

does not contain provisions which involve the use of technical standards.

N. *Paperwork Reduction Act*: This rule making is proposed to implement an optional prioritized examination process. The primary impact of the change on the public is that applicants will have the option to request prioritized examination by paying appropriate fees, filing a complete application via the Office's electronic filing system (EFS-Web) with any filing and excess claims fees due paid on filing, and limiting their applications to four independent claims and thirty total claims.

An applicant who wishes to participate in the program must submit a certification and request to participate in the prioritized examination program, preferably by using Form PTO/SB/424. The Office of Management and Budget (OMB) has determined that, under 5 CFR 1320.3(h), Form PTO/SB/424 does not collect "information" within the meaning of the Paperwork Reduction Act of 1995. Therefore, this rule making does not impose additional collection requirements under the Paperwork Reduction Act which are subject to further review by OMB.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.17 is amended by adding paragraph (c) and revising paragraph (i) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(c) For filing a request for prioritized examination under § 1.102(e) ... \$4,000.00.

* * * * *

(i) Processing fee for taking action under one of the following sections which refers to this paragraph: \$130.00.

§ 1.28(c)(3)—for processing a non-itemized fee deficiency based on an error in small entity status.

§ 1.41—for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.

§ 1.48—for correcting inventorship, except in provisional applications.

§ 1.52(d)—for processing a nonprovisional application filed with a specification in a language other than English.

§ 1.53(b)(3)—to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).

§ 1.55—for entry of late priority papers.

§ 1.71(g)(2)—for processing a belated amendment under § 1.71(g).

§ 1.99(e)—for processing a belated submission under § 1.99.

§ 1.102(e)—for requesting prioritized examination of an application.

§ 1.103(b)—for requesting limited suspension of action, continued prosecution application for a design patent (§ 1.53(d)).

§ 1.103(c)—for requesting limited suspension of action, request for continued examination (§ 1.114).

§ 1.103(d)—for requesting deferred examination of an application.

§ 1.217—for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.

§ 1.221—for requesting voluntary publication or republication of an application.

§ 1.291(c)(5)—for processing a second or subsequent protest by the same real party in interest.

§ 1.497(d)—for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.

§ 3.81—for a patent to issue to assignee, assignment submitted after payment of the issue fee.

* * * * *

■ 3. Section 1.102 is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing

of a request under paragraph (b) or (e) of this section or upon filing a petition or request under paragraph (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

* * * * *

(e) A request for prioritized examination under this paragraph may be filed only with an original utility or plant nonprovisional application under 35 U.S.C. 111(a) that is complete as defined by § 1.51(b), with any fees due under § 1.16 paid on filing. If the application is a utility application, it must be filed via the Office's electronic filing system (EFS-Web). A request for prioritized examination under this paragraph must be present upon filing and must be accompanied by the prioritized examination fee set forth in § 1.17(c), the processing fee set forth in § 1.17(i), and the publication fee set forth in § 1.18(d). Prioritized examination under this paragraph will not be accorded to a design application or reissue application, and will not be accorded to any application that contains or is amended to contain more than four independent claims, more than thirty total claims, or any multiple dependent claim.

Dated: March 23, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011-7807 Filed 4-1-11; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2006-0534; FRL-9289-6]

RIN 2060-AQ24

Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On October 6, 2009, EPA promulgated its response to the remand of the new source performance standards and emissions guidelines for hospital/medical/infectious waste incinerators by the U.S. Court of Appeals for the District of Columbia Circuit and satisfied the Clean Air Act section 129(a)(5) requirement to conduct

a review of the standards every 5 years. This action promulgates amendments to the new source performance standards and emissions guidelines, correcting inadvertent drafting errors in the nitrogen oxides and sulfur dioxide emissions limits for large hospital/medical/infectious waste incinerators in the new source performance standards, which did not correspond to our description of our standard-setting process, correcting erroneous cross-references in the reporting and recordkeeping requirements in the new source performance standards, clarifying that compliance with the emission guidelines must be expeditious if a compliance extension is granted, correcting the inadvertent omission of delegation of authority provisions in the emission guidelines, correcting errors in the units' description for several emissions limits in the emission guidelines and new source performance standards, and removing extraneous text from the hydrogen chloride emissions limit for large hospital/medical/infectious waste incinerators in the emission guidelines.

DATES: This rule is effective as of May 4, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-HQ-OAR-2006-0534 and Legacy Docket ID Number A-91-61. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information which disclosure is

restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Hambrick, Fuels and Incineration Group, Sector Policies and Programs Division (E143-03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-0964; facsimile number: (919) 541-3470; e-mail address: hambrick.amy@epa.gov.

SUPPLEMENTARY INFORMATION: *Organization of This Document.* The following outline is provided to aid in locating information in this preamble.

- I. General Information
 - A. Does the final action apply to me?
 - B. Where can I get a copy of this document?
 - C. Judicial Review
- II. Background
- III. Summary of the Final Amendments
 - A. Nitrogen Oxides Emissions Limit
 - B. Sulfur Dioxide Emissions Limit
 - C. Reporting and Recordkeeping Requirements

- D. Expeditious Compliance
- E. Delegation of Authority Provisions
- F. Units Descriptions of Emissions Limits
- G. Extraneous Text
- IV. Impacts of the Final Action
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act

A red-line version of the regulatory language that incorporates the changes in this action is available in the docket.

I. General Information

A. Does the final action apply to me?

Regulated Entities. Categories and entities potentially affected by the final action are those which operate hospital/medical/infectious waste incinerators (HMIWI). The new source performance standards (NSPS) and emissions guidelines (EG) for HMIWI affect the following categories of sources:

| Category | NAICS code | Examples of potentially regulated entities |
|-----------------------------------|--|---|
| Industry | 622110 622310 325411 325412 562213 611310 | Private hospitals, other health care facilities, commercial research laboratories, commercial waste disposal companies, private universities. |
| Federal Government | 622110 541710 928110 | Federal hospitals, other health care facilities, public health service, armed services. |
| State/local/tribal Government ... | 622110 562213 611310 | State/local hospitals, other health care facilities, state/local waste disposal services, state universities. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the final action. To determine whether your facility would be affected by the final action, you should examine the applicability criteria in 40 CFR 60.50c of subpart Ec. If you have any questions regarding the applicability of the final action to a particular entity, contact the person

listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of the final action is available on the Worldwide Web through the Technology Transfer Network Web site (TTN Web). Following signature, EPA posted a copy

of the final action on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN Web provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA or Act), judicial review of

this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by June 3, 2011. Under section 307(d)(7)(B) of the CAA, only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Section 307(d)(7)(B) of the CAA also provides a mechanism for EPA to convene a proceeding for reconsideration, “[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.” Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20004. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

II. Background

On September 15, 1997, EPA adopted NSPS (40 CFR part 60, subpart Ec) and EG (40 CFR part 60, subpart Ce) for HMIWI under the authority of sections 111 and 129 of the CAA. Emissions standards were adopted for the nine pollutants required to be regulated under CAA section 129—particulate matter (PM), lead (Pb), cadmium (Cd), mercury (Hg), chlorinated dibenzo-p-dioxins/dibenzofurans, carbon monoxide, nitrogen oxides (NO_x), hydrogen chloride (HCl), and sulfur dioxide (SO₂). The EPA developed emissions limits for all nine pollutants for three HMIWI size subcategories (large, medium, and small) for the NSPS and four HMIWI size subcategories (large, medium, small, and small rural) for the EG.

On March 2, 1999, the Court in *Sierra Club v. EPA*, 167 F.3d 658 (DC Cir. 1999) remanded the rule to EPA for further explanation regarding how EPA

derived the maximum achievable control technology floors for new and existing HMIWI. The Court did not vacate the regulations, and the regulations remained in effect during the remand.

On October 6, 2009, EPA promulgated its response to the Court’s remand of the HMIWI regulations and also satisfied its requirement under CAA section 129(a)(5) to conduct a 5-year review of the HMIWI standards. The promulgated rule revised the NSPS and EG emissions limits for all nine of the CAA section 129 pollutants.

Following promulgation of the revised emissions limits, an industry representative informed EPA of an error in the published NSPS emissions limit for NO_x for large HMIWI, which did not appear to reflect EPA’s described analytical process for adopting the revised standards. On review, EPA staff determined that the published revised NO_x NSPS for large HMIWI indeed did not reflect EPA’s intent in the final rule. EPA reviewed the other published NSPS and EG emissions limits for similar errors, and determined that the published revised SO₂ NSPS for large HMIWI also did not reflect EPA’s intent in the final rule. Also after promulgation, a state agency representative informed EPA of an error in the published NSPS reporting and recordkeeping requirements, which incorrectly referred to § 60.56, instead of § 60.56c, in three separate paragraphs.

To correct these errors, EPA issued proposed amendments on May 14, 2010, to the NSPS emissions limits for NO_x and SO₂ for large HMIWI and the NSPS reporting and recordkeeping provisions that have the incorrect cross-reference (75 FR 27249 (May 14, 2010)). EPA provided a public comment period that closed on June 28, 2010. No public comments were received on the proposed amendments during that period. Consequently, today’s final action promulgates the amendments as proposed, for the reasons explained in the proposal.

Just prior to proposal of the May 14, 2010, amendments (but too late to be addressed in the proposed rule), EPA staff discovered that the HMIWI rule should be revised to clarify that compliance with the EG must be expeditious if a compliance extension is granted. After proposal of the May 14, 2010, amendments, EPA staff also noted that delegation of authority provisions had been inadvertently omitted from the EG for existing HMIWI. A state agency later informed EPA of an error in the units’ description for the Cd and Hg emissions limits in Table 1B to subpart Ec (NSPS). EPA reviewed the other

emissions limits tables in the NSPS and EG and found similar errors in the units descriptions for other emissions limits. To address these errors and omissions, EPA is issuing additional amendments to the NSPS and EG, to be effective upon the effective date of this final rule specified above.

III. Summary of the Final Amendments

A. Nitrogen Oxides Emissions Limit

EPA received no public comments regarding its proposed amendment to the NO_x NSPS limit for new large HMIWI. For the reasons explained in the proposed rule (see 75 FR at 27251/col. 2–27252/col. 1), today’s final action amends the HMIWI NSPS to include the correct NO_x NSPS limit of 140 parts per million by volume (ppmv) for new large HMIWI, which matches the final NO_x EG limit and reflects EPA’s intent in the October 6, 2009, final rule.

B. Sulfur Dioxide Emissions Limit

EPA also received no public comments on its proposed amendment to the SO₂ NSPS for new large HMIWI. For the reasons explained in the proposed rule (see 75 FR at 27252/cols. 1–2), this final action amends the HMIWI NSPS to include the correct SO₂ limit of 8.1 ppmv for new large HMIWI, which reflects EPA’s intent in the October 6, 2009, final rule.

C. Reporting and Recordkeeping Requirements

The NSPS reporting and recordkeeping requirements of the October 6, 2009, final rule include three separate cross-references to “§ 60.56(d), (h), or (j).” The correct cross-reference in each case should have been “§ 60.56c(d), (h), or (j),” consistent with the section numbering format for NSPS subpart Ec. EPA received no public comments on its proposed correction to the cross-references. This final action amends the HMIWI NSPS to correctly cross-reference to sections 60.56c(d), (h), or (j).

D. Expeditious Compliance

Section 129(f)(2) of the CAA states that performance standards and other requirements promulgated pursuant to this section and Section 111 and applicable to existing solid waste incineration units shall be effective as expeditiously as practicable after approval of a State plan under subsection (b)(2) (or promulgation of a plan by the Administrator under subsection (b)(3)) but in no event later than 3 years after the State plan is approved or 5 years after the date such standards or requirements are promulgated, whichever is earlier.

Just prior to proposal of the May 14, 2010, amendments (but too late to be addressed in the proposed rule), EPA staff discovered that paragraph (d)(3) of § 60.39e (compliance times) should be revised to clarify that compliance with the guidelines must be expeditious if a compliance extension is granted. We are amending the HMIWI EG to include this clarifying language. Specifically, we are adding the word “expeditious” to § 60.39e(d)(3) to state that if an extension is granted, require expeditious compliance with the emissions guidelines on or before the date 3 years after EPA approval of the State plan (but not later than September 16, 2002), for the emissions guidelines as promulgated on September 15, 1997, and on or before the date 3 years after EPA approval of an amended State plan (but not later than October 6, 2014), for the emissions guidelines as amended on October 6, 2009.

This action will ensure that compliance with the EG will be “expeditious,” consistent with the requirements of CAA section 129(f)(2).

E. Delegation of Authority Provisions

Provisions regarding delegation of implementation and enforcement authorities are already present in the NSPS for new HMIWI. The NSPS delegation of authority provisions in the October 6, 2009, final rule specify that the following authorities are to be retained by the Administrator and not transferred to a state:

- The requirements of § 60.56c(i) establishing operating parameters when using controls other than those listed in § 60.56c(d).
- Approval of alternative methods of demonstrating compliance under § 60.8 including:
 - Approval of continuous emissions monitoring system (CEMS) for PM, HCl, multi-metals, and Hg where used for purposes of demonstrating compliance,
 - Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance, and
 - Approval of major alternatives to test methods;
- Approval of major alternatives to monitoring;
- Waiver of recordkeeping requirements; and
- Performance test and data reduction waivers under § 60.8(b).

Following the May 14, 2010, proposal of amendments to the October 6, 2009, final rule, EPA staff discovered that delegation of authority provisions had been inadvertently omitted from the EG. We are amending the HMIWI EG to include these delegations of authority

provisions. Specifically, we are adding a paragraph to § 60.32e of the EG stating that the authorities listed under § 60.50c(i) of the NSPS are to be retained by the Administrator and not be transferred to a state. This action will ensure consistency between the NSPS and EG regarding the implementation and enforcement authorities and avoid any confusion about which authorities can be delegated and exercised by the states and which authorities must be retained by EPA.

F. Units Descriptions of Emissions Limits

EPA was informed by a state agency post-proposal that the units’ description for the Cd and Hg emissions limits in Table 1B to subpart Ec (NSPS) included both the concentration units and the not-promulgated percent reduction alternative. Table 1B to subpart Ec includes the amended emissions limits for new HMIWI in the October 6, 2009, final rule, which appropriately do not include a not-promulgated percent reduction alternative.

We are amending Table 1B to subpart Ec effective immediately to remove the units’ description for the not-promulgated percent reduction alternative and avoid any confusion regarding the elimination of the percent reduction alternative for new HMIWI in the October 6, 2009, final rule.

EPA found similar errors after reviewing the other emissions limits tables in the NSPS and EG. First, the October 6, 2009, amendments to Table 1A to subpart Ce (EG) mistakenly removed the units’ description for the previously promulgated percent reduction alternative for HCl, Pb, Cd, and Hg. Table 1A to subpart Ce includes the emissions limits from the September 15, 1997, EG, including the percent reduction alternative, to which existing HMIWI are subject until revised or new state plans are issued based on the October 6, 2009, amendments (which do not include the percent reduction alternative).

Second, the October 6, 2009, amendments to Table 1A to subpart Ec (NSPS) mistakenly removed the units’ description for the previously promulgated percent reduction alternative for HCl and Pb. Table 1A to subpart Ec includes the emissions limits from the September 15, 1997, NSPS, including the percent reduction alternative. Those emissions limits apply to HMIWI that commenced construction after June 20, 1996, but no later than December 1, 2008, or commenced modification after March 16, 1998, but no later than April 6, 2010,

except where the emissions limits in the amended EG are more stringent.

We are amending Table 1A to subpart Ce and Table 1A to subpart Ec to restore the units’ description for the percent reduction alternative for these pollutants and avoid any confusion regarding the use of a percent reduction alternative for existing and new HMIWI under the original September 15, 1997, rule.

G. Extraneous Text

In the course of reviewing the unit’s descriptions of the emissions limits, we discovered that some extraneous text had been included with the HCl NSPS limit for new large HMIWI in Table 1A to subpart Ec. (As noted previously, Table 1A to subpart Ec includes the emissions limits from the September 15, 1997, NSPS.) We are amending Table 1A to subpart Ec to remove the extraneous text and thereby avoid any confusion regarding the HCl NSPS limit for new large HMIWI in Table 1A to subpart Ec.

IV. Impacts of the Final Action

Based on the stringency of the HMIWI standards promulgated on October 6, 2009, sources would likely respond to the HMIWI rule by choosing not to construct new HMIWI and would use alternative waste disposal options rather than incur the costs of compliance. Considering this information, we do not anticipate any new HMIWI, and, therefore, no costs or impacts are associated with the final NSPS amendments for NO_x and SO₂ for new large units.

However, in the unlikely event that a new unit is constructed, we estimated costs and impacts expected for each of three HMIWI model plants (large, medium, and small), which we entered into the docket for the October 6, 2009, promulgation. (See 2009 memoranda entitled “Revised Compliance Costs and Economic Inputs for New HMIWI” and “Revised Baseline Emissions and Emissions Reductions for Existing and New HMIWI,” which are included in the docket.) We estimated baseline NO_x emissions of 80 ppmv and baseline SO₂ emissions of 0.84 ppmv for the large HMIWI model plant, based on the average NO_x and SO₂ emissions measured at the latest large HMIWI to be installed since the 1997 rule. Consequently, the NO_x and SO₂ emissions associated with the large HMIWI model plant are already below both the incorrect NO_x and SO₂ emissions limits of 130 ppmv and 1.6 ppmv, respectively, promulgated in the October 6, 2009, **Federal Register** notice, and the correct NO_x and SO₂

emissions limits of 140 ppmv and 8.1 ppmv, respectively, being promulgated in today's action. Therefore, even if a new large unit were constructed, we would estimate no cost savings or negative impacts associated with today's final amendments to the NO_x and SO₂ emissions limits for new large HMIWI.

None of the other amendments in today's final action change the requirements of the HMIWI rule, and, therefore, will not result in any impacts.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This final action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the Executive Order.

B. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* Burden is defined at 5 CFR 1320.3(b). This final action only includes revised NO_x and SO₂ emissions limits for new large HMIWI, and, as noted previously, no new HMIWI are anticipated. Consequently, this final action will not impose any additional information collection burden for new sources.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final action on small entities, small entity is defined as follows: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small

entities, I certify that this final action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This final action only includes revised NO_x and SO₂ emissions limits for new large HMIWI, and no new HMIWI are anticipated.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments, or the private sector. This final action imposes no enforceable duty on any state, local, or tribal governments, or the private sector. Therefore, this final action is not subject to the requirements of sections 202 or 205 of the UMRA.

This final action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Because this final rule's requirements apply equally to HMIWI units owned and/or operated by governments or HMIWI units owned and/or operated by private entities, there would be no requirements that uniquely apply to such government or impose any disproportionate impacts on them.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It 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. This final action will not impose substantial direct compliance costs on state or local governments, and will not preempt state law. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249; November 9, 2000). EPA is not aware of any HMIWI owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this final action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885; April 23, 1997) as

applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice (EJ). Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make EJ part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations, and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule amendment

affects only new large units, and no new units are anticipated to be constructed. This rule amendment does not relax the control measures on sources regulated by the rule will therefore not cause emissions increased from these sources.

K. Congressional Review Act

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this final 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 this final 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). This final rule will be effective on May 4, 2011.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 29, 2011.

Lisa P. Jackson,
Administrator.

For the reasons stated 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, *et seq.*

Subpart Ce—[Amended]

■ 2. Section 60.32e is amended by adding paragraph (k) to read as follows:

§ 60.32e Designated facilities.

* * * * *

(k) The authorities listed under § 60.50c(i) shall be retained by the Administrator and not be transferred to a state.

■ 3. Section 60.39e is amended by revising paragraph (d)(3) to read as follows:

§ 60.39e Compliance times.

* * * * *

(d) * * *

(3) If an extension is granted, require expeditious compliance with the emissions guidelines on or before the date 3 years after EPA approval of the state plan (but not later than September 16, 2002), for the emissions guidelines as promulgated on September 15, 1997, and on or before the date 3 years after EPA approval of an amended state plan (but not later than October 6, 2014), for the emissions guidelines as amended on October 6, 2009.

* * * * *

■ 4. Table 1A to subpart Ce is revised to read as follows:

TABLE 1A TO SUBPART Ce OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT DESIGNATED FACILITIES AS DEFINED IN § 60.32e(a)(1)

| Pollutant | Units (7 percent oxygen, dry basis) | Emissions limits | | | Averaging time ¹ | Method for demonstrating compliance ² |
|--------------------------|--|------------------------|------------------------|------------------------|---|--|
| | | HMIWI size | | | | |
| | | Small | Medium | Large | | |
| Particulate matter | Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf)). | 115 (0.05) | 69 (0.03) | 34 (0.015) | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 5 of appendix A-3 of part 60, or EPA Reference Method 26A or 29 of appendix A-8 of part 60. |
| Carbon monoxide | Parts per million by volume (ppmv). | 40 | 40 | 40 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 10 or 10B of appendix A-4 of part 60. |
| Dioxins/furans | Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10 ⁹ dscf)) or ng/dscm TEQ (gr/10 ⁹ dscf). | 125 (55) or 2.3 (1.0). | 125 (55) or 2.3 (1.0). | 125 (55) or 2.3 (1.0). | 3-run average (4-hour minimum sample time per run). | EPA Reference Method 23 of appendix A-7 of part 60. |
| Hydrogen chloride | ppmv or percent reduction. | 100 or 93% | 100 or 93% | 100 or 93% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 26 or 26A of appendix A-8 of part 60. |
| Sulfur dioxide | ppmv | 55 | 55 | 55 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 6 or 6C of appendix A-4 of part 60. |
| Nitrogen oxides | ppmv | 250 | 250 | 250 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 7 or 7E of appendix A-4 of part 60. |
| Lead | mg/dscm (grains per thousand dry standard cubic feet (gr/10 ³ dscf)) or percent reduction. | 1.2 (0.52) or 70% | 1.2 (0.52) or 70% | 1.2 (0.52) or 70% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |
| Cadmium | mg/dscm (gr/10 ³ dscf) or percent reduction. | 0.16 (0.07) or 65% | 0.16 (0.07) or 65% | 0.16 (0.07) or 65% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |

TABLE 1A TO SUBPART Ce OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT DESIGNATED FACILITIES AS DEFINED IN § 60.32e(a)(1)—Continued

| Pollutant | Units (7 percent oxygen, dry basis) | Emissions limits | | | Averaging time ¹ | Method for demonstrating compliance ² |
|---------------|---|--------------------|--------------------|--------------------|---|---|
| | | HMIWI size | | | | |
| | | Small | Medium | Large | | |
| Mercury | mg/dscm (gr/10 ³ dscf) or percent reduction. | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |

¹ Except as allowed under § 60.56c(c) for HMIWI equipped with CEMS.

² Does not include CEMS and approved alternative non-EPA test methods allowed under § 60.56c(b).

Subpart Ec—[Amended]

■ 5. Section 60.58c is amended by revising paragraphs (d)(1) through (3) to read as follows:

§ 60.58c Reporting and recordkeeping requirements.

* * * * *

(d) * * *

(1) The values for the site-specific operating parameters established

pursuant to § 60.56c(d), (h), or (j), as applicable.

(2) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to § 60.56c(d), (h), or (j), as applicable.

(3) The highest maximum operating parameter and the lowest minimum

operating parameter, as applicable, for each operating parameter recorded pursuant to § 60.56c(d), (h), or (j) for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period.

* * * * *

■ 6. Table 1A to subpart Ec is revised to read as follows:

TABLE 1A TO SUBPART Ec OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT AFFECTED FACILITIES AS DEFINED IN § 60.50c(a)(1) AND (2)

| Pollutant | Units (7 percent oxygen, dry basis) | Emissions limits | | | Averaging time ¹ | Method for demonstrating compliance ² |
|--------------------------|--|------------------------|------------------------|------------------------|---|--|
| | | HMIWI size | | | | |
| | | Small | Medium | Large | | |
| Particulate matter | Milligrams per dry standard cubic meter (grains per dry standard cubic foot). | 69 (0.03) | 34 (0.015) | 34 (0.015) | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 5 of appendix A-3 of part 60, or EPA Reference Method M 26A or 29 of appendix A-8 of part 60. |
| Carbon monoxide | Parts per million by volume. | 40 | 40 | 40 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 10 or 10B of appendix A-4 of part 60. |
| Dioxins/furans | Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet). | 125 (55) or 2.3 (1.0). | 25 (11) or 0.6 (0.26). | 25 (11) or 0.6 (0.26). | 3-run average (4-hour minimum sample time per run). | EPA Reference Method 23 of appendix A-7 of part 60. |
| Hydrogen chloride | Parts per million by volume or percent reduction. | 15 or 99% | 15 or 99% | 15 or 99% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 26 or 26A of appendix A-8 of part 60. |
| Sulfur dioxide | Parts per million by volume. | 55 | 55 | 55 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 6 or 6C of appendix A-4 of part 60. |
| Nitrogen oxides | Parts per million by volume. | 250 | 250 | 250 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 7 or 7E of appendix A-4 of part 60. |
| Lead | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction. | 1.2 (0.52) or 70% | 0.07 (0.03) or 98% | 0.07 (0.03) or 98% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |
| Cadmium | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction. | 0.16 (0.07) or 65% | 0.04 (0.02) or 90% | 0.04 (0.02) or 90% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |

TABLE 1A TO SUBPART Ec OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT AFFECTED FACILITIES AS DEFINED IN § 60.50c(a)(1) AND (2)—Continued

| Pollutant | Units (7 percent oxygen, dry basis) | Emissions limits | | | Averaging time ¹ | Method for demonstrating compliance ² |
|---------------|---|--------------------|--------------------|--------------------|---|---|
| | | HMIWI size | | | | |
| | | Small | Medium | Large | | |
| Mercury | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction. | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% | 0.55 (0.24) or 85% | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |

¹ Except as allowed under § 60.56c(c) for HMIWI equipped with CEMS.

² Does not include CEMS and approved alternative non-EPA test methods allowed under § 60.56c(b).

■ 7. Table 1B to Subpart Ec is revised to read as follows:

TABLE 1B TO SUBPART Ec OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT AFFECTED FACILITIES AS DEFINED IN § 60.50c(a)(3) AND (4)

| Pollutant | Units (7 percent oxygen, dry basis) | Emissions limits | | | Averaging time ¹ | Method for demonstrating compliance ² |
|--------------------------|--|-----------------------------|--------------------------------|-----------------------------|---|--|
| | | HMIWI size | | | | |
| | | Small | Medium | Large | | |
| Particulate matter | Milligrams per dry standard cubic meter (grains per dry standard cubic foot). | 66 (0.029) | 22 (0.0095) | 18 (0.0080) | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 5 of appendix A-3 of part 60, or EPA Reference Method M 26A or 29 of appendix A-8 of part 60. |
| Carbon monoxide | Parts per million by volume. | 20 | 1.8 | 11 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 10 or 10B of appendix A-4 of part 60. |
| Dioxins/furans | Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet). | 16 (7.0) or 0.013 (0.0057). | 0.47 (0.21) or 0.014 (0.0061). | 9.3 (4.1) or 0.035 (0.015). | 3-run average (4-hour minimum sample time per run). | EPA Reference Method 23 of appendix A-7 of part 60. |
| Hydrogen chloride | Parts per million by volume. | 15 | 7.7 | 5.1 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 26 or 26A of appendix A-8 of part 60. |
| Sulfur dioxide | Parts per million by volume. | 1.4 | 1.4 | 8.1 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 6 or 6C of appendix A-4 of part 60. |
| Nitrogen oxides | Parts per million by volume. | 67 | 67 | 140 | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 7 or 7E of appendix A-4 of part 60. |
| Lead | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet). | 0.31 (0.14) | 0.018 (0.0079) | 0.00069 (0.00030) | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |
| Cadmium | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet). | 0.017 (0.0074) | 0.0098 (0.0043) | 0.00013 (0.000057). | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |
| Mercury | Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet). | 0.014 (0.0061) | 0.0035 (0.0015) | 0.0013 (0.00057) .. | 3-run average (1-hour minimum sample time per run). | EPA Reference Method 29 of appendix A-8 of part 60. |

¹ Except as allowed under § 60.56c(c) for HMIWI equipped with CEMS.

² Does not include CEMS and approved alternative non-EPA test methods allowed under § 60.56c(b).

[FR Doc. 2011-7899 Filed 4-1-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 75****Continuous Emission Monitoring***CFR Correction*

In Title 40 of the Code of Federal Regulations, Parts 72 to 80, revised as of July 1, 2010, on page 219, in § 75.11, paragraph (f) is added to read as follows:

§ 75.11 Specific provisions for monitoring SO₂ emissions.

* * * * *

(f) *Other units.* The owner or operator of an affected unit that combusts wood, refuse, or other material in addition to oil or gas shall comply with the monitoring provisions for coal-fired units specified in paragraph (a) of this section, except where the owner or operator has an approved petition to use the provisions of paragraph (e)(1) of this section.

[FR Doc. 2011-8004 Filed 4-1-11; 8:45 am]

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MB Docket No. 09-123; RM-11546, DA 11-501]

Television Broadcasting Services; New Haven, CT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Connecticut Public Broadcasting, Inc. ("CPBI"), the licensee of noncommercial educational station WEDY, New Haven, Connecticut, requesting the substitution of channel *41 for channel *6 at New Haven. CPBI's channel *6 facility is subject to substantial levels of new interference from other post-transition stations' power increases, and the substitution of channel *41 will resolve any interference being experienced by CPBI's viewers.

DATES: This rule is effective May 4, 2011.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, joyce.bernstein@fcc.gov, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09-123, adopted March 15, 2011, and released March 16, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://fjallfoss.fcc.gov/ecfs/>). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via the company's Web site, <http://www.bcipweb.com>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,
Chief, Video Division, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Connecticut, is amended by adding channel *41 and removing channel *6 at New Haven.

[FR Doc. 2011-7789 Filed 4-1-11; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 001005281-0369-02]

RIN 0648-XA01

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the northern Florida west coast subzone to the commercial harvest of king mackerel in or from the exclusive economic zone (EEZ). This closure is necessary to protect the Gulf king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, April 04, 2011, until 12:01 a.m., local time, July 1, 2011, unless changed by further notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, *telephone:* 727-824-5305, or e-mail: susan.gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico (Gulf) only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the Gulf