

term” and “sixty-seven year extended term,” respectively.

c. Paragraph (e)(1) is amended by removing the phrase “extended forty-seven year second term” and adding “extended sixty-seven year second term”.

d. Paragraph (f)(1) is amended by removing the phrase “forty-seven year renewal term” and adding “sixty-seven year renewal term.”

Dated: May 9, 2001.

**Marilyn J. Kretsinger,**

*Assistant General Counsel.*

[FR Doc. 01-12053 Filed 5-11-01; 8:45 am]

**BILLING CODE 1410-30-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[AD-FRL-6970-4]

RIN 2060-AH74

### National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical corrections.

**SUMMARY:** Under the Clean Air Act (CAA), the EPA issued a final rule on December 22, 2000 (65 FR 80755) to amend the pulp and paper national emission standards for hazardous air pollutants (Pulp and Paper NESHAP). The Pulp and Paper NESHAP limit and control hazardous air pollutants (HAP) that are known to cause or suspected to cause cancer or have other serious health or environmental effects. These technical corrections will correct an error in the amendatory instructions and correct referencing errors in the December 22, 2000 final rule amendments. 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. The EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements

of the Pulp and Paper NESHAP. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

**EFFECTIVE DATE:** May 14, 2001.

**ADDRESSES:** Docket No. A-92-40 contains supporting information for the Pulp and Paper NESHAPS, subsequent amendments, and this technical correction. The docket is located at the U.S. EPA, in Room M-1500, Waterside Mall (ground floor), 401 M Street SW., Washington, DC 20460 and is available for inspection and copying from 8:30 a.m. to 5:30 p.m., Monday through Friday except Federal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Shedd, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5397, facsimile number: (919) 541-0246, electronic mail address: [shedd.steve@epa.gov](mailto:shedd.steve@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* Entities potentially regulated by this action include:

Category	SIC	NAICS	Examples of regulated entities
Industry ....	26	3221	Pulp mills and integrated mills (mills that manufacture pulp and paper/paperboard) that chemically pulp wood fiber.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether this action would regulate your facility, you must carefully examine the applicability criteria in § 63.440 of the Pulp and Paper NESHAP. If you have questions regarding the applicability of this action to a particular situation or questions about compliance approaches, permitting, enforcement, and rule determinations, please contact the local or State air pollution control agency who has permitting authority for your facility.

*World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of today's technical corrections will be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be available on the TTN's policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. Also, a separate page

on the TTN provides all the proposal and promulgation notices, support documents, and implementation information for the Pulp and Paper NESHAP which is located at <http://www.epa.gov/ttn/uatw/pulp/pulppg.html>. If you need more information regarding the TTN, call the TTN HELP line at (919) 541-5384.

### I. Description of the Technical Corrections

The EPA promulgated the Pulp and Paper NESHAP on April 15, 1998 (63 FR 18504), with subsequent amendments for corrections and clarifications. On December 22, 2000 (65 FR 80755), we issued final rule amendments to the Pulp and Paper NESHAPS to revise the compliance demonstration procedures for combustion devices used to control pulping vent gases and for biological treatment systems used to treat pulping condensates. In the final rule text we incorrectly referenced two subparagraphs. Section 63.457(l)(1) incorrectly referenced § 63.446(e)(2)(i). The correct reference is § 63.446(e)(2) and (3). Section 63.457(l)(2) incorrectly

referenced § 63.446(e)(2)(ii) and (iii). The correct reference is § 63.446(e)(2) and (4), or (e)(2) and (5). Also the amendatory instructions were incorrect for § 63.457(l) and (m)(2)(ii). The incorrect instruction is to revise the introductory text. Instead, the whole text is to be revised. This action corrects those typographical errors.

### II. 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 EPA has 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 (see Summary), 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 final 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 final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final 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 technical correction 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 technical correction, the 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 technical correction 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 December 22, 2000 final rule amendments (65 FR 80755).

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, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 14, 2001. 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 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and record keeping requirements.

Dated: April 18, 2001.

**Robert D. Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations are amended as follows:

#### PART 63—[AMENDED]

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

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

#### Subpart S—[Amended]

2. Section 63.457 is amended by revising paragraphs (l) and (m)(2)(ii) to read as follows:

##### **§ 63.457 Test methods and procedures.**

\* \* \* \* \*

(1) *Biological treatment system percent reduction and mass removal calculations.* To demonstrate compliance with the condensate treatment standards specified in § 63.446(e)(2) and the monitoring requirements specified in § 63.453(j)(3) using a biological treatment system, the owner or operator shall use one of the procedures specified in paragraphs (1)(1) and (2) of this section. Owners or operators using a nonthoroughly mixed open biological treatment system shall also comply with paragraph (1)(3) of this section.

(1) *Percent reduction methanol procedure.* For the purposes of complying with the condensate treatment requirements specified in § 63.446(e)(2) and (3), the methanol percent reduction shall be calculated using the following equations:  
Where:

$$R = \frac{f_{\text{bio}}(\text{MeOH})}{(1 + 1.087(r))} * 100$$

$$r = \frac{F_{(\text{nonmethanol})}}{F_{(\text{methanol})}}$$

R = Percent destruction.

$f_{\text{bio}}(\text{MeOH})$  = The fraction of methanol removed in the biological treatment system. The site-specific biorate constants shall be determined using the appropriate procedures specified in appendix C of this part.

r = Ratio of the sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass to methanol mass.

$F_{(\text{nonmethanol})}$  = The sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass flow rates (kg/Mg ODP) entering the biological treatment system determined using the procedures in paragraph (j)(2) of this section.

$F_{(\text{methanol})}$  = The mass flow rate (kg/Mg ODP) of methanol entering the system determined using the procedures in paragraph (j)(2) of this section.

(2) *Mass removal methanol procedure.* For the purposes of complying with the condensate treatment requirements specified in § 63.446(e)(2) and (4), or § 63.446(e)(2) and (5), the methanol mass removal shall be calculated using the following equation:

$$F = F_b * (f_{\text{bio}}(\text{MeOH}) / (1 + 1.087(r)))$$

Where:

F = Methanol mass removal (kg/Mg ODP).

$F_b$  = Inlet mass flow rate of methanol (kg/Mg ODP) determined using the procedures in paragraph (j)(2) of this section.

$f_{\text{bio}}(\text{MeOH})$  = The fraction of methanol removed in the biological treatment system. The site-specific biorate constants shall be determined using the appropriate procedures specified in appendix C of this part.

r = Ratio of the sum of acetaldehyde, methyl ethyl ketone, and propionaldehyde mass to methanol mass determined using the procedures in paragraph (1) of this section.

(3) The owner or operator of a nonthoroughly mixed open biological treatment system using the monitoring requirements specified in § 63.453(p)(3) shall follow the procedures specified in section III.B.1 of appendix E of this part to determine the borate constant, Ks, and characterize the open biological

treatment system during the initial and any subsequent performance tests.

(m) \* \* \*  
(2) \* \* \*

(ii) Compliance with the segregation requirements specified in § 63.446(c)(3) is demonstrated if the total HAP mass determined in paragraph (m)(2)(i) of this section is equal to or greater than the appropriate mass requirements specified in § 63.446(c)(3).

\* \* \* \* \*

[FR Doc. 01-12048 Filed 5-11-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 63 and 270

[FRL-6978-4]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; Implementation of court orders.

**SUMMARY:** In *Chemical Manufacturers Association v. EPA*, 217 F. 3d 861 (D.C. Cir. 2000), the court vacated the Notice of Intent to Comply (NIC) provisions of EPA's rules relating to the standards for hazardous waste combustors. Today's action takes the ministerial step of removing these provisions from the Code of Federal Regulations (CFR). Since the vacated NIC provision is also referenced in the permit modification procedures of RCRA in Part 270, today's action modifies this reference as well. In addition, at EPA's request, the D.C. Circuit vacated certain parameter limits of baghouses and electrostatic precipitators in order for EPA to solicit further comment on these provisions. *CKRC v. EPA*, no. 99-1457 (Order of April 5, 2001). Today's action likewise takes the ministerial step of removing these provisions from the CFR.

**DATES:** This rule is effective on May 14, 2001.

**ADDRESSES:** The official record (i.e., the public docket) of this rulemaking is identified as Docket Number F-2001-RC3F-FFFFF, located in RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002. The RIC is open from 9 am to 4 pm Monday through Friday, excluding Federal holidays. To review docket materials or

for information on accessing an electronic copy of those materials, please call 703-603-9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost \$ 0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information, call the RCRA Call Center at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 5 pm, Eastern Standard Time. For more information on specific aspects of this rule, contact Mr. Shiva Garg at 703-308-8459, [garg.shiva@epa.gov](mailto:garg.shiva@epa.gov), or write him at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

#### SUPPLEMENTARY INFORMATION:

##### I. Vacatur of Requirements for Early Cessation of Hazardous Waste Burning

In anticipation of establishing revised emission standards for cement kilns and incinerators burning hazardous waste, EPA promulgated at 63 FR 33821-2 (June 19, 1998) that sources which elect to stop burning hazardous waste rather than comply with the new emission standards must do so within two years of the effective date of the emission standards (the so-called "early cessation" requirement). These regulations were later recodified as 40 CFR 63.1206(a)(2)(i) and 1211(b)(2)(iii) and (5), at 64 FR 53038, September 30, 1999. Sources that continued to burn hazardous wastes but seek to comply with the new emission limits, such as by improving their emission control capabilities, have three years to comply. 40 CFR 63.1206(a)(1). Both methods of compliance were implemented by submission of two reporting requirements: a Notification of Intent to Comply ("NIC"), and a Progress Report. 40 CFR 63.1210(b), 63.1211(b), and 63.1212.

In the case of sources intending to comply by meeting the emission standards, submittal of a NIC is a condition required for eligibility for accelerated modification of the source's existing permit under the Resource Conservation and Recovery Act ("RCRA"). 40 CFR 70.42(j)(1). These accelerated permit modifications (so-called "Class I modifications") allow sources to modify their existing hazardous waste permits issued pursuant to RCRA by simply submitting an application to the permitting authority rather than waiting for prior

Agency approval and going through public hearings (63 FR 33803, June 19, 1998). Permit modifications are necessary because, unless modified, existing RCRA permits limit the ability of sources to modify their design or operation, and such modifications may be necessary to comply with the Clean Air Act emission standards. *Id.* Accelerated permit modifications are needed (where modifications are needed at all) because usual permit modification procedures entail prior agency approval and public hearings, an often lengthy process which could preclude compliance with the emission standards within the three years allowed (with a possible one-year extension) under section 112(i)(3) of the Clean Air Act (42 U.S.C. 7412(i)(3)), forcing facilities to choose between violating RCRA and violating the Clean Air Act. EPA therefore amended its permitting rules to use the accelerated Class I modification procedures to amend permits to allow sources to make technology changes—such as installation of new air pollution control devices or process modifications—needed to comply with the new air emission standards, provided, as noted above, that the "[f]acility \* \* \* must comply with the Notification of Intent to Comply (NIC) requirements \* \* \* before a permit modification can be requested under this section." 40 CFR 270.42(j)(1) and Appendix I, entry L (9) to § 270.42.

In *Chemical Manufacturers Ass'n v. EPA*, 217 F. 3d 861 (D.C. Cir. 2000) the panel majority held that EPA possesses legal authority to impose an early cessation requirement, but held further that the agency had impermissibly interpreted the statute to allow it to impose the requirement without a showing that it would lead to human health or environmental benefit (benefits such as "the amount of hazardous waste produced, the amount of hazardous waste burned, or the levels of hazardous air pollutant emissions"). 217 F. 3d at 865, 866-67.<sup>1</sup> The Court therefore vacated the early cessation requirement. The Court further held that because it could not determine whether EPA would have promulgated the NIC and Progress Report reporting requirements absent an early cessation provision, the provisions were so

<sup>1</sup> Judge Sentelle dissented, arguing that since the early cessation requirement was in accord with the express statutory command for compliance with section 112 emission standards "as expeditiously as practicable", it was not arbitrary and capricious. CAA section 112(i)(3)(A), 42 U.S.C. 7412(i)(3)(A). 217 F.3d at 868-69.