

a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State is no longer obligated to submit the plan that was the basis for the finding that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State no longer is required to submit the plan prior to the rulemaking approving the State's termination determination. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

Note that today's action has no impact on the January 5, 2010 (75 FR 232) findings regarding the Southeast Desert and the Los Angeles-South Coast Air Basin.

### III. Statutory and Executive Order Reviews

This action defers Federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

This action 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 it is not a significant regulatory action.

The administrator certifies that this action 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.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule does not have Tribal implications because it will 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).

This action does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

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.*).

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 to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefore, and established an effective date of May 18, 2011. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 18, 2011. Filing a petition

for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements.

Dated: May 9, 2011.

**Jared Blumenfeld**,

*Regional Administrator, Region IX.*

[FR Doc. 2011-12062 Filed 5-17-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60 and 63

[EPA-HQ-OAR-2002-0058; EPA-HQ-2003-0119; FRL-9308-6]

RIN 2060-AQ25; 2060-AO12

### Industrial, Commercial, and Institutional Boilers and Process Heaters and Commercial and Industrial Solid Waste Incineration Units

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

**ACTION:** Final rules; Delay of effective dates.

**SUMMARY:** The EPA is delaying the effective dates for the final rules titled "National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters" and "Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" under the authority of the Administrative Procedure Act (APA) until the proceedings for judicial review of these rules are completed or the EPA completes its reconsideration of the rules, whichever is earlier.

**DATES:** The effective dates of the final rules published in the **Federal Register** on March 21, 2011 (76 FR 15608 and 76 FR 15704), are delayed until such time as judicial review is no longer pending or until the EPA completes its reconsideration of the rules, whichever is earlier. The Director of the **Federal Register** has reviewed certain

publications listed in these final rules for incorporation by reference approval. That approval is delayed until such time as the proceedings for judicial review of these rules are completed or the EPA completes its reconsideration of the rules, whichever is earlier. The EPA will publish in the **Federal Register** announcing the effective dates and the incorporation by reference approvals once delay is no longer necessary.

**ADDRESSES:** *Docket:* The final rules, the petitions for reconsideration, and all other documents in the record for the rulemakings are in Docket ID. No. EPA-HQ-OAR-2002-0058 and EPA-HQ-OAR-2003-0119. All documents in the dockets 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. This Docket Facility 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 Air Docket is (202) 566-1741.

**FOR FURTHER INFORMATION CONTACT:** "National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters": Mr. Brian Shrager, Energy Strategies Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-7689, fax number (919) 541-5450, e-mail address: [shrager.brian@epa.gov](mailto:shrager.brian@epa.gov). "Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units": Ms. Toni Jones, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541-0316, fax number (919) 541-3470, e-mail address: [jones.toni@epa.gov](mailto:jones.toni@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 21, 2011, the EPA issued a final rule to regulate emissions of hazardous air pollutants (HAP) from industrial, commercial, and institutional boilers and process heaters located at major sources of HAP emissions (the "Major Source Boiler MACT"). On the same date, the EPA issued a final rule to regulate emissions of certain air pollutants from commercial and industrial solid waste incineration units (the "CISWI Rule"). For further information on the Major Source Boiler MACT, see 76 FR 15608 (March 21, 2011). For further information on the CISWI Rule, see 76 FR 15704 (March 21, 2011). In the March 21 notices, the EPA established an effective date of May 20, 2011, for each rule.

On the same day the rules were issued, the EPA also published a notice explaining that the Agency was in the process of developing a notice proposing reconsideration of certain aspects of both rules. 76 FR 15267. In that notice, the EPA explained that the proposed reconsideration would address issues on which the EPA believes further opportunity for public comment is appropriate, as well as any provisions of the rules that the EPA believes warrant modification after further consideration of the data and comments already received. The EPA has received petitions from a number of interested parties seeking reconsideration of both rules. The petitions identify specific issues that the EPA is being asked to reconsider. The EPA intends to initiate a reconsideration process for both rules, as explained above. The EPA will issue a notice of proposed reconsideration of each rule that identifies the specific issue or issues raised in the petitions on which the Agency is granting reconsideration. The EPA understands that members of the public may wish to submit additional data and information to inform the EPA's proposed reconsideration, and the Agency will consider any additional information submitted in time to do so. Given the anticipated schedule for the reconsideration process, we request that any additional data and information be provided to the EPA by July 15, 2011, to allow the Agency to fully consider it.

The EPA has also received petitions for judicial review of the Major Source Boiler MACT from the United States Sugar Corporation as well as from a coalition of industry groups. The EPA has received a petition for judicial review of the CISWI Rule from a coalition of industry groups as well. Under section 705 of the APA, "an

agency \* \* \* may postpone the effective date of [an] action taken by it pending judicial review." The provision requires that the Agency find that justice requires postponing the action, that the action has not gone into effect, and that litigation is pending. As described above, neither the Major Source Boiler MACT nor the CISWI Rule has gone into effect and petitions for judicial review of both rules have been filed.

We find that justice requires postponing the effectiveness of these rules. As explained in the March 21, 2011, notice, EPA has identified several issues in the final rules which it intends to reconsider because we believe the public did not have a sufficient opportunity to comment on certain revisions EPA made to the proposed rules. These issues include revisions to the proposed subcategories and revisions to some of the proposed emissions limits. In addition, EPA received data before finalizing both rules but was unable to incorporate that data into the final rules given the court deadline for issuing the rules, which the Agency was unable to extend. EPA also notes thousands of facilities across multiple, diverse industries will need to begin to make major compliance investments soon, in light of the pressing compliance deadlines. These investments may not be reversible if the standards are in fact revised following reconsideration and full evaluation of all relevant data.

Finally, the EPA notes that it is delaying the effective date of the Major Source Boiler MACT and the CISWI Rule pursuant to the APA, rather than section 307(d)(7)(B) of the Clean Air Act. As explained above, the APA authorizes the EPA to find that justice requires postponing the effective date of a rule when litigation is pending. In contrast, the Clean Air Act authorizes the EPA to stay the effectiveness of a rule for three months if the Administrator has convened a proceeding to reconsider the rule. The EPA further notes that section 307(d) of the Act expressly states that it is intended to replace only sections 553-557 of the APA (except as otherwise provided in section 307(d)), and does not state that it replaces section 705 of the APA. Therefore, the EPA has the discretion to decide whether it is appropriate to delay the effective date of a rule under either provision, based on the specific facts and circumstances before the Agency. Since petitions for judicial review of both the Major Source Boiler MACT and the CISWI Rule have been filed, and, as explained above, justice requires a delay of the effective

dates, it is reasonable for the EPA to exercise its authority to delay the effective dates of the Major Source Boiler MACT and the CISWI Rule under the APA for a period that exceeds three months.

## II. Issuance of a Stay and Delay of Effective Date

Pursuant to section 705 of the APA, the EPA hereby postpones the effectiveness of the Major Source Boiler MACT and the CISWI Rule until the proceedings for judicial review of these rules are complete or the EPA completes its reconsideration of the rules, whichever is earlier. By this action, we are delaying the effective date of both rules, published in the **Federal Register** on March 21, 2011 (76 FR 15608 and 76 FR 15704). The delay of the effective date of the CISWI Rule applies only to those provisions issued on March 21, 2011, and not to any provisions of 40 CFR part 60, subparts CCCC and DDDD, in place prior to that date. This delay of effectiveness will remain in place until the proceedings for judicial review are completed or the EPA completes its reconsideration of the rules, whichever is earlier, and the Agency publishes a notice in the **Federal Register** announcing that the rules are in effect.

### List of Subjects

#### 40 CFR Part 60

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

#### 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

For the reasons set forth above, under the authority at 7 U.S.C. 705, the effective dates of FRL 9272-8, 76 FR 15608 (March 21, 2011), and FRL 9273-4, 76 FR 15704 (March 21, 2011) are delayed until further notice.

Dated: May 16, 2011.

**Lisa P. Jackson,**  
Administrator.

[FR Doc. 2011-12308 Filed 5-17-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[OAR-2004-0080, FRL-9306-8]

RIN 2060-AF00

### Method 301—Field Validation of Pollutant Measurement Methods From Various Waste Media

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

**ACTION:** Final rule.

**SUMMARY:** This action amends EPA's Method 301, Field Validation of Pollutant Measurement Methods from Various Waste Media. We revised the procedures in Method 301 based on our experience in applying the method and to correct errors that were brought to our attention. The revised Method 301 is more flexible, less expensive, and easier to use. This action finalizes amendments to Method 301 after considering comments received on the proposed rule published in the **Federal Register** on December 22, 2004.

**DATES:** This final rule is effective on May 18, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0080. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and 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 Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Docket Facility and the Public Reading Room are 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 Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lula H. Melton, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143-02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2910; fax number: (919) 541-0516; e-mail address: [melton.lula@epa.gov](mailto:melton.lula@epa.gov).

## SUPPLEMENTARY INFORMATION:

### Table of Contents

- I. General Information
  - A. Does this action apply to me?
  - B. Where can I obtain a copy of this action?
  - C. Judicial Review
- II. Background
- III. Summary of the Final Method
- IV. Significant Comments Received on the Proposed Amendments to Method 301
  - A. Applicability
  - B. Reference Material
  - C. Validation Testing Over a Broad Range of Concentrations and Extended Period of Time
  - D. Performance Audit
  - E. Sample Stability Procedures
  - F. Bias and Precision
  - G. Limit of Detection
  - H. Critical Values of t for the Two-Tailed 95 Percent Confidence Limit
  - I. Paired Sampling Procedure
  - J. Standard Deviation
- V. 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
  - 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 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
  - J. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act

### I. General Information

#### A. Does this action apply to me?

Method 301 affects/applies to you if you want to propose a new or alternative test method to meet an EPA compliance requirement.

#### B. Where can I obtain a copy of this action?

In addition to being available in the docket, an electronic copy of this rule will also be available on the Worldwide Web ([www](http://www)) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. A redline strikeout