



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2016-0442; FRL-9966-63-OAR]

RIN 2060-AT57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry: Alternative Monitoring Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry (Portland Cement NESHAP). We are proposing to revise the testing and monitoring requirements for hydrochloric acid (HCl) due to the current unavailability of HCl calibration gases used for quality assurance purposes.

DATES: The EPA must receive written comments on this proposed rule on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public Hearing. If a public hearing is requested by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, then we will hold a public hearing on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** at the EPA WJC East Building, 1201 Constitution Avenue, NW, Washington, DC 20004. If a public hearing is requested, then we will provide additional details about the public hearing on our Web site at <https://www.epa.gov/stationary-sources-air-pollution/portland-cement-manufacturing-industry-national-emission-standards> and <https://www3.epa.gov/airquality/cement/actions.html>. To request a hearing, to register to speak at

a hearing, or to inquire if a hearing will be held, please contact Aimee St. Clair at (919) 541-1063 or by email at stclair.aimee@epa.gov. The EPA does not intend to publish any future notices in the **Federal Register** regarding a public hearing on this proposed action and directs all inquiries regarding a hearing to the Web site and contact person identified above. The last day to pre-register in advance to speak at the public hearing will be **[INSERT DATE 13 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0442, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Storey, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone

number: (919) 541-1103; fax number: (919) 541-5450; and email address:
storey.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information in this preamble is organized as follows:

- I. General Information
 - A. Does this proposed rule apply to me?
 - B. What should I consider as I prepare my comments for the EPA?
- II. What are the amendments made by this proposed rule?
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act (UMRA)
 - 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 Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA)
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this proposed rule apply to me?

Categories and entities potentially regulated by this proposed rule include:

Category	NAICS Code ¹
Portland cement manufacturing facilities	327310

¹North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed rule. To determine whether your facility

is affected, you should examine the applicability criteria in the Code of Federal Regulations (CFR) at 40 CFR 63.1340. If you have questions regarding the applicability of any aspect of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. What should I consider as I prepare my comments for the EPA?

On June 23, 2017, the EPA published a direct final rule that provided a compliance alternative for sources that would otherwise be required to use a HCl continuous emissions monitoring system (CEMS) to demonstrate compliance with the HCl emissions limit (82 FR 28562). At the same time, we published a parallel proposal in which we proposed to make the same amendment to the NESHAP. The EPA indicated that it would withdraw the direct final rule if it received adverse comment. The EPA received adverse comment on that direct final rule, but was not able to timely withdraw the rule. In this proposal, the EPA is re-proposing and providing additional opportunity for public comment on the same amendment to the NESHAP that was proposed on June 23, 2017. Simultaneously with this proposal, the EPA is taking final action to withdraw the June 23, 2017, direct final rule. Comments received on the June 23, 2017, direct final rule and/or parallel proposal will be deemed to be submitted on this proposal, unless the commenter withdraws the original comment.

For comments on this proposal, do not submit information containing CBI to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, a copy of the comments that does not

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2016-0442.

II. What are the amendments made by this proposed rule?

On July 25, 2016, the EPA published an alternative monitoring method for sources that would otherwise be required to use an HCl CEMS to demonstrate compliance with the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry (81 FR 48356). The alternative was provided for a period of 1 year. The alternative monitoring method allowed sources to demonstrate compliance by using CEMS readouts as a parameter monitor to indicate relative changes from the observed CEMS HCl reading. Specifically, the alternative required installation of an HCl CEMS to provide a continuous readout of HCl emissions. However, actual compliance with the HCl emissions limit of 3 parts per million by volume (ppmv) was determined by a three-run stack test. During the stack test, the average HCl CEMS reading was determined. The alternative allows this CEMS reading to become a continuous operating parameter that must be met on a 30-day rolling average. The EPA determined it was appropriate to allow this alternative because some facilities have been unable to obtain National Institute of Standards and Technology (NIST)-traceable calibration gases. As a result, these facilities cannot calibrate their CEMS with sufficient accuracy for the CEMS readout to be used to directly determine compliance with the 3 ppmv HCl emissions limit. The alternative addresses this problem by allowing sources to use the CEMS readouts as a

parameter monitor to indicate relative changes from the observed CEMS HCl reading obtained during the stack performance test used to demonstrate compliance.

In this action, the EPA is proposing to extend the use of the alternative monitoring method, as described in the July 25, 2016, direct final rulemaking (81 FR 48356). Because this alternative is only needed until such time as the NIST-traceable calibration gases become available, the EPA intends to remove the alternative once such gases become available.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation (40 CFR part 63, subpart LLL) and has assigned OMB control number 2060-0416. This action does not change the information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action does not create any new requirements or burdens and no costs are associated with this proposed action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action 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.

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

This action does not have tribal implications, as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The EPA is aware of one tribally owned Portland cement facility currently subject to 40 CFR part 63, subpart LLL that will be subject to this proposed rule. However, the provisions of this proposed rule are not expected to impose new or substantial direct compliance costs on tribal governments since the provisions in this proposed rule are extending the use of an alternative to the HCl monitoring provisions, including an option which provides operational flexibility. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-

202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does **not** have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not affect the level of protection provided to human health or the environment.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 11, 2017.

E. Scott Pruitt,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is proposing to amend title 40, chapter I, part 63 of the Code of Federal Regulations (CFR) as follows:

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.*

Subpart LLL—National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

2. Section 63.1349 is amended by:

a. Revising paragraph (b)(6)(v) introductory text.

b. Removing paragraph (b)(6)(v)(H).

The revision reads as follows:

§63.1349 Performance testing requirements.

* * * * *

(b) * * *

(6) * * *

(v) As an alternative to paragraph (b)(6)(ii) of this section, the owner or operator may demonstrate initial compliance by conducting a performance test using Method 321 of appendix A to this part. You must also monitor continuous performance through use of an HCl CPMS according to paragraphs (b)(6)(v)(A) through (G) of this section. For kilns with inline raw mills, compliance testing and monitoring HCl to establish the site specific operating limit must be conducted during both raw mill on and raw mill off conditions.

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3. Section 63.1350 is amended by revising paragraph (l)(4) introductory text to read as follows:

§63.1350 Monitoring requirements.

* * * * *

(l) * * *

(4) If you monitor continuous performance through the use of an HCl CPMS according to paragraphs (b)(6)(v)(A) through (G) of §63.1349, for any exceedance of the 30-kiln operating day HCl CPMS average value from the established operating limit, you must:

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