

p.m. through 9:45 p.m.; on June 10, 2009 from 9:15 p.m. through 9:45 p.m.; on June 17, 2009 from 9:15 p.m. through 9:45 p.m.; on June 24, 2009 from 9:15 p.m. through 9:45 p.m.

(3) *Navy Pier Saturday Fireworks*; on May 23, 2009 from 10 p.m. through 10:40 p.m.; on May 30, 2009 from 10 p.m. through 10:40 p.m.; on June 6, 2009 from 10 p.m. through 10:40 p.m.; on June 13, 2009 from 10 p.m. through 10:40 p.m.; on June 20, 2009 from 10 p.m. through 10:40 p.m.; on June 27, 2009 from 10 p.m. through 10:40 p.m.

All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL. (published on June 13, 2007 at 72 FR 32520) and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will also issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. The Captain of the Port may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: May 14, 2009.

**Bruce C. Jones**,

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. E9-12602 Filed 5-28-09; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[EPA-HQ-OAR-2002-0071; FRL-8910-5]

RIN 2060-AP13

### Update of Continuous Instrumental Test Methods; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** EPA published a final rule in the **Federal Register** on May 22, 2008,

that made technical corrections to five test methods. Inadvertent printing errors were made in the publication. Text insertions were misplaced, duplicate insertions were made, and the definition for system bias was inadvertently revised. The purpose of this action is to correct these errors.

**DATES:** This correction is effective on June 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Foston Curtis, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-1063; fax number (919) 541-0516; e-mail address: [curtis.foston@epa.gov](mailto:curtis.foston@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Summary of Amendment

EPA promulgated revisions to continuous instrumental test methods on May 22, 2008, where a number of technical amendments were made to five test methods. Several of the revisions were added to the text in the wrong places and in some cases duplicate insertions were made. The definition for system bias was also inadvertently revised. This action corrects those publication errors.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment because only simple publication errors are being corrected that do not substantially change the Agency actions taken in the final rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B). (See also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 307(d)(1), indicating that the good cause provisions in subsection 553(b) of the APA continue to apply to this type of rulemaking under section 307(d) of the CAA.

##### II. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (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. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute (*see* Section II), 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) [Pub. L. 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 the UMRA.

This action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). This correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction does not involve changes to the technical standards related to test methods or monitoring requirements; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

This technical correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 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 U.S. 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 the public interest. This

determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 29, 2009. The EPA will submit a report containing this final action 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 action in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The final rule will be effective June 29, 2009.

This technical correction does not have substantial direct effects on the States, or 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, Federalism (64 FR 43255, August 10, 1999).

This technical correction is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because this action is not a significant regulatory action under Executive Order 12866.

**List of Subjects in 40 CFR Part 60**

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

Dated: May 22, 2009.

**Lisa P. Jackson,**  
*Administrator.*

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

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

■ 1. The authority citation for Part 60 continues to read as follows:

**Authority:** 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

**Appendix A–2— [Amended]**

■ 2. Method 3A is amended by revising Section 7.1 to read as follows:

**Method 3A—Determination of Oxygen and Carbon Dioxide Concentrations in Emissions From Stationary Sources (Instrumental Analyzer Procedure)**

\* \* \* \* \*

7.1 *Calibration Gas.* What calibration gasses do I need? Refer to Section 7.1 of Method 7E for the

calibration gas requirements. Example calibration gas mixtures are listed below. Precleaned or scrubbed air may be used for the O<sub>2</sub> high-calibration gas provided it does not contain other gases that interfere with the O<sub>2</sub> measurement.

- (a) CO<sub>2</sub> in nitrogen (N<sub>2</sub>).
- (b) CO<sub>2</sub> in air.
- (c) CO<sub>2</sub>/SO<sub>2</sub> gas mixture in N<sub>2</sub>.
- (d) O<sub>2</sub>/SO<sub>2</sub> gas mixture in N<sub>2</sub>.
- (e) O<sub>2</sub>/CO<sub>2</sub>/SO<sub>2</sub> gas mixture in N<sub>2</sub>.
- (f) CO<sub>2</sub>/NO<sub>x</sub> gas mixture in N<sub>2</sub>.
- (g) CO<sub>2</sub>/SO<sub>2</sub>/NO<sub>x</sub> gas mixture in N<sub>2</sub>.

The tests for analyzer calibration error and system bias require high-, mid-, and low-level gases.

\* \* \* \* \*

**Appendix A–4— [Amended]**

■ 3. Method 7E is amended as follows:

- a. By revising section 3.12.
- b. By revising section 3.16.
- c. By revising section 7.1.
- d. By revising section 8.1.2.
- e. By revising section 8.2.1.
- f. By revising section 8.2.4.
- g. By revising the Summary Table of QA/QC in Section 9.0.
- h. By revising section 12.11.
- i. By revising section 16.2.2.

**Method 7E—Determination of Nitrogen Oxides Emissions From Stationary Sources (Instrumental Analyzer Procedure)**

\* \* \* \* \*

3.12 *Low-Concentration Analyzer* means any analyzer that operates with a calibration span of 20 ppm NO<sub>x</sub> or lower. Each analyzer model used routinely to measure low NO<sub>x</sub> concentrations must pass a manufacturer's stability test (MST). An MST subjects the analyzer to a range of line voltages and temperatures that reflect potential field conditions to demonstrate its stability following procedures similar to those provided in 40 CFR 53.23. Ambient-level analyzers are exempt from the MST requirements of Section 16.3. A copy of this information must be included in each test report. Table 7E–5 lists the criteria to be met.

\* \* \* \* \*

3.16 *System Bias* means the difference between a calibration gas measured in direct calibration mode and in system calibration mode. System bias is determined before and after each run at the low- and mid- or high-concentration levels. For dilution-type systems, pre- and post-run system calibration error is measured rather than system bias.

\* \* \* \* \*

7.1 *Calibration Gas.* What calibration gases do I need? Your

calibration gas must be NO in N<sub>2</sub> and certified (or recertified) within an uncertainty of 2.0 percent in accordance with "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards" September 1997, as amended August 25, 1999, EPA–600/R–97/121. Blended gases meeting the Traceability Protocol are allowed if the additional gas components are shown not to interfere with the analysis. If a zero gas is used for the low-level gas, it must meet the requirements under the definition for "zero air material" in 40 CFR 72.2. The calibration gas must not be used after its expiration date. Except for applications under part 75 of this chapter, it is acceptable to prepare calibration gas mixtures from EPA Traceability Protocol gases in accordance with Method 205 in appendix M to part 51 of this chapter. For part 75 applications, the use of Method 205 is subject to the approval of the Administrator. The goal and recommendation for selecting calibration gases is to bracket the sample concentrations. The following calibration gas concentrations are required:

\* \* \* \* \*

8.1.2 *Determination of Stratification.*

Perform a stratification test at each test site to determine the appropriate number of sample traverse points. If testing for multiple pollutants or diluents at the same site, a stratification test using only one pollutant or diluent satisfies this requirement. A stratification test is not required for small stacks that are less than 4 inches in diameter. To test for stratification, use a probe of appropriate length to measure the NO<sub>x</sub> (or pollutant of interest) concentration at twelve traverse points located according to Table 1–1 or Table 1–2 of Method 1. Alternatively, you may measure at three points on a line passing through the centroidal area. Space the three points at 16.7, 50.0, and 83.3 percent of the measurement line. Sample for a minimum of twice the system response time (see Section 8.2.6) at each traverse point. Calculate the individual point and mean NO<sub>x</sub> concentrations. If the concentration at each traverse point differs from the mean concentration for all traverse points by no more than: (a) ± 5.0 percent of the mean concentration; or (b) ± 0.5 ppm (whichever is less restrictive), the gas stream is considered unstratified and you may collect samples from a single point that most closely matches the mean. If the 5.0 percent or 0.5 ppm criterion is not met, but the concentration at each traverse point differs from the mean

concentration for all traverse points by no more than: (a)  $\pm 10.0$  percent of the mean; or (b)  $\pm 1.0$  ppm (whichever is less restrictive), the gas stream is considered to be minimally stratified, and you may take samples from three points. Space the three points at 16.7, 50.0, and 83.3 percent of the measurement line. Alternatively, if a twelve-point stratification test was performed and the emissions were shown to be minimally stratified (all points within  $\pm 10.0$  percent of their mean or within  $\pm 1.0$  ppm), and if the stack diameter (or equivalent diameter, for a rectangular stack or duct) is greater than 2.4 meters (7.8 ft), then you may use 3-point sampling and locate the three points along the measurement line exhibiting the highest average concentration during the stratification test, at 0.4, 1.0 and 2.0 meters from the stack or duct wall. If the gas stream is

found to be stratified because the 10.0 percent or 1.0 ppm criterion for a 3-point test is not met, locate twelve traverse points for the test in accordance with Table 1–1 or Table 1–2 of Method 1.

\* \* \* \* \*

8.2.1 *Calibration Gas Verification.* How must I verify the concentrations of my calibration gases? Obtain a certificate from the gas manufacturer documenting the quality of the gas. Confirm that the manufacturer certification is complete and current. Ensure that your calibration gas certifications have not expired. This documentation should be available on-site for inspection. To the extent practicable, select a high-level gas concentration that will result in the measured emissions being between 20 and 100 percent of the calibration span.

\* \* \* \* \*

8.2.4 *NO<sub>2</sub> to NO Conversion Efficiency Test.* Before or after each field test, you must conduct an NO<sub>2</sub> to NO conversion efficiency test if your system converts NO<sub>2</sub> to NO before analyzing for NO<sub>x</sub>. You may risk testing multiple facilities before performing this test provided you pass this test at the conclusion of the final facility test. A failed final conversion efficiency test in this case will invalidate all tests performed subsequent to the test in which the converter efficiency test was passed. Follow the procedures in Section 8.2.4.1, or 8.2.4.2. If desired, the converter efficiency factor derived from this test may be used to correct the test results for converter efficiency if the NO<sub>2</sub> fraction in the measured test gas is known. Use Equation 7E–8 in Section 12.8 for this correction.

\* \* \* \* \*

9.0 *Quality Control* \* \* \*

SUMMARY TABLE OF AQ/QC

Status	Process or element	QA/QC specification	Acceptance criteria	Checking frequency	
S .....	Identify Data User .....		Regulatory Agency or other primary end user of data.	Before designing test.	
S .....	Analyzer Design .....	Analyzer resolution or sensitivity.	< 2.0% of full-scale range .....	Manufacturer design.	
M .....		Interference gas check	Sum of responses $\leq 2.5\%$ of calibration span Alternatively, sum of responses: $\leq 0.5$ ppmv for calibration spans of 5 to 10 ppmv. $\leq 0.2$ ppmv for calibration spans < 5 ppmv. See Table 7E-3.		
M .....		Calibration Gases .....	Traceability protocol (G1, G2).	Valid certificate required Uncertainty $\leq 2.0\%$ of tag value.	
M .....	Data Recorder Design ..	High-level gas .....	Equal to the calibration span .....	Each test.	
M .....		Mid-level gas .....	40 to 60% of calibration span .....	Each test.	
M .....		Low-level gas .....	< 20% of calibration span .....	Each test.	
S .....		Data resolution .....	$\leq 0.5\%$ of full-scale range .....	Manufacturer design.	
S .....		Sample Extraction .....	Probe material .....	SS or quartz if stack > 500° F .....	East test.
M .....		Sample Extraction .....	Probe, filter and sample line temperature.	For dry-basis analyzers, keep sample above the dew point by heating, prior to sample conditioning. For wet-basis analyzers, keep sample above dew point at all times, by heating or dilution.	Each run.
S .....	Sample Extraction .....	Calibration valve material.	SS .....	Each test.	
S .....	Sample Extraction .....	Sample pump material ..	Inert to sample constituents .....	Each test.	
S .....	Sample Extraction .....	Manifolding material .....	Inert to sample constituents .....	Each test.	
S .....	Moisture Removal .....	Equipment efficiency .....	< 5% target compound removal .....	Verified through system bias check.	
S .....	Particulate Removal .....	Filter inertness .....	Pass system bias check .....	Each bias check.	
M .....		Analyzer & Calibration Gas Performance.	Analyzer calibration error (of 3-point system calibration error for dilution systems).	Within $\pm 2.0$ percent of the calibration span of the analyzer for the low-, mid-, and high-level calibration gases.  Alternative specification: $\leq 0.5$ ppmv absolute difference.	Before initial run and after a failed system bias test or drift test.
M .....	System Performance .....	System bias (or pre- and post-run 2-point system calibration error for dilution (Systems).	Within $\pm 5.0\%$ of the analyzer calibration span for low-scale and upscale calibration gases.  Alternative specification: $\leq 0.5$ ppmv absolute difference.	Before and after each run.	
M .....	System Performance .....	System response time ..	Determines minimum sampling time per point .....	During initial sampling system bias test.	
M .....	System Performance .....	Drift .....	$\leq 3.0\%$ of calibration span for low-level and mid- or high-level gases.	After each test run.	

SUMMARY TABLE OF AQ/QC—Continued

Status	Process or element	QA/QC specification	Acceptance criteria	Checking frequency
M	System Performance	NO <sub>2</sub> -NO conversion efficiency.	Alternative specification: ≤ 0.5 ppmv absolute difference. ≥ 90% of certified test gas concentration	Before or after each test.
M	System Performance	Purge time	≥ 2 times system response time	Before starting the first run and when probe is removed from and re-inserted into the stack.
M	System Performance	Minimum sample time at each point.	Two times the system response time	Each sample point.
M	System Performance	Stable sample flow rate (surrogate for maintaining system response time).	Within 10% of flow rate established during system response time check.	Each run.
M	Sample Point Selection	Stratification test	All points within: ± 5% of mean for 1-point sampling. ± 10% of mean for 3-point. Alternatively, all points within: ± 0.5 ppm of mean for 1-point sampling. ± 1.0 ppm of mean for 3-point sampling.	Prior to first run.
A	Multiple sample points simultaneously.	No. of openings in probe.	Multi-hole probe with verifiable constant flow through all holes within 10% of mean flow rate (requires Administrative approval for Part 75).	Each run.
M	Data Recording	Frequency	≤ 1 minute average	During run.
S	Data Parameters	Sample concentration range.	All 1-minute averages within calibration span	Each run.
M	Date Parameters	Average concentration for the run.	Run average ≤ calibration span	Each run.

S = Suggest.  
M = Mandatory.  
A = Alternative.  
Agency.

\* \* \* \* \*  
12.11 *Calculated Spike Gas Concentration and Spike Recovery for the Example Alternative Dynamic Spiking Procedure in Section 16.1.3.*

Use Equation 7E-11 to determine the calculated spike gas concentration. Use Equation 7E-12 to calculate the spike recovery.

$$C_{Calc} = \frac{(C_{Spike})(Q_{Spike})}{Q_{Total}} \quad \text{Eq. 7E-11}$$

$$R = \frac{DF(C_{ss} - C_{native}) + C_{native}}{C_{Spike}} \times 100 \quad \text{Eq. 7E-12}$$

\* \* \* \* \*  
16.2.2 *Tedlar Bag Procedure.*  
Perform the analyzer calibration error test to document the calibration (both NO and NO<sub>x</sub> modes, as applicable). Fill a Tedlar bag approximately half full with either ambient air, pure oxygen, or an oxygen standard gas with at least 19.5 percent by volume oxygen content. Fill the remainder of the bag with mid-to high-level NO in N<sub>2</sub> (or other appropriate concentration) calibration gas. (Note that the concentration of the NO standard should be sufficiently high enough for the diluted concentration to be easily and accurately measured on the scale used. The size of the bag should be large enough to accommodate the procedure and time required.)

converter if used). In the case of a dilution-system, introduce the gas at a point upstream of the dilution assembly. Measure the NO<sub>x</sub> concentration for a period of 30 minutes. If the NO<sub>x</sub> concentration drops more than 2 percent absolute from the peak value observed, then the NO<sub>2</sub> converter has failed to meet the criteria of this test. Take corrective action. The highest NO<sub>x</sub> value observed is considered to be NO<sub>xPeak</sub>. The final NO<sub>x</sub> value observed is considered to be NO<sub>xFinal</sub>.

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 09-413; MB Docket No. 08-68; RM-11421]

**Radio Broadcasting Services; Beatty and Goldfield, NV**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division grants a Petition for Rule Making issued at the request of Keilly Miller, proposing the allotments of Channel 259A at Beatty, Nevada, and Channel 262C1 at Goldfield, Nevada, as first local FM transmission services. A staff

(2) [Reserved]

\* \* \* \* \*  
[FR Doc. E9-12565 Filed 5-28-09; 8:45 am]

**BILLING CODE 6560-50-P**

(1) Immediately attach the bag to the inlet of the NO<sub>x</sub> analyzer (or external