyone else like to make any

comments concerning any of the rules?

(NO COMMENTS.)

MS. CHANDLER: If not, this hearing is concluded.)

(WHEREUPON, said hearing was concluded at 9:25 a.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit:

I, Christy L. Morris, Certified Court Reporter and Notary Public duly certified and commissioned, do hereby certify that the foregoing is a true and accurate transcript of the proceedings had in the public hearing on the 29th day of July, 1994.

Given under my hand and notarial seal this 29th day of JULY, 1994.

C. L. Morris - CCR

Certified Court Reporter
Notary Public

MY COMMISSION EXPIRES: 12/11/95

COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING PROPOSED AMENDMENTS TO THE
RULES CONCERNING
STANDARDS OF PERFORMANCE FOR
NEW STATIONARY SOURCES
45 CSR 16

I. INTRODUCTION.

On June 21, 1994, the West Virginia Division of Environmental Protection ("DEP" or "Division") filed with the Secretary of State a proposed rule which would amend existing 45 CSR Series 16, which pertains to standards of performance for new stationary sources. Accompanying the proposed rule was a notice requesting both written and oral comment. Pursuant to this notice, the West Virginia Manufacturers Association ("WVMA") has undertaken a review of the proposed rule, and files these comments.

The WVMA represents a broad cross-section of large and small industrial concerns throughout the State of West Virginia. In keeping with the WVMA's supportive position regarding the development of West Virginia's air pollution control program, the WVMA offers these comments as a means to facilitate progress toward a reasonable and protective program, consistent with the requirements of the Clean Air Act and regulations promulgated thereunder pertaining to standards of performance for new stationary sources.

The WVMA applauds the DEP's action to update this rule yearly to keep pace with federal changes in this program.

II. COMMENTS.

1. Proposed use of Funds Derived from Operating Permit Program.

In the Fiscal Note attached to the proposed rule, the Chief of the Office of Air Quality ("Chief") states that costs incurred to implement this rule will come from the funds authorized under 45 CSR 30. This proposed financing is directly contrary to W. Va. Code § 22-5-4(a)(17)(E), which provides that fees, penalties and interest collected for operating permits (i.e., under 45 CSR 30) "shall be expended solely to cover. . .costs required to administer the operating permit program." Accordingly, The WVMA objects to the proposed use of funds collected under 45 CSR 30 to implement this rule. Funding to implement this rule should come from the State's general revenue or other fees under Regulation 22, and WVMA recommends that the Chief make appropriate revision to the Fiscal Note.

2. Proposed 45 CSR 16-1.6 -- Determination of Stringency.

The WVMA asserts that it is inappropriate to incorporate this section into the actual proposed rule. Pursuant to W. Va. Code § 22-1-3a, where rules promulgated by the Director will be more stringent or less stringent than their federal counterpart, the Director is required to provide a written statement, setting out specific reasons which demonstrate that each particular, substantive provision that varies from the federal counterpart regulation is (in the case of a more stringent rule) or is not (in the case of a less stringent rule) "reasonably necessary to protect, preserve or enhance the quality of West Virginia's environment or human health or safety."[1] The statement required of the Director must take into consideration the scientific evidence, specific environmental characteristics of West Virginia or an area thereof, or stated legislative findings, policies or purposes relied upon by the Director in making the preceding determination. Accordingly, to comply with the legislative mandate, the Director's statement would need to be detailed and address specific provisions.

The WVMA submits that the statement required from the Director should not be included as a section in the rule, but, instead, should be attached to each proposed rule as an addendum to the documents filed with proposed and final rules with the Secretary of State. The legislature did not contemplate that the Director's statement regarding stringency of specific provisions in a proposed rule would be incorporated into the rule and thereby be adopted as law. This proposed section should, therefore, be deleted from the final rule, and, after examining the proposed rule, the Director should publish an appropriate statement in the documents filed with the agency final rule with the Secretary of State.

---

[1] This requirement is subject to certain limited exceptions - none of which are applicable to the immediate circumstances.

3. Proposed 45 CSR 16-1.7 -- Constitutional Takings Determination.

The WVMA asserts that it is also inappropriate to incorporate this section into the actual proposed rule. A "constitutional takings determination" or assessment is only required in limited circumstances, and amendment of this rule does not appear to be one of them. Under W. Va. Code § 22-1A-3(a), such an assessment is not required, unless the action being contemplated by the Division is:

> *reasonably likely to deprive a private real property owner of his or her property in fee simple or to deprive an owner of all productive use of his or her property * * * .*

Promulgation of a new rule or amendment of an existing rule does not automatically meet the above test for when an assessment is required. W. Va. Code § 22-1A-3(c) expressly exempts rulemaking to simply limit uses pursuant to statute from the assessment requirement. In pertinent part, that Code section provides that the following actions do not require an assessment:

> *(1) Licensing or permitting conditions, requirements or limitations to the use of private real property pursuant to any applicable state or federal statutes, rules or regulations;*
>
> *(2) Rules and emergency rules of the division that are reasonably likely to limit the use of private real property pursuant to any applicable state or federal statutes, rules or regulations; * * * .*

See W. Va. Code § 22-1A-3(c)(1) and (2). The WVMA also believes that the Legislature did not intend for such determinations to become laws by adopting them as part of the rules. Accordingly, the WVMA recommends that this proposed section be deleted from the final rule, and that the Director's "takings" analysis simply be made part of the documents supporting the rule when filed as final with the Secretary of State.

4. Proposed 45 CSR 16-3 -- Adoption of Standards.

Subsection 3.1.b of the proposed rule excludes "sub-parts B, C, Ca, Cb and Ea of 40 CFR 60." As a matter of policy, the WVMA encourages the adoption of performance standards which are consistent with both U.S. EPA and, to the extent possible, other states with which West Virginia competes in the area of economic development. It is imperative that all regulatory programs which affect businesses considering expansion in or relocating to West Virginia from other states impose a total regulatory impact on such businesses that provides an economic incentive to expand or relocate to West Virginia.

During prior rulemaking, the OAQ staff indicated that the municipal waste combuster regulations found in 40 C.F.R. Subpart Ca were being excluded at the recommendation of U.S. EPA inasmuch as these subparts are the subject of ongoing litigation. The reason given for excluding Subpart Cb, which addresses sulfuric acid production units, was that there are no such facilities in West Virginia. Until such time as the ongoing litigation is resolved, the WVMA is in agreement with the proposal to exclude the subparts related to municipal waste combusters in light of West Virginia's own ban on the establishment of such facilities at present.

However, the WVMA disagrees with the reasoning which underlies exclusion of Subpart Cb. The fact that there currently are no sulfuric acid producers in West Virginia does not preclude the possibility that such a facility may at some future date consider locating in State. The result of the proposed exclusion is that a sulfuric acid producer which may be evaluating locating in any of several states would be placed at a needless regulatory disadvantage in West Virginia because of the possibility of bifurcated and prolonged permit application review proceedings. Such proceedings would be prolonged because of the need for extensive interaction with U.S. EPA Region III in establishing NSPS permit conditions since the Division failed to adopt current U.S. EPA standards in its latest regulatory revision.

Although this proposed regulatory revision would effectively exclude only one subpart related to sulfuric acid production units, the WVMA suggests that it should be the policy of the Division in incorporating U.S. EPA new source performance standards to include all such standards which have been promulgated since the time of the last revision to the Division regulation, provided that the U.S. EPA standards are in full force and effect at the time of the incorporation by Division.

We also recommend that Section 3.1 be modified to incorporate by reference as of July 1, 1994. This is because the 40 CFR federal rules are republished each year as of July 1. This greatly simplifies the burden of the agency and the regulated community in figuring out exactly which standards are applicable. Also, since the public already has had an opportunity for notice and comment on all such federal rules, there is no impediment to advancing the proposed date by one month.

III. CONCLUSION.

In these comments, the WVMA offers its position on a key policy issue presented by Division's proposed new source performance standard revisions. Our concern relates to the implementation of a comprehensive and easily discerned regulatory program for the comprehensive management of air quality in West Virginia.

Respectfully submitted, this the 29th day of July, 1994.

Karen S. Price, President
West Virginia Manufacturers Association
2001 Quarrier Street
Charleston, West Virginia 25311
Telephone: 342-2123

Prepared by:

Robinson & McElwee
P. O. Box 1791
Charleston, West Virginia 25326

Contact:

Kim Brown Poland, Esquire
Telephone: 347-8348

WVDEP/OAQ RESPONSE TO PUBLIC COMMENT ON PROPOSED 45CSR16 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Only two written submissions each containing several comments were received. The first was submitted by a staff member of the Office of Air Quality and noted two typographical errors in Section 3.1. The first error will be corrected by inserting the phrase "of the federal Clean Air Act, as amended" immediately following the bracketed citation "[C.A.A. §111(b)]." The second error will be corrected by inserting the word "Part" in the Code of Federal Regulations citation to read "40 CFR Part 60."

The second written submission commented that the proposed use of funds derived from the Operating Permit Program authorized under 45CSR30 is contrary to W.Va. Code §22-5-4(a)(17)(E). OAQ responds that with respect to these sources the use of Title V fees would not be appropriate and therefore, general revenue, 45CSR22 fees or federal grant funds would be required to support OAQ oversight. The fiscal notes for 45CSR15, 45CSR16 and 45CSR34 will accordingly be amended to reflect this valid WVMA comment and to further clarify the basis of the fiscal impact statement.

45CSR30, which became effective on April 27, 1994, implements the operating permit program mandated by Title V of the 1990 Clean Air Act Amendments and W. Va. Code §22-5-12. This rule was developed in accordance with USEPA rules in Part 70 of Chapter 40 of the Code of Federal Regulations. Title V of the CAAA and the Part 70 regulations require that the operating permit program be funded solely by fees sufficient to cover all direct and indirect program costs.

Consistent with activities to be covered by Title V fees outlined in the CAAA and Part 70 rules, USEPA issued guidance to states in a memo of August 4, 1993 (see the attached John S. Seitz memorandum) concerning criteria for approval of state fee systems. The EPA guidance emphasizes that EPA approval of state fee programs for adequacy and conformance to CAAA requirements will be largely based upon the particular "design and attributes of each state's air quality management program". On pages 2-9 of the Attachment to the John Seitz memorandum, EPA lists activities and costs expected to be covered by Title V permit fees. In Item K on page 6 of the aforementioned Attachment, EPA lists implementation of CAAA Section 111 and 112 standards through Part 70 (45CSR30) operating permits as an activity to be supported by permit program fees. 45CSR15, 45CSR16 and 45CSR34 implement or will implement as state-enforceable requirements CAAA Section 111 and 112 standards. Fee collections and the associated budget analyses for implementation of 45CSR30 were previously incorporated into the fiscal note for 45CSR30 which was authorized by the Legislature in its 1994 session. OAQ anticipates EPA approval or interim approval of its Title V program (45CSR30) in the latter part of 1994 or early 1995 (FY'95) prior to or at the time of legislative authorization of the proposed 45CSR16 amendments.

OAQ anticipated that most sources covered by CAAA Section 111 or 112 standards (except asbestos demolition and renovation projects and perhaps minor perchloroethylene dry cleaners) will initially or eventually require permits under 45CSR30 and should be subject to Title V fees and fee support. By eventual EPA and state exemption or deferral, however, some minor sources regulated under CAAA Section 111 or 112 may be removed from or exempted from 45CSR30 (40 CFR Part 70) and 45CSR30 fee requirements. With respect to these sources, the use of Title V fees would not be appropriate and therefore, general revenue, 45CSR22 fees or federal grant funds, would be required to support OAQ oversight. The fiscal notes for 45CSR15, 45CSR16 and 45CSR34 will accordingly be amended to reflect this valid WVMA comment and to further clarify the basis of the fiscal impact statement. In the event that sufficient funding is not available to cover the costs for non-Title V sources regulated under CAAA §111 or 112, WVDEP would request that EPA withdraw its delegation of authority to the State to enforce the federal standards relating to such sources.

OAQ did not propose to adopt the federal guidance standards for municipal waste combustors primarily because state law forbids the use of incineration technologies for disposal of municipal waste. Establishing an emission standard by incorporating by reference 40 CFR 60 Subpart Ca would be inconsistent with aforementioned law and would, therefore, add confusion. Subpart Cb of 40CFR60 provides a guideline sulfuric acid mist emission standard for implementation by states which have not otherwise established such standards for existing sulfuric acid production plants pursuant to Section 111(d) of the federal Clean Air Act. The OAQ is aware of no existing sulfuric acid production plants operating in West Virginia but has established sulfuric acid mist and sulfur dioxide emission standards for such facilities in 45CSR7 and 45CSR10, respectively. The OAQ has also previously incorporated by reference Subpart H of 40 CFR 60 for new sulfuric acid production plants. A new sulfuric acid production plant locating in West Virginia would clearly be subject to the more stringent of the emission standards already established by 45CSR7, 45CSR10 and 45CSR16.

OAQ proposed that 45CSR16 be amended to incorporate NSPS provisions promulgated by USEPA as of June 1, 1994 because that was the latest date that such standards had been reviewed by OAQ personnel at the time of filing (for hearing) the proposed amended rule. OAQ has since reviewed and summarized additional issues of the Federal Register for the month of June 1994, and will change the date for inclusion of final federal NSPS rules to July 1, 1994, in accordance with the WVMA suggestion.

Another comment in the written submission was that incorporating the section containing the determination of stringency in relation to federal counterpart regulations in the rule [Section 1.6] is inappropriate. The comment notes that W.Va. Code §22-1-3 requires the Director of the Division of Environmental Protection to provide a written statement in circumstances in which the Director determines that the rule should not be the same in substance as the counterpart federal regulation. In 45CSR16, the OAQ is proposing to incorporate the federal counterpart regulation with only limited changes that do not affect the stringency determination. The rule, as proposed, will be the same in substance as the federal counterpart and should not, therefore, require a written determination of the stringency of the rule in relation to the federal counterpart. However, OAQ responds that no reason exists to not include the determination and that as a matter of Division of Environmental Protection policy, that the specific "Determination of Stringency" section be included in each rule proposed by the individual Offices within the Division. OAQ responds that the section as stated is satisfactory. However, OAQ will revise this rule to add a section pertaining to "severability" in the event that this section or other sections of the rule are invalidated.

Another comment in the written submission was that incorporating the "Constitutional Takings Determination" section in the rule [Section 1.7] is inappropriate. The comment notes that W.Va. Code §22-1A-3(c)(2) expressly exempts the assessment in situations in which the state rule-making is required pursuant to an applicable federal rule. The commenter does not believe the Legislature intended for the determination to be part of the rule itself, thus becoming a law if the rule is authorized. The comment notes that an explanation of the takings determination simply be included as part of the rule filing. OAQ does not disagree with the comment, but notes that no specific reason exists to exclude the determination, and that as a matter of Division of Environmental Protection policy, that the specific "Constitutional Takings Determination" section be included in each rule proposed by the individual Offices within the Division. OAQ responds that the section as stated is satisfactory.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

TELECOPIER COVER SHEET

DATE: 8/2/94

TO: John Johnston

FAX #: 304-558-3287

OFFICE: OAQ

RE: TITLE V Fee GUIDANCE

MESSAGE:

John,
please let me know if you need more information. I think this guidance covers the NSR/Title V issue. If not sufficient, I may be able to dig up some more info., if necessary.

Good Luck!

FROM: J. Abramson

FAX: 215/597-[redacted] 1136

TOTAL NUMBER OF PAGES INCLUDING COVER PAGE: 15

Joe / Jen H,
Mike H
Lisa D
JUDY K

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

RECEIVED
Air & Radiation Programs Branch (3AT10)
AUG 9 1993
EPA, REGION III

AUG 4 1993

MEMORANDUM

SUBJECT: Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V

FROM: for John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Air Division Director, Regions I-X

On December 18, 1992, I issued a memorandum designed to provide initial guidance on the Environmental Protection Agency's (EPA's) approach to reviewing State fee schedules for operating permits programs under title V of the Clean Air Act (Act). Today's memorandum updates, clarifies, revises, and replaces the earlier memorandum.

Section 502(b)(3) of the Act requires that each State collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V permits program. [As used herein, the term "State" includes local agencies.] The final part 70 regulation contains a list of activities discussed in the July 21, 1992 preamble to the final rule (57 FR 32250) which must be funded by permit fees. This memorandum and its attachment provide further guidance on how EPA interprets that list of activities, as well as the procedure for demonstrating that fee revenues are adequate to support the program.

The memorandum and attachment set forth the principles which will generally guide our review of fee submittals. The EPA believes that these positions are consistent with the preamble and final rule and are useful in explaining the broad language in the promulgation, but in no way supplant the promulgation itself. In evaluating State program submittals, EPA will make judgments based on the particular design and attributes of the State program, as well as the requirements of section 70.9 of part 70.

RECEIVED
Programs Development &
Assessment Section
3AT11
AUG 11 1993
EPA, REGION III

The policies set out in this memorandum and attachment are intended solely as guidance, do not represent final Agency action, and cannot be relied upon to create any rights enforceable by any party.

Several substantive revisions to the earlier guidance that are reflected in this document deserve special mention. First, with respect to activities which relate to provisions of the Act in addition to title V, the revisions clarify that the cost of those activities would be permit program costs only to the extent the activities are necessary for part 70 purposes. For example, this qualification would apply to activities undertaken pursuant to sections 110, 111, and 112 of the Act. In determining which of the activities normally associated with State Implementation Plan (SIP) development are to be funded by permit fees, for instance, States should include those activities to the extent they are necessary for the issuance and implementation of part 70 permits. Accordingly, if a SIP provision requires that a State perform or review a modeling demonstration of a source's impact on ambient air quality as part of the permit application process, the State's costs which arise from the modeling demonstration (which are ordinarily not permit program costs) must be covered by permit fees.

Second, the revisions provide that case-by-case maximum achievable control technology determinations for modified/constructed and reconstructed major toxic sources under section 112(g) of the Act are considered permit program costs, even if the determination preceded the issuance of the part 70 permit. This position is consistent with the Agency's guidance on Title V Program Approval Criteria for Section 112 Activities (issued April 13, 1993). In that guidance, EPA explained that in order to obtain approval of their title V permit programs, States must take responsibility for implementing all applicable requirements of section 112, including section 112(g), to fulfill their broader obligation to issue title V permits which incorporate all applicable requirements of the Act. For this reason, these section 112 activities are appropriately viewed as permit program costs and thus funded with permit fees.

Third, the revisions clarify in section II.L that enforcement costs incurred prior to the filing of an administrative or judicial complaint are considered permit program costs, including the issuance of notices, findings, and letters of violation, as well as development and referral to prosecutorial agencies of enforcement cases. This approach is based on legislative history which indicates that Congress viewed the filing of complaints as the beginning of enforcement actions for purposes of the statutory provision that excludes "court costs or other costs associated with any enforcement action" from the costs to be recovered through permit fees.

Fourth, the revisions take a different approach to "State-only" requirements which are part of the title V permit by concluding that part 70 does not require that permit fees cover the costs of implementing and enforcing such conditions, since the rule requires that States designate these requirements as not federally enforceable.

Fifth, the attachment modifies the discussion of the extent to which title V fees must fund the costs of permit programs under provisions of the Act other than title V. After carefully considering section 110(a)(2)(L) (which requires that every major source covered by a permit program required under the Act pay a fee to fund the permit program), as it relates to section 502(b)(3) in general, and section 502(b)(3)(A)(ii) in particular, EPA has concluded that title V fees must cover the costs of implementing and enforcing not only title V permits but of any other permits required under the Act, regardless of when issued. This result makes sense, since the title V permit will incorporate the terms of other permits required under the Act so that enforcing title V permits will have the effect of implementing and enforcing those permit requirements as well. However, the costs of reviewing and acting on applications for permits required under Act provisions other than title V need not be recouped by title V fees. In conclusion, the costs of implementing and enforcing all permits required under the Act must be considered in determining whether a State's fee revenue is adequate to support its title V program. However, States may opt to retain separate mechanisms and procedures for collecting permit fees for other permitting programs under the Act, provided the fees covering the costs of implementing and enforcing permits are included in the determination of fee adequacy for purposes of title V.

Although most of the changes outlined today are not expected to affect significantly whether EPA will find fee programs based on the earlier guidance adequate, we will assist States in resolving any difficulties which may have resulted from reliance on the December 18 guidance.

As a means of providing support for the Regional Offices and States on fee approval issues, we invite early submittal of fee analyses (separate from the entire program submittal) from States, particularly those which propose to charge less than the presumptive fee minimum. We will assist Regional Offices in reviewing these submittals with respect to the requirements of title V. Case-by-case reviews of fee programs which you believe are ripe for review offer a timely opportunity to provide additional guidance on this issue.

If you would like us to assist with review of a State's fee program, please contact Kirt Cox. For further information, you may call Kirt at (919) 541-5399 or Candace Carraway at (919) 541-3189.

Attachment

cc: Air Branch Chief, Regions I-X
Regional Counsel, Regions I-X
M. Shapiro
J. Kurtzweg
A. Eckert
B. Jordan
R. Kellam
J. Rasnic

ATTACHMENT

GUIDANCE FOR STATE FEE PROGRAM DEVELOPMENT

I. GENERAL PRINCIPLES

- States must collect, from part 70 sources, fees adequate to fund the reasonable direct and indirect costs of the permits program.

- Only funds collected from part 70 sources may be used to fund a State's title V permits program. Legislative appropriations, other funding mechanisms such as vehicle license fees, and section 105 funds cannot be used to fund these permits program activities.

- The 1990 Amendments to the Clean Air Act (Act) generally require a broader range of permitting activities than are currently addressed by most State and local permits programs. Title V and part 70 contain a nonexclusive list of types of activities which must be funded by permit fees.

- Title V fees present a new opportunity to improve permits program implementation where funding has been inadequate in the past.

- The fee revenue needed to cover the reasonable direct and indirect costs of the permits program may not be used for any purpose except to fund the permits program. However, title V does not limit State discretion to collect fees pursuant to independent State authority beyond the minimum amount required by title V. The evaluation of State fee program adequacy for part 70 approval purposes will be based solely on whether the fees will be sufficient to fund all permit program costs.

- Any fee program which collects aggregate revenues less than the $25 per ton per year (tpy) presumptive minimum will be subject to close Environmental Protection Agency (EPA) scrutiny.

- If credible evidence is presented to EPA which raises serious questions regarding whether the presumptive minimum amount of fee revenue is sufficient to fund the permits program adequately, the State must provide a detailed demonstration as to the adequacy of its fee schedule to fund the direct and indirect costs of the permits program.

- The EPA encourages State legislatures to include flexible fee authority in State statutes so as to allow flexibility to manage fee adjustments if needed in light of program experience, audits, and accounting reports. States should be able to adapt their fee schedules in a timely way in response to new information and new program requirements.

II. ACTIVITIES EXPECTED TO BE FUNDED BY PERMIT FEES

A. Overview.

- Permits program fees must cover all reasonable direct and indirect costs of the title V permits program incurred by State and/or local agencies. For example, fees must cover the cost of permitting affected units under section 404 of the Act, even though such sources may be subject to special treatment with respect to payment of permit fees.

- In making the determination as to whether an activity is a title V permits program activity, EPA will consider the design of the individual State's title V program and its relationship to its comprehensive air quality program. State design of its air program, including its State Implementation Plan (SIP), will in some cases determine whether a particular activity is properly considered a permits program activity. For example, if a SIP provision requires that a State perform or review a modeling demonstration of a source's impact on ambient air quality as part of the permit application process, the State's costs which arise from the modeling demonstration (which are ordinarily not permit program costs) would be part of the State's title V program costs. Because the nature of permitting-related activities can vary from State to State, the EPA intends to evaluate each program individually using the definition of "permit program costs" in the final regulation.

- In general, EPA expects that title V permit fees will fund the activities listed below. However, in evaluating State program submittals, EPA will consider the particular design and attributes of the State program. It is important to note that the activities listed below may not represent the full range of activities to be covered by permit fees. Implementation experience may demonstrate that additional activities are appropriately added to this list. Additionally, some States may have further program needs based on the particularities of their own air quality issues and program structure.

- States may use permit fees to hire contractors to support permitting activities.

B. Initial program submittal, including:

- Development of documentation required for program submittal, including program description, documentation of adequate resources to implement program, letter from Governor, Attorney General's opinion.

- Development of implementation agreement between State and Regional Office.

C. Part 70 program development, including:

- Staff training.

- Permits program infrastructure development, including:

    * Legislative authority.

    * Regulations.

    * Guidance.

    * Policy, procedures, and forms.

    * Integration of operating permits program with other programs [e.g., SIP, new source review (NSR), section 112].

    * Data systems (including AIRS-compatible systems for submitting permitting information to EPA, permit tracking system) for title V purposes.

    * Local program development, State oversight of local programs, modifications of grants of authority to local agencies, as needed.

    * Justification for program elements which are different from but equivalent to required program elements.

- Permits program modifications which may be triggered by new Federal requirements/policies, new standards [e.g., maximum achievable control technology (MACT), SIP, Federal implementation plan], or audit results.

D. Permits program coverage/applicability determinations, including:

- Creating an inventory of part 70 sources.
- Development of program criteria for deferral of nonmajor sources consistent with the discretion provided to States in part 70.
- Application of deferral criteria to individual sources.
- Development of significance levels (for exempting certain information from inclusion on permits application).
- Development and implementation of federally-enforceable restrictions on a source's potential to emit in order to avoid it being considered a major source.

E. Permits application review, including:

- Completeness review of applications.
- Technical analysis of application content.
- Review of compliance plans, schedules, and compliance certifications.

F. General and model permits, including:

- Development.
- Implementation.

G. Development of permit terms and conditions, including:

- **Operational flexibility provisions.**
- **Netting/trading conditions.**
- **Filling gaps within applicable requirements (e.g., periodic monitoring and testing).**
- **Appropriate compliance conditions (e.g., inspection and entry, monitoring and reporting).**
- **Screen/separate "State-only" requirements from the federally-enforceable requirements.**

- Development of source-specific permit limitations [e.g., section 112(g) determinations, equivalent SIP emissions limits pursuant to 70.6(a)(1)(iii)].
- Optional shield provisions.

H. Public/EPA participation, including:

- Notices to public, affected States and EPA for issuance, renewal, significant modifications and (if required by State law) for minor modifications (including staff time and publication costs).
- Response to comments received.
- Hearings (as appropriate) for issuance, renewal, significant modifications, and (if required by State law) for minor modifications (including preparation, administration, response, and documentation).
- Transmittal to EPA of necessary documentation for review and response to EPA objection.
- 90-day challenges to permits terms in State court, petitions for EPA objection.

I. Permit revisions, including:

- Development of criteria and procedures for the following different types of permit revisions:
    - Administrative amendments.
    - Minor modifications (fast-track and group processing).
    - Significant modifications.
- Analysis and processing of proposed revisions.

J. Reopenings:

- For cause.
- Resulting from new emissions standards.

K. Activities relating to other sections of the Act which are also needed in order to issue and implement part 70 permits, including:

- Certain section 110 activities, such as:
  - * Emissions inventory compilation requirements.
  - * Equivalency determinations and case-by-case reasonably available control technology determinations if done as part of the part 70 permitting process.
- Implementation and enforcement of preconstruction permits issued to part 70 sources pursuant to title I of the Act, including:
  - * State minor NSR permits issued pursuant to a program approved into the SIP.
  - * Prevention of significant deterioration/NSR permits issued pursuant to Parts C and D of title I of the Act.
- Implementation of Section 111 standards through part 70 permits.
- Implementation of the following section 112 requirements through part 70 permits:
  - * National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated under section 112(d) according to the timetable specified in section 112(e).
  - * The NESHAP promulgated under section 112(f) subsequent to EPA's study of the residual risks to the public health.
  - * Section 112(h) design, equipment, work practice, or operational standards.
- Development and implementation of certain section 112 requirements through part 70 permits, including:
  - * Section 112(g) program requirements for constructed, reconstructed, and modified major sources.

    * Section 112(i) early reductions.
    * Section 112(j) equivalent MACT determinations.
    * Section 112(l) State air toxics program activities that take place as part of the part 70 permitting process.
    * Section 112(r)(7) risk management plans if the plan is developed as part of the permits process.

L. Compliance and enforcement-related activities to the extent that these activities occur prior to the filing of an administrative or judicial complaint or order. These activities include the following to the extent they are related to the enforcement of a permit, the obligation to obtain a permit, or the permitting regulations:

- Development and administration of enforcement legislation, regulations, and policy and guidance.
- Development of compliance plans and schedules of compliance.
- Compliance and monitoring activities.
    * Review of monitoring reports and compliance certifications.
    * Inspections.
    * Audits.
    * Stack tests conducted/reviewed by the permitting authority.
    * Requests for information either before or after a violation is identified (e.g., requests similar to EPA's section 114 letters).
- Enforcement-related activities.
    * Preparation and issuance of notices, findings, and letters of violation [NOV's, FOV's, LOV's].
    * Development of cases and referrals up until the filing of the complaint or order.

- Excluded are all enforcement/compliance monitoring costs which are incurred after the filing of an administrative or judicial complaint.

M. The portion of the Small Business Assistance Program which provides:

- Counseling to help sources determine and meet their obligations under part 70, including:
    - * Applicability.
    - * Options for sources to which part 70 applies.
- Outreach/publications on part 70 requirements.
- Direct part 70 permitting assistance.

N. Permit fee program administration, including:

- Fee structure development.
- Fee demonstration.
    - * Projection of fee revenues.
    - * Projection of program costs if detailed demonstration is required.
- Fee collection and administration.
- Periodic cost accounting.

O. General air program activities to the extent they are also necessary for the issuance and implementation of part 70 permits.

- Emissions and ambient monitoring.
- Modeling and analysis.
- Demonstrations.
- Emissions inventories.
- Administration and technical support (e.g., managerial costs, secretarial/clerical costs, labor indirect costs, copying costs, contracted services, accounting and billing).

- Overhead (e.g., heat, electricity, phone, rent, and janitorial services).
- States will need to develop a rational method based on sound accounting principles for segregating the above costs of the permits program from other costs of the air program. The cost figures and methodology will be reviewed by EPA on a case-by-case basis.

III. FLEXIBILITY IN FEE STRUCTURE DESIGN

A. A State may design its fee structure as it deems appropriate, provided the fee structure raises sufficient revenue to cover all reasonable direct and indirect permits program costs.

B. Provided adequate aggregate revenue is raised, States may:

- Base fees on actual emissions or allowable emissions.
- Differentiate fees based on source categories or type of pollutant.
- Exempt some sources from fee requirements.
- Determine fees on some basis other than emissions.
- Charge annual fees or fees covering some other period of time.

IV. INITIAL PROGRAM APPROVABILITY CRITERIA

A. Elements of State program submittals which relate to permit fees.

- Demonstration that fee revenues in the aggregate will adequately fund the permits program.
- Initial accounting to demonstrate that permit fee revenues required to support the reasonable direct and indirect permits program costs are in fact used to fund permits program costs.
- Statement that the program is adequately funded by permit fees (which is supported by cost estimates for the first 4 years of the permits program).

B. Methods by which a State may demonstrate that its fee schedule is sufficient to fund its title V permits program:

- Demonstration that its fee revenue in the aggregate will meet or exceed the $25/tpy (with CPI adjustment) presumptive minimum amount.

- Detailed fee demonstration.

  * Required if fees in the aggregate are less than the presumptive minimum or if credible evidence is presented raising serious questions during public comment on whether fee schedule is sufficient or information casting doubt on fee adequacy otherwise comes to EPA's attention.

C. Computation of $25/tpy presumptive minimum.

- The emissions inventory against which the $25/tpy is applied is calculated as follows:

  * Calculate emissions inventory using actual emissions (and estimates of actual emissions).

  * From the total emissions of part 70 sources, exclude emissions of carbon monoxide (CO) and other pollutants consistent with the definition of "regulated pollutant (for presumptive fee purposes)."

  * States may:

    - Exclude emissions which exceed 4,000 tpy per pollutant per source.

    - Exclude emissions which are already included in the calculation (i.e., double-counting is not required).

    - Exclude insignificant quantities of emissions not required in a permit application.

  * States have two options with respect to emissions from affected units under section 404 of the Act during 1995 through 1999.

    - If a State excludes emissions from affected units under section 404 from its inventory, fees from those units may not be used to show that the State's fee revenue meets or exceeds the $25/tpy presumptive minimum amount (see paragraph IV.E below).

- If a State includes emissions from affected units under section 404 in its inventory, it may include non-emissions-based fees from those units in showing that its fee revenue meets or exceeds the $25/tpy presumptive minimum amount (see paragraph IV.E below.)

- Computation of the presumptive minimum amount is a surrogate for predicting aggregate actual program costs. Once this aggregate cost has been determined, the method used for computing it does not restrict a State's discretion in designing its particular fee structure. States may impose fees in a manner different from the criteria for calculating the presumptive amount (e.g., charging fees for CO emissions and for emissions which exceed 4,000 tpy per pollutant per source).

D. Establishing that fee revenue meets or exceeds the presumptive minimum.

- Fee revenue in the aggregate must be equivalent to $25/tpy (as adjusted by CPI) as applied to the qualifying emissions inventory.

- States have flexibility in fee schedule design as outlined in paragraph III above and are not required to adopt any particular fee schedule.

E. Fees collected from affected units under section 404.

- States may not use emissions-based fees from "Phase I" affected units under section 404 for any purpose related to the approval of their operating permits programs for the period from 1995 through 1999. The EPA interprets the prohibition contained in section 408(c)(4) of the Act as preventing EPA from recognizing the collection of such fees in determining whether a State has met its obligation for adequate program funding. Furthermore, such fees cannot be used to support the direct or indirect costs of the permits program. However, States may, on their own initiative, impose title V emissions-based fees on affected units under section 404 and use such revenues to fund activities beyond those required pursuant to title V.

  * All units initially classified as "Phase I" units are listed in Table I of 40 CFR part 73. In addition, units designated as active substitution units under section 404(b) are considered "Phase I" affected units under section 404.

- States may collect fees which are not emissions based (e.g., application or processing fees) from such units.

- Role of nonemissions-based fees in determining adequacy of aggregate fee revenue.

  - * Such fees may be used as part of a detailed fee demonstration (which does not rely on the $25/tpy presumption).

  - * Such fees may not be used to establish that aggregate fees meet or exceed the presumptive minimum amount unless the State exercises its discretion to include emissions from affected units under section 404 in the emissions inventory against which the $25/tpy is applied.

F. Fee program accountability.

- Initial accounting (required as part of program submittal) comprised of a description of the mechanisms and procedures for ensuring that fees needed to support the reasonable direct and indirect costs of the program are utilized solely for permits program costs.

- Periodic accounting every 2-3 years to demonstrate that the reasonable direct and indirect costs of the program were covered by fee revenues.

- Earlier accounting or more frequent accountings if EPA determines through its oversight activities that a program's inadequate implementation may be the result of inadequate funding.

G. Governor's statement assuring adequate personnel and funding for permits program.

- Submitted as part of program submittal.

- A statement supported by annual estimates of permits program costs for the first 4 years after program approval and a description of how the State plans to cover those costs.

  - * Detailed description of estimated annual costs is not required if the State has relied on the presumptive minimum amount in demonstrating the adequacy of its fee program.

    * Detailed description of estimated costs for a 4-year period showing how program activities and resource needs will change during the transition period is required if State proposes to collect fee revenue which is less than the presumptive minimum amount.

- Projection of annual fee revenue for a 4-year period with explanation of how State will handle any temporary shortfall (if projected revenue for any of the 4 years is less than estimated costs).

V. FUTURE ADJUSTMENTS TO FEE SCHEDULE

A. Continuing requirement of fee revenue adequacy.

- Obligates the States to update and adjust their fee schedules periodically if they are not sufficient to fund the reasonable direct and indirect costs of the permits program.

B. Changes in fee structure over time are inevitable and may be required by the following events:

- Results of periodic audits/accountings.
- Revised number of part 70 sources (discovery of new sources, new EPA standards, expiration of the deferral of nonmajor sources).
- Changes in the number of permit revisions.
- Changes in the number of affected units under section 404 (e.g., substitution units).
- CPI-type adjustments.
- Different activities during post-transition period.

NOTICE

The policies set out in this guidance document are intended solely as guidance and do not represent final Agency action and are not ripe for judicial review. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. The EPA officials may decide to follow the guidance provided in this guidance document, or to act at variance with the guidance, based on an analysis of specific circumstances. The EPA also may change this guidance at any time without public notice.

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***   ACTIVITY REPORT   ***
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CONNECTION ID	
START TIME	08/02 13:40
USAGE TIME	09'19
PAGES	19
RESULT	OK

DIVISION OF ENVIRONMENTAL PROTECTION
10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

DAVID C. CALLAGHAN
DIRECTOR

July 28, 1994

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

RE: CSR-45-16 - Standards of Performance for
New Stationary Sources

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule with your Office and the Legislative Rule-Making Review Committee as an agency-approved rule.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

David C. Callaghan
Commissioner
Bureau of Environment

DCC;RTH:cc

Attachment