

TABLE 1—CLASSIFICATION FOR 2008 8-HOUR OZONE NAAQS (0.075 PPM) FOR AREAS SUBJECT TO SECTION 51.1102(A)—Continued

Area class		8-Hour design value (ppm ozone)	Primary standard attainment date (years after designation for 2008 primary NAAQS)**
Moderate .....	up to* .....	0.086	6
	from .....	0.086	
Serious .....	up to* .....	0.100	9
	from .....	0.100	
Severe-15 .....	up to* .....	0.113	15
	from .....	0.113	
Severe-17 .....	up to* .....	0.119	17
	from .....	0.119	
Extreme .....	up to* .....	0.175	20
	equal to or above .....	0.175	

\* But not including.

\*\* The attainment date is [Option 1: The date that is the specified number of years after the effective date of designations for the primary NAAQS. Option 2: December 31 of the calendar year].

(b) A state may request, and the Administrator must approve, a higher classification for any reason in accordance with CAA section 181(b)(3).

(c) A state may request, and the Administrator may in the Administrator's discretion approve, a higher or lower classification in accordance with CAA section 181(a)(4).

(d) Any area designated nonattainment that includes in whole or in part the following areas will be classified by operation of law for the 2008 ozone NAAQS in accordance with the voluntary classification request submitted and approved for each area for the 1997 ozone NAAQS: (For reference: Ventura Co, CA; Los Angeles-South Coast, CA; San Joaquin Valley, CA; Riverside County, CA; and Sacramento Metro, CA.)

[FR Doc. 2012-3284 Filed 2-13-12; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[EPA-HQ-OAR-2010-0873; FRL-9630-8]

RIN 2060-AH23

**Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The EPA is proposing to establish quality assurance and quality control (QA/QC) procedures for continuous opacity monitoring systems (COMS) used to demonstrate continuous compliance with opacity standards as

specified in federally enforceable regulations. This action is necessary because we do not currently have QA/QC procedures for COMS. This action would require COMS used to demonstrate continuous compliance to meet these procedures (referred to as Procedure 3).

**DATES:** Written comments must be received by March 15, 2012. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0873 by mail to U.S. Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lula H. Melton, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (Mail Code: E143-02), Research Triangle Park, NC 27711; telephone number: (919) 541-2910; fax number: (919) 541-0516; email address: melton.lula@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Why is the EPA issuing this proposed rule?**

This document proposes to add QA/QC procedures for COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations. The quality assurance requirements will be

added as Procedure 3 to Appendix F of 40 CFR part 60. We have published a direct final rule adding QA/QC procedures for COMS used for compliance determination with opacity standards in federally enforceable standards to the quality assurance requirements in Appendix F of 40 CFR Part 60 in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule, and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

**II. Does this action apply to me?**

Procedure 3 applies to a COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations.

**III. Statutory and Executive Order Reviews**

*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" under the terms of Executive Order 12866 (58 FR 51735,

October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

#### *B. Paperwork Reduction Act*

This 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). These quality assurance procedures do not add information collection requirements beyond those currently required under the applicable regulations.

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure 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 accessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) 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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. This action establishes QA/QC procedures for COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations and does not impose additional regulatory requirements on sources. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

This rule does not contain a federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year.

Rules establishing quality assurance requirements impose no costs independent from national emission standards which require their use, and such costs are fully reflected in the regulatory impact assessment for those emission standards. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule 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. This action simply establishes QA/QC procedures for COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations.

#### *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, as specified in Executive Order 13132. This action establishes QA/QC procedures for COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations. Thus, Executive Order 13132 does not apply to this action.

#### *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). This action establishes QA/QC procedures for COMS used to demonstrate continuous compliance with opacity standards as specified in federally enforceable regulations. It does not add any emission limits and does not affect pollutant emissions or air quality. 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 EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

#### *H. Executive Order 13211: Actions Concerning Regulations 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 the EPA to use voluntary consensus standards 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 voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice 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.

The EPA has determined that this proposed 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 does not relax the control measures on sources regulated by the rule and, therefore, will not cause emissions increases from these sources.

## Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources

### List of Subjects in 40 CFR Part 60

Air pollution control, Environmental protection, Continuous opacity monitoring.

Dated: February 6, 2012.

Lisa P. Jackson,  
Administrator.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-HQ-OAR-2008-0476; FRL-9630-9]

### EPA's Revised Responses to Designation Recommendations From Illinois, Indiana, and Wisconsin for the 2008 Ozone Standards: Notice of Availability and Public Comment Period

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

**ACTION:** Notice of availability and reopening of public comment period.

**SUMMARY:** The EPA is reopening the public comment period on the EPA's responses to state and tribal designation recommendations for the 2008 Ozone National Ambient Air Quality Standards for the limited purpose of inviting comment on the EPA's revised responses to the ozone designation recommendations from the states of Illinois, Indiana and Wisconsin. The EPA sent the revised responses to these states on January 31, 2012. The revised responses are available in the docket and on the EPA's ozone designations Web site identified below.

**DATES:** Comments must be received on or before March 15, 2012. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-OAR-HQ-2008-0476, by one of the following methods:

- <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Attention Docket ID No. EPA-HQ-OAR-2008-0476.

- Fax: 202-566-9744. Attention Docket ID No. EPA-HQ-OAR-2008-0476.

- Mail: Air Docket, Attention Docket ID No. EPA-HQ-OAR-2008-0476,

Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

- *Hand Delivery:* EPA Docket Center, 1301 Constitution Avenue NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0476. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be confidential business information or other information whose disclosure is restricted by statute. Do not submit information that you consider to be confidential business information or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA is unable to read your comment and cannot contact you for clarification due to technical difficulties, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information 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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. 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 Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For general questions concerning this action, please contact Carla Oldham, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-3347, email at [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov). For questions about areas in the EPA Region 5, please contact Edward Doty, U.S. EPA, telephone (312) 886-6057, email at [doty.edward@epa.gov](mailto:doty.edward@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On December 9, 2011, the EPA responded by letter to all states and tribes regarding their designation recommendations for the 2008 ozone standards and posted the responses on the EPA's Internet Web site at <http://www.epa.gov/ozonedesignations>. The EPA provided a public comment period on those responses which ended on February 3, 2012. On January 31, 2012, the EPA sent revised responses to Illinois, Indiana, and Wisconsin after considering quality-assured air quality monitoring data for 2011 submitted by Illinois on December 7, 2011. Because that air quality information was submitted shortly before the EPA issued its December 9, 2011, responses, the EPA did not have time to consider the information in those initial responses. The EPA has posted the revised responses to Illinois, Indiana, and Wisconsin on the EPA's ozone designations Web site and is reopening the public comment period for the limited purpose of inviting public comments on the revised responses to Illinois, Indiana, and Wisconsin during the comment period specified in the **DATES** section. The EPA intends to make final designation determinations for the 2008 ozone standards in spring 2012.

#### II. General Information

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

1. *Submitting Confidential Business Information.* Do not submit this information to the EPA through