WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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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 Environmental Protection-Office of Air Quality TITLE NUMBER: 45

CITE AUTHORITY: WV 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 Pursuant to 40 CFR part 60"

IF NO, SERIES NUMBER OF 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.

Carrie J. Chambers

Authorized Signature

$12.90

Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
Telephone No: (304)759-0575
Fax No: (304)759-0526

West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

August 23, 2000

Ms. Judy Cooper
Director, Administrative Law
Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

RE: 45CSR16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60"

Dear Ms. Cooper:

This letter will serve as my approval to file with your Office the above-referenced Legislative rule as "Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee."

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my Office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

Questionnaire

DATE: September 1, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (AGENCY NAME, ADDRESS & PHONE NUMBER) Division of Environmental Protection
Office of Air Quality
7012 MacCorkle Avenue, SE
Charleston, WV 25304
Phone: (304) 926-3647

LEGISLATIVE RULE TITLE: 45CSR16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60"

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 12, 2000 and August 9, 2000

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

I. Class I legal advertisement, *Charleston Daily Mail & Charleston Gazette*
II. Sent a copy of the Public Notice to our agency mailing list.
III. Public Notice placed on agency's Web site:
http://www.dep.state.wv.us/oaq/

IV. Press Releases

c. Date of Public Hearing (s) or Public Comment Period ended:

Public Hearing -- August 14, 2000

Public Comment Period ended -- August 21, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached_____ No comments received__X__

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

August 29, 2000

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Edward L. Kropp, Chief	Carrie Chambers, Executive Assistant
7012 MacCorkle Ave., SE	10 McJunkin Road
Charleston, WV 25304	Nitro, WV 25143-2506
Phone: (304) 926-3647	(304) 759-0515
Fax: (304) 926-3637	(304) 759-0526
E-Mail: skropp@mail.dep.state.wv.us	Cchamb@mail.dep.state.wv.us

g. **IF DIFFERENT from item 'f',** please give Name, title, address and phone number (s) of agency person(s) who wrote and/or has responsibility for the contents of this rule:
(Please type)

See "f" above

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 or comment period:

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

BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

Rule Title: 45CSR16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60"

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

B. SUMMARY OF RULE:

This rule adopts standards of performance for new stationary sources promulgated by the United States Environmental Protection Agency (U.S. EPA) pursuant to section 111(b) of the federal Clean Air Act, as amended (CAA). 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. This revised rule incorporates by reference additional provisions relating to corrections and additions to Appendix A (Test Methods), an addition to Appendix B (Performance Specifications), and a minor correction to the reporting requirements for industrial-commercial-institutional steam generating units.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

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 State to become the primary enforcement authority for NSPS subparts promulgated by U.S. EPA as of July 10, 2000. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the CAA.

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

A federal counterpart to this proposed rule exists. In accordance with the Director's recommendation, and with limited exception, the Office of Air Quality proposes that the rule incorporate by reference the federal counterparts.

Because the proposed rule incorporates by reference the federal counterpart, no determination of stringency is required.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with §22-1A-1 and 3(c,) the Director has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:

At its July 6, 2000 meeting, the Environmental Protection Advisory Council reviewed and discussed this rule. Their comments are contained in the attached minutes.

MINUTES

ENVIRONMENTAL PROTECTION ADVISORY COUNCIL

July 6, 2000, Director's Conference Room, Nitro

The twenty-first meeting of the DEP Advisory Council was held Thursday, July 6, 2000, in the Director's Second Floor Conference Room located in Nitro. Chairman Mike Castle called the meeting to order at 10:00 a.m.

ATTENDING:

Advisory Council Members:

Mike Castle, Chairman
Lisa Dooley
Jacqueline Hallinan
Bill Raney
Rick Roberts
Bill Samples

Environmental Protection:

Greg Adolfson	Ava King
John Ailes	Brian Long
John Benedict	Pam Nixon
Al Blankenship	Rocky Parsons
Carrie Chambers	Jennifer Pauer
Dick Cooke	Cap Smith
Mike Dorsey	Randy Sovic
Andy Gallagher	Charlie Sturey
Randy Huffman	Darcy White
John Johnston	

1) Review and Approval of April 6, 2000 Minutes. The April 6 Minutes were approved with note of two minor revisions.

2) Discussion of Proposed Rule Amendments - 2001 Legislative Session. In accordance with WV Code §22-1-1(c), and DEP's rule-making procedure policy that was implemented in 1998, and included involving DEP's Advisory Council in DEP's rule-making process as early as possible to enable the Council to

review, comment, and make recommendations to the Director on the proposed Legislative rules before they are filed for public hearing, the following proposed rules were brought to the Council's attention.

John Benedict, Deputy Chief of the Office of Air Quality (OAQ), reviewed the following OAQ rules:

- **45CSR1 - "NO_x Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides"**
- **45CSR6 - "To Prevent and Control Air Pollution From Combustion of Refuse"**
- **45CSR15 - "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61"**
- **45CSR16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR part 60"**
- **45CSR23 - "To Prevent and Control Emissions From Municipal Solid Waste Authorities"**
- **45CSR25 - "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"**
- **45CSR30 - "Requirements for Operating Permits"**
- **45CSR34 - "Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63"**

In discussion of **45CSR1**, John explained to the Council that they did not have the companion rule (which is 45CSR26) to this proposed rule amendment, but Council will be provided a copy of the proposed rule when the draft is complete. Both rules have been drafted as a response to EPA's NO_x SIP Call. Failure of states to respond to the SIP Call will result in a NO_x federal implementation plan or federal program to reduce NO_x emissions under Section 126 of the CAA. John explained that OAQ is late in drafting both rules because they were waiting until several issues were settled in federal court. EPA is now requiring, and the federal courts concurred, that states develop rules and meet the conditions of the SIP Call by October 28, 2000. EPA's SIP Call affects major utility sources, cement kilns, and large

industrial-type boilers (those exceeding 250 lbs/mmBtu). The SIP Call originally included internal combustion engines.

45CSR1 establishes standards specifically for non-utility boilers, and follows EPA's model rule that states are to use in developing their SIPS. The model rule incorporates standards to allow sources to trade emissions between states. Therefore, states do not have a lot of flexibility to adjust their state-specific rules, if they want their sources to participate in a national NO_x budget-trading program.

John informed the Council that **45CSR15** adopts by reference the new federal provisions for emission standards for hazardous air pollutants (NESHAPS), and other regulatory requirements as outlined in 40 CFR Part 61, as of June 1, 2000. This also applies to **45CSR16**, which specifically includes associated reference methods, performance specifications, other test methods, and a minor correction to the reporting requirements for industrial-commercial-institutional steam generating units.

45CSR6 prevents and controls particulate matter air pollution from the combustion of refuse by the prohibition of open burning. This proposed rule also establishes weight and visible emission standards for incinerators and incineration, and is part of the West Virginia State Implementation Plan (SIP) approved by EPA. The rule does not prohibit bonfires, campfires, or other forms of open burning for the purposes of personal enjoyment and comfort, but establishes standards for open burning. The proposed revisions are intended to exempt certain flares and flare stacks from the requirement to obtain a permit under 45CSR13.

45CSR23 - This rule was first promulgated approximately three years ago, and for the most part adopts new federal standards by reference. There is a specific plan that each state puts together for "existing sources" that OAQ has done for previous rule versions, and the plan for West Virginia has been approved by EPA.

45CSR25 - This rule establishes a program of air quality regulation over the treatment, storage, and disposal of hazardous wastes. John informed Council that this proposed rule amendment is incorporating additional federal requirements promulgated by EPA, as of June 1, 2000. There is a shift from the Resource Conservation and Recovery Act (RCRA) requirements into the Clean Air Act (CAA) programs that OAQ operates. Many of the RCRA provisions previously contained in this rule are now being

shifted to 45CSR34 (which will be discussed later in the meeting). John said this proposed rule amendment is also necessary to maintain consistency with the Office of Waste Management's current rule - 33CSR20.

45CSR26 (copy not provided for Council at this time) specifically addresses NO_x reduction requirements for electric generating units. This rule deviates somewhat from EPA's model rule, but follows the Governor's Coalition proposal. EPA's model rule requires electric generating units .15 lb/mmBtu NO_x limits, which is roughly an 85% reduction in NO_x emissions. Whereas, the Governor's coalition proposal requires .25 lb/mmBtu NO_x limits, or 65% reduction from their 1999 emissions.

45CSR30 establishes a comprehensive air quality operating permits program consistent with the requirements of Title V of the federal Clean Air Act and 40 CFR Part 70. These proposed amendments will incorporate various corrections and revisions associated with the November 1995 Federal Register Notice. John said OAQ has deferred making these changes until now in anticipation of additional changes they believe EPA will make in Part 70. There also has not been a great deal of concern since OAQ has received interim approval of the program since 1994; however, EPA was recently sued for issuing these interim approvals. This put OAQ in the position of amending the rule to comply with the November 1995 requirements, so that OAQ can receive final approval from EPA. John said the rule may need to be modified again in the near future when (and if) EPA modifies the Part 70 requirements.

45CSR34 - This rule provides authority for the Director to determine and enforce case-by-case maximum achievable control technology (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 CAA. John said this proposed amendment does delete the requirement that OAQ do a case-by-case MACT analysis for sources that modify. He said this is a fairly significant change in the rule. Previously, and even under OAQ's Title V program, sources that do even slight modifications and were to eventually receive a MACT standard from EPA, were required to make some kind of guess as to what that standard was under such modification, and then do a case-by-case analysis to make that source comply with what everybody thought would be the ultimate MACT standard for that source. EPA was sued over this particular requirement, and has since removed the requirement from the Title V program. As mentioned earlier in the meeting, OAQ is also

proposing incorporating the provisions in 45CSR25, pertaining to hazardous waste combustors, into this rule.

After discussions and questions concerning OAQ's proposed rules, Council recommended the following to Chairman Castle:

Bill Raney deferred to Ray Joseph, representing the natural gas industry, for questions concerning Section 6 of 45CSR6 (To Prevent and Control Air Pollution From Combustion on Refuse) requirements for Permits before the installation and use of emergency flares. The concern from Mr. Joseph was that in certain situations emergency flares would exceed permitting trigger levels requiring a permit pursuant to 45CSR13. John Benedict concurred that permits would be required under those circumstances. However, that should not be that much of a burden since the emissions from a majority (90% +) of emergency flares used in the natural gas industry would be below permit trigger levels. It was noted that Section 6 was specifically revised to allow the use of emergency flares for the natural gas industry, and that others in OAQ were more directly involved in drafting the specific language in Section 6. Mr. Benedict recommended that proposed rule 45CSR6 go to public notice as drafted, and that the OAQ would meet with representatives of the natural gas industry to further discuss their concerns, and possibly consider revisions in Section 6.

Bill Raney asked if the Administrative Procedures Act requires Fiscal Notes to be completed as to the implications of the rule on the regulated community. Carrie Chambers advised Mr. Raney that fiscal notes are prepared for each rule before they are filed for public hearing, but the fiscal note requires information on the cost to the state in implementing the proposed rules, not on the regulated community. The Fiscal Notes are a work-in-progress, and will be submitted to Council after they are completed. Mr. Raney expressed his concern by stating that he has a problem in approving the proposed rules without the Council reviewing these documents beforehand. He said agencies have typically been known to crank out the standard responses to the fiscal notes, which leads to problems during the Legislative Rule-Making process. Bill Samples said he wasn't sure if the Council has a right to approve or disapprove the proposed rules, but only that the Director is to consult with Council on the proposed amendments, and then consider their comments. Mr. Raney stated that he would still like his concerns noted and included in the minutes that will be filed with the proposed rules.

Mr. Raney said he would also like to ask why there is nothing on the agenda concerning the Environmental Quality Board's (EQB) Water Quality Standards rule. Carrie Chambers explained that she has included a copy of EQB's rule (and also three of the Solid Waste Management Board's proposed rules), for Council's review, in the notebooks containing DEP's rules. She went on to explain that since the Boards have their own rule-making authority under §22B-3-4, they are not required to go before the Advisory Council during the rule-making process.

Mr. Raney said that DEP has a huge obligation in regards to water quality standards, regardless of who has the rule-making authority. He also said that the rules as proposed are huge, and the implications to the regulated community are immense.

Chairman Castle said he would try to find someone from OWR or EQB to discuss EQB's rule later in the meeting.

- **60CSR4 - "Awarding of West Virginia Stream Partners' Program Grant Rule."**

Jennifer Pauer, Program Coordinator for the Stream Partners' Program, briefed Council members on the proposed amendments to **60CSR4**. Jennifer said this rule was filed as an emergency rule in March. After one year of implementing the rule, it was discovered that the rigid spending caps contained in the original rule made it difficult to implement as intended by §20-13-4. The proposed amendments will loosen these spending caps, and therefore make it easier for grant recipients to complete their watershed improvement projects. The rule also contains minor technical cleanup.

After discussion and questions from the Council, there were no substantive recommendations made to the Director concerning the proposed amendments to 60CSR4.

- **199CSR1 - "Surface Mining Blasting Rule"**

Darcy White, Office of Explosives and Blasting (OEB), briefed Council on 199CSR1. Darcy explained that many of the proposed amendments to the Surface Mining Blasting rule are technical cleanup in nature and also involve changing the order of some provisions to improve clarity. Sections covering inspections and enforcement and appeals were extracted from portions of existing 38CSR2, the Surface Mining and Reclamation rule. These sections are being amended into the current rule to

ensure OEB has authority to enforce a program that will satisfy OSM requirements. Another section extracted from 38CSR2 deals with pre-blast survey requirements, and is necessary if OEB is to gain OSM approval of the proposed rules. Darcy said that subsection 3.11 also contains a proposed revision that allows the Director to further restrict blasting on a case-by-case basis as an alternative to prohibiting blasting altogether. To correspond with the blaster's certification rules approved by OSM, and to help improve certified blaster's professionalism and knowledge, the requirements for blaster's certification is also being proposed as an amendment to this rule.

Larry Harris, Advisory Council member, was unable to attend the meeting; however, he expressed the following comments on 199CSR1 by e-mail. He asked whether these blasting rules will also apply to the quarry bill and rules. He said that in the Surface Mining Blasting rule there seems to be some consideration of the premining groundwater/wells. This presumes that any taking of this water right from nearby landowners is cause for a claim. Is this also true for limestone quarries?

Darcy responded by saying that no, 199CSR1 applies only to coal mining. Blasting requirements for quarries are addressed in §22-4 (revised during the past legislative session, and effective this July). Rocky Parsons is currently working on a rules package as required by this legislation. Until those are promulgated, there is no change in blasting requirements for quarries.

After discussion and questions from the Council, there were no recommendations made to the Director concerning the proposed amendments to 199CSR1.

John Johnston, Chief of the Office of Oil and Gas, discussed the following proposed rules.

- **35CSR4 - "Oil and Gas Wells and Other Wells"**

- **35CSR7 - "Certification of Gas Wells"**

John told Council that there are three proposed amendments to 35CSR4 and one to 35CSR7 that are both fairly straightforward. He said the proposed amendments in **35CSR4** will: 1) allow the plats to be submitted electronically. This is the first step in relation to authorizing permitting electronically for oil and gas wells; 2) will apply to the procedure for well transfer. These proposed amendments will eliminate the pre-circular, and cut the

paperwork and mailing in half that the Office of Oil and Gas must perform in the transfer process. This will also allow the transfer of well responsibility to occur in a more timely manner; and 3) will waive the new certification for the reuse of plats when applying for plugging permits.

35CSR7 - The Federal Energy Regulatory Commission is proposing to reinstate certain regulations regarding well category determination under the Natural Gas Policy Act of 1978, Section 503. This section allows natural gas producers to obtain tax credits under Section 29 of the Interval Revenue Code. Section 503 first requires a determination by the local regulatory agency that a well is producing one of the types of gas eligible for the Section 29 tax credit. The promulgation of these proposed rules will enable the Office of Oil and Gas to review and conduct the first determination.

After discussion and questions from the Council, there were no substantive recommendations made to the Director concerning the proposed amendments to 35CSR4 and 35CSR7.

The following Office of Waste Management rules were discussed:

- **33CSR3 - "Yard Waste Management Rule"**
- **33CSR5 - "Waste Tire Management Rule"**
- **33CSR20 - "Hazardous Waste Management Rule"**
- **33CSR32 - "Underground Storage Tank Insurance Fund"**

Dick Cooke, Assistant Chief, Office Waste Management (OWM), briefed Council on **33CSR3**. He said OWM has taken a policy statement, that with a change in the yard waste laws approximately two years ago, provided for the Director to provide for reasonable and necessary exceptions to the prohibition of yard waste in landfills. This provision was not incorporated into the rule as the Legislature intended at that time. This proposed amendment incorporates that exception into the rule, and will allow West Virginia residents to dispose of small quantities of domestic yard waste in solid waste landfills, where there is no other option available.

Dick Cooke explained to Council that SB 427 (the Tire Bill) mandated that emergency rules be promulgated under **33CSR5**. The

proposed emergency rule, among other amendments, will allow the disposal of waste tires in solid waste landfills, but only when the state agency authorizing the remediation or cleanup program has determined there is no reasonable alternative available. The proposed amendments also adds permitting or other requirements for salvage yards, waste tire dealers, waste tire transporters, and commercial landfill facilities.

Mike Dorsey, Assistant Chief, OWM, next discussed **33CSR20**. He explained the rule is being amended to adopt by federal reference the 1999 changes made to 40 CFR Parts 260 through 279. Those amendments include Hazardous Waste Management System: Modification of the Hazardous Waste Program, Hazardous Waste Lamps, and 180-day Accumulation Time Under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry. These amendments are less stringent than federal regulations and are intended to assist the regulated community, and encourage recycling and waste minimization.

Mike said OWM has two rule amendments this year that deal with underground storage tanks. The first, **33CSR30**, applies to a very small segment of the population. This rule, as well as federal EPA requirements, requires that all underground storage tanks (UST) have corrosion protection by December 22, 1998. Many UST systems were upgraded to meet the standards rather than new USTs being installed; however, the UST inspectors are finding that many of the systems were not installed correctly. Since the current rules do not specifically require certification of persons who install corrosion protection, the burden falls solely on the UST owners and/or operators to correct the system. This proposed amendment should prevent this from continuing in the future.

33CSR32, OWM's final proposed rule, deals with the Underground Storage Tank Insurance Fund. This rule requires that accrued interest on the UST Insurance Trust Fund Capitalization Fund remain in that fund. The UST Administrative Fund has been depleted, and the annual registration fee assessment no longer generates enough revenue to support the UST program. The expenditures from the UST Administrative Fund are used as the required match for the federal grant. Unless more revenue is deposited in the UST Administrative Fund, there will be insufficient funds to pay personnel and other operating costs. The proposed amendments to this rule will allow the transfer of the interest money and alleviate the need to increase the annual registration fees. Mike said this amendment has the full support of the UST Advisory Committee.

After discussion of OWM's proposed rules, the following amendment to 33CSR5 (the Waste Tire Disposal rule) was offered by Counsel:

Bill Samples said that section 3.1.a indicates that a permit is required for persons who generate waste tires, but he couldn't find a definition of "generator," and this could be confusing when trying to interpret the rule. Cap Smith, Chief of OWM, said that is a very good point, and it will certainly be taken into consideration during the public hearing/comment period timeframe.

The following Office of Mining and Reclamation rules were discussed:

- **38CSR2 - "WV Surface Mining Reclamation Rule"**
- **38CSR3 - "Rules for Quarrying and Reclamation"**

John Ailes, Assistant Chief, OMR, briefly described the proposed amendments to **38CSR2**, and noted that most of the amendments deal with Office of Surface Mining program amendments.

After discussion/questions concerning 38CSR2, the following comments were made by Council:

In Section 14.15.f, OMR is proposing to tie contemporaneous reclamation to reclamation liability. The proposed amendment stated that the reclamation liability cannot exceed the bond posted for the site. Bill Raney stated his concern with limiting the area to be disturbed based upon liability. He questioned who would be determining reclamation liability, and how. He said that he understands the reasoning, but would like to go on record as being "cautiously reserved," and additional comments would be forthcoming during the public hearing/comment period.

The proposed amendment to strike Section 23, which deals with coal extraction as an incidental part of development of land for commercial, residential, industrial or civic use, was questioned by Council. John explained to Council that this provision was amended into the rule a few years ago, but never approved by OSM, and therefore deleted from the rule mainly as a cleanup. Bill Raney said that he is hesitant to see the Section deleted from the rule since it is still in DEP's statute, and has been beneficial to businesses several times throughout the state. After further discussion, Chairman Castle agreed to reinstate Section 23 and will work with OSM to seek program approval.

Rocky Parsons, OMR Assistant Chief, discussed the newly-proposed Quarry mining rules, 38CSR3, authorized in HB 4055, effective June 8. He said that the Statue was developed through the stakeholders' process, and the rules have been drafted the same way. DEP intends to file the rules as "Emergency," and at the same time file the rules to go through the normal legislative rule-making process. He said it is still a working document, but any changes made will be as a result of the stakeholders' process.

After discussion/questions on 38CSR3, the following comments are noted by Council members:

Mr. Larry Harris commented by e-mail on 38CSR3. He stated that his concerns for quarries are "related to degradation of nearby streams and water tables. Where limestone is located the quality of streams is generally high, often being trout streams. Quarries can alter the quality of the stream through siltation, and the quantity through alterations of the water table due to blasting. Hence, we want to make sure that the rules adequately address these two issues. I think that the water quality baseline studies should include a bottom fines analysis of receiving streams. Duffield of the Forest Service has established a direct relationship between the % of fines in stream sediment and the biological productivity of the stream. Having a baseline value for the receiving stream, and requiring monitoring to assure that this figure is not increased to the point where productivity is altered, would be a suitable protection for the stream - Part of 3.5 of the proposed rules."

Mr. Harris also noted his objection to calling streams "Natural Drainways" in subsection 2.17 of the definitions - He stated that "this nomenclature lowers the status of streams to drains, which are essentially industrial conduits or pipes. Very often these streams are manipulated in a way that destroys habitat and degrades the productivity of that stream."

Rocky responded that he will take these comments to the next stakeholders' meeting for their consideration, including a possible rewrite of 2.17.

Mr. Harris also asked if there are any preblast assessments or surveys of the groundwater level. Rocky responded by saying that preblast surveys do require a sampling of the water wells. With, quarries, operations in existence now have a year to do a preblast survey to the nearest protected structure within 1,000

feet of the blasting area. A new permit has to do a preblast survey for any structure within 1,500 feet of the blasting area, as opposed to 1/2 mile with coal.

Bill Samples pointed out section 7.4.b., that deals with sediment control, seems to be awkwardly worded. As it is worded, the Director has to make a very definitive determination on something that the applicant only has to have a reasonable likelihood of. Chairman Castle agreed with this comment, and the rule will be amended accordingly.

Mr. Samples also noted in 7.4.c., that normally in an environmental regulation when something has to be removed, you say it has to be disposed of in an appropriate manner. Chairman Castle agreed with this comment and amendment to this section.

3. Open Discussion.

Chairman Castle introduced Libby Chatfield, Technical Advisor for the Environmental Quality Board. Chairman Castle thanked Libby for taking the time to appear before Council to discuss 46CSR1, EQB's Water Quality Standard Rule. Randy Sovic, DEP's Office Water Resources, also participated in the discussion.

After discussions/questions concerning the proposed EQB rule, the following comments are noted from Council members:

Bill Raney said that even though the Boards (the Environmental Quality Board and Solid Waste Management Board) are not required to come before the Council with their proposed Legislative rules, he would like to go on record as being "absolutely in opposition" to the proposed Groundwater Quality Standards' rule amendments until a full-blown, socio-economic impact statement is done. He said he does take exception to the fact that the Board can autonomously go forward with the rules without coming to the Advisory Council, and that he believes the obligations and costs will be enormous, both to the state and to industry.

Lisa Dooley stated that she is in complete agreement with Mr. Raney, and would also like to go on record as being opposed to EQB's proposed rule. She said that the proposed rule amendments, especially as they relate to the economic development part, very much concern her. She believes any economic development in West Virginia will be subject to the state's anti-degradation policy. And that policy should be reviewed and compared to surrounding states so that it is not detrimental for businesses and municipalities.

Bill Samples said that there is a multitude of concerns with this rule amendment, and that industry certainly has a major concern with it. He said that other states with anti-degradation rules may not have brought things to a stop, but certainly delayed them. He said that he would also like to go on record as being opposed to this rule amendment.

Rick Roberts asked to be included, for the record, his opposition to the proposed rule.

Director Castle said that the connection and link to DEP with regard to implementing the proposed EQB rules will definitely be taken into consideration.

Before adjournment of the meeting Bill Raney said he would like to go on record to thank Carrie Chambers for putting together the rules package and e-mailing them to Counsel in a timely fashion. Chairman Castle adjourned the meeting at 4:00 p.m.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR16 "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60"

Type of Rule: _X_ Legislative _____ Interpretive _____ Procedural

Agency: Office of Air Quality

Address: 7012 MacCorkle Avenue, SE

Charleston, WV 25304

1. Effect of Proposed Rule	Annual		Fiscal Year		
Estimated Total Cost	Increase	Decrease	Current	Next	There-after
	$ 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: Costs anticipated to be incurred in the implementation of federal rules promulgated under 40 CFR Part 60 as of July 10, 2000 will be covered under prior budget estimates for implementing Title V of the Clean Air Act, as amended, under 45CSR30 authorized by the Legislature during the 1994 session and approved (interim approval) by the U.S. Environmental Protection Agency by Final Rule issued on November 15, 1995.

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. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the 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 28 2000

Signature of Agency Head or Authorized Representative

Larrie J. Chambers

08/08/00 08:43 ☐540 999 3601 SHENANDOAH NP ☐001

FAX

Date: 8/8/00

Number of pages including cover sheet: 2

To:
Edward L. Kropp

Phone:

Fax phone:

CC:

From:
Peggy Corbin
Superintendent's Office
Shenandoah National Park
3655 U. S. Highway 211 East
Luray, Virginia 22835
Phone: 540/999-3400
Fax phone: 540/999-3601

REMARKS: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

United States Department of the Interior

NATIONAL PARK SERVICE
Shenandoah National Park
3655 U.S. Hwy. 211 E
Luray, Virginia 22835-9036

IN REPLY REFER TO:

N3615

Mr. Edward L. Kropp, Chief
Office of Air Quality
West Virginia Department
Of Environmental Protection
1558 Washington Street East
Charleston, WV 15311

Dear Mr. Kropp:

The National Park Service requests a two week extension of the public comment period for West Virginia's proposed new rule for NOX emission trading (non-utilities sources) and revised rules for standards for performance and hazardous air pollutants. This request is necessary due to the two week time lapse between our request and our receipt of these proposed rules from your office.

We understand that West Virginia's proposed new NOX emissions rule for utilities sources should be available by mid-August., and would appreciate electronic copies mailed to Christi Gordon (christi_gordon@nps.gov) and Brian Mitchell (brian_mitchell@nps.gov) as soon as possible. We would prefer to review and comment on non-utilities and utilities source rules simultaneously. If that is not feasible, we still need a two week extension to August 28 for the non-utilities comment period. We intend to evaluate when and where actual reductions in NOX emissions would occur, and what the likely effects may be on the Class I Shenandoah National Park's air quality and related values.

Please notify us of your decision on our request for an extended public comment period via facsimile (540-999-3601) as soon as possible. If you have any questions, contact Christi via phone (540-999-3311) or e-mail.

Sincerely,

Douglas K. Morris
Superintendent

TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 16
STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES PURSUANT TO 40 CFR PART 60

§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 pursuant to ~~42 U.S.C. 7411(b) [C.A.A. §~~section 111(b)~~]~~ of the federal Clean Air Act, as amended (CAA). 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.

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

1.3. Filing Date. -- ~~May 19, 2000~~

1.4. Effective Date. -- ~~June 1, 2000~~

1.5. Incorporation By Reference. -- Federal Counterpart Regulation. The Director has determined that a federal counterpart rule exists, in accordance with the Director's recommendation, and with limited exception, this rule incorporates by reference 40 CFR Part 60, effective July 1, 1998~~9~~, as amended by the Federal Register through ~~June 1, 1999~~ July 10, 2000.

1.6. Former Rules. -- This legislative rule amends 45CSR16 "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60" which was filed May ~~20, 1999~~ 19, 2000, and which became effective June 1, ~~1999~~ 2000.

§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 rule.

§45-16-3. Definitions

3.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.

3.2. "Clean Air Act" ("CAA") means 42 U.S.C. §§7401 et seq.

3.3. "Director" means the director of the division of environmental protection or such other person to whom the director has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

§45-16-~~3~~4. Adoption of Standards.

~~3~~4.1. Standards. -- The Director hereby adopts and incorporates by reference the provisions of 40 CFR Part 60 including any reference methods, performance specifications and other test methods which are appended to such standards and contained in 40 CFR Part 60, effective July 1, 1998~~9~~, as amended by the Federal Register through ~~June 1, 1999~~ July 10, 2000, for the purposes of implementing a program for standards of performance for new stationary sources, except as follows:

~~3~~4.1.a. Part 60.9 is amended to provide that information shall be available to the public in accordance with W. Va. Code §§22-5-1 et seq., 29B-1-1 et seq., and 45CSR31.

34.1.b. Sub-parts B, C, Ca, Cb, Cc, Ce, Ea, Ec, and WWW of 40 CFR Part 60 shall be excluded.

§45-16-45. Director.

45.1. Any and all references in said 40 CFR Part 60 to the "Administrator" of the United States Environmental Protection Agency are amended to be the "Director" of the West Virginia Division of Environmental Protection except as follows:

45.1.a. where the federal regulations specifically provide that the Administrator shall retain authority and not transfer such authority to the State;

4.51.b. where provisions occur which refer to:

4.5.1.b.1. alternate means of emission limitations;

4.5.1.b.2. alternate control technologies;

4.5.1.b.3. innovative technology waivers;

4.5.1.b.4. alternate test methods;

4.5.1.b.5. alternate monitoring methods;

4.5.1.b.6. waivers/adjustments to recordkeeping and reporting;

4.5.1.b.7. emissions averaging;

4.5.1.b.8. applicability determinations; or

4.5.1.b.9. the authority to require testing under Section 114 of the Clean Air Act, as amended; or

4.5.1.c. where the context of the regulation clearly requires otherwise.

§45-16-56. 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.

§45-16-67. Inconsistency Between Rules.

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

Division of Environmental Protection

Public Hearing: Rules 45 CSR1, 45 CSR6, 45 CSR15, 45 CSR16, 45 CSR23, 45 CSR25, 45 CSR30 and 45 CSR 34 **Time/Date:** 8/14/2000 6:00 p

	NAME	ADDRESS	COMMENT YES	COMMENT NO
1.	Tina Adams	Flexsys		X
2.	Kim Brown Poland	Robinson + McElwee LLP	X	
3.	HZ Appel	Robinson & McElwee LLP		X
4.	Dave Yaussy	Robinson & McElwee LLP		X
5.	Kathy G. Beckett	Jackson + Kelly / WV Chamber		
6.	[illegible]	Charleston Gazette		X
7.	David M Flannery	Jackson & Kelly		X
8.	Tim Mallon	AEP-WV		X
9.	Lisa McClung	OAQ		X
10.	Karen Watson	"		X
11.				
12.				
13.				
14.				
15.				

ORIGINAL

BEFORE THE WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

In the matter of:

PUBLIC HEARING ON PROPOSED LEGISLATIVE RULE

45 CSR 16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60".

Transcript of proceedings had at a public hearing in the above-styled matter taken by Missy L. Young, Certified Court Reporter and Commissioner in and for the State of West Virginia, at the West Virginia Division of Environmental Protection, Office of Air Quality, Conference Room, 7012 MacCorkle Avenue, S.E., Charleston, West Virginia, commencing at 6:03 p.m., on the 14th day of August 2000, pursuant to notice.

P R O C E E D I N G S

MS. CHANDLER:

The purpose of this public hearing is to accept comments on 45CSR16 - "Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60".

This rule adopts standard of performance for new stationary sources promulgated by the United States Environmental Protection Agency (U.S. EPA) pursuant to section 111(b) of the federal Clean Air Act, as amended (CAA). 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. This revised rule incorporates by reference additional provisions relating to corrections and additions to Appendix A which are Test Methods, and addition to Appendix B (Performance Specifications), and a minor correction to the reporting requirements for industrial-commercial-institutional steam generating units.

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, which are the new

source performance standards. The final adoption of the proposed rule amendment will enable the State to become the primary enforcement authority for NSPS subparts promulgated by U.S. EPA as of June 1, 2000. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act as amended.

Upon authorization and promulgation of revisions to 45CSR16, the Office of Air Quality will seek federal delegation of authority from the U.S. Environmental Protection Agency to implement and enforce the revised standards.

The floor is now open for public comment.

There being nothing further, this public hearing for 45CSR16 is concluded. The comment period has been extended until 5:00 p.m., Monday, August 21.

(WHEREUPON, the public hearing was concluded.)

BEFORE THE WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, the undersigned, Missy L. Young, a Certified Court Reporter and Commissioner within and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the proceedings had in the aforementioned matter.

Given under my hand and official seal this 22nd day of August 2000.

Missy L. Young

Certified Court Reporter
Commissioner for the State of West Virginia

My commission expires April 15, 2008.

NOTICE:

ALL FEDERAL ATTACHMENTS ARE UNCHANGED. SEE THE COMMENT PERIOD TO VIEW THESE ATTACHMENTS.

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 2000. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone.

Dated: June 12, 2000.

Mindy S. Lubber,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(67) to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(67) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on September 11, 1998.

(i) Additional materials.

(A) Letter from the New Hampshire Department of Environmental Services dated September 11, 1998 stating a negative declaration for the aerospace coating operations Control Techniques Guideline category.

Subpart OO—Rhode Island

3. Section 52.2070 is amended as follows:

In paragraph (e), the table is amended by adding at the end of the table new citations for two negative declarations to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(e) Non Regulatory.

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date	Explanations
*	*	*	*	*
Negative Declaration for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes Control Techniques Guideline Categories.	Statewide	Submitted 4/5/95	12/2/99, 64 FR 67495	
Negative Declaration for Aerospace Coating Operations Control Techniques Guideline Category.	Statewide	Submitted 3/28/00	July 10, 2000 [Insert FR citation from published date].	

Subpart UU—Vermont

4. Section 52.2370 is amended by adding paragraph (c)(26) to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) * * *

(26) Revisions to the State Implementation Plan submitted by the Vermont Air Pollution Control Division on July 28, 1998.

(i) Additional materials.

(A) Letter from the Vermont Air Pollution Control Division dated July 28, 1998 stating a negative declaration for the aerospace coating operations Control Techniques Guideline category.

[FR Doc. 00–16626 Filed 7–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 261, and 270

[FRL–6720–9]

RIN 2050–AE01

NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On September 30, 1999 the Environmental Protection Agency (EPA) published the Hazardous Waste Combustors NESHAP Final Rule. On November 19, 1999 EPA published the first technical correction of that rule to address a time sensitive situation. Today's rule corrects numerous typographical errors and clarifies several issues from the September 30, 1999 rule, one issue from a closely-related June 19, 1998 rule, and makes one adjustment to the November 19, 1999 technical correction. These corrections and clarifications will make the NESHAP final rule easier to understand and implement.

DATES: This rule is effective on July 10, 2000.

ADDRESSES: The public may obtain a copy of this technical correction at the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 412–9812 in the Washington, D.C. metropolitan area. For information on this rule contact David Hockey (5302W), Office of Solid Waste, Ariel Rios

Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460, at e-mail address hockey.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Good Cause Exemption

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because it merely corrects errors and clarifies certain requirements in the Hazardous Waste Combustors NESHAP Final Rule (64 FR 52828, September 30, 1999). Today's action also supplies one omission from the emergency technical correction published on November 19, 1999 (64 FR 63209) and makes one correction to the related June 19, 1998 (63 FR 33783) final rule. With the exception of the emergency technical correction published November 19, 1999, the final rules were subject to notice and comment. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

II. Reasons and Basis for Today's Action

The Agency has received numerous comments from the regulated community requesting clarification and correction of the rule finalizing NESHAPS for hazardous waste combustors (64 FR 52828, September 30, 1999). The Agency is correcting typographical errors and misprints, as well as clarifying several matters related to preamble statements and regulatory provisions. Today's action also supplies one omission from the emergency technical correction published on November 19, 1999 (64 FR 63209) and makes one correction to the related June 19, 1998 (63 FR 33783) final rule.

The regulated community has also raised other issues and questions through informal comments as well as through litigation that will in many cases require notice and comment rulemaking. The Agency plans to propose changes in the **Federal Register** as quickly as possible that will address many of these other issues.

III. Corrections and Clarifications

A. Corrections to the September 30, 1999 Final Rule

1. Units for Particulate Matter in Appendix A, Method 5i Are Corrected

The unit for particulate matter (PM) concentration given in section 12.2 of Method 5i in appendix A of part 60 is "mg/unit volume" (see 64 FR 53030). However, in the preamble discussion on pages 52927–52928, the PM concentration is expressed as "mg/dscm." The Agency is revising the mg/unit volume in Appendix A, because the PM criteria would change depending on the volume measured. Dry standard cubic meter (dscm) is the intended and more precise measure.

2. Sources That Have Initiated RCRA Closure Requirements Are Exempt: Table 1 to § 63.1200

Table 1 in § 63.1200 (see page 64 FR 53038) explains the exemptions from these regulations for hazardous waste combustors. According to (1)(ii) of that table, previously affected sources have to be in compliance with the closure requirements of subpart G of 40 CFR part 63, 40 CFR part 264, or 40 CFR part 265 to be exempt from the requirements of subpart EEE of part 63. The Agency agrees with commenters that, under our existing regulations, previously affected sources need only have initiated these closure requirements to be exempt, and today we are revising Table 1 of § 63.1200 to reflect this change.

3. Continuous Monitoring of Both Hydrocarbons and Carbon Monoxide Is Not Required: §§ 63.1203, 63.1204, 63.1205, and 63.1209

The preamble to the September 30, 1999 rule states on page 52848 that, to comply with the carbon monoxide and hydrocarbon emission standard, you must continuously monitor and comply with the emission standard for either carbon monoxide or hydrocarbons. If you choose to continuously monitor carbon monoxide, however, you must document compliance with the hydrocarbon standard only during the destruction and removal efficiency (DRE) test or its equivalent.

Several stakeholders note that the regulatory language implementing this provision could be interpreted to mean that continuous monitoring and compliance with both the carbon monoxide and hydrocarbon emissions standards are required. The Agency is today revising the regulatory language to clarify as intended that continuous monitoring and compliance with either the carbon monoxide or hydrocarbon standard is required. See revised §§ 63.1203(a)(5)(i), 63.1203(b)(5)(i), 63.1204(a)(5)(i)(A), 63.1204(a)(5)(ii)(B), 63.1204(b)(5)(i)(A)(*1*), 63.1205(a)(5)(i), 63.1205(b)(5)(i), 63.1209(a)(1)(i), and 63.1209(a)(*7*).

4. References to Subparts BB and CC of Part 264 Are Redundant: §§ 63.1203(e), 63.1204(g), 63.1205(e)

The regulatory sections that prescribe emission standards for hazardous waste burning incinerators (§ 63.1203), cement kilns (§ 63.1204), and lightweight aggregate kilns (§ 63.1205) each reference subparts BB and CC of 40 CFR part 264 that prescribe emission standards for equipment leaks, tanks, surface impoundments, and containers. Several commenters assert that is is redundant and unnecessary to reference these subparts because they are separately applicable under part 264. We agree and, to avoid redundancy, therefore delete the references from this rule.

5. The 720 Hour Operating Limit is Renewable: §§ 63.1206(b)(5)(i)(C)(1) and 63.1207(h)(2)

The preamble to the September 30, 1999 rule states that the rule allows you to operate after a failed test for purposes of pretesting or performance testing for up to a total of 720 hours of operation, renewable at the discretion of the Administrator. See 64 FR 52914 and § 63.1207(k)(2). We explain in the preamble that the 720 operating period is renewable at the discretion of the Administrator in response to commenters concerns about unforeseen delays in pretesting and testing activities and given that current RCRA rules allow renewals.

Several stakeholders noticed that we did not include allowance for renewals of the 720 hour periods in two other similar provisions of the rule: § 63.1206(b)(5)(i)(C)(*1*) pertaining to restrictions on waste burning after a change in design, operation, or maintenance that may adversely affect compliance; and § 63.1207(h)(2) pertaining to pretesting and performance testing under waived operating limits to satisfy the periodic comprehensive performance testing requirements. This was a drafting oversight and we are today correcting the rule to allow the Administrator to extend the 720 hours of operations for pretesting and performance testing as warranted in these situations as well.

6. Average Limits Are Calculated as the Average of the Test Run Averages: § 63.1209

The preamble to the September 30, 1999 rule states that feedrate limits for mercury, semi-volatile metals, low-volatile metals, and hydrochloric acid/chlorine gas must be determined by establishing the "average of the test run averages" from the comprehensive performance test (see pages 64 FR 52943, 52946, and 52952, respectively). However, in § 63.1209, the requirement is incorrectly expressed as the "average of the average hourly rolling averages for each run" from the comprehensive performance test. Today's rule amends the regulatory language to read "the average of the test run averages," which was the intended phrase. We are also clarifying that the preamble summary tables for semi-volatile metals and low-volatile metals (64 FR 52945) and hydrochloric acid/chlorine gas (64 FR 52951) should state that feedrate limits for 12-hour averaging periods are established by the average of test run averages rather than the average of the average hourly rolling averages for each run.

7. The Table in § 63.1211 Summarizing Recordkeeping Requirements Is Corrected

Today's rule corrects the reference to § 63.1206(c)(7), as well as adding a new reference to for § 63.1206(c)(5), to the table of recordkeeping requirements found in § 63.1211 (see 64 FR 53065). No substantive recordkeeping changes are made by this action; we are merely updating the table's references to other sections where the substantive recordkeeping requirements are lodged.

8. The Definition of Rolling Average in the Appendix to Subpart EEE of Part 63 Is Corrected

In the definitions section of the appendix to subpart EEE, the definition for a "rolling average" includes a sentence on continuous emissions monitoring systems (CEMS) other than carbon monoxide and total hydrocarbons CEMS. This sentence is unnecessary because we did not finalize other CEMS-based emission standards: therefore, we are removing this sentence from the appendix to subpart EEE.

9. The Citation in § 270.42 of the Notification of Compliance Is Corrected

The September 30, 1999 final rule moved the Notification of Intent to Comply (NIC) requirements from § 63.1211 to § 63.1210, but failed to revise the citation of § 63.1211 in § 270.42. We are correcting this citation in today's rule.

10. Information Required To Be Included in the Performance Test Plan Is Consolidated: § 63.1207(f)(1)

The rule lists information that must be included in the comprehensive performance test plan under § 63.1207(f)(1). Several stakeholders note, however, that the list is not complete. Several types of additional information that must be included in the comprehensive performance test plan were inadvertently omitted from the summary list in § 63.1207(f)(1). Accordingly, to avoid a misleading summary list, we are revising the summary list to include all information that various provisions of the rule require to be included in the comprehensive performance test plan.

11. Definition of a Responsible Official Is Revised: § 63.1212(a)(2)

We are revising the definition of a "responsible official" provided in § 63.1212(a)(2) of the final rule so that it conforms to the definition in the Clean Air Act implementing regulations of § 63.2. We did not intend to alter the statutory definition though § 63.1212(a)(2).

12. Several Citations Are Corrected

In the § 63.1201(a) definition of an automatic waste feed cutoff system, we incorrectly cited § 63.1206(c)(2)(viii) rather than § 63.1206(c)(3)(viii). In § 63.1210(c)(2), we incorrectly cited paragraph (b)(1) rather than (c)(1). In §§ 63.1212(b)(1) and (2), we incorrectly cited requirements for § 63.1206(a)(2) rather than § 63.1206(a)(3). These citations are corrected in today's action.

13. Citation in Table 1 to § 63.1200 Is Corrected

Table 1 to § 63.1200 (3) (see 64 FR 53038) provides an exemption from the requirements of subpart EEE if you burn certain wastes exempt from regulation under section 266; however, the exemption in the table incorrectly cites section 266.100(b). The correct cite is section 266.100(c). We revised the regulations at section 266.100 as part of the HWC MACT final rule, to include a new section 266.100(b) and inadvertently failed to revise the corresponding cite in Table 1 to reflect the change made to section 266.100. Today's action revises Table 1 to reflect the correct cite to section 266.100(c).

B. Correction to the November 19, 1999 Technical Correction

In the November 19, 1999 rule, the Agency amended § 63.1210(b)(1)(iv) by replacing the word "intent" with "intend" (see 64 FR 63212). However, the Agency inadvertently deleted the words "do not." Today's rule reinstates the words "do not" before "intend" in § 63.1210(b)(1)(iv).

C. Corrections to the Related June 19, 1998 Final Rule

1. Gas Turbines Are Added to the List of Approved Burners for Comparable Fuels

The June 19, 1998 (63 FR 33783) final rule establishing the comparable fuels exclusion allows the burning of comparable fuels and syngas fuels in certain combustion sources. We intended comparable fuels and syngas fuels to be burned only in those units capable of managing the excluded hazardous waste. Commenters noted that gas turbines are capable of managing and burning syngas fuels. However, we inadvertently excluded gas turbines from the list of approved comparable/syngas fuel burners. Today's action adds gas turbines to the list of approved comparable/syngas burners under § 261.38(c)(ii)(2).

D. Clarifications of the September 30, 1999 Final Rule

1. Clarification That the Emergency Safety Vent Operating Plan Is To Be Kept in the Operating Record

The preamble to the September 30, 1999 rule states on page 52907 that if you use an emergency safety vent (ESV) in your system design, then you must develop and submit an ESV operating plan with the DOC and NOC. However, there are no requirements in § 63.1206(c)(4)(ii) for submitting the plan because we intended that an ESV operating plan must only be kept in the facility's operating record. The Agency wishes to clarify today that the preamble language requiring submittal of the plan with the DOC and NOC is incorrect and should be disregarded. The ESV operating plan need only be kept in the source's operating record.

2. Preamble Language Regarding a Ten-Minute Average Limit for pH for HCl and Cl_2 Is Incorrect

In § 63.1209, paragraph (o)(3)(iv) requires owners/operators of combustion facilities using wet scrubbers to control hydrochloric acid and chlorine gas to establish a limit on the minimum pH on an hourly rolling average basis (see 64 FR 53062). However, the preamble states that the minimum pH must be established by a dual ten-minute and hourly rolling average (see 64 FR 52952). As several stakeholders pointed out, earlier in the preamble (64 FR 52920) the Agency concluded that, although there may be site-specific circumstances that warrant

shorter than one hour in duration, the ten-minute rolling average is not appropriate for a national regulation. The Agency wishes to clarify that the regulatory language is correct, and that the preamble language found on page 52952 is incorrect and should be disregarded.

3. Preamble Language Regarding Manual Stack Methods for Compliance With the HCl and Cl_2 Standards Is Incorrect

On page 52958, we state that for compliance with the hydrochloric acid and chlorine standards, you must use Method 26A in 40 CFR part 60, appendix A. We also go on to say that we reject other methods for HCl and Cl_2 compliance. These preamble statements are in error and should be disregarded. In the final regulatory language we allow the use of Methods 261, 320, or 321 for compliance.

4. The Response to Comments Associated With Combustion System Leaks Is Incorrect

The September 30, 1999 rule states that a source must control combustion system leaks by: (1) Keeping the combustion zone sealed to prevent combustion system leaks; (2) maintaining the maximum combustion zone pressure lower than ambient pressure using an instantaneous monitor; or, (3) upon written approval of the Administrator, using an alternative means of control to provide control of combustion system leaks equivalent to maintenance of combustion pressure lower than ambient pressure (see § 63.1206(c)(5)). In our response to comments on the proposed rule (see US EPA, "Final Response to Comments to the Proposed HWC MACT Standards: Volume II," July 1999) we incorrectly implied that it would be appropriate for a source to use a one-minute averaging period to comply with the provisions of option 2 above.[1]

The Agency today clarifies that the response to comments language is incorrect. We considered the commenters' suggested approach of allowing the use of one-minute averaging periods to comply with option 2 (*i.e.*, § 63.1206(c)(5)(i)(B)), but later rejected the approach because it did not assure fugitive emissions would be adequately controlled. The response to comments document represents an earlier point of view and inadvertently was not updated to reflect our final position.[2]

5. Clarification of Applicability of Subpart EEE to Facilities Previously Subject to Title V Permitting

Following promulgation of the September 30, 1999 rule, we received a number of questions regarding the applicability of subpart EEE to sources that operate, or are being constructed/reconstructed, at facilities previously subject to, or in possession of, a title V permit. These questions arise in response to the rule language of 40 CFR 63.1200 (a)(2) where we state that, "Both area sources and major sources, not previously subject to title V permitting, are immediately subject to the requirement to apply for and obtain a title V permit in all States, and in areas covered by part 71 of this chapter." In today's correction document we are clarifying that the provisions of subpart EEE apply to each hazardous waste burning incinerator, cement kiln, and lightweight aggregate kiln individually firing hazardous waste on, or following, the effective date of the final rule (September 30, 1999).[3] This includes individual affected sources operating at facilities currently in possession of a title V permit due to other regulated activities at the facility. The language of § 63.1200(a)(2) in no way limits the need for facilities currently in possession of a title V permit to fulfill the requirements of subpart EEE as they apply to each affected source operating at the facility. Section 63.1200(a)(2) is only meant to state that facilities in possession of a title V permit do not have to apply for a new title V permit for the hazardous waste burning activities regulated by subpart EEE. Our presumption in promulgating § 63.1200(a)(2) is that sources currently in possession of a title V permit must follow the applicable requirements of the general provisions found at 40 CFR part 63, subpart A, and the permit revision provisions of 40 CFR part 71, subpart A.

6. Operator Training and Certification Requirement Is Clarified

Many stakeholders have expressed concern that the operator training and certification requirements under § 63.1206(c)(6) could be interpreted to require virtually every employee at the facility to pass a technical training and certification program equivalent to that of the American Society of Mechanical Engineers (ASME) QHO–1 program. These stakeholders note that a formal technical training and certification program is not necessary or appropriate for employees holding positions not related to the emissions control aspects of facilities operations—such as some of the administrative staff, quarry workers and raw material handlers.

We agree and are clarifying today that we neither intended the facility to subject all personnel to the training and certification program requirements nor intended the facility to establish a single training and certification program applicable to all categories of personnel whose activities may reasonably be expected to directly affect emissions of hazardous air pollutants. Instead, we contemplated a source having several programs suitable for each category of personnel, and that for control room operators and shift supervisors, the training and certification program would certainly be of a technical level similar to ASME QHO–1. For personnel whose activities may reasonably be expected to directly affect emissions, the certification may simply consist of documentation that they successfully completed a training program commensurate with the level of responsibility for the particular position. Personnel such as quarry operators, raw material workers, finished product handlers, some types of process monitoring operations, and much of the administrative staff whose activities are not expected to directly affect emissions of hazardous air pollutants from the source are exempted from the operator training and certification requirements of § 63.1206(c)(6).

7. Part 60, Appendix A, Method 5i, Section 12.2b—Relative Standard Deviation (RSD) Criteria for Emissions Less Than 1 mg/dscm Are Clarified

Part 60, appendix A, Method 5i, section 12.2b includes a graduated precision criteria for eliminating imprecise data. Section 12.2a includes a simplified equation for calculating the precision criteria, called the Relative Standard Deviation, or RSD. The proposal to include a precision criteria in Method 5i was widely endorsed.

[1] For instance, one of the sections in this document states "therefore, we have decided to follow commenters suggestions and allow a one-minute averaging period to account for small fluctuations in combustion chamber pressure due to inaccurate readings of the monitor or feeding practices that lead to brief increases in combustion pressure." See Final Response to Comments to the Proposed HWC MACT Standards, Volume II, Section Titled "Combustion Fugitive Emissions Maximum Pressure Limit," pages 5 and 6.

[2] We note that the decision not to allow the use of averaging periods to comply with § 63.1206(c)(5)(i)(B) is reflected in the September 30, 1999 preamble (see 64 FR 52920) and the July 1999 Final Technical Support Document, Volume IV, Chapter 2, Section 2.2.1, and Chapter 8.

[3] The provisions of subpart EEE apply to each source firing hazardous waste on the effective date of the rule unless a source can demonstrate that it is exempt from subpart EEE because the source is in compliance with one of the three provisions identified in table 1 to § 63.1200.

The precision criteria currently state that if the average of paired train data is greater than 10 mg/dscm, the resulting RSD must not be greater than 10%. At a paired train data average of 1 mg/dscm, the RSD must not be greater than 25%. Between 1 and 10 mg/dscm, the RSD is linearly scaled from 25 to 10% based on the actual mean value recorded. The method is silent about what the RSD is if the mean emissions are less than 1 mg/dscm.

We intended there to be no RSD criteria if the average emissions from the paired data trains is less than 1 mg/dscm. In other words, no precision criteria exist and all average results less than 1 mg/dscm are acceptable.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding, see Section I above, that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Our compliance with these statutes and Executive Orders for the underlying rule is discussed in the September 30, 1999 **Federal Register** document.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of July 10, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Immediate Effective Date

EPA is making this rule effective immediately. The rule adopts amendments which are purely technical in that they correct mistakes which are clearly inconsistent with the Agency's stated intent. This rule also clarifies ambiguities or errors in preamble statements to help stakeholders better understand the regulations themselves. Comment on such changes is unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B). For the same reasons, there is good cause to make the rule effective immediately pursuant to 5 U.S.C. 553 (d)(3).

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Ammonium sulfate plants, Batteries, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Heaters, Household appliances, Insulation, Intergovernmental relations, Iron, Labeling, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Polymers, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Sulfuric acid plants, Tires, Urethane, Vinyl, Volatile organic compounds, Waste treatment and disposal, Zinc.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Comparable fuels, Syngas fuels, Excluded hazardous waste, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 13, 2000.

Michael Shapiro,

Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, 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: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Appendix A in part 60 is amended by revising paragraph 12.2(b) in test method 5i to read as follows:

Appendix A—Test Methods

* * * * *

Method 5I—Determination of Low Level Particulate Matter Emissions From Stationary Sources

* * * * *

12.2 * * *

b. A minimum precision criteria for Reference Method PM data is that RSD for any data pair must be less than 10% as long as the mean PM concentration is greater than 10 mg/dscm. If the mean PM concentration is less than 10 mg/dscm higher RSD values are acceptable. At mean PM concentration of 1 mg/dscm acceptable RSD for paired trains is 25%. Between 1 and 10 mg/dscm acceptable RSD criteria should be linearly scaled from 25% to 10%. Pairs of manual method data exceeding these RSD criteria should be eliminated from the data set used to develop a PM CEMS correlation or to assess RCA. If the mean PM concentration is less than 1 mg/dscm, RSD does not apply and the mean result is acceptable.

* * * * *

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

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

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

Subpart EEE—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors

4. Section 63.1200 is amended by revising Table 1 in paragraph (b) to read as follows:

§ 63.1200 Who is subject to these regulations?

* * * * *

(b) * * *

TABLE 1 TO § 63.1200.—HAZARDOUS WASTE COMBUSTORS EXEMPT FROM SUBPART EEE

If	And if	Then
(1) You are a previously affected source.	(i) You ceased feeding hazardous waste for a period of time greater than the hazardous waste residence time (i.e., hazardous waste no longer resides in the combustion chamber);. (ii) You have initiated the closure requirements of subpart G, parts 264 or 265 of this chapter;. (iii) You begin complying with the requirements of all other applicable standards of this part (Part 63); and. (iv) You notify the Administrator in writing that you are no longer an affected source under this subpart (Subpart EEE).	You are no longer subject to this subpart (Subpart EEE).
(2) You are a research, development, and demonstration source.	You operate for no longer than one year after first burning hazardous waste (Note that the Administrator can extent this one-year restriction on a case-by-case basis upon your written request documenting when you first burned hazardous waste and the justification for needing additional time to perform research, development, or demonstration operations.).	You are not subject to this subpart (Subpart EEE). This exemption applies even if there is a hazardous waste combustor at the plant site that is regulated under this subpart. You still, however, remain subject to § 270.65 of this chapter.
(3) The only hazardous wastes you burn are exempt from regulation under § 266.100(c) of this chapter.	.....	You are not subject to the requirements of this subpart (Subpart EEE).

* * * * *

5. Section 63.1201 is amended by revising the definition of *Automatic waste feed cutoff (AWFCO) system* in paragraph (a) to read as follows:

§ 63.1201 Definitions and acronyms used in this subpart.

(a) * * *

Automatic waste feed cutoff (AWFCO) system means a system comprised of cutoff valves, actuator, sensor, data manager, and other necessary components and electrical circuitry designed, operated and maintained to stop the flow of hazardous waste to the combustion unit automatically and immediately (except as provided by § 63.1206(c)(3)(viii)) when any operating requirement is exceeded.

* * * * *

6. Section 63.1203 is amended by revising paragraphs (a)(3), (a)(4), (a)(5)(i), and (b)(5)(i) and removing paragraph (e) to read as follows:

§ 63.1203 What are the standards for hazardous waste incinerators?

(a) * * *

(3) Lead and cadmium in excess of 240 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 97 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) * * *

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

(b) * * *

(5) * * *

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you must also

document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

7. Section 63.1204 is amended by revising paragraphs (a)(5)(i)(A), (a)(5)(ii)(B), and (b)(5)(i)(A)(*1*) and by removing and reserving paragraph (g) to read as follows:

§ 63.1204 What are the standards for hazardous waste burning cement kilns?

(a) * * *

(5) * * *

(i) * * *

(A) Carbon monoxide in the by-pass duct or mid-kiln gas sampling system in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(i)(B) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the by-pass duct or mid-kiln gas sampling system do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

(ii) * * *

(B) Carbon monoxide in the main stack in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii)(A) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the main stack do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

* * * * *

(b) * * *

(5) * * *

(i) * * *

(A) * * *

(*1*) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(i)(A)(2) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

8. Section 63.1205 is amended by revising paragraph (a)(5)(i); by redesignating paragraph (b)(5) introductory text as paragraph (b)(5)(i) and revising it; and by removing paragraph (e), to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns?

(a) * * *

(5) * * *

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

(b) * * *

(5) *Carbon monoxide and hydrocarbons.* (i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

* * * * *

9. Section 63.1206 is amended by revising paragraph (b)(5)(i) introductory text, (b)(5)(i)(C)(1), (b)(5)(iii), and (c)(6)(i) to read as follows:

§ 63.1206 When and how must you comply with the standards and operating requirements?

* * * * *

(b) * * *

(5) *Changes in design, operation, or maintenance.* (i) *Changes that may adversely affect compliance.* If you plan to change (as defined in paragraph (b)(5)(iii) of this section) the design, operation, or maintenance practices of the source in a manner that may adversely affect compliance with any emission standard that is not monitored with a CEMS:

* * * * *

(C) * * *

(*1*) Except as provided by paragraph (b)(5)(i)(C)(2) of this section, after the change and prior to submitting the notification of compliance, you must not burn hazardous waste for more than a total of 720 hours (renewable at the discretion of the Administrator) and only for the purposes of pretesting or comprehensive performance testing. Pretesting is defined at § 63.1207(h)(2)(i) and (ii).

* * * * *

(iii) *Definition of "change."* For purposes of paragraph (b)(5) of this section, "change" means any change in design, operation, or maintenance practices that were documented in the comprehensive performance test plan, Notification of Compliance, or startup, shutdown, and malfunction plan.

* * * * *

(c) * * *

(6) *Operator training and certification.* (i) You must establish training programs for all categories of personnel whose activities may reasonably be expected to directly affect emissions of hazardous air pollutants from the source. Such persons include, but are not limited to, chief facility operators, control room operators, continuous monitoring system operators, persons that sample and analyze feedstreams, persons that manage and charge feedstreams to the combustor, persons that operate emission control devices, and ash and waste handlers. Each training program shall be of a technical level commensurate with the person's job duties specified in the training manual. Each commensurate training program shall require an examination to be administered by the instructor at the end of the training course. Passing of this test shall be deemed the "certification" for personnel, except that for control room operators and shift supervisors, the training and certification program shall be as specified in paragraphs (c)(6)(iii) and (iv) of this section.

* * * * *

10. Section 63.1207 is amended by revising paragraphs (f)(1)(ii)(A), (f)(1)(ii)(B), (f)(1)(ix), (f)(1)(x), (f)(1)(xi), (f)(1)(xii), (h)(2) introductory text, and (j)(1)(i); redesignating paragraph (f)(1)(xiii) as (f)(1)(xxvi); and adding paragraphs (f)(1)(xiii) through (f)(1)(xxv), to read as follows:

§ 63.1207 What are the performance testing requirements?

* * * * *

(f) * * *

(1) * * *

(ii) * * *

(A) An identification of such organic hazardous air pollutants that are present in the feedstream, except that you need not analyze for organic hazardous air pollutants that would reasonably not be expected to be found in the feedstream. You must identify any constituents you exclude from analysis and explain the basis for excluding them. You must conduct the feedstream analysis according to § 63.1208(b)(8).;

(B) An approximate quantification of such identified organic hazardous air pollutants in the feedstreams, within the precision produced by the analytical procedures of § 63.1208(b)(8); and

* * * * *

(ix) A determination of the hazardous waste residence time as required by § 63.1206(b)(11);

(x) If you are requesting to extrapolate metal feedrate limits from comprehensive performance test levels under §§ 63.1209(l)(1)(i) or 63.1209(n)(2)(ii))(A):

(A) A description of the extrapolation methodology and rationale for how the approach ensures compliance with the emission standards;

(B) Documentation of the historical range of normal (*i.e.*, other than during compliance testing) metals feedrates for each feedstream;

(C) Documentation that the level of spiking recommended during the performance test will mask sampling and analysis imprecision and inaccuracy to the extent that extrapolation of feedrates and emission rates from performance test data will be as accurate and precise as if full spiking were used;

(xi) If you do not continuously monitor regulated constituents in natural gas, process air feedstreams, and feedstreams from vapor recovery systems under § 63.1209(c)(5), you must include documentation of the expected levels of regulated constituents in those feedstreams;

(xii) Documentation justifying the duration of system conditioning required to ensure the combustor has achieved steady-state operations under performance test operating conditions, as provided by paragraph (g)(1)(iii) of this section;

(xiii) For cement kilns with in-line raw mills, if you elect to use the emissions averaging provision of § 63.1204(d), you must notify the Administrator of your intent in the initial (and subsequent) comprehensive performance test plan, and provide the information required under § 63.1204(d)(ii)(B).

(xiv) For preheater or preheater/precalciner cement kilns with dual stacks, if you elect to use the emissions averaging provision of § 63.1204(e), you must notify the Administrator of your intent in the initial (and subsequent) comprehensive performance test plan, and provide the information required under § 63.1204(e)(2)(iii)(A).

(xv) For incinerators and lightweight aggregate kilns equipped with a baghouse, you must submit the baghouse operation and maintenance plan required under § 63.1206(c)(7)(ii) with the initial comprehensive performance test plan.

(xvi) If you are not required to conduct performance testing to document compliance with the mercury, semivolatile metal, low volatile metal, or hydrochloric acid/chlorine gas emission standards under paragraph (m) of this section, you must include with the comprehensive performance test plan documentation of compliance with the provisions of that section.

(xvii) If you propose to use a surrogate for measuring or monitoring gas flowrate, you must document in the comprehensive performance test plan that the surrogate adequately correlates with gas flowrate, as required by paragraph (m)(7) of this section, and § 63.1209(j)(2), (k)(3), (m)(2)(i), (m)(5)(i), and (o)(2)(i).

(xviii) You must submit an application to request alternative monitoring under § 63.1209(g)(1) not later than with the comprehensive performance test plan, as required by § 63.1209(g)(1)(iii)(A).

(xix) You must document the temperature location measurement in the comprehensive performance test plan, as required by §§ 63.1209(j)(1)(i) and 63.1209(k)(2)(i).

(xx) If your source is equipped with activated carbon injection, you must document in the comprehensive performance test plan:

(A) The manufacturer specifications for minimum carrier fluid flowrate or pressure drop, as required by § 63.1209(k)(6)(ii); and

(B) Key parameters that affect carbon adsorption, and the operating limits you establish for those parameters based on the carbon used during the performance test, if you elect not to specify and use the brand and type of carbon used during the comprehensive performance test, as required by § 63.1209(k)(6)(iii).

(xxi) If your source is equipped with a carbon bed system, you must include in the comprehensive performance test plan:

(A) A recommended schedule for conducting a subsequent performance test to document compliance with the dioxin/furan and mercury emission standards if you use manufacturer specifications rather than actual bed age at the time of the test to establish the initial limit on bed age, as required by § 63.1209(k)(7)(i)(C); and

(B) Key parameters that affect carbon adsorption, and the operating limits you establish for those parameters based on the carbon used during the performance test, if you elect not to specify and use the brand and type of carbon used during the comprehensive performance test, as required by § 63.1209(k)(7)(ii).

(xxii) If you feed a dioxin/furan inhibitor into the combustion system, you must document in the comprehensive performance test plan key parameters that affect the effectiveness of the inhibitor, and the operating limits you establish for those parameters based on the inhibitor fed during the performance test, if you elect not to specify and use the brand and

type of inhibitor used during the comprehensive performance test, as required by § 63.1209(k)(9)(ii).

(xxiii) If your source is equipped with a wet scrubber and you elect to monitor solids content of the scrubber liquid manually but believe that hourly monitoring of solids content is not warranted, you must support an alternative monitoring frequency in the comprehensive performance test plan, as required by § 63.1209(m)(1)(i)(B)(*1*)(*i*).

(xxiv) If your source is equipped with a particulate matter control device other than a wet scrubber, baghouse, or electrostatic precipitator, you must include in the comprehensive performance test plan:

(A) Documentation to support the operating parameter limits you establish for the control device, as required by § 63.1209(m)(1)(iv)(A)(*4*); and

(B) Support for the use of manufacturer specifications if you recommend such specifications in lieu of basing operating limits on performance test operating levels, as required by § 63.1209(m)(1)(iv)(D).

(xxv) If your source is equipped with a dry scrubber to control hydrochloric acid and chlorine gas, you must document in the comprehensive performance test plan key parameters that affect adsorption, and the limits you establish for those parameters based on the sorbent used during the performance test, if you elect not to specify and use the brand and type of sorbent used during the comprehensive performance test, as required by § 63.1209(o)(4)(iii)(A); and

* * * * *

(h) * * *

(2) Current operating parameter limits are also waived during pretesting prescribed in the approved test plan prior to comprehensive performance testing for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Administrator). Pretesting means:

* * * * *

(j) * * *

(1) * * *

(i) Within 90 days of completion of a comprehensive performance test, you must postmark a Notification of Compliance documenting compliance or noncompliance with the emission standards and continuous monitoring system requirements, and identifying operating parameter limits under § 63.1209.

* * * * *

11. Section 63.1209 is amended by revising the word "standards" in the first sentence of paragraph (a)(7) to read "standard" and by revising paragraphs (a)(1)(i), (a)(1)(iii), (a)(6)(iii)(A), (b)(2) introductory text, (l)(1), (l)(3), (l)(4), (m)(3), (n)(2)(i)(A), (B) and (C), (n)(4), and (o)(1) to read as follows:

§ 63.1209 What are the monitoring requirements?

(a) * * *

(1)(i) You must use either a carbon monoxide or hydrocarbon CEMS to demonstrate and monitor compliance with the carbon monoxide and hydrocarbon standard under this subpart. You must also use an oxygen CEMS to continuously correct the carbon monoxide or hydrocarbon level to 7 percent oxygen.

* * * * *

(iii) You must install, calibrate, maintain, and operate a particulate matter CEMS to demonstrate and monitor compliance with the particulate matter standards under this subpart. However, compliance with the requirements in this section to install, calibrate, maintain and operate the PM CEMS is not required until such time that the Agency promulgates all performance specifications and operational requirements applicable to PM CEMS.

* * * * *

(6) * * *

(iii) *Calculation of rolling averages when the hazardous waste feed is cutoff.* (A) Except as provided by paragraph (a)(6)(iii)(B) of this section, you must continue monitoring carbon monoxide and hydrocarbons when the hazardous waste feed is cutoff if the source is operating. You must not resume feeding hazardous waste if the emission levels exceed the standard.

* * * * *

(b) * * *

(2) Except as specified in paragraphs (b)(2)(i) and (ii) of this section, you must install and operate continuous monitoring systems other than CEMS in conformance with § 63.8(c)(3) that requires you, at a minimum, to comply with the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system:

* * * * *

(l) * * *

(1) Feedrate of total mercury. You must establish a 12-hour rolling average limit for the total feedrate of mercury in all feedstreams as the average of the test run averages, unless mercury feedrate limits are extrapolated from performance test feedrate levels under the following provisions.

* * * * *

(3) Activated carbon injection. If your combustor is equipped with an activated carbon injection system, you must establish operating parameter limits prescribed by paragraph (k)(6) of this section.

(4) Activated carbon bed. If your combustor is equipped with a carbon bed system, you must establish operating parameter limits prescribed by paragraph (k)(7) of this section.

* * * * *

(m) * * *

(3) Maximum ash feedrate. Owners and operators of hazardous waste incinerators must establish a maximum ash feedrate limit as the average of the test run averages.

* * * * *

(n) * * *

(2) * * *

(i) * * *

(A) You must establish a 12-hour rolling average limit for the feedrate of cadmium and lead, combined, in all feedstreams as the average of the test run averages;

(B) You must establish a 12-hour rolling average limit for the feedrate of arsenic, beryllium, and chromium, combined, in all feedstreams as the average of the test run averages; and

(C) You must establish a 12-hour rolling average limit for the feedrate of arsenic, beryllium, and chromium, combined, in all pumpable feedstreams as the average of the test run averages. Dual feedrate limits for both pumpable and total feedstreams are not required, however, if you base the total feedrate limit solely on the feedrate of pumpable feedstreams.

* * * * *

(4) Maximum total chlorine and chloride feedrate. You must establish a 12-hour rolling average limit for the feedrate of total chlorine and chloride in all feedstreams as the average of the test run averages.

* * * * *

(o) * * *

(1) Feedrate of total chlorine and chloride. You must establish a 12-hour rolling average limit for the total feedrate of chlorine (organic and inorganic) in all feedstreams as the average of the test run averages.

* * * * *

12. Section 63.1210 is amended by revising paragraphs (b)(1)(iv) introductory text and (c)(2) to read as follows:

§ 63.1210 What are the notification requirements?

* * * * *

(b) * * *

(1) * * *

(iv) If you do not intend to comply, but will not stop burning hazardous waste by October 1, 2001, a certification that:

* * * * *

(c) * * *

(2) You must submit a summary of the meeting, along with the list of attendees and their addresses, developed under paragraph (c)(1) of this section, and copies of any written comments or materials submitted at the meeting, to the Administrator as part of the final NIC, in accordance with paragraph (b)(1)(iii) of this section.

* * * * *

13. Section 63.1211 is amended by revising the table in paragraph (c) to read as follows:

§ 63.1211 What are the recordkeeping and reporting requirements?

* * * * *

(c) * * *

Reference	Document, data, or information
63.1201(a), 63.10(b) and (c)	General. Information required to document and maintain compliance with the regulations of this Subpart EEE, including data recorded by continuous monitoring systems (CMS), and copies of all notifications, reports, plans, and other documents submitted to the Administrator.
63.1211(d)	Documentation of compliance.
63.1206(c)(3)(vii)	Documentation and results of the automatic waste feed cutoff operability testing.
63.1209(c)(2)	Feedstream analysis plan.
63.1204(d)(3)	Documentation of compliance with the emission averaging requirements for cement kilns with in-line raw mills.
63.1204(e)(3)	Documentation of compliance with the emission averaging requirements for preheater or preheater/precalciner kilns with dual stacks.
63.1206(b)(1)(ii)(B)	If you elect to comply with all applicable requirements and standards promulgated under authority of the Clean Air Act, including Sections 112 and 129, in lieu of the requirements of this Subpart EEE when not burning hazardous waste, you must document in the operating record that you are in compliance with those requirements.
63.1206(c)(2)	Startup, shutdown, and malfunction plan.
63.1206(c)(3)(v)	Corrective measures for any automatic waste feed cutoff that results in an exceedance of an emission standard or operating parameter limit.
63.1206(c)(4)(ii)	Emergency safety vent operating plan.
63.1206(c)(4)(iii)	Corrective measures for any emergency safety vent opening.
63.1206(c)(5)(ii)	Method used for control of combustion system leaks.
63.1206(c)(6)	Operator training and certification program.
63.1206(c)(7)(i)(D)	Operation and maintenance plan.
63.1209(k)(6)(iii), 63.1209(k)(7)(ii), 63.1209(k)(9)(ii), 63.1209(o)(4)(iii).	Documentation that a substitute activated carbon, dioxin/furan formation reaction inhibitor, or dry scrubber sorbent will provide the same level of control as the original material.

* * * * *

14. Section 63.1212 is amended by revising paragraphs (a)(2), (b)(1), and (b)(2) introductory text to read as follows:

§ 63.1212 What are the other requirements pertaining to the NIC and associated progress reports?

(a) * * *

(2) An authorized representative is the same as a "responsible official" as defined under § 63.2.

(b) * * *

(1) If you begin to burn hazardous waste after September 30, 1999 but prior to June 30, 2000 you must comply with the requirements of §§ 63.1206(a)(3), 63.1210(b) and (c), 63.1211(b), and paragraph (a) of this section, and associated time frames for public meetings and document submittals.

(2) If you intend to begin burning hazardous waste after June 30, 2000 you must comply with the requirements of §§ 63.1206(a)(3), 63.1210(b) and (c), 63.1211(b), and paragraph (a) of this section prior to burning hazardous waste. In addition:

* * * * *

15. The appendix to subpart EEE of part 63 is amended by revising sections 1.1, and 2.8, redesignating sections c and d as 3 and 4, respectively, by revising the header for section 5, and by revising section 6.5.1 to read as follows:

Appendix to Subpart EEE of Part 63—Quality Assurance Procedures for Continuous Emissions Monitors Used for Hazardous Waste Combustors

* * * * *

1.1 Applicability. These quality assurance requirements are used to evaluate the effectiveness of quality control (QC) and quality assurance (QA) procedures and the quality of data produced by continuous emission monitoring systems (CEMS) that are used for determining compliance with the emission standards on a continuous basis as specified in the applicable regulation. The QA procedures specified by these requirements represent the minimum requirements necessary for the control and assessment of the quality of CEMS data used to demonstrate compliance with the emission standards provided under this subpart EEE of part 63. Owners and operators must meet these minimum requirements and are encouraged to develop and implement a more extensive QA program. These requirements supersede those found in part 60, Appendix F, of this chapter. Appendix F does not apply to hazardous waste-burning devices.

* * * * *

2.8 Rolling Average. The average emissions, based on some (specified) time period, calculated every minute from a one-minute average of four measurements taken at 15-second intervals.

* * * * *

5. Performance Evaluation for CO, O_2, and HC CEMS

* * * * *

6.5.1 *One-Minute Average for CO and HHC CEMS.* One-minute averages are the arithmetic average of the four most recent 15-second observations and must be calculated using the following equation:

$$\bar{c} = \sum_{i=1}^{4} \frac{c_i}{4}$$

Where:

c = the one minute average

c_i = a fifteen-second observation from the CEM

Fifteen second observations must not be rounded or smoothed. Fifteen-second observations may be disregarded only as a result of a failure in the CEMS and allowed in the source's quality

assurance plan at the time of the CEMS failure. One-minute averages must not be rounded, smoothed, or disregarded.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

16. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

17. Section 261.38 is amended by adding paragraph (c)(2)(iv) to read as follows:

§ 261.38 Comparable/Syngas Fuel Exclusion.

* * * * *

(c) * * *

(2) * * *

(iv) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

18. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

19. Section 270.42 is amended by revising paragraph (j)(1) to read as follows:

§ 270.42 Permit modification at the request of the permittee.

* * * * *

(j) * * *

(1) Facility owners or operators must comply with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210(b) and (c) before a permit modification can be requested under this section.

* * * * *

[FR Doc. 00–16515 Filed 7–7–00; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000623193–0193–01; I.D. 060800D]

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Catch in the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 2000 harvest specifications; technical amendment.

SUMMARY: NMFS issues a technical amendment to the Final 2000 Harvest Specifications for Groundfish for the Bering Sea and Aleutian Islands (BSAI). A revision to Table 7 of the Final 2000 Harvest Specifications, which is prohibited species bycatch allowances for the BSAI trawl and non-trawl groundfish fisheries, is necessary to reflect reduced prohibited species bycatch allowances under Amendment 57 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective June 15, 2000, through 2400 hrs A.l.t. December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the FMP prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Council, at its December 1999 meeting, recommended that the Final 2000 Harvest Specifications include prohibited species bycatch allowances proportionally reduced to reflect reduced prohibited species catch (PSC) limits under pending Amendment 57. Because the Final Harvest Specifications for Groundfish of the BSAI (65 FR 8282, February 18, 2000) were issued prior to Amendment 57 being approved by NMFS and implemented by regulations, the specifications set forth prohibited species bycatch allowances for the BSAI trawl fisheries based on the following pre-FMP Amendment 57 PSC limits: Pacific halibut, 3,775 mt; Zone 1 red king crab, 100,000 animals; *Chionoecetes* (*C.*) *opilio*, 4,500,000 animals; *C. bairdi* Zone 1, 900,000; and *C. bairdi* Zone 2, 2,550,000 animals.

Under the regulations implementing Amendment 57 to the FMP (65 FR 31105, May 16, 2000), which became effective June 15, 2000, the 2000 Pacific halibut and crab PSC limits for the BSAI trawl fisheries were reduced to the following amounts: Pacific halibut, 3,675 mt; Zone 1 red king crab, 97,000 animals; *C. opilio*, 4,350,000 animals; *C. bairdi* Zone 1,830,000; and *C. bairdi* Zone 2, 2,520,000 animals. The corresponding prohibited species bycatch allowances were reduced proportionally.

This technical amendment revises Table 7 of the Final 2000 Harvest Specifications for Groundfish of the BSAI accordingly to read as follows:

TABLE 7.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1	*C. opilio* (animals) COBLZ [2]	*C. bairdi* (animals)	
					Zone 1	Zone 2
Trawl Fisheries:						
Yellowfin sole	886	169	11655	2,876,579	288,750	1,514,683
January 20–March 31	262					
April 1–May 20	196					
May 21–July 3	48					
July 4–December 31	380					
Rocksole/oth. flat/flat sole [3]	779	24	42,090	869,934	309,326	504,894
January 20–March 31	448					
April 1–July 31	64					
July 4–December 31	167					
Turbot/sablefish/arrowtooth [4]		11		41,043		

Corrections

Federal Register
Vol. 64, No. 131
Friday, July 9, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–6337–1]

RIN 2060–AH97

Test Methods: Three New Methods for Velocity and Volumetric Flow Rate Determination in Stacks or Ducts

Correction

In rule document 99–11796 beginning on page 26484 in the issue of Friday, May 14, 1999, make the following corrections:

Appendix A to Part 60—[Corrected]

Method 2F—Determination of Stack Gas Velocity And Volumetric Flow Rate With Three-Dimensional Probes [Corrected]

1. On page 26491, in the first column, in paragraph 3.20, in the 13th line, "±°" should read "±3°".

2. On page 26492, in the second column, in paragraph 6.4.1, in the 20th line "(P_1–P_2" should read "(P_1–P_2)".

3. On page 26495, in the third column, in paragraph 9.1.1, in the fifth line, "πP" should read "ΔP".

4. On page 26497, in the first column, in paragraph 10.3.4, in the eighth line "0" should read "θ".

5. On page 26498, in the first column, in paragraph 10.6.2, in the second line, "(F–1) versus pitch angle)" should read "(F_1 versus pitch angle)".

6. On page 26499, in the second column, in paragraph 12.0, in the fifth line, "($v_{a(i)}$" should read "($v_{a(i)}$)".

7. On the same page, in the same column, in the same paragraph, in the tenth line, "(v_a (avg))" should read "($v_{a(avg)}$)".

8. On the same page, in the same column, under paragraph 12.1 Nomenclature, in the sixth line, "Kp" should read "K_p".

9. On page 26501, in the third column, in paragraph 18.1, in the sixth line, "(RADO)" should read "R_{ADO}".

10. On page 26503, in the first column, in paragraph 18.4.2.6, in the second line, "T_{null}" should read "θ_{null}".

11. On the same page, in the second column, in paragraph 18.4.2.7, in the fourth line, "T_{null}" should read "θ_{null}".

12. On th same page, in the same column, in the same paragraph, in the same line, "$(90° - T_{null})$" should read "$(90° - \theta_{null})$".

Method 2G—Determination of Stack Gas Velocity and Volumetric Flow Rate With Two-Dimensional Probes [Corrected]

13. On page 26524, in the third column, in paragraph 3.21, in the 13th line, "±3 of 0" should read "±3° of 0°".

14. On page 26530, in the first column, in paragraph 10.1.2.1, in the ninth line from the bottom, "±3@ of 0@" should read "±3° of 0°".

15. On the same page, in the second column, in paragraph 10.1.3.2, in the third line, "3" should read "±3".

16. On the same page, in the third column, in paragraph 10.3.3.2, in the fifth line, "#2" should read "±2".

17. On page 26531, in the first column, in the first line, "#2" should read "±2".

18. On the same page, in the same column, in paragraph 10.3.4, in the eighth line, "angle "" should read "angle θ".

19. On the same page, in the same column, in the same paragraph, the last sentence is corrected to read as follows: "The difference of the sum of the two readings from 180° (i.e., 180°-R_1-R_2) shall be within ±2° of the known angle, θ."

20. On the same page, in the third column, in paragraph 10.5.8, in the first line, "RSLO" should read "R_{SLO}".

21. On page 26532, in the second column, in paragraph 10.6.6, in the second line, "(ΔPstd)" should read "(ΔP_{std})".

22. On the same page, in the third column, in paragraph 10.6.12.1, in the first line, "C_p" should read "C_p".

23. On page 26533, in the first column, in paragraph 12.0, in the fifth line, "($_{a(i)}$)" should read "($v_{a(i)}$)".

24. On th same page, in the same column, in the same paragraph, in the last line, "$a_{(avg)}$" should read "($v_{a(avg)}$)".

25. On the same page, in the same column, under paragraph 12.1 Nomenclature, in the second line, "m_2 (ft_2)" should read "m^2 (ft^2)".

26. On the same page, in the second column, in the 28th line, "$ts_{(i)}$ = Stack or duct temperature, °C (°F), at traverse point i" should read "$t_{s(i)}$ = Stack or duct temperature, °C (°F), at traverse point i."

27. On page 26536, in the third column, in paragraph 18.4.2.1.2, in the third line "°" should read " 0°".

Method 2H—Determination of Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Wall [Corrected]

28. On page 26554, in the first column, in paragraph 3.1, in the first line, "Complete wall effects traverse" should read "*Complete wall effects traverse*".

29. On page 26557, in the second column, in the fourth line, "Q_{d1}—$_{last}$" should read "Q_{d_1}—$_{d_{last}}$".

30. On the same page, in the same column, in the 34th line, "$\hat{v}_{e_j}$" should read "$\hat{v}e_j$"

31. On the same page, in the same column, in the 52nd line, "*WAF*" should read, "$\hat{W}\hat{A}\hat{F}$".

32. On the same page, in the third column, in the first line "$\hat{v}_{avg(k)}$" should read "$v_{avg(k)}$".

33. On the same page, in the same column, in paragraph 12.4, in the second line, "$\hat{v}_j$" Should read "$\hat{v}e_j$".

34. On the same page, in the same column, in the third and second line from the bottom, "*enter the corresponding calculated value of*" should read "enter the corresponding calculated value of".

35. On page 26558, in the first column, equation 2H–10 is corrected to read as follows:

$$Q_{d_1 \rightarrow d_{last}} = \sum_{d=1}^{d_{last}} Q_d \qquad \text{Eq. 2H-10}$$

36. On the same page, in the second column, in the first line, "Q_{d1}—$_{dlast}$" should read "Q_{d_1}—$_{d_{last}}$".

37. On the same page, in the first column, in paragraph 12.4.6, in the first line following equation 2H–13, "μ_{drem}" is corrected to read "v_{drem}".

38. On the same page, in the same column in the same paragraph, in the fourth line following equation 2H–13, "d_{drem}" should read "d_{rem}".

39. On the same page, in the same column, in the eighth line from the bottom, "$\hat{\mu}e$" should read "$\hat{v}e_j$"

40. On the same page, in the same column, in paragraph 12.5, in the second line, "velocity," should be corrected to read, "velocity, $\tilde{v}_{avg}$".

41. On the same page, in the same column, in the same paragraph, in the third line, "μ_{avg}" should read "v_{ej}"

42. On the same page, in the same column, in the same paragraph, in the fifth line "μ_e" should read "$\tilde{v}_{ej}$".

43. On the same page, in the third column, in paragraph 12.7.1, in the last line, "μ_{avg}" should read "v_{avg}".

44. On the same page, in the same column, in the seventh line from the bottom, "*WAF*" should read, "$\tilde{WAF}$".

45. On the same page, in the third column, in the second line from the bottom, "$\mu_{avg(k)}$" should read "$v_{avg(k)}$".

46. On page 26559, in the first column, in paragraph 12.8, in the fifth line, "μ_s" should read "v_s"

47. On the same page, in the same column, in the same paragraph, in the sixth line, "$\mu_{s(avg)}$" should read "$v_{s(avg)}$".

48. On the same page, in the same column, in the same paragraph, in the same line, "a" should be removed.

49. On the same page, in the same column, in the same paragraph, in the eighth line, "$\mu_{s(avg)}$" should read "$v_{s(avg)}$".

50. On the same page, in the same column, in paragraph 12.8.1, in the third line, "μ_{final}," should read "$\tilde{v}_{final}$,".

51. On the same page, in the same column, in paragraph 12.8.2, in the third line "$\mu_{final(k)}$," should read "$\tilde{v}_{final(k)}$,"

[FR Doc. C9-11796A Filed 7-8-99; 8:45 am]

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federal register

Thursday
September 30, 1999

Part II

Environmental Protection Agency

40 CFR Part 60, et al.

NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule

—Adequate public comment
—Implementation flexibility
—Allocation of grants
—And many other technical issues

We addressed the issues raised by these four representatives to the fullest extent possible in today's rule. The comments received from these representatives are included in the rulemaking docket, together with all other comments received. We highlighted and addressed some of these comments in today's preamble. We responded to all comments in the Response to Comments document, which has been made available to the Office of Management and Budget and is available in the docket for today's rule.

Part Nine: Technical Amendments to Previous Regulations

I. Changes to the June 19, 1998 "Fast-Track" Rule

A. Permit Streamlining Section

Today's regulations correct a typographical error to § 270.42 Appendix I entry L(9) promulgated in the Fast-track rule. Entry L(9) incorrectly cited § 270.42(i), whereas today's regulations correctly amends entry L(9) to cite § 270.42(j).

B. Comparable Fuels Section

In the June 19th rule, we explained that our methodology for identifying the comparable fuels specifications was to select the highest benchmark fuel value in our data base for each constituent (see 63 FR at 33786). However, the results reported in the final rule—Table 1 to § 261.38—do not consistently follow our methodology. In several instances, the highest value was not presented in the table, as pointed out by commenters to the final rule. Therefore, in today's rule, we are amending the comparable fuels portion of the Fast-track rule to make necessary conforming changes to the comparable fuels specifications as listed in Table 1 of § 261.38—Detection and Detection Limit Values for Comparable Fuel Specifications. Please see the USEPA, "Final Technical Support Document for HWC MACT Standards, Volume 4" July 1999, for a detailed discussion of the changes to Table 1.

In addition, because these are technical corrections (i.e. corrections where we made arithmetic or other inadvertent mistakes in applying our stated methodology for calculating the comparative fuel levels) we find that giving notice and opportunity for public comment is unnecessary within the meaning of 5 U.S.C. 553 (b) (B). In fact, the errors were brought to our attention by an entity that applied the stated methodology and derived the correct values which we are restoring in this amendment. (We did, however, provide actual notice of these intended corrections to entities we believed most interested in the issue, so that these entities did have an opportunity for comment to us.) For the same reasons, we find that there is good cause for the rule to take effect immediately, rather than wait 30 days. See 5 U.S.C. 553 (d) (3). Finally, since notice and comment is unnecessary, this correction is not a "rule" for purposes of the Regulatory Flexibility Act (see 5 U.S.C. 601 (2)), and may take effect immediately before submission to Congress for review (see 5 U.S.C. 808 (2)).

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Ammonium sulfate plants, Batteries, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Heaters, Household appliances, Insulation, Intergovernmental relations, Iron, Labeling, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Polymers, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Sulfuric acid plants, Tires, Urethane, Vinyl, Volatile organic compounds, Waste treatment and disposal, Zinc.

40 CFR Part 63

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

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous waste.

40 CFR Part 261

Environmental Protection Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 264

Air pollution control, Environmental protection, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Air pollution control, Environmental protection, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 270

Administrative practice and procedure, Confidential business information, Environmental Protection Agency, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Environmental Protection Agency, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: July 30, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 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: 42 U.S.C. 7401–7601.

2. Appendix A to part 60 is amended by adding a new entry for "Method 5I" in numerical order to read as follows:

Appendix A—Test Methods

* * * * *

Method 5I—Determination of Low Level Particulate Matter Emissions From Stationary Sources

Note: This method does not include all of the specifications (*e.g.*, equipment and supplies) and procedures (*e.g.*, sampling and analytical) essential to its performance. Certain information is contained in other EPA procedures found in this part. Therefore, to obtain reliable results, persons using this method should have experience with and a thorough knowledge of the following Methods: Methods 1, 2, 3, 4 and 5.

1. *Scope and Application.*

1.1 Analyte. Particulate matter (PM). No CAS number assigned.

1.2 Applicability. This method is applicable for the determination of low level particulate matter (PM) emissions from stationary sources. The method is most effective for total PM catches of 50 mg or less. This method was initially developed for performing correlation of manual PM measurements to PM continuous emission monitoring systems (CEMS), however it is also useful for other low particulate concentration applications.

1.3 Data Quality Objectives. Adherence to the requirements of this method will enhance the quality of the data obtained from air pollutant sampling methods. Method 5I requires the use of paired trains. Acceptance criteria for the identification of data quality outliers from the paired trains are provided in Section 12.2 of this Method.

2. *Summary of Method.*

2.1. Description. The system setup and operation is essentially identical to Method 5. Particulate is withdrawn isokinetically from the source and collected on a 47 mm glass fiber filter maintained at a temperature of 120 ± 14°C (248 ± 25°F). The PM mass is determined by gravimetric analysis after the removal of uncombined water. Specific measures in this procedure designed to improve system performance at low particulate levels include:

1. Improved sample handling procedures
2 Light weight sample filter assembly
3. Use of low residue grade acetone

Accuracy is improved through the minimization of systemic errors associated with sample handling and weighing procedures. High purity reagents, all glass, grease free, sample train components, and light weight filter assemblies and beakers, each contribute to the overall objective of improved precision and accuracy at low particulate concentrations.

2.2 Paired Trains. This method must be performed using a paired train configuration. These trains may be operated as co-located trains (to trains operating collecting from one port) or as simultaneous trains (separate trains operating from different ports at the same time). Procedures for calculating precision of the paired trains are provided in Section 12.

2.3 Detection Limit. a. Typical detection limit for manual particulate testing is 0.5 mg. This mass is also cited as the accepted weight variability limit in determination of "constant weight" as cited in Section 8.1.2 of this Method. EPA has performed studies to provide guidance on minimum PM catch. The minimum detection limit (MDL) is the minimum concentration or amount of an analyte that can be determined with a specified degree of confidence to be different from zero. We have defined the minimum or target catch as a concentration or amount sufficiently larger than the MDL to ensure that the results are reliable and repeatable. The particulate matter catch is the product of the average particulate matter concentration on a mass per volume basis and the volume of gas collected by the sample train. The tester can generally control the volume of gas collected by increasing the sampling time or to a lesser extent by increasing the rate at which sample is collected. If the tester has a reasonable estimate of the PM concentration from the source, the tester can ensure that the target catch is collected by sampling the appropriate gas volume.

b. However, if the source has a very low particulate matter concentration in the stack, the volume of gas sampled may need to be very large which leads to unacceptably long sampling times. When determining compliance with an emission limit, EPA guidance has been that the tester does not always have to collect the target catch. Instead, we have suggested that the tester sample enough stack gas, that if the source were exactly at the level of the emission standard, the sample catch would equal the target catch. Thus, if at the end of the test the catch were smaller than the target, we could still conclude that the source is in compliance though we might not know the exact emission level. This volume of gas becomes a target volume that can be translated into a target sampling time by assuming an average sampling rate. Because the MDL forms the basis for our guidance on target sampling times, EPA has conducted a systematic laboratory study to define what is the MDL for Method 5 and determined the Method to have a calculated practical quantitation limit (PQL) of 3 mg of PM and an MDL of 1 mg.

c. Based on these results, the EPA has concluded that for PM testing, the target catch must be no less than 3 mg. Those sample catches between 1 mg and 3 mg are between the detection limit and the limit of quantitation. If a tester uses the target catch to estimate a target sampling time that results in sample catches that are less than 3 mg, you should not automatically reject the results. If the tester calculated the target sampling time as described above by assuming that the source was at the level of the emission limit, the results would still be valid for determining that the source was in compliance. For purposes other than determining compliance, results should be divided into two categories—those that fall between 3 mg and 1 mg and those that are below 1 mg. A sample catch between 1 and 3 mg may be used for such purposes as calculating emission rates with the understanding that the resulting emission rates can have a high degree of uncertainty. Results of less than 1 mg should not be used for calculating emission rates or pollutant concentrations.

d. When collecting small catches such as 3 mg, bias becomes an important issue. Source testers must use extreme caution to reach the PQL of 3 mg by assuring that sampling probes are very clean (perhaps confirmed by low blank weights) before use in the field. They should also use low tare weight sample containers, and establish a well-controlled balance room to weigh the samples.

3. *Definitions.*

3.1 *Light Weight Filter Housing.* A smaller housing that allows the entire filtering system to be weighed before and after sample collection. (See. 6.1.3)

3.2 *Paired Train.* Sample systems trains may be operated as co-located trains (two sample probes attached to each other in the same port) or as simultaneous trains (two separate trains operating from different ports at the same time).

4. *Interferences.*

a. There are numerous potential interferents that may be encountered during performance of Method 5I sampling and analyses. This Method should be considered more sensitive to the normal interferents typically encountered during particulate testing because of the low level concentrations of the flue gas stream being sampled.

b. Care must be taken to minimize field contamination, especially to the filter housing since the entire unit is weighed (not just the filter media). Care must also be taken to ensure that no sample is lost during the sampling process (such as during port changes, removal of the filter assemblies from the probes, etc.).

c. Balance room conditions are a source of concern for analysis of the low level samples. Relative humidity, ambient temperatures variations, air draft, vibrations and even barometric pressure can affect consistent reproducible measurements of the sample media. Ideally, the same analyst who performs the tare weights should perform the final weights to minimize the effects of procedural differences specific to the analysts.

d. Attention must also be provided to weighing artifacts caused by electrostatic charges which may have to be discharged or neutralized prior to sample analysis. Static charge can affect consistent and reliable gravimetric readings in low humidity environments. Method 5I recommends a relative humidity of less than 50 percent in the weighing room environment used for sample analyses. However, lower humidity may be encountered or required to address sample precision problems. Low humidity conditions can increase the effects of static charge.

e. Other interferences associated with typical Method 5 testing (sulfates, acid gases, etc.) are also applicable to Method 5I.

5. *Safety.*

Disclaimer. This method may involve hazardous materials, operations, and equipment. This test method may not address all of the safety concerns associated with its use. It is the responsibility of the user to establish appropriate safety and health practices and to determine the applicability and observe all regulatory limitations before using this method.

6. *Equipment and Supplies.*

6.1 Sample Collection Equipment and Supplies. The sample train is nearly identical in configuration to the train depicted in Figure 5–1 of Method 5. The primary difference in the sample trains is the lightweight Method 5I filter assembly that attaches directly to the exit to the probe. Other exceptions and additions specific to Method 5I include:

6.1.1 Probe Nozzle. Same as Method 5, with the exception that it must be constructed of borosilicate or quartz glass tubing.

6.1.2 Probe Liner. Same as Method 5, with the exception that it must be

constructed of borosilicate or quartz glass tubing.

6.1.3 Filter Holder. The filter holder is constructed of borosilicate or quartz glass front cover designed to hold a 47-mm glass fiber filter, with a wafer thin stainless steel (SS) filter support, a silicone rubber or Viton O-ring, and Teflon tape seal. This holder design will provide a positive seal against leakage from the outside or around the filter. The filter holder assembly fits into a SS filter holder and attaches directly to the outlet of the probe. The tare weight of the filter, borosilicate or quartz glass holder, SS filter support, O-ring and Teflon tape seal generally will not exceed approximately 35 grams. The filter holder is designed to use a 47-mm glass fiber filter meeting the quality criteria in of Method 5. These units are commercially available from several source testing equipment vendors. Once the filter holder has been assembled, desiccated and tared, protect it from external sources of contamination by covering the front socket with a ground glass plug. Secure the plug with an impinger clamp or other item that will ensure a leak-free fitting.

6.2 Sample Recovery Equipment and Supplies. Same as Method 5, with the following exceptions:

6.2.1 Probe-Liner and Probe-Nozzle Brushes. Teflon® or nylon bristle brushes with stainless steel wire handles, should be used to clean the probe. The probe brush must have extensions (at least as long as the probe) of Teflon, nylon or similarly inert material. The brushes must be properly sized and shaped for brushing out the probe liner and nozzle.

6.2.2 Wash Bottles. Two Teflon wash bottles are recommended however, polyethylene wash bottles may be used at the option of the tester. Acetone should not be stored in polyethylene bottles for longer than one month.

6.2.3 Filter Assembly Transport. A system should be employed to minimize contamination of the filter assemblies during transport to and from the field test location. A carrying case or packet with clean compartments of sufficient size to accommodate each filter assembly can be used. This system should have an air tight seal to further minimize contamination during transport to and from the field.

6.3 Analysis Equipment and Supplies. Same as Method 5, with the following exception:

6.3.1 Lightweight Beaker Liner. Teflon or other lightweight beaker liners are used for the analysis of the probe and nozzle rinses. These light weight liners are used in place of the borosilicate glass beakers typically used for the Method 5 weighings in order to improve sample analytical precision.

6.3.2 Anti-static Treatment. Commercially available gaseous anti-static rinses are recommended for low humidity situations that contribute to static charge problems.

7. *Reagents and Standards.*

7.1 Sampling Reagents. The reagents used in sampling are the same as Method 5 with the following exceptions:

7.1.1 Filters. The quality specifications for the filters are identical to those cited for Method 5. The only difference is the filter diameter of 47 millimeters.

7.1.2 Stopcock Grease. Stopcock grease cannot be used with this sampling train. We recommend that the sampling train be assembled with glass joints containing O-ring seals or screw-on connectors, or similar.

7.1.3 Acetone. Low residue type acetone, ≤0.001 percent residue, purchased in glass bottles is used for the recovery of particulate matter from the probe and nozzle. Acetone from metal containers generally has a high residue blank and should not be used. Sometimes, suppliers transfer acetone to glass bottles from metal containers; thus, acetone blanks must be run prior to field use and only acetone with low blank values (≤0.001 percent residue, as specified by the manufacturer) must be used. Acetone blank correction is not allowed for this method; therefore, it is critical that high purity reagents be purchased and verified prior to use.

7.1.4 Gloves, Disposable, powder-free, latex surgical gloves, or their equivalent are used at all times when handling the filter housings or performing sample recovery.

7.2 Standards. There are no applicable standards or audit samples commercially available for Method 5I analyses.

8. *Sample Collection, Preservation, Storage, and Transport.*

8.1 Pretest Preparation. Same as Method 5 with several exceptions specific to filter assembly and weighing.

8.1.1 Filter Assembly. Uniquely identify each filter support before loading filters into the holder assembly. This can be done with an engraving tool or a permanent marker. Use powder free latex surgical gloves whenever handling the filter holder assemblies. Place the O-ring on the back of the filter housing in the O-ring groove. Place a 47 mm glass fiber filter on the O-ring with the face down. Place a stainless steel filter holder against the back of the filter. Carefully wrap 5 mm (¼ inch) wide Teflon" tape one timearound the outside of the filter holder overlapping the stainless steel filter support by approximately 2.5 mm (⅛ inch). Gently brush the Teflon tape down on the back of the stainless steel filter support. Store the filter assemblies in their transport case until time for weighing or field use.

8.1.2 Filter Weighing Procedures. a. Desiccate the entire filter holder assemblies at 20 ± 5.6°C (68 ± 10°F) and ambient pressure for at least 24 hours. Weigh at intervals of at least 6 hours to a constant weight, *i.e.*, 0.5 mg change from previous weighing. Record the results to the nearest 0.1 mg. During each weighing, the filter holder assemblies must not be exposed to the laboratory atmosphere for a period greater than 2 minutes and a relative humidity above 50 percent. Lower relative humidity may be required in order to improve analytical precision. However, low humidity conditions increase static charge to the sample media.

b. Alternatively (unless otherwise specified by the Administrator), the filters holder assemblies may be oven dried at 105°C (220°F) for a minimum of 2 hours, desiccated for 2 hours, and weighed. The procedure used for the tare weigh must also be used for the final weight determination.

c. Experience has shown that weighing uncertainties are not only related to the balance performance but to the entire weighing procedure. Therefore, before performing any measurement, establish and follow standard operating procedures, taking into account the sampling equipment and filters to be used.

8.2 Preliminary Determinations. Select the sampling site, traverse points, probe nozzle, and probe length as specified in Method 5.

8.3 Preparation of Sampling Train. Same as Method 5, Section 8.3, with the following exception: During preparation and assembly of the sampling train, keep all openings where contamination can occur covered until justbefore assembly or until sampling is about to begin. Using gloves, place a labeled (identified) and weighed filter holder assembly into the stainless steel holder. Then place this whole unit in the Method 5 hot box, and attach it to the probe. Do not use stopcock grease.

8.4 Leak-Check Procedures. Same as Method 5.

8.5 Sampling Train Operation.

8.5.1. Operation. Operate the sampling train in a manner consistent with those described in Methods 1, 2, 4 and 5 in terms of the number of sample points and minimum time per point. The sample rate and total gas volume should be adjusted based on estimated grain loading of the source being characterized. The total sampling time must be a function of the estimated mass of particulate to be collected for the run. Targeted mass to be collected in a typical Method 5I sample train should be on the order of 10 to 20 mg. Method 5I is most appropriate for total collected masses of less than 50 milligrams, however, there is not an exact particulate loading cutoff, and it is likely that some runs may exceed 50 mg. Exceeding 50 mg (or less than 10 mg) for the sample mass does not necessarily justify invalidating a sample run if all other Method criteria are met.

8.5.2 Paired Train. This Method requires PM samples be collected with paired trains.

8.5.2.1 It is important that the systems be operated truly simultaneously. This implies that both sample systems start and stop at the same times. This also means that if one sample system is stopped during the run, the other sample systems must also be stopped until the cause has been corrected.

8.5.2.2 Care should be taken to maintain the filter box temperature of the paired trains as close as possible to the Method required temperature of 120 ± 14°C (248 ± 25°F). If separate ovens are being used for simultaneously operated trains, it is recommended that the oven temperature of each train be maintained within ± 14°C (± 25°F) of each other.

8.5.2.3 The nozzles for paired trains need not be identically sized.

8.5.2.4 Co-located sample nozzles must be within the same plane perpendicular to the gas flow. Co-located nozzles and pitot assemblies should be within a 6.0 cm × 6.0 cm square (as cited for a quadruple train in Reference Method 301).

8.5.3 Duplicate gas samples for molecular weight determination need not be collected.

8.6 Sample Recovery. Same as Method 5 with several exceptions specific to the filter housing.

8.6.1 Before moving the sampling train to the cleanup site, remove the probe from the train and seal the nozzle inlet and outlet of the probe. Be careful not to lose any condensate that might be present. Cap the filter inlet using a standard ground glass plug and secure the cap with an impinger clamp. Remove the umbilical cord from the last impinger and cap the impinger. If a flexible line is used between the first impinger condenser and the filter holder, disconnect the line at the filter holder and let any condensed water or liquid drain into the impingers or condenser.

8.6.2 Transfer the probe and filter-impinger assembly to the cleanup area. This area must be clean and protected from the wind so that the possibility of losing any of the sample will be minimized.

8.6.3 Inspect the train prior to and during disassembly and note any abnormal conditions such as particulate color, filter loading, impinger liquid color, etc.

8.6.4 Container No. 1, Filter Assembly. Carefully remove the cooled filter holder assembly from the Method 5 hot box and place it in the transport case. Use a pair of clean gloves to handle the filter holder assembly.

8.6.5 Container No. 2, Probe Nozzle and Probe Liner Rinse. Rinse the probe and nozzle components with acetone. Be certain that the probe and nozzle brushes have been thoroughly rinsed prior to use as they can be a source of contamination.

8.6.6 All Other Train Components. (Impingers) Same as Method 5.

8.7 Sample Storage and Transport. Whenever possible, containers should be shipped in such a way that they remain upright at all times. All appropriate dangerous goods shipping requirements must be observed since acetone is a flammable liquid.

9. *Quality Control.*

9.1 Miscellaneous Field Quality Control Measures.

9.1.1 A quality control (QC) check of the volume metering system at the field site is suggested before collecting the sample using the procedures in Method 5, Section 4.4.1.

9.1.2 All other quality control checks outlined in Methods 1, 2, 4 and 5 also apply to Method 5I. This includes procedures such as leak-checks, equipment calibration checks, and independent checks of field data sheets for reasonableness and completeness.

9.2 Quality Control Samples.

9.2.1 Required QC Sample. A laboratory reagent blank must be collected and analyzed for each lot of acetone used for a field program to confirm that it is of suitable purity. The particulate samples cannot be blank corrected.

9.2.2 Recommended QC Samples. These samples may be collected and archived for future analyses.

9.2.2.1 A field reagent blank is a recommended QC sample collected from a portion of the acetone used for cleanup of the probe and nozzle. Take 100 ml of this acetone directly from the wash bottle being used and place it in a glass sample container labeled "field acetone reagent blank." At least one field reagent blank is recommended for every five runs completed. The field reagent blank samples demonstrate the purity of the acetone was maintained throughout the program.

9.2.2.2 A field bias blank train is a recommended QC sample. This sample is collected by recovering a probe and filter assembly that has been assembled, taken to the sample location, leak checked, heated, allowed to sit at the sample location for a similar duration of time as a regular sample run, leak-checked again, and then recovered in the same manner as a regular sample. Field bias blanks are not a Method requirement, however, they are recommended and are very useful for identifying sources of contamination in emission testing samples. Field bias blank train results greater than 5 times the method detection limit may be considered problematic.

10. *Calibration and Standardization* Same as Method 5, Section 5.

11. *Analytical Procedures.*

11.1 Analysis. Same as Method 5, Sections 11.1—11.2.4, with the following exceptions:

11.1.1 Container No. 1. Same as Method 5, Section 11.2.1, with the following exception: Use disposable gloves to remove each of the filter holder assemblies from the desiccator, transport container, or sample oven (after appropriate cooling).

11.1.2 Container No. 2. Same as Method 5, Section 11.2.2, with the following exception: It is recommended that the contents of Container No. 2 be transferred to a 250 ml beaker with a Teflon liner or similar container that has a minimal tare weight before bringing to dryness.

12. *Data Analysis and Calculations.*

12.1 Particulate Emissions. The analytical results cannot be blank corrected for residual acetone found in any of the blanks. All other sample calculations are identical to Method 5.

12.2 Paired Trains Outliers. a. Outliers are identified through the determination of precision and any systemic bias of the paired trains. Data that do not meet this criteria should be flagged as a data quality problem. The primary reason for performing dual train sampling is to generate information to quantify the precision of the Reference Method data. The relative standard deviation (RSD) of paired data is the parameter used to quantify data precision. RSD for two simultaneously gathered data points is determined according to:

$$RSD = 100\% * \left|(C_a - C_b)\right| / (C_a + C_b)$$

where, Ca and Cb are concentration values determined from trains A and B respectively. For RSD calculation, the concentration units are unimportant so long as they are consistent.

b. A minimum precision criteria for Reference Method PM data is that RSD for any data pair must be less than 10% as long as the mean PM concentration is greater than 10 mg/unit volume. If the mean PM concentration is less than 10 mg/unit volume higher RSD values are acceptable. At mean PM concentration of 1 mg/unit volume acceptable RSD for paired trains is 25%. Between 1 and 10 mg/unit volume acceptable RSD criteria should be linearly scaled from 25% to 10%. Pairs of manual method data exceeding these RSD criteria should be eliminated from the data set used to develop a PM CEMS correlation or to assess RCA.

13. *Method Performance. [Reserved]*

14. *Pollution Prevention. [Reserved]*

15. *Waste Management. [Reserved]*

16. *Alternative Procedures.* Same as Method 5.

17. *Bibliography.* Same as Method 5.

18. *Tables, Diagrams, Flowcharts and Validation Data.* Figure 5I–1 is a schematic of the sample train.

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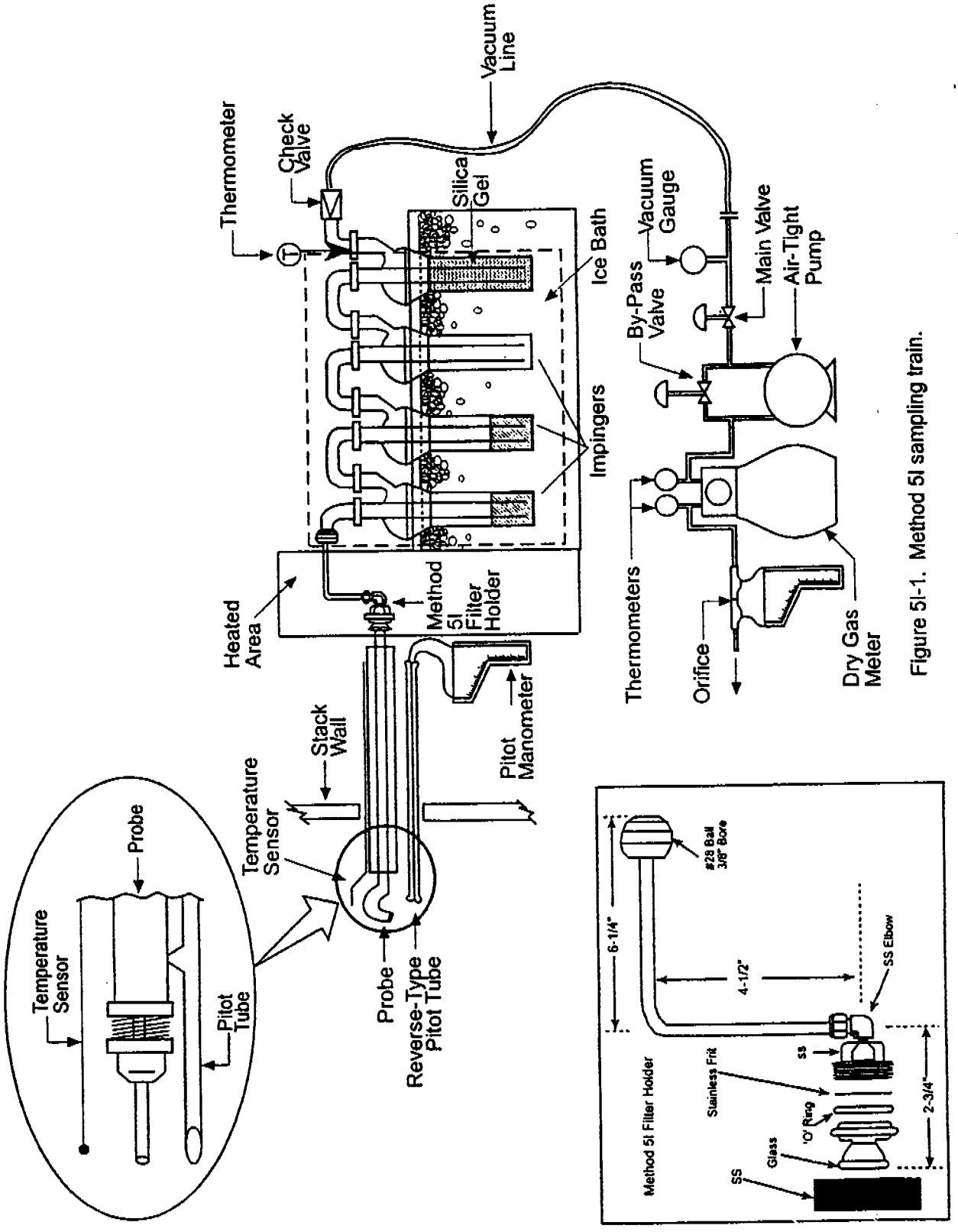

Figure 5I-1. Method 5I sampling train.

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3. Appendix B to part 60 is amended by adding Performance Specifications 4B and 8A in numerical order to read as follows:

Appendix B—Performance Specifications

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Performance Specification 4B—-

Specifications and test procedures for carbon monoxide and oxygen continuous monitoring systems in stationary sources

a. Applicability and Principle

1.1 Applicability. a. This specification is to be used for evaluating the acceptability of carbon monoxide (CO) and oxygen (O_2) continuous emission monitoring systems (CEMS) at the time of or soon after installation and whenever specified in the regulations. The CEMS may include, for certain stationary sources, (a) flow monitoring equipment to allow measurement of the dry volume of stack effluent sampled, and (b) an automatic sampling system.

b. This specification is not designed to evaluate the installed CEMS' performance over an extended period of time nor does it identify specific calibration techniques and auxiliary procedures to assess the CEMS' performance. The source owner or operator, however, is responsible to properly calibrate, maintain, and operate the CEMS. To evaluate the CEMS' performance, the Administrator may require, under section 114 of the Act, the operator to conduct CEMS performance evaluations at times other than the initial test.

c. The definitions, installation and measurement location specifications, test procedures, data reduction procedures, reporting requirements, and bibliography are the same as in PS 3 (for O_2) and PS 4A (for CO) except as otherwise noted below.

1.2 Principle. Installation and measurement location specifications, performance specifications, test procedures, and data reduction procedures are included in this specification. Reference method tests, calibration error tests, calibration drift tests, and interferant tests are conducted to determine conformance of the CEMS with the specification.

b. Definitions

2.1 *Continuous Emission Monitoring System (CEMS).* This definition is the same as PS 2 Section 2.1 with the following addition. A continuous monitor is one in which the sample to be analyzed passes the measurement section of the analyzer without interruption.

2.2 *Response Time.* The time interval between the start of a step change in the system input and when the pollutant analyzer output reaches 95 percent of the final value.

2.3 *Calibration Error (CE).* The difference between the concentration indicated by the CEMS and the known concentration generated by a calibration source when the entire CEMS, including the sampling interface is challenged. A CE test procedure is performed to document the accuracy and linearity of the CEMS over the entire measurement range.

3. Installation and Measurement Location Specifications

3.1 *The CEMS Installation and Measurement Location.* This specification is the same as PS 2 Section 3.1 with the following additions. Both the CO and O_2 monitors should be installed at the same general location. If this is not possible, they may be installed at different locations if the effluent gases at both sample locations are not stratified and there is no in-leakage of air between sampling locations.

3.1.1 *Measurement Location.* Same as PS 2 Section 3.1.1.

3.1.2 *Point CEMS.* The measurement point should be within or centrally located over the centroidal area of the stack or duct cross section.

3.1.3 *Path CEMS.* The effective measurement path should: (1) Have at least 70 percent of the path within the inner 50 percent of the stack or duct cross sectional area, or (2) be centrally located over any part of the centroidal area.

3.2 *Reference Method (RM) Measurement Location and Traverse Points.* This specification is the same as PS 2 Section 3.2 with the following additions. When pollutant concentration changes are due solely to diluent leakage and CO and O_2 are simultaneously measured at the same location, one half diameter may be used in place of two equivalent diameters.

3.3 *Stratification Test Procedure.* Stratification is defined as the difference in excess of 10 percent between the average concentration in the duct or stack and the concentration at any point more than 1.0 meter from the duct or stack wall. To determine whether effluent stratification exists, a dual probe system should be used to determine the average effluent concentration while measurements at each traverse point are being made. One probe, located at the stack or duct centroid, is used as a stationary reference point to indicate change in the effluent concentration over time. The second probe is used for sampling at the traverse points specified in Method 1 (40 CFR part 60 appendix A). The monitoring system samples sequentially at the reference and traverse points throughout the testing period for five minutes at each point.

d. Performance and Equipment Specifications

4.1 Data Recorder Scale. For O_2, same as specified in PS 3, except that the span must be 25 percent. The span of the O_2 may be higher if the O_2 concentration at the sampling point can be greater than 25 percent. For CO, same as specified in PS 4A, except that the low-range span must be 200 ppm and the high range span must be 3000 ppm. In addition, the scale for both CEMS must record all readings within a measurement range with a resolution of 0.5 percent.

4.2 *Calibration Drift.* For O_2, same as specified in PS 3. For CO, the same as specified in PS 4A except that the CEMS calibration must not drift from the reference value of the calibration standard by more than 3 percent of the span value on either the high or low range.

4.3 *Relative Accuracy (RA).* For O_2, same as specified in PS 3. For CO, the same as specified in PS 4A.

4.4 *Calibration Error (CE).* The mean difference between the CEMS and reference values at all three test points (see Table I) must be no greater than 5 percent of span value for CO monitors and 0.5 percent for O_2 monitors.

4.5 *Response Time.* The response time for the CO or O_2 monitor must not exceed 2 minutes.

e. Performance Specification Test Procedure

5.1 *Calibration Error Test and Response Time Test Periods.* Conduct the CE and response time tests during the CD test period.

F. The CEMS Calibration Drift and Response Time Test Procedures

The response time test procedure is given in PS 4A, and must be carried out for both the CO and O_2 monitors.

7. Relative Accuracy and Calibration Error Test Procedures

7.1 *Calibration Error Test Procedure.* Challenge each monitor (both low and high range CO and O_2) with zero gas and EPA Protocol 1 cylinder gases at three measurement points within the ranges specified in Table I.

TABLE I. CALIBRATION ERROR CONCENTRATION RANGES

Measurement point	CO Low range (ppm)	CO High range (ppm)	O_2 (%)
1	0–40	0–600	0–2
2	60–80	900–1200	8–10
3	140–160	2100–2400	14–16

Operate each monitor in its normal sampling mode as nearly as possible. The calibration gas must be injected into the sample system as close to the sampling probe outlet as practical and should pass through all CEMS components used during normal sampling. Challenge the CEMS three non-consecutive times at each measurement point and record the responses. The duration of each gas

injection should be sufficient to ensure that the CEMS surfaces are conditioned.

7.1.1 *Calculations.* Summarize the results on a data sheet. Average the differences between the instrument response and the certified cylinder gas value for each gas. Calculate the CE results according to:

$$CE = |d/FS| \times 100 \qquad (1)$$

where *d* is the mean difference between the CEMS response and the known reference concentration and *FS* is the span value.

7.2 *Relative Accuracy Test Procedure.* Follow the RA test procedures in PS 3 (for O_2) section 3 and PS 4A (for CO) section 4.

7.3 *Alternative RA Procedure.* Under some operating conditions, it may not be possible to obtain meaningful results using the RA test procedure. This includes conditions where consistent, very low CO emission or low CO emissions interrupted periodically by short duration, high level spikes are observed. It may be appropriate in these circumstances to waive the RA test and substitute the following procedure.

Conduct a complete CEMS status check following the manufacturer's written instructions. The check should include operation of the light source, signal receiver, timing mechanism functions, data acquisition and data reduction functions, data recorders, mechanically operated functions, sample filters, sample line heaters, moisture traps, and other related functions of the CEMS, as applicable. All parts of the CEMS must be functioning properly before the RA requirement can be waived. The instrument must also successfully passed the CE and CD specifications. Substitution of the alternate procedure requires approval of the Regional Administrator.

8. Bibliography

1. 40 CFR Part 266, Appendix IX, Section 2, "Performance Specifications for Continuous Emission Monitoring Systems."

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Performance Specification 8A—Specifications and test procedures for total hydrocarbon continuous monitoring systems in stationary sources

1. Applicability and Principle

1.1 *Applicability.* These performance specifications apply to hydrocarbon (HC) continuous emission monitoring systems (CEMS) installed on stationary sources. The specifications include procedures which are intended to be used to evaluate the acceptability of the CEMS at the time of its installation or whenever specified in regulations or permits. The procedures are not designed to evaluate CEMS performance over an extended period of time. The source owner or operator is responsible for the proper calibration, maintenance, and operation of the CEMS at all times.

1.2 *Principle.* A gas sample is extracted from the source through a heated sample line and heated filter to a flame ionization detector (FID). Results are reported as volume concentration equivalents of propane. Installation and measurement location specifications, performance and equipment specifications, test and data reduction procedures, and brief quality assurance guidelines are included in the specifications. Calibration drift, calibration error, and response time tests are conducted to determine conformance of the CEMS with the specifications.

2. Definitions

2.1 *Continuous Emission Monitoring System (CEMS).* The total equipment used to acquire data, which includes sample extraction and transport hardware, analyzer, data recording and processing hardware, and software. The system consists of the following major subsystems:

2.1.1 *Sample Interface.* That portion of the system that is used for one or more of the following: Sample acquisition, sample transportation, sample conditioning, or protection of the analyzer from the effects of the stack effluent.

2.1.2 *Organic Analyzer.* That portion of the system that senses organic concentration and generates an output proportional to the gas concentration.

2.1.3 *Data Recorder.* That portion of the system that records a permanent record of the measurement values. The data recorder may include automatic data reduction capabilities.

2.2 *Instrument Measurement Range.* The difference between the minimum and maximum concentration that can be measured by a specific instrument. The minimum is often stated or assumed to be zero and the range expressed only as the maximum.

2.3 *Span or Span Value.* Full scale instrument measurement range. The span value must be documented by the CEMS manufacturer with laboratory data.

2.4 *Calibration Gas.* A known concentration of a gas in an appropriate diluent gas.

2.5 *Calibration Drift (CD).* The difference in the CEMS output readings from the established reference value after a stated period of operation during which no unscheduled maintenance, repair, or adjustment takes place. A CD test is performed to demonstrate the stability of the CEMS calibration over time.

2.6 *Response Time.* The time interval between the start of a step change in the system input (e.g., change of calibration gas) and the time when the data recorder displays 95 percent of the final value.

2.7 *Accuracy.* A measurement of agreement between a measured value and an accepted or true value, expressed as the percentage difference between the true and measured values relative to the true value. For these performance specifications, accuracy is checked by conducting a calibration error (CE) test.

2.8 *Calibration Error (CE).* The difference between the concentration indicated by the CEMS and the known concentration of the cylinder gas. A CE test procedure is performed to document the accuracy and linearity of the monitoring equipment over the entire measurement range.

2.9 *Performance Specification Test (PST) Period.* The period during which CD, CE, and response time tests are conducted.

2.10 *Centroidal Area.* A concentric area that is geometrically similar to the stack or duct cross section and is no greater than 1 percent of the stack or duct cross-sectional area.

3. Installation and Measurement Location Specifications

3.1 *CEMS Installation and Measurement Locations.* The CEMS must be installed in a location in which measurements representative of the source's emissions can be obtained. The optimum location of the sample interface for the CEMS is determined by a number of factors, including ease of access for calibration and maintenance, the degree to which sample conditioning will be required, the degree to which it represents total emissions, and the degree to which it represents the combustion situation in the firebox (where applicable). The location should be as free from in-leakage influences as possible and reasonably free from severe flow disturbances. The sample location should be at least two equivalent duct diameters downstream from the nearest control device, point of pollutant generation, or other point at which a change in the pollutant concentration or emission rate occurs and at least 0.5 diameter upstream from the exhaust or control device. The equivalent duct diameter is calculated as per 40 CFR part 60, appendix A, method 1, section 2.1. If these criteria are not achievable or if the location is otherwise less than optimum, the possibility of stratification should be investigated as described in section 3.2. The measurement point must be within the centroidal area of the stack or duct cross section.

3.2 *Stratification Test Procedure.* Stratification is defined as a difference in excess of 10 percent between the average concentration in the duct or stack and the concentration at any point more than 1.0 meter from the duct or stack wall. To determine whether effluent stratification exists, a dual probe system should be used to determine the average effluent concentration while measurements at each traverse point are being made. One probe, located at the stack or duct centroid, is used as a stationary reference point to indicate the change in effluent concentration over time. The second probe is used for sampling at the traverse points specified in 40 CFR part 60 appendix A, method 1. The monitoring system samples sequentially at the reference and traverse points throughout the testing period for five minutes at each point.

4. CEMS Performance and Equipment Specifications

If this method is applied in highly explosive areas, caution and care must be exercised in choice of equipment and installation.

4.1 *Flame Ionization Detector (FID) Analyzer.* A heated FID analyzer capable of meeting or exceeding the requirements of these specifications. Heated systems must maintain the temperature of the sample gas between 150 °C (300 °F) and 175 °C (350 °F) throughout the system. This requires all system components such as the probe, calibration valve, filter, sample lines, pump, and the FID to be kept heated at all times such that no moisture is condensed out of the

system. The essential components of the measurement system are described below:

4.1.1 *Sample Probe.* Stainless steel, or equivalent, to collect a gas sample from the centroidal area of the stack cross-section.

4.1.2 *Sample Line.* Stainless steel or Teflon tubing to transport the sample to the analyzer.

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

4.1.3 *Calibration Valve Assembly.* A heated three-way valve assembly to direct the zero and calibration gases to the analyzer is recommended. Other methods, such as quick-connect lines, to route calibration gas to the analyzers are applicable.

4.1.4 *Particulate Filter.* An in-stack or out-of-stack sintered stainless steel filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter must be heated.

4.1.5 *Fuel.* The fuel specified by the manufacturer (e.g., 40 percent hydrogen/60 percent helium, 40 percent hydrogen/60 percent nitrogen gas mixtures, or pure hydrogen) should be used.

4.1.6 *Zero Gas.* High purity air with less than 0.1 parts per million by volume (ppm) HC as methane or carbon equivalent or less than 0.1 percent of the span value, whichever is greater.

4.1.7 *Calibration Gases.* Appropriate concentrations of propane gas (in air or nitrogen). Preparation of the calibration gases should be done according to the procedures in EPA Protocol 1. In addition, the manufacturer of the cylinder gas should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change by more than ±2 percent from the certified value.

4.2 *CEMS Span Value.* 100 ppm propane. The span value must be documented by the CEMS manufacturer with laboratory data.

4.3 *Daily Calibration Gas Values.* The owner or operator must choose calibration gas concentrations that include zero and high-level calibration values.

4.3.1 The zero level may be between zero and 0.1 ppm (zero and 0.1 percent of the span value).

4.3.2 The high-level concentration must be between 50 and 90 ppm (50 and 90 percent of the span value).

4.4 *Data Recorder Scale.* The strip chart recorder, computer, or digital recorder must be capable of recording all readings within the CEMS' measurement range and must have a resolution of 0.5 ppm (0.5 percent of span value).

4.5 *Response Time.* The response time for the CEMS must not exceed 2 minutes to achieve 95 percent of the final stable value.

4.6 *Calibration Drift.* The CEMS must allow the determination of CD at the zero and high-level values. The CEMS calibration response must not differ by more than ±3 ppm (±3 percent of the span value) after each 24-hour period of the 7-day test at both zero and high levels.

4.7 *Calibration Error.* The mean difference between the CEMS and reference values at all three test points listed below must be no greater than 5 ppm (±5 percent of the span value).

4.7.1 *Zero Level.* Zero to 0.1 ppm (0 to 0.1 percent of span value).

4.7.2 *Mid-Level.* 30 to 40 ppm (30 to 40 percent of span value).

4.7.3 *High-Level.* 70 to 80 ppm (70 to 80 percent of span value).

4.8 *Measurement and Recording Frequency.* The sample to be analyzed must pass through the measurement section of the analyzer without interruption. The detector must measure the sample concentration at least once every 15 seconds. An average emission rate must be computed and recorded at least once every 60 seconds.

4.9 *Hourly Rolling Average Calculation.* The CEMS must calculate every minute an hourly rolling average, which is the arithmetic mean of the 60 most recent 1-minute average values.

4.10 *Retest.* If the CEMS produces results within the specified criteria, the test is successful. If the CEMS does not meet one or more of the criteria, necessary corrections must be made and the performance tests repeated.

5. Performance Specification Test (PST) Periods

5.1 *Pretest Preparation Period.* Install the CEMS, prepare the PTM test site according to the specifications in section 3, and prepare the CEMS for operation and calibration according to the manufacturer's written instructions. A pretest conditioning period similar to that of the 7-day CD test is recommended to verify the operational status of the CEMS.

5.2 *Calibration Drift Test Period.* While the facility is operating under normal conditions, determine the magnitude of the CD at 24-hour intervals for seven consecutive days according to the procedure given in section 6.1. All CD determinations must be made following a 24-hour period during which no unscheduled maintenance, repair, or adjustment takes place. If the combustion unit is taken out of service during the test period, record the onset and duration of the downtime and continue the CD test when the unit resumes operation.

5.3 *Calibration Error Test and Response Time Test Periods.* Conduct the CE and response time tests during the CD test period.

6. Performance Specification Test Procedures

6.1 *Relative Accuracy Test Audit (RATA) and Absolute Calibration Audits (ACA).* The test procedures described in this section are in lieu of a RATA and ACA.

6.2 *Calibration Drift Test.*

6.2.1 *Sampling Strategy.* Conduct the CD test at 24-hour intervals for seven consecutive days using calibration gases at the two daily concentration levels specified in section 4.3. Introduce the two calibration gases into the sampling system as close to the sampling probe outlet as practical. The gas must pass through all CEM components used during normal sampling. If periodic automatic or manual adjustments are made to the CEMS zero and calibration settings, conduct the CD test immediately before these adjustments, or conduct it in such a way that the CD can be determined. Record the CEMS response and subtract this value from the reference (calibration gas) value. To meet the specification, none of the differences may exceed 3 percent of the span of the CEM.

6.2.2 *Calculations.* Summarize the results on a data sheet. An example is shown in Figure 1. Calculate the differences between the CEMS responses and the reference values.

6.3 *Response Time.* The entire system including sample extraction and transport, sample conditioning, gas analyses, and the data recording is checked with this procedure.

6.3.1 Introduce the calibration gases at the probe as near to the sample location as possible. Introduce the zero gas into the system. When the system output has stabilized (no change greater than 1 percent of full scale for 30 sec), switch to monitor stack effluent and wait for a stable value. Record the time (upscale response time) required to reach 95 percent of the final stable value.

6.3.2 Next, introduce a high-level calibration gas and repeat the above procedure. Repeat the entire procedure three times and determine the mean upscale and downscale response times. The longer of the two means is the system response time.

6.4 *Calibration Error Test Procedure.*

6.4.1 *Sampling Strategy.* Challenge the CEMS with zero gas and EPA Protocol 1 cylinder gases at measurement points within the ranges specified in section 4.7.

6.4.1.1 The daily calibration gases, if Protocol 1, may be used for this test.

BILLING CODE 6560-50-P

SOURCE:	DATE:
MONITOR:	LOCATION:
SERIAL NUMBER:	SPAN:

	DAY	DATE	TIME	CALIBRATION VALUE	MONITOR RESPONSE	DIFFE RENCE	PERCENT OF SPAN[1]
ZERO/ LOW LEVEL	1						
	2						
	3						
	4						
	5						
	6						
	7						
HIGH LEVEL	1						
	2						
	3						
	4						
	5						
	6						
	7						

1/ = Acceptance Criteria: ≤ 3% of span each day for seven days.

FIGURE 1: Calibration Drift Determination

BILLING CODE 6560-50-C

6.4.1.2 Operate the CEMS as nearly as possible in its normal sampling mode. The calibration gas should be injected into the sampling system as close to the sampling probe outlet as practical and must pass through all filters, scrubbers, conditioners, and other monitor components used during normal sampling. Challenge the CEMS three non-consecutive times at each measurement point and record the responses. The duration of each gas injection should be for a sufficient period of time to ensure that the CEMS surfaces are conditioned.

6.4.2 *Calculations.* Summarize the results on a data sheet. An example data sheet is shown in Figure 2. Average the differences between the instrument response and the certified cylinder gas value for each gas. Calculate three CE results according to Equation 1. No confidence coefficient is used in CE calculations.

7. Equations

Calibration Error. Calculate CE using Equation 1.

$$CE = |d/FS| \times 100 \qquad \text{(Eq. 1)}$$

Where:

d = Mean difference between CEMS response and the known reference concentration, determined using Equation 2.

$$d = \frac{1}{n}\sum_{i=1}^{n} d_i \qquad \text{(Eq. 2)}$$

Where:

d_i = Individual difference between CEMS response and the known reference concentration.

8. Reporting

At a minimum, summarize in tabular form the results of the CD, response time, and CE test, as appropriate. Include all data sheets, calculations, CEMS data records, and cylinder gas or reference material certifications.

BILLING CODE 6560–50–P

SOURCE:	DATE:
MONITOR:	LOCATION:
SERIAL NUMBER:	SPAN:

RUN NUMBER	CALIBRATION VALUE	MONITOR RESPONSE	DIFFERENCE		
			Zero/Low	Mid	High
1 - Zero					
2 - Mid					
3 - High					
4 - Mid					
5 - Zero					
6 - High					
7 - Zero					
8 - Mid					
9 - High					
		Mean Difference =			
		Calibration Error =	%	%	%

FIGURE 2: Calibration Error Determination

BILLING CODE 6560-50-C

9. References

1. Measurement of Volatile Organic Compounds-Guideline Series. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, EPA-450/2-78-041, June 1978.

2. Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Continuous Source Emission Monitors (Protocol No. 1). U.S. Environmental Protection Agency ORD/EMSL, Research Triangle Park, North Carolina, 27711, June 1978.

3. Gasoline Vapor Emission Laboratory Evaluation-Part 2. U.S. Environmental Protection Agency, OAQPS, Research Triangle Park, North Carolina, 27711, EMB Report No. 76-GAS-6, August 1975.

* * * * *

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

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

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

2. Part 63, subpart EEE, is revised to read as follows:

Subpart EEE—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors

General

Sec.

Subpart EEE—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors General

§ 63.1200 Who is subject to these regulations?

The provisions of this subpart apply to all hazardous waste combustors: hazardous waste incinerators, hazardous waste burning cement kilns, and hazardous waste burning lightweight aggregate kilns, except as provided in Table 1 of this section. Hazardous waste combustors are also subject to applicable requirements under parts 260–270 of this chapter.

(a) *What if I am an area source?* (1) Both area sources and major sources are subject to this subpart.

(2) Both area sources and major sources, not previously subject to title V, are immediately subject to the requirement to apply for and obtain a title V permit in all States, and in areas covered by part 71 of this chapter.

(b) These regulations in this subpart do not apply to sources that meet the criteria in Table 1 of this Section, as follows:

TABLE 1 TO § 63.1200.— HAZARDOUS WASTE COMBUSTORS EXEMPT FROM SUBPART EEE

If	And if	Then
(1) You are a previously affected source	(i) You ceased feeding hazardous waste for a period of time greater than the hazardous waste residence time (*i.e.*, hazardous waste no longer resides in the combustion chamber);. (ii) You are in compliance with the closure requirements of subpart G, parts 264 or 265 of this chapter;. (iii) You begin complying with the requirements of all other applicable standards of this part (Part 63); and. (iv) You notify the Administrator in writing that you are no longer an affected source under this subpart (Subpart EEE).	You are no longer subject to this subpart (Subpart EEE).
(2) You are a research, development, and demonstration source.	You operate for no longer than one year after first burning hazardous waste (Note that the Administrator can extent this one-year restriction on a case-by-case basis upon your written request documenting when you first burned hazardous waste and the justification for needing additional time to perform research, development, or demonstration operations.).	You are not subject to this subpart (Subpart EEE). This exemption applies even if there is a hazardous waste combustor at the plant site that is regulated under this subpart. You still, however, remain subject to § 270.65 of this chapter.
(3) The only hazardous wastes you burn are exempt from regulation under § 266.100(b) of this chapter.	.....	You are not subject to the requirements of this subpart (Subpart EEE).

[FR Doc. 00–5386 Filed 3–10–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–6549–3]

RIN 2060–AF92

Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrections.

SUMMARY: On February 12, 1999 (64 FR 7458), we promulgated final rule amendments to reduce unnecessary reporting and recordkeeping burdens due to regulations implementing the Clean Air Act (CAA). These final rule corrections relating to standards of performance for industrial-commercial-institutional steam generating units serve to correct an error in the final rule amendments as promulgated on February 12, 1999.

EFFECTIVE DATE: March 13, 2000.

FOR FURTHER INFORMATION CONTACT: Fred L. Porter, Combustion Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5251, facsimile: (919) 541–5450, electronic mail address: *porter.fred@epa.gov*.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely redesignating one paragraph and then inserting another paragraph which had been deleted unintentionally. Thus, notice and public procedures are unnecessary, and we find that this constitutes good cause under 5 U.S.C. 553(b)(B).

I. What Is the Background for the Correction?

On February 12, 1999 (64 FR 7458), we promulgated a number of amendments to rules under 40 CFR parts 51, 60, 61, and 63, to reduce unnecessary recordkeeping and reporting burdens due to regulations implementing the CAA. One of these amendments was to add paragraph (s) to § 60.49b, Reporting and Recordkeeping Requirements, Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. As a paragraph (s) already existed, the amendment unintentionally replaced the existing paragraph (s) with a new paragraph (s).

The existing paragraph (s) provided a facility specific nitrogen oxides standard for the C.AOG incinerator at the Cytec Industries, Fortier plant in Westwego, Louisiana. By unintentionally replacing the existing paragraph (s) with a new paragraph (s), this facility specific nitrogen oxides standard was mistakenly deleted.

To have avoided this error, we should have designated the new paragraph (s) as a new paragraph (w). Today's corrections accomplish this as follows.

First, we amend the new paragraph (s) by replacing it with the old paragraph (s). This corrects the unintentional deletion of the facility specific nitrogen oxides standard for the C.AOG incinerator at the Cytec Industries Fortier plant in Westwego.

Second, we amend § 60.49b, Reporting and Recordkeeping Requirements, by adding a new paragraph (w). This new paragraph (w) is nothing more than the paragraph (s) which was included in the February 12, 1999 action. By adding it as paragraph (w), we correctly implement the February 12, 1999 action to reduce the reporting and recordkeeping burden.

II. What Are the Impacts Associated With the Corrections?

This action consists of a correction of our intent at the time of promulgation of the February 12, 1999 amendments to 40 CFR parts 51, 60, 61, and 63. The correction has no impact.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. Because we have made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the March 29, 1996 **Federal Register** document (61 FR 14029).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause

finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)).

As stated previously, we have made such a good cause finding, including the reasons therefore, and established an effective date of March 13, 2000. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Recordkeeping and reporting requirements.

Dated: March 2, 2000.

Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

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 citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401–7601.

Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

2. Section 60.49b is amended by revising paragraph (s) and adding paragraph (w) to read as follows:

§ 60.49b Reporting and recordkeeping requirements.

* * * * *

(s) Facility specific nitrogen oxides standard for Cytec Industries Fortier Plant's C.AOG incinerator located in Westwego, Louisiana:

(1) *Definitions.*

Oxidation zone is defined as the portion of the C.AOG incinerator that extends from the inlet of the oxidizing zone combustion air to the outlet gas stack.

Reducing zone is defined as the portion of the C.AOG incinerator that extends from the burner section to the inlet of the oxidizing zone combustion air.

Total inlet air is defined as the total amount of air introduced into the C.AOG incinerator for combustion of natural gas and chemical by-product waste and is equal to the sum of the air flow into the reducing zone and the air flow into the oxidation zone.

(2) *Standard for nitrogen oxides.* (i) When fossil fuel alone is combusted, the nitrogen oxides emission limit for fossil fuel in § 60.44b(a) applies.

(ii) When natural gas and chemical by-product waste are simultaneously combusted, the nitrogen oxides emission limit is 289 ng/J (0.67 lb/million Btu) and a maximum of 81 percent of the total inlet air provided for combustion shall be provided to the reducing zone of the C.AOG incinerator.

(3) *Emission monitoring.* (i) The percent of total inlet air provided to the reducing zone shall be determined at least every 15 minutes by measuring the air flow of all the air entering the reducing zone and the air flow of all the air entering the oxidation zone, and compliance with the percentage of total inlet air that is provided to the reducing zone shall be determined on a 3-hour average basis.

(ii) The nitrogen oxides emission limit shall be determined by the compliance and performance test methods and procedures for nitrogen oxides in § 60.46b(i).

(iii) The monitoring of the nitrogen oxides emission limit shall be performed in accordance with § 60.48b.

(4) *Reporting and recordkeeping requirements.* (i) The owner or operator of the C.AOG incinerator shall submit a report on any excursions from the limits required by paragraph (a)(2) of this section to the Administrator with the quarterly report required by paragraph (i) of this section.

(ii) The owner or operator of the C.AOG incinerator shall keep records of the monitoring required by paragraph (a)(3) of this section for a period of 2 years following the date of such record.

(iii) The owner of operator of the C.AOG incinerator shall perform all the applicable reporting and recordkeeping requirements of this section.

* * * * *

(w) The reporting period for the reports required under this subpart is each 6 month period. All reports shall be submitted to the Administrator and shall be postmarked by the 30th day following the end of the reporting period.

[FR Doc. 00–5797 Filed 3–10–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[FRL–6550–1]

RIN 2050–AE74

Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying its chemical accident prevention regulations to conform to the fuels provision of the recently enacted Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. 106–40). In accordance with the new law, today's rule revises the list of regulated flammable substances to exclude those substances when used as a fuel or held for sale as a fuel at a retail facility. EPA is also announcing there will be no further action on a previous proposal concerning flammable substances, since the new law resolves the issue addressed by the proposal.

DATES: Effective March 13, 2000.

ADDRESSES: Docket. Supporting material used in developing the final rule is contained in Docket No. A–99–36. The docket is available for public inspection and copying between 8:00 am and 5:30 pm, Monday through Friday (except government holidays) at EPA's Air Docket, Room 1500, Waterside Mall, 401 M Street, SW, Washington, DC 20460; phone number: 202–260–7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Breeda Reilly, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave, NW (5104), Washington, DC 20460, (202) 260–0716.

SUPPLEMENTARY INFORMATION:

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