6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-HQ-OAR-2016-0442; FRL-XXXX-XX-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:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry. This direct final rule provides a compliance alternative for sources that would otherwise be required to use a hydrogen chloride (HCl) continuous emissions monitoring system (CEMS) to demonstrate compliance with the HCl emissions limit. This compliance alternative is needed due to the current unavailability of the HCl calibration gases used for CEMS quality assurance purposes.

**DATES:** This rule is effective on **[Insert date 12 days after date of publication in the Federal Register]** without further notice, unless the EPA receives significant adverse comment by **[Insert date 10 days after date of publication in the Federal Register].** If the EPA receives significant 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-2016-0442, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once

submitted, comments cannot be edited or removed 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. Why is the EPA using a direct final rule?*

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and do not anticipate significant adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry, if the EPA receives significant adverse comments on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives significant adverse comment on all or a distinct portion of this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

### *B. Does this direct final rule apply to me?*

Categories and entities potentially regulated by this direct final rule include:

| Category | NAICS Code[1] |
|---|---|

| | |
|---|---|
| Portland cement manufacturing facilities | 327310 |

[1] North 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 direct final rule. To determine whether your facility is affected, you should examine the applicability criteria in 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.

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

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 direct final rule?**

Under the rule published in 2013 (78 FR 10006, February 12, 2013), the owner or operator of a kiln subject to the emission limits for HCl in 40 CFR 63.1343 may demonstrate compliance by one of the following methods:

- Option 1 - An owner or operator of a kiln may demonstrate compliance by operating a CEMS meeting the requirements of performance specification (PS) 15, PS-18, or any other PS for HCl CEMS in appendix B to part 60, with compliance based on a 30-kiln operating day rolling average.
- Option 2 - If the kiln is controlled using a wet scrubber, tray tower, or dry scrubber, the owner or operator, as an alternative to using a CEMS, may demonstrate compliance with the HCl limit using one of two options, described below.

Under Option 2, a performance test must be conducted by the owner or operator using Method 321. While conducting the Method 321 performance test (note Method 321 is the HCl stack testing performance method required by this rule), the owner or operator must simultaneously measure a control device parameter in order to establishe a site-specific parameter limit that must be continuously monitored to determine compliance. If the kiln is controlled using a wet scrubber or tray tower, the owner or operator must also monitor the pressure drop across the scrubber and/or liquid flow rate and pH during the HCl performance test. If the kiln is controlled using a dry scrubber, the sorbent injection rate must be monitored during the performance test. As an alternative under Option 2, the owner or operator may establish sulfur dioxide ($SO_2$) as the operating parameter by measuring $SO_2$ emissions using a CEMS simultaneously with the Method 321 test and establishing the site-specific $SO_2$ limit that must then be continuously monitored to determine compliance with the HCl limit.

The 2013 rule requires that if a source chooses to (or is required to) monitor HCl emissions using a CEMS (Option 1), they must do so in accordance with PS-15, PS-18, or any other PS for HCl CEMS in appendix B to part 60 of this chapter. (See 40 CFR part 60, appendix B.) Quality assurance procedures for HCl CEMS require that they be capable of reading HCl

concentrations that span a range of possible emission levels below as well as above expected HCl emission concentrations. These quality assurance procedures require the use of National Institute of Standards and Technology (NIST)-traceable calibration gases for HCl.

Following our decision to create PS-18 and Procedure 6 for HCl continuous monitoring in 2012, the EPA worked with NIST and commercial gas vendors on development of NIST-traceable HCl gas standards to support the PS-18 in the 2013 rulemaking. While some of the low HCl concentration (< 10 parts per million, or ppm) NIST-traceable gases have been available on a limited basis since 2013, the full range of HCl concentrations required to support all HCl emissions monitoring technologies (including integrated path that requires concentrations 100 times higher) are not widely available at this time.

The approach used by NIST in 2013 was to certify the Research Gas Material (RGM) cylinders as primary gas standards. These cylinders contain HCl gas and are provided to NIST by vendors for NIST certification, and subsequently used by the vendors as transfer standards to prepare the Gas Manufacturer Intermediate Standards (GMIS). The GMIS cylinders are then used to produce NIST-traceable gas cylinders that are sold commercially.[1] The initial approach used by NIST to certify the RGM cylinders was not viable in the long term as the instrumentation used by NIST largely depleted the HCl RGM gas volume, leaving little gas in the cylinder for the vendors to use in preparing GMIS materials. Because of this concern, NIST initiated development of an improved RGM certification procedure. The development has been hampered by the challenges presented in handling HCl gas. HCl gas is extremely reactive and difficult to handle in both gas cylinders and analytically. As such, it has taken considerable time

[1] *EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards*, U.S. EPA, Office of Research and Development, EPA/600/R-12/531, May 2012.

for NIST to optimize the analytical equipment and approach to achieve the necessary uncertainty requirements (*e.g.*, <1 percent uncertainty).

In addition, the commercial establishment of NIST-traceable gases is dependent on collaboration between NIST and the specialty gas vendors. There are a limited number of vendors providing the stable, accurate, low and high concentration cylinder gases to NIST to certify as RGMs. Once the RGMs are available, the specialty gas vendors must complete a series of procedures to establish the certainty of their products which adds to the time to achieve wide commercial availability.

As a result, on July 25, 2016 (81 FR 48356), the EPA provided an additional compliance alternative for sources that would otherwise be required to use an HCl CEMS (Option 1). The alternative was provided for a period of 1 year. In the alternative, the HCl CEMS was still required to be installed and operated, but actual compliance with the HCl emissions limit was determined by a three-run stack test. The HCl CEMS still provided a continuous readout of HCl emissions, but because the CEMS was not calibrated with the required NIST-traceable calibration gases, the HCl measurement was not considered to be sufficiently accurate on an absolute basis for compliance. However, it was found to be sufficient to indicate any relative change in HCl emissions occurring subsequent to the compliance test. Therefore, the HCl CEMS under the compliance alternative functioned as a continuous parameter monitoring system (CPMS), as in the case of the particulate matter (PM) CPMS requirement (see 78 FR 10014-10015, 10019-10020, February 12, 2013).

It is the EPA's understanding that the availability of NIST-traceable calibration gases for HCl has not changed since the compliance alternative approval in 2016. Thus, the EPA intends

to extend the use of this compliance alternative until such time as the NIST-traceable calibration gases for HCl become readily available.

Under this extension of the compliance alternative, the owner or operator will demonstrate initial compliance by conducting a performance test using Method 321 and will monitor compliance with an operating parameter limit through use of the HCl CEMS operating as a HCl CPMS. For the HCl CPMS, the owner or operator will use the average HCl CPMS indicated output, typically displayed as parts per million by volume (ppmv), wet basis HCl recorded at in-stack oxygen concentration during the HCl performance test to establish the operating limit. To determine continuous compliance with the operating limit, the owner or operator will record the indicated HCl CPMS output data for all periods when the process is operating and use all the HCl CPMS data, except data obtained during times of monitor malfunctions. Thus, continuous compliance with the operating limit will be demonstrated by using all valid hourly average data collected by the HCl CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (indicated ppm) on a 30-kiln operating day rolling average basis, updated at the end of each new kiln operating day. An exceedance of the kiln 30-day operating limit would trigger evaluation of the control system operation and resetting the operating limit based on a new correlation with performance testing. For kilns with inline raw mills, performance testing and monitoring HCl to establish the site specific operating limit must be conducted during both raw mill on and raw mill off conditions.

As is the case for the PM CPMS requirements (see 40 CFR 63.1349(b)(1)(i)), this alternative for HCl compliance monitoring includes a scaling factor of 75 percent of the emission standard as a benchmark (2.25 ppmv, dry basis at 7-percent oxygen). Sources that choose this

option will conduct a Method 321 test to determine compliance with the HCl emissions standard and during this testing will also monitor their HCl CPMS output in indicated ppm to determine where their HCl CPMS output would intersect 75 percent of their allowed HCl emissions, and set their operating level at that ppm output. This scaling procedure alleviates re-testing concerns for sources that operate well below the emission limit and provides greater operational flexibility while assuring continuous compliance with the HCl emission standard. For sources whose Method 321 compliance tests place them at or above 75 percent of the emission standard, their operating limit is determined by the average of three Method 321 test runs (for sources with no inline raw mill) or the time weighted average of six Method 321 test runs (for kilns with inline raw mills). By adopting a scaling factor as well as the use of 30 days of averaged HCl CPMS measurements, the parametric limit in no way imposes a stringency level higher than the level of the HCl emissions standard and will avoid triggering unnecessary retests for many facilities, especially for the lower-emitting sources.

## 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 direct final action.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an 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 direct final rule. However, the provisions of this direct final rule are not expected to impose new or substantial direct compliance costs on tribal governments since the provisions in this direct final 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 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.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**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: _____.

_____
E. Scott Pruitt,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 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 deleting paragraph (b)(6)(v)(H) to read as follows:

**§ 63.1349 Performance testing requirements**.

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(H) * * *

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

**§ 63.1350 Monitoring requirements.**

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(l) * * *

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(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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