

Stationary Sources; Part 217 Nitrogen Oxides Emissions; Subpart V: Electric Power Generation; Adopted at 25 *Ill. Reg.* 5914, effective April 17, 2001.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed 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. 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.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone.

Dated: June 8, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, Part 52, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(156) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(156) On May 8, 2001, the State submitted rules to control Oxides of Nitrogen emissions from electric generating units.

(i) *Incorporation by reference.* Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter C: Emission Standards and Limitations for Stationary Sources; Part 217 Nitrogen Oxides Emissions; Subpart V: Electric Power Generation. Adopted at 25 *Ill. Reg.* 5914, effective April 17, 2001.

[FR Doc. 01-15285 Filed 6-15-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL-6998-5]

Guidelines Establishing Test Procedures for the Measurement of Mercury in Water (EPA Method 1631, Revision C); Final Rule, Technical Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical corrections.

SUMMARY: EPA is amending the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" to make minor technical corrections to clarify the use of field blanks for mercury testing under the Clean Water Act. Specifically, the amendments rectify an omission in the text of the promulgated version of Method 1631: Mercury in Water by Oxidation, Purge and Trap and Cold Vapor Atomic Fluorescence Spectrometry.

DATES: These technical corrections are effective July 18, 2001. The incorporation by reference of the publication listed in today's rule is approved by the Director of the Federal Register as of July 18, 2001. For judicial review purposes, this rule is promulgated as of 1:00 p.m. (Eastern time) on July 2, 2001, as provided in 40 CFR 23.2.

FOR FURTHER INFORMATION CONTACT: For information regarding this rule contact Dr. Maria Gomez-Taylor, Engineering and Analysis Division (4303), USEPA Office of Science and Technology, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460 (e-mail: Gomez-Taylor.Maria@epa.gov).

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act. In doing so, the NPDES permitting authority, including authorized States, Territories, and Tribes, make a number of discretionary choices associated with permit writing, including the selection of pollutants to be measured and, in many cases, limited in permits. If EPA has "approved" standardized testing procedures (i.e., promulgated through rulemaking) for a given pollutant, the NPDES permit must include one of the

approved testing procedures or an approved alternate test procedure. Regulatory entities may, at their discretion, require use of this method in their permits. Therefore, entities with NPDES permits could be affected by the

standardization of testing procedures in this rulemaking, because NPDES permits may incorporate the testing procedure in today's rulemaking. In addition, when a State, Territory, or authorized Tribe provides certification

of Federal licenses under Clean Water Act section 401, States, Territories and Tribes are directed to use the standardized testing procedures. Categories and entities that may ultimately be affected include:

Category	Examples of potentially regulated entities
Regional, State and Territorial Governments and Tribes	States, Territories, and Tribes authorized to administer the NPDES permitting program; States, Territories, and Tribes providing certification under Clean Water Act section 401; Governmental NPDES permittees.
Industry	Industrial NPDES permittees.
Municipalities	Publicly-owned treatment works with NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Administrative Procedure Act

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 today's rule merely corrects the text of a promulgated test method to reflect the Agency's intentions at the time it originally published the rule. Omissions to EPA Method 1631, Revision B, were brought to the Agency's attention by the members of the public after the test method was promulgated. The revisions to the test method clarify the use and reporting of field blanks, and are consistent with the discussion in the preamble to the final rule. In addition, this rule corrects a typographical error at 40 CFR Part 136.3(b). The CFR contains two references with the same number [(b)(40)]. The second reference (40) in Section 136.3(b) has been renumbered (41) and reference (41) has been renumbered (42). The revisions to the test method and the CFR are not substantive. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

I. EPA Method 1631, Revision B

EPA promulgates analytical methods for pollutants under Clean Water Act programs at 40 CFR Part 136. In most cases, EPA has approved use of more than one analytical method for measurement of particular pollutants, and laboratories may use any approved test method for determining compliance with applicable requirements. From time to time, EPA amends 40 CFR Part 136 to approve new test methods or modifications to approved test methods. For new test methods or for substantive changes to approved test methods, EPA first publishes a notice for public comment and reviews any public comments received prior to making a final decision on approval.

EPA proposed Method 1631: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry on May 26, 1998 (63 FR 28867), and then, after revisions following public comment, EPA promulgated Method 1631, Revision B on June 8, 1999 (64 FR 30417). On October 19, 2000, EPA entered into a Settlement Agreement to resolve litigation over the final rule in *Alliance of Automobile Manufacturers, et al. v. EPA*, No. 99-1420 (D.C. Cir.).

Under the Settlement Agreement, the Agency agreed to revise sections 12.4.2 and 9.4.3.3 of the test method to clarify the use of field blank subtraction (section 12.4.2) and the use of multiple field blanks (section 9.4.3.3) to determine whether test samples should be used for compliance monitoring purposes. At the time EPA published the challenged rulemaking, the Agency had intended to incorporate these changes into the rule, as reflected by the preamble and the comment-response document in the public record. The version of Method 1631 promulgated today now incorporates these technical corrections. No other changes are being made to the text of the referenced test protocol.

EPA will take actions to implement other provisions of the Settlement Agreement separately. For example, EPA agreed to propose additional clean techniques and quality control requirements for EPA Method 1631 in a **Federal Register** notice that is scheduled for signature by September 15, 2001. Today's action only addresses the use and reporting of field blank results.

Today's rule contains only minor technical corrections to EPA Method 1631, Revision B and provides a revised version reflecting these technical corrections. As required by the Office of the Federal Register, EPA submitted a revised version of the test method to the Director of the Federal Register for approval for incorporation by reference. The revised version submitted to the Director is EPA Method 1631, Revision C. In today's rule, the full reference to the test method in 40 CFR 136.3(b)(40) is being amended to reflect the updated test method (i.e., Revision C).

By today's action, EPA has revised the following sections of EPA Method 1631:

A. Section 9.4.3.3: This text is revised to clarify that, if sufficient multiple field blanks (a minimum of three) are collected, and the average concentration (of the multiple field blanks) plus two standard deviations is equal to or greater than the regulatory compliance limit or equal to or greater than one-half of the level in the associated test sample, results for associated test samples may be the result of contamination and may not be reported or otherwise used for regulatory compliance purposes.

B. Section 12.4.2: This text has been revised to clarify that results for mercury in samples, reagent blanks and field blanks must be reported separately. In addition, if blank correction is requested or required by a regulatory authority or in a permit, the concentration of mercury in the reagent blank or the field blank is subtracted from the concentration of mercury in

the sample to obtain the net sample mercury concentration.

Based on the preamble text for the June 8, 1999, final rule and the response to comments document that supports the final rule, it is apparent that the Agency intended to allow for field blank subtraction and for not using test sample results for regulatory compliance if multiple field blanks do not meet the specifications at 9.4.3.3. This correction does not add any new requirements to the regulated community. To the contrary, it provides additional flexibility by allowing the use of field blank subtraction and by not requiring the reporting of test samples that may be contaminated based on results from field blank analyses. The rest of EPA Method 1631 is unchanged from the previously promulgated EPA Method 1631, Revision B.

II. Administrative Requirements

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. 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.*). EPA's compliance with these statutes and Executive Orders or their predecessors for the underlying rule is discussed in the June 8, 1999 **Federal Register** notice (64 FR 30417).

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 CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to 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 18, 2001. 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).

III. Materials Incorporated by Reference Into 40 CFR Part 136

USEPA, 2001. Method 1631, Revision C: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry. March 2001. U.S. Environmental Protection Agency, Engineering and Analysis Division, Office of Science and Technology, Washington, DC. EPA-821/R-01/024.

IV. Public Availability of Materials

The full text of Method 1631, Revision C incorporated by reference in today's rulemaking will be available to the general public from the following sources:

Water Docket: Paper version of the method, along with the public record for this rule and the Method 1631 final rule, are available for review under docket number W-98-15 at the U.S. Environmental Protection Agency, Water Docket, 401 M Street SW., Washington, DC 20460. For access to these materials, call 202-260-3027 on Monday through Friday, excluding Federal holidays, between 9:00 a.m. and 3:30 p.m. Eastern Time for an appointment.

Internet: This **Federal Register** rule also is available on the Internet at: <http://www.epa.gov/fedrgstr>. An electronic version of Method 1631, Revision C is available via the Internet at <http://www.epa.gov/OST>.

National Technical Information Service (NTIS): Electronic or paper version of Method 1631, Revision C (NTIS Publication No. PB2001-102796) is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, by phone at 1-703/487-4650, fax at 1-703/321-8547, or via the Internet at <http://www.ntis.gov>.

List of Subjects in 40 CFR Part 136

Environmental protection, Analytical methods, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 6, 2001.

Diane C. Regas,

Acting Assistant Administrator for Water.

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

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation for Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95-217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

2. Section 136.3 is amended as follows:

a. Redesignate paragraph (b)(41) as paragraph (b)(42);

b. Redesignate the second paragraph (b)(40) as new paragraph (b)(41) and revise it to read as follows:

§ 136.3 Identification of test procedures.

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(b) * * *

(41) USEPA. 2001. Method 1631, Revision C, "Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry." March 2001. Office of Water, U.S. Environmental Protection Agency (EPA-821-R-01-024). Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Publication No. PB2001-102796. Cost: \$25.50. Table IB, Note 43.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 430, 431, 434, 435, 438, 440, and 447

[HCFA-2001-F3]

RIN 0938-AI70

Medicaid Program; Medicaid Managed Care: Further Delay of Effective Date

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; Further delay of effective date.

SUMMARY: This final rule temporarily delays the effective date of the final rule entitled "Medicaid Managed Care" that was published on January 19, 2001 in the **Federal Register** (66 FR 6228). That final rule amends the Medicaid regulations to implement provisions of the Balanced Budget Act of 1997 (BBA), which revised various aspects of the Medicaid law as it applies to managed care programs.