



State of Ohio Environmental Protection Agency

Street Address:

Lazarus Gov. Center
50 West Town Street, Suite 700
Columbus, OH 43215

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Lazarus Gov. Center
P.O. Box 1049
Columbus, OH 43216-1049

04/30/07

CERTIFIED MAIL

**RE: Draft Title V Chapter 3745-77
permit**

03-35-01-0105
Campbell Soup Company
Robert J. Zimmerman
Campbell Place
Camden, NJ 08103-1799

Dear Robert J. Zimmerman:

You are hereby notified that the Ohio Environmental Protection Agency has prepared the enclosed draft of the Title V permit for the facility referenced above. The purpose of this draft is to solicit public comments. A public notice concerning the draft will appear in the Ohio EPA Weekly Review and the major newspaper in the county where the facility is located. Comments and/or a request for a public hearing from the public and any affected parties will be accepted by Northwest District Office within 30 days of the date of publication in the newspaper. You will be notified in writing if a public hearing is scheduled. **In order to facilitate our review of all the comments or concerns you may have with the enclosed draft permit, please provide a hand marked-up copy of the draft permit showing the changes you think are necessary, along with any additional summary comments, by the end of the draft public comment period. The hard marked-up copy and any additional summary comments should be submitted to the Ohio EPA District Office or local air agency identified below and to the following address:**

**Andrew Hall
Permit Review/Development Section
Ohio EPA, Division of Air Pollution Control
122 South Front Street
Columbus, Ohio 43215**

A decision on processing the Title V permit will be made after consideration of written public comments and oral testimony (if a public hearing is conducted). After the comment period, you will be provided with a Preliminary Proposed Title V permit and an opportunity to comment prior to the Proposed Title V permit submittal to USEPA.

If you have any questions concerning this draft Title V permit, please contact Northwest District Office.

Sincerely,

Michael W. Ahern, Manager
Permit Issuance and Data Management Section
Division of Air Pollution Control

cc: USEPA (electronically submitted)
File, DAPC PIER
Northwest District Office
Indiana
Michigan



State of Ohio Environmental Protection Agency

DRAFT TITLE V PERMIT

Issue Date: 04/30/07

Effective Date: To be entered upon final issuance

Expiration Date: To be entered upon final issuance

This document constitutes issuance of a Title V permit for Facility ID: 03-35-01-0105 to:

Campbell Soup Company
Campbell Soup Company LLC
12-773 State Route 110
Napoleon, OH 43545

Emissions Unit ID (Company ID)/Emissions Unit Activity Description

Table with 3 columns: Emissions Unit ID (Company ID), Emissions Unit Activity Description. Rows include B001 (Boiler #1), B002 (Boiler #2), B003 (Boiler #3), B004 (Boiler #4), B007 (Boiler #5), B008 (Boiler #6), B009 (Boiler #7), P005 (Veg Waste Dryer), R001 (Trine Labeler #1), R002 (Trine Labeler #2), and Vegetable Waste Dryer (Rotary Dryer).

You will be contacted approximately eighteen (18) months prior to the expiration date regarding the renewal of this permit. If you are not contacted, please contact the appropriate Ohio EPA District Office or local air agency listed below. This permit and the authorization to operate the air contaminant sources (emissions units) at this facility shall expire at midnight on the expiration date shown above.

Described below is the current Ohio EPA District Office or local air agency that is responsible for processing and administering your Title V permit:

Northwest District Office
347 North Dunbridge Road
Bowling Green, OH 43402
(419) 352-8461

Ohio Environmental Protection Agency

Chris Korleski
Director

PART I - GENERAL TERMS AND CONDITIONS

A. State and Federally Enforceable Section

1. Monitoring and Related Record Keeping and Reporting Requirements

a. Except as may otherwise be provided in the terms and conditions for a specific emissions unit, i.e., in Section A.III of Part III of this Title V permit, the permittee shall maintain records that include the following, where applicable, for any required monitoring under this permit:

- i. The date, place (as defined in the permit), and time of sampling or measurements.
- ii. The date(s) analyses were performed.
- iii. The company or entity that performed the analyses.
- iv. The analytical techniques or methods used.
- v. The results of such analyses.
- vi. The operating conditions existing at the time of sampling or measurement.
(Authority for term: OAC rule 3745-77-07(A)(3)(b)(i))

b. Each record of any monitoring data, testing data, and support information required pursuant to this permit shall be retained for a period of five years from the date the record was created. Support information shall include all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. Such records may be maintained in computerized form.
(Authority for term: OAC rule 3745-77-07(A)(3)(b)(ii))

c. The permittee shall submit required reports in the following manner:

- i. **All reporting required in accordance with OAC rule 3745-77-07(A)(3)(c) for deviations caused by malfunctions shall be submitted in the following manner:**

Any malfunction, as defined in OAC rule 3745-15-06(B)(1), shall be promptly reported to the Ohio EPA in accordance with OAC rule 3745-15-06. In addition, to fulfill the OAC rule 3745-77-07(A)(3)(c) deviation reporting requirements for malfunctions, written reports that identify each malfunction that occurred during each calendar quarter (including each malfunction reported only verbally in accordance with OAC rule 3745-15-06) shall be submitted (i.e., postmarked) by January 31, April 30, July 31, and October 31 of each year in accordance with General Term and Condition A.1.c.ii below; and each report shall cover the previous calendar quarter (An exceedance of the visible emission limitations specified in OAC rule 3745-17-07(A)(1) that is caused by a malfunction is not a violation and does not need to be reported as a deviation if the owner or operator of the affected air contaminant source or air pollution control equipment complies with the requirements of OAC rule 3745-17-07(A)(3)(c)).

In accordance with OAC rule 3745-15-06, a malfunction reportable under OAC rule 3745-15-06(B) constitutes a violation of an emission limitation (or control requirement) and, therefore, is a deviation of the federally enforceable permit requirements. Even though verbal notifications and written reports are required for malfunctions pursuant to OAC rule 3745-15-06, the written reports required pursuant to this term must be submitted quarterly to satisfy the prompt reporting provision of OAC rule 3745-77-07(A)(3)(c).

In identifying each deviation caused by a malfunction, the permittee shall specify the emission limitation(s) (or control requirement(s)) for which the deviation occurred, describe each deviation, and provide the magnitude and duration of each deviation. For a specific malfunction, if this information has been provided in a written report that was submitted in accordance with OAC rule 3745-15-06, the permittee may simply

reference that written report to identify the deviation. Nevertheless, all malfunctions, including those reported only verbally in accordance with OAC rule 3745-15-06, must be reported in writing on a quarterly basis.

Any scheduled maintenance, as referenced in OAC rule 3745-15-06(A)(1), that results in a deviation from a federally enforceable emission limitation (or control requirement) shall be reported in the same manner as described above for malfunctions.

(Authority for term: OAC rule 3745-77-07(A)(3)(c))

- ii. **Except as may otherwise be provided in the terms and conditions for a specific emissions unit, i.e., in Section A.IV of Part III of this Title V permit or, in some cases, in Part II of this Title V permit, all reporting required in accordance with OAC rule 3745-77-07(A)(3)(c) for deviations of the emission limitations, operational restrictions, and control device operating parameter limitations shall be submitted in the following manner:**

Written reports of (a) any deviations from federally enforceable emission limitations, operational restrictions, and control device operating parameter limitations, (b) the probable cause of such deviations, and (c) any corrective actions or preventive measures taken, shall be promptly made to the appropriate Ohio EPA District Office or local air agency. Except as provided below, the written reports shall be submitted (i.e., postmarked) by January 31, April 30, July 31, and October 31 of each year; and each report shall cover the previous calendar quarter.

In identifying each deviation, the permittee shall specify the emission limitation(s), operational restriction(s), and/or control device operating parameter limitation(s) for which the deviation occurred, describe each deviation, and provide the estimated magnitude and duration of each deviation.

These written deviation reports shall satisfy the requirements of OAC rule 3745-77-07(A)(3)(c) pertaining to the submission of monitoring reports every six months and to the prompt reporting of all deviations. Full compliance with OAC rule 3745-77-07(A)(3)(c) requires reporting of all other deviations of the federally enforceable requirements specified in the permit as required by such rule.

If an emissions unit has a deviation reporting requirement for a specific emission limitation, operational restriction, or control device operating parameter limitation that is not on a quarterly basis (e.g., within 30 days following the end of the calendar month, or within 30 or 45 days after the exceedance occurs), that deviation reporting requirement satisfies the reporting requirements specified in this General Term and Condition for that specific emission limitation, operational restriction, or control device parameter limitation. Following the provisions of that non-quarterly deviation reporting requirement will also satisfy (for the deviations so reported) the requirements of OAC rule 3745-77-07(A)(3)(c) pertaining to the submission of monitoring reports every six months and to the prompt reporting of all deviations, and additional quarterly deviation reports for that specific emission limitation, operational restriction, or control device parameter limitation are not required pursuant to this General Term and Condition.

See B.6 below if no deviations occurred during the quarter.

(Authority for term: OAC rule 3745-77-07(A)(3)(c))

- iii. **All reporting required in accordance with the OAC rule 3745-77-07(A)(3)(c) for other deviations of the federally enforceable permit requirements which are not reported in accordance with General Term and Condition A.1.c.ii above shall be submitted in the following manner:**

Unless otherwise specified by rule, written reports that identify deviations of the following federally enforceable requirements contained in this permit; General Terms and Conditions: A.2, A.3, A.4, A.6.e, A.7, A.12, A.14, A.18, A.19, A.20, and A.22 of Part I of this Title V permit, as well as any deviations from the requirements in Section A.V or A.VI of Part III of this Title V permit, and any monitoring, record keeping, and reporting requirements, which are not reported in accordance with General Term and Condition A.1.c.ii above shall be submitted (i.e., postmarked) to the appropriate Ohio EPA District Office or local air agency by January 31 and July 31 of each year; and each report shall cover the previous six calendar months. Unless otherwise specified by rule, all other deviations from federally enforceable

requirements identified in this permit shall be submitted annually as part of the annual compliance certification, including deviations of federally enforceable requirements not specifically addressed by permit or rule for the insignificant activities or emissions levels (IEU) identified in Part II.A of this Title V permit. Annual reporting of deviations is deemed adequate to meet the deviation reporting requirements for IEUs unless otherwise specified by permit or rule.

In identifying each deviation, the permittee shall specify the federally enforceable requirement for which the deviation occurred, describe each deviation, and provide the magnitude and duration of each deviation.

These semi-annual and annual written reports shall satisfy the reporting requirements of OAC rule 3745-77-07(A)(3)(c) for any deviations from the federally enforceable requirements contained in this permit that are not reported in accordance with General Term and Condition A.1.c.ii above.

If no such deviations occurred during a six-month period, the permittee shall submit a semi-annual report which states that no such deviations occurred during that period.

(Authority for term: OAC rules 3745-77-07(A)(3)(c)(i) and (ii) and OAC rule 3745-77-07(A)(13)(b))

- iv. Each written report shall be signed by a responsible official certifying that, "based on information and belief formed after reasonable inquiry, the statements and information in the report (including any written malfunction reports required by OAC rule 3745-15-06 that are referenced in the deviation reports) are true, accurate, and complete."
(Authority for term: OAC rule 3745-77-07(A)(3)(c)(iv))
- v. Reports of any required monitoring and/or record keeping information shall be submitted to the appropriate Ohio EPA District Office or local air agency.
(Authority for term: OAC rule 3745-77-07(A)(3)(c))

2. Scheduled Maintenance

Any scheduled maintenance of air pollution control equipment shall be performed in accordance with paragraph (A) of OAC rule 3745-15-06. Except as provided in OAC rule 3745-15-06(A)(3), any scheduled maintenance necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emissions unit(s) that is (are) served by such control system(s). Any scheduled maintenance, as defined in OAC rule 3745-15-06(A)(1), that results in a deviation from a federally enforceable emission limitation (or control requirement) shall be reported in the same manner as described for malfunctions in General Term and Condition A.1.c.i above.

(Authority for term: OAC rule 3745-77-07(A)(3)(c))

3. Risk Management Plans

If applicable, the permittee shall develop and register a risk management plan pursuant to section 112(r) of the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. ("Act"); and, pursuant to 40 C.F.R. 68.215(a), the permittee shall submit either of the following:

- a. a compliance plan for meeting the requirements of 40 C.F.R. Part 68 by the date specified in 40 C.F.R. 68.10(a) and OAC 3745-104-05(A); or
- b. as part of the compliance certification submitted under 40 C.F.R. 70.6(c)(5), a certification statement that the source is in compliance with all requirements of 40 C.F.R. Part 68 and OAC Chapter 3745-104, including the registration and submission of the risk management plan.

(Authority for term: OAC rule 3745-77-07(A)(4))

4. Title IV Provisions

If the permittee is subject to the requirements of 40 CFR Part 72 concerning acid rain, the permittee shall ensure that any affected emissions unit complies with those requirements. Emissions exceeding any allowances that are lawfully held under Title IV of the Act, or any regulations adopted thereunder, are prohibited.

(Authority for term: OAC rule 3745-77-07(A)(5))

5. Severability Clause

A determination that any term or condition of this permit is invalid shall not invalidate the force or effect of any other term or condition thereof, except to the extent that any other term or condition depends in whole or in part for its operation or implementation upon the term or condition declared invalid.

(Authority for term: OAC rule 3745-77-07(A)(6))

6. General Requirements

- a. The permittee must comply with all terms and conditions of this permit. Any noncompliance with the federally enforceable terms and conditions of this permit constitutes a violation of the Act, and is grounds for enforcement action or for permit revocation, revocation and reissuance, or modification, or for denial of a permit renewal application.
- b. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the federally enforceable terms and conditions of this permit.
- c. This permit may be modified, reopened, revoked, or revoked and reissued, for cause, in accordance with A.10 below. The filing of a request by the permittee for a permit modification, revocation and reissuance, or revocation, or of a notification of planned changes or anticipated noncompliance does not stay any term and condition of this permit.
- d. This permit does not convey any property rights of any sort, or any exclusive privilege.
- e. The permittee shall furnish to the Director of the Ohio EPA, or an authorized representative of the Director, upon receipt of a written request and within a reasonable time, any information that may be requested to determine whether cause exists for modifying, reopening or revoking this permit or to determine compliance with this permit. Upon request, the permittee shall also furnish to the Director or an authorized representative of the Director, copies of records required to be kept by this permit. For information claimed to be confidential in the submittal to the Director, if the Administrator of the U.S. EPA requests such information, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.
- f. Except as otherwise indicated below, this Title V permit, or permit modification, is effective for five years from the original effective date specified in the permit. In the event that this facility becomes eligible for non-title V permits, this permit shall cease to be enforceable upon final issuance of all applicable OAC Chapter 3745-35 operating permits and/or registrations for all subject emissions units located at the facility and:
 - i. the permittee submits an approved facility-wide potential to emit analysis supporting a claim that the facility no longer meets the definition of a "major source" as defined in OAC rule 3745-77-01(W) based on the permanent shutdown and removal of one or more emissions units identified in this permit; or
 - ii. the permittee no longer meets the definition of a "major source" as defined in OAC rule 3745-77-01(W) based on obtaining restrictions on the facility-wide potential(s) to emit that are federally enforceable or legally and practically enforceable ; or
 - iii. a combination of i. and ii. above.

The permittee shall comply with any residual requirements, such as quarterly deviation reports, semi-annual deviation reports, and annual compliance certifications covering the period during which this Title V permit was enforceable. All records relating to this permit must be maintained in accordance with law.

(Authority for term: OAC rule 3745-77-01(W), OAC rule 3745-77-07(A)(3)(b)(ii), OAC rule 3745-77(A)(7))

7. Fees

The permittee shall pay fees to the Director of the Ohio EPA in accordance with ORC section 3745.11 and OAC Chapter 3745-78.

(Authority for term: OAC rule 3745-77-07(A)(8))

8. Marketable Permit Programs

No revision of this permit is required under any approved economic incentive, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in this permit.
(Authority for term: OAC rule 3745-77-07(A)(9))

9. Reasonably Anticipated Operating Scenarios

The permittee is hereby authorized to make changes among operating scenarios authorized in this permit without notice to the Ohio EPA, but, contemporaneous with making a change from one operating scenario to another, the permittee must record in a log at the permitted facility the scenario under which the permittee is operating. The permit shield provided in these general terms and conditions shall apply to all operating scenarios authorized in this permit.
(Authority for term: OAC rule 3745-77-07(A)(10))

10. Reopening for Cause

This Title V permit will be reopened prior to its expiration date under the following conditions:

- a. Additional applicable requirements under the Act become applicable to one or more emissions units covered by this permit, and this permit has a remaining term of three or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to paragraph (E)(1) of OAC rule 3745-77-08.
- b. This permit is issued to an affected source under the acid rain program and additional requirements (including excess emissions requirements) become applicable. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit, and shall not require a reopening of this permit.
- c. The Director of the Ohio EPA or the Administrator of the U.S. EPA determines that the federally applicable requirements in this permit are based on a material mistake, or that inaccurate statements were made in establishing the emissions standards or other terms and conditions of this permit related to such federally applicable requirements.
- d. The Administrator of the U.S. EPA or the Director of the Ohio EPA determines that this permit must be revised or revoked to assure compliance with the applicable requirements.

(Authority for term: OAC rules 3745-77-07(A)(12) and 3745-77-08(D))

11. Federal and State Enforceability

Only those terms and conditions designated in this permit as federally enforceable, that are required under the Act, or any of its applicable requirements, including relevant provisions designed to limit the potential to emit of a source, are enforceable by the Administrator of the U.S. EPA, the State, and citizens under the Act. All other terms and conditions of this permit shall not be federally enforceable and shall be enforceable under State law only.

(Authority for term: OAC rule 3745-77-07(B))

12. Compliance Requirements

- a. Any document (including reports) required to be submitted and required by a federally applicable requirement in this Title V permit shall include a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements in the document are true, accurate, and complete.
- b. Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Director of the Ohio EPA or an authorized representative of the Director to:
 - i. At reasonable times, enter upon the permittee's premises where a source is located or the emissions-related activity is conducted, or where records must be kept under the conditions of this permit.
 - ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit, subject to the protection from disclosure to the public of confidential information consistent with paragraph (E) of OAC rule 3745-77-03.
 - iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit.

- iv. As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit and applicable requirements.
- c. The permittee shall submit progress reports to the appropriate Ohio EPA District Office or local air agency concerning any schedule of compliance for meeting an applicable requirement. Progress reports shall be submitted semiannually, or more frequently if specified in the applicable requirement or by the Director of the Ohio EPA. Progress reports shall contain the following:
 - i. Dates for achieving the activities, milestones, or compliance required in any schedule of compliance, and dates when such activities, milestones, or compliance were achieved.
 - ii. An explanation of why any dates in any schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- d. Compliance certifications concerning the terms and conditions contained in this permit that are federally enforceable emission limitations, standards, or work practices, shall be submitted to the Director (the appropriate Ohio EPA District Office or local air agency) and the Administrator of the U.S. EPA in the following manner and with the following content:
 - i. Compliance certifications shall be submitted annually on a calendar year basis. The annual certification shall be submitted (i.e., postmarked) on or before April 30th of each year during the permit term.
 - ii. Compliance certifications shall include the following:
 - (a) An identification of each term or condition of this permit that is the basis of the certification.
 - (b) The permittee's current compliance status.
 - (c) Whether compliance was continuous or intermittent.
 - (d) The method(s) used for determining the compliance status of the source currently and over the required reporting period.
 - (e) Such other facts as the Director of the Ohio EPA may require in the permit to determine the compliance status of the source.
 - iii. Compliance certifications shall contain such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(Authority for term: OAC rules 3745-77-07(C)(1),(2),(4) and (5) and ORC section 3704.03(L))

13. Permit Shield

- a. Compliance with the terms and conditions of this permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under OAC rule 3745-77-07) shall be deemed compliance with the applicable requirements identified and addressed in this permit as of the date of permit issuance.
- b. This permit shield provision shall apply to any requirement identified in this permit pursuant to OAC rule 3745-77-07(F)(2), as a requirement that does not apply to the source or to one or more emissions units within the source.

(Authority for term: OAC rule 3745-77-07(F))

14. Operational Flexibility

The permittee is authorized to make the changes identified in OAC rule 3745-77-07(H)(1)(a) to (H)(1)(c) within the permitted stationary source without obtaining a permit revision, if such change is not a modification under any provision of Title I of the Act [as defined in OAC rule 3745-77-01(JJ)], and does not result in an exceedance of the emissions allowed under this permit (whether expressed therein as a rate of emissions or in terms of total emissions), and the permittee provides the Administrator of the U.S. EPA and the appropriate Ohio EPA District Office or local air agency with written notification within a minimum of seven days in advance of the proposed changes, unless the change is associated with, or in response to, emergency conditions. If less than seven days notice is provided because of a need to respond more quickly to such

emergency conditions, the permittee shall provide notice to the Administrator of the U.S. EPA and the appropriate District Office of the Ohio EPA or local air agency as soon as possible after learning of the need to make the change. The notification shall contain the items required under OAC rule 3745-77-07(H)(2)(d).
(Authority for term: OAC rules 3745-77-07(H)(1) and (2))

15. Emergencies

The permittee shall have an affirmative defense of emergency to an action brought for noncompliance with technology-based emission limitations if the conditions of OAC rule 3745-77-07(G)(3) are met. This emergency defense provision is in addition to any emergency or upset provision contained in any applicable requirement.
(Authority for term: OAC rule 3745-77-07(G))

16. Off-Permit Changes

The owner or operator of a Title V source may make any change in its operations or emissions at the source that is not specifically addressed or prohibited in the Title V permit, without obtaining an amendment or modification of the permit, provided that the following conditions are met:

- a. The change does not result in conditions that violate any applicable requirements or that violate any existing federally enforceable permit term or condition.
- b. The permittee provides contemporaneous written notice of the change to the Director and the Administrator of the U.S. EPA, except that no such notice shall be required for changes that qualify as insignificant emissions levels or activities as defined in OAC rule 3745-77-01(U). Such written notice shall describe each such change, the date of such change, any change in emissions or pollutants emitted, and any federally applicable requirement that would apply as a result of the change.
- c. The change shall not qualify for the permit shield under OAC rule 3745-77-07(F).
- d. The permittee shall keep a record describing all changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.
- e. The change is not subject to any applicable requirement under Title IV of the Act or is not a modification under any provision of Title I of the Act.

Paragraph (I) of rule 3745-77-07 of the Administrative Code applies only to modification or amendment of the permittee's Title V permit. The change made may require a permit to install under Chapter 3745-31 of the Administrative Code if the change constitutes a modification as defined in that Chapter. Nothing in paragraph (I) of rule 3745-77-07 of the Administrative Code shall affect any applicable obligation under Chapter 3745-31 of the Administrative Code.
(Authority for term: OAC rule 3745-77-07(I))

17. Compliance Method Requirements

Nothing in this permit shall alter or affect the ability of any person to establish compliance with, or a violation of, any applicable requirement through the use of credible evidence to the extent authorized by law. Nothing in this permit shall be construed to waive any defenses otherwise available to the permittee, including but not limited to, any challenge to the Credible Evidence Rule (see 62 Fed. Reg. 8314, Feb. 24, 1997), in the context of any future proceeding.
(This term is provided for informational purposes only.)

18. Insignificant Activities or Emissions Levels

Each IEU that has one or more applicable requirements shall comply with those applicable requirements.
(Authority for term: OAC rule 3745-77-07(A)(1))

19. Permit to Install Requirement

Prior to the “installation” or “modification” of any “air contaminant source,” as those terms are defined in OAC rule 3745-31-01, a permit to install must be obtained from the Ohio EPA pursuant to OAC Chapter 3745-31.

(Authority for term: OAC rule 3745-77-07(A)(1))

20. Air Pollution Nuisance

The air contaminants emitted by the emissions units covered by this permit shall not cause a public nuisance, in violation of OAC rule 3745-15-07.

(Authority for term: OAC rule 3745-77-07(A)(1))

21. Permanent Shutdown of an Emissions Unit

The permittee may notify Ohio EPA of any emissions unit that is permanently shut down by submitting a certification from the responsible official that identifies the date on which the emissions unit was permanently shut down. Authorization to operate the affected emissions unit shall cease upon the date certified by the responsible official that the emissions unit was permanently shut down.

After the date on which an emissions unit is permanently shut down (i.e., that has been physically removed from service or has been altered in such a way that it can no longer operate without a subsequent “modification” or “installation” as defined in OAC Chapter 3745-31 and therefore ceases to meet the definition of an “emissions unit” as defined in OAC rule 3745-77-01(O)), rendering existing permit terms and conditions irrelevant, the permittee shall not be required, after the date of the certification and submission to Ohio EPA, to meet any Title V permit requirements applicable to that emissions unit, except for any residual requirements, such as the quarterly deviation reports, semi-annual deviation reports and annual compliance certification covering the period during which the emissions unit last operated. All records relating to the shutdown emissions unit, generated while the emissions unit was in operation, must be maintained in accordance with law.

No emissions unit certified by the responsible official as being permanently shut down may resume operation without first applying for and obtaining a permit to install pursuant to OAC Chapter 3745-31.

(Authority for term: OAC rule 3745-77-01)

22. Title VI Provisions

If applicable, the permittee shall comply with the standards for recycling and reducing emissions of ozone depleting substances pursuant to 40 CFR Part 82, Subpart F, except as provided for motor vehicle air conditioners in Subpart B of 40 CFR Part 82:

- a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices specified in 40 CFR 82.156.
- b. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment specified in 40 CFR 82.158.
- c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR 82.161.

(Authority for term: OAC rule 3745-77-01(H)(11))

B. State Only Enforceable Section

1. Reporting Requirements Related to Monitoring and Record Keeping Requirements

The permittee shall submit required reports in the following manner:

- a. Reports of any required monitoring and/or record keeping information shall be submitted to the appropriate Ohio EPA District Office or local air agency.
- b. Except as otherwise may be provided in the terms and conditions for a specific emissions unit, quarterly written reports of (i) any deviations (excursions) from emission limitations, operational restrictions, and control device operating parameter limitations that have been detected by the testing, monitoring, and record keeping requirements specified in this permit, (ii) the probable cause of such deviations, and (iii) any corrective actions or preventive measures which have been or will be taken, shall be submitted to the appropriate Ohio EPA District Office or local air agency. In identifying each deviation, the permittee shall specify the applicable requirement for which the deviation occurred, describe each deviation, and provide the magnitude and duration of each deviation. If no deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred during that quarter. The reports shall be submitted (i.e., postmarked) quarterly, by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarters. (These quarterly reports shall exclude deviations resulting from malfunctions reported in accordance with OAC rule 3745-15-06.)

2. Records Retention Requirements

Each record of any monitoring data, testing data, and support information required pursuant to this permit shall be retained for a period of five years from the date the record was created. Support information shall include, but not be limited to, all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit. Such records may be maintained in computerized form.

3. Inspections and Information Requests

The Director of the Ohio EPA, or an authorized representative of the Director, may, subject to the safety requirements of the permittee and without undue delay, enter upon the premises of this source at any reasonable time for purposes of making inspections, conducting tests, examining records or reports pertaining to any emission of air contaminants, and determining compliance with any applicable State air pollution laws and regulations and the terms and conditions of this permit. The permittee shall furnish to the Director of the Ohio EPA, or an authorized representative of the Director, upon receipt of a written request and within a reasonable time, any information that may be requested to determine whether cause exists for modifying, reopening or revoking this permit or to determine compliance with this permit. Upon verbal or written request, the permittee shall also furnish to the Director of the Ohio EPA, or an authorized representative of the Director, copies of records required to be kept by this permit.

4. Scheduled Maintenance/Malfunction Reporting

Any scheduled maintenance of air pollution control equipment shall be performed in accordance with paragraph (A) of OAC rule 3745-15-06. The malfunction of any emissions units or any associated air pollution control system(s) shall be reported to the appropriate Ohio EPA District Office or local air agency in accordance with paragraph (B) of OAC rule 3745-15-06. Except as provided in that rule, any scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emissions unit(s) that is (are) served by such control system(s).

5. Permit Transfers

Any transferee of this permit shall assume the responsibilities of the prior permit holder. The appropriate Ohio EPA District Office or local air agency must be notified in writing of any transfer of this permit.

6. Additional Reporting Requirements When There Are No Deviations of Federally Enforceable Emission Limitations, Operational Restrictions, or Control Device Operating Parameter Limitations (See Section A of This Permit)

If no emission limitation (or control requirement), operational restriction and/or control device parameter limitation deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred during that quarter. The reports shall be submitted (i.e., postmarked) by January 31, April 30, July 31, and October 31 of each year; and each report shall cover the previous calendar quarter.

The permittee is not required to submit a quarterly report which states that no deviations occurred during that quarter for the following situations:

- a. where an emissions unit has deviation reporting requirements for a specific emission limitation, operational restriction, or control device parameter limitation that override the deviation reporting requirements specified in General Term and Condition A.1.c.ii; or
- b. where an uncontrolled emissions unit has no monitoring, record keeping, or reporting requirements and the emissions unit's applicable emission limitations are established at the potentials to emit; or
- c. where the company's responsible official has certified that an emissions unit has been permanently shut down.

Part II - Specific Facility Terms and Conditions

A. State and Federally Enforceable Section

1.a 40 CFR Part 63, Subpart DDDDD Requirements

The permittee is subject to the applicable emission limitation(s) and/or control measures, operational restrictions, monitoring and/or record keeping requirements, reporting requirements, testing requirements and the general and/or other requirements specified in 40 CFR Part 63, Subpart DDDDD, in accordance with 40 CFR 63.7480 through 63.7575 (including the Table(s) and Appendix(ices) referenced in Subpart DDDDD), which are incorporated into this permit by including as Attachment 1 the relevant Federal Register Publications that promulgated and subsequently revised Subpart DDDDD.

Ordinarily, these requirements would be incorporated into Part II of this Title V permit; however, incorporating Subpart DDDDD into Part II of this Title V permit was not practical due to technical incompatibilities and the limitations of the STARS program. In addition, numerous difficulties were encountered in attempting to copy and paste the Subpart's tables and/or equations into the STARS format.

The following emissions units in this permit are subject to the aforementioned requirements: B001, B002, B003*, B004*, B007*, B008* and B009*.

*Emissions units B003 and B004 are "existing, large liquid fuel-fired" units and emission units B007, B008 and B009 are "large natural gas-fired" units as defined in 40 CFR 63.7575. Pursuant to 40 CFR 63.7506(b) these boilers are subject to only the initial notification requirements in 40 CFR 63.9(b) and are not subject to any requirements (i.e., emission limits, work practice standards, performance testing, monitoring, SSM plans, site-specific monitoring plans, record keeping and reporting or any other requirements) specified in either 40 CFR Part 63, Subpart A or DDDDD.

1.b 40 CFR Part 63, Subpart DDDDD Health Based Compliance Alternative (HBCA) Demonstration

Pursuant to 40 CFR 63.7507, the Campbell Soup Company submitted a Health Based Compliance Alternative (HBCA) Demonstration for HCl to the Ohio EPA on or about September 14, 2006. That Demonstration showed compliance with the allowable toxicity-weighted HCl equivalent emission limitation from Table 2 to Appendix A of 40 CFR Part 63, Subpart DDDDD, and it was performed at the following operating parameters and process factors:

EMISSION LIMITATION

Maximum Allowable HCl Equivalent Emission Rate - 386.1 lbs/hour
(B001 and B002 combined)

PARAMETER / PROCESS FACTOR	VALUE
Stack Height	- 26 meters
Distance from the Stack to the Property Line	- 213 meters
Combined Boiler Operating Rate for B001 and B002	- 196.8 MMBtu/hr
Coal Type	- Bituminous

An updated HBCA Demonstration shall be submitted and emission testing shall be performed as required by 40 CFR Part 63, Subpart DDDDD, Appendix A, Section 11 if any of the above operating parameters or process factors change in a way that could result in increased HAP emissions.

(Authority for term: 40 CFR Part 63, Subpart DDDDD)

A. State and Federally Enforceable Section (continued)

2. 40 CFR Part 63, Subpart A - General Provisions

The permittee is subject to the applicable requirements of 40 CFR Part 63, Subpart A (General Provisions), as set forth in Table 10 of Subpart DDDDD, which are included in the text of Attachment 2 hereto, and are hereby incorporated into this permit as if fully rewritten.

Ordinarily, these requirements would be incorporated into Part II of this Title V permit; however, incorporating Subpart A into Part II of this Title V permit was not practical due to technical incompatibilities and the limitations of the STARS program.

The following emissions units in this permit are subject to the aforementioned requirements: B001 and B002.

(Authority for term: 40 CFR Part 63)

3. CAM Requirements

The Ohio EPA has approved the compliance assurance monitoring (CAM) plan submitted by the permittee, pursuant to 40 CFR Part 64, for emissions units B001 and B002. The permittee shall comply with the provisions of the plan during any operation of the aforementioned emissions units.

Pursuant to 40 CFR 64.2(b), CAM will not apply to the MACT emission limitations or standards in 40 CFR Part 63, Subpart DDDDD, after the compliance date in that rule.

(Authority for term: 40 CFR Part 64)

4. The following insignificant emissions units are located at this facility:

- P007 - 130 hp distillate oil Caterpillar firefighting water pump;
- P008 - 350 hp natural gas Climax electrical generator;
- P009 - 285 hp distillate oil Detroit firefighting water pump;
- P010 - 315 Kw distillate oil Kohler electrical generator;
- P011 - 300 hp distillate oil John Deere firefighting water pump;
- Z007 - video ink jet printers;
- Z008 - coal pile;
- Z009 - coal ash silo; and
- Z019 - wastewater plant fugitive emissions.

Each insignificant emissions unit at this facility must comply with all applicable State and federal regulations, and well as any emission limitations and/or control requirements contained within the identified permit to install for the emissions unit. Insignificant emissions units listed above that are not subject to specific permit to install requirements are subject to one or more applicable requirements contained in the SIP-approved versions of OAC Chapters 3745-17, 3745-18 and 3745-21.

B. State Only Enforceable Section

1. The following insignificant emissions units located at this facility are exempt from permit requirements because they are not subject to any applicable requirements or because they meet the "de minimis" criteria established in OAC rule 3745-15-05:

G001 - fuel dispensing facility;
L014 - solvent clean tank - stork cooker maintenance shop;
L016 - solvent clean tank - maintenance shop main plant;
L018 - solvent clean tank - labeling;
T001 - #6 oil storage tank;
T002 - cottonseed oil tank;
T003 - soybean oil tank;
T004 - soybean oil tank;
Z002 - fly/bottom ash disposal;
Z003 - solvent clean tank - boiler house maintenance;
Z004 - solvent clean tank - boiler house operating level;
Z005 - solvent clean tank - waste treatment;
Z006 - solvent clean tank - V8 maintenance;
Z010 - solvent clean tank - 2nd floor maintenance;
Z011 - solvent clean tank - prego maintenance 2nd floor;
Z012 - solvent clean tank - splash maintenance shop;
Z013 - solvent clean tank - N11 building;
Z015 - welding hoods; Z016 - flour silo system;
Z016 - flour silo system;
Z017 - salt silo;
Z018 - lime/soda ash bunker;
Z022 - towmotor battery;
Z023 - solvent clean tank - waste treatment plant;
Z024 - digester boiler;
Z025 - vegetable preparation;
Z026 - blending;
Z027 - filling;
Z028 - sterilization;
Z029 - packing;
Z030 - receiving;
Z031 - solvent clean tank - construction maintenance building;
Z036 - N-28 (west) cooling tower;
Z037 - sand blaster - beverage plant;
Z038 - flour dump station;
Z039 - bean silo;
Z040 - miscellaneous space heaters;
Z041 - miscellaneous dry material handling - beverage plant;
Z042 - sand blaster - soup plant;
Z043 - anaerobic digesters;
Z044 - N-28 (east) cooling tower;
Z045 - N-3 (north) cooling tower;
Z046 - N-3 (south) cooling tower;
Z047 - N-4 (AC) cooling tower;
Z048 - old beverage APG cooling tower;
Z049 - beverage plant R134A chillers (east);

Z050 - beverage plant R134A chillers (west); and
Z051 - south evaporator cooling tower.

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #1 (B001)
Activity Description: Boiler #1 (Coal Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
98.4 mmBtu/hr, coal-fired boiler #1, with electrostatic precipitator	OAC rule 3745-17-07(A)(1)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by rule.
	OAC rule 3745-17-10(C)(1)	0.13 lb PE/mmBtu of actual heat input (See A.I.2.a.)
	OAC rule 3745-18-41(B)(1)	6.2 lbs sulfur dioxide (SO ₂)/mmBtu actual heat input
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.b.
	40 CFR, Part 64 - Compliance Assurance Monitoring (CAM)	See Sections A.III. and A.IV. below.

2. Additional Terms and Conditions

- 2.a The emission limitation of 0.13 lb PE/mmBtu of actual heat input is based on curve P-1 of Figure I of OAC rule 3745-17-10 and a total heat input capacity of 424.8 mmBtu/hr (for emission units B001, B002, B003 and B004). Emission units B001, B002, B003 and B004 are considered either physically or operationally united.
- 2.b The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit. Requirements are listed in the attachment of this permit. Requirements for the ESP are contained within this rule.

II. Operational Restrictions

1. The quality of the coal burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable emission limitation specified in Section A.I above.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. The permittee shall collect or require the coal supplier to collect a representative grab sample of each shipment of coal that is received for burning in this emissions unit. The permittee shall perform or require the supplier to perform the coal sampling in accordance with ASTM method D2234, Standard Practice for Collection of a Gross Sample of Coal and analyze the coal sample for ash content (percent), sulfur content (percent), and heat content (Btu/pound of coal). The analytical methods to be used to determine the ash content, sulfur content, and heat content shall be the most recent version of: ASTM method D3174, Standard Test Method for Ash in the Analysis Sample of Coal and Coke from Coal; ASTM method D3177, Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke or ASTM method D4239, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods; and ASTM method D5865 Standard Test Method for Gross Calorific Value of Coal and Coke, respectively. Alternative, equivalent methods may be used upon written approval from the appropriate Ohio EPA District Office or local air agency.

[OAC rule 3745-77-07(C)(1)]

2. For each shipment of coal received for burning in this emissions unit, the permittee shall maintain records of the total quantity of coal received and the permittee's or coal supplier's analyses for ash content, sulfur content, and heat content.

[OAC rule 3745-77-07(C)(1)]

3. The permittee shall operate and maintain equipment to continuously monitor and record the opacity of the visible particulate emissions from this emissions unit. Such continuous monitoring and recording equipment shall comply with the requirements specified in 40 CFR Part 60.13.

Each continuous monitoring system consists of all the equipment used to acquire data and includes the sample extraction and transport hardware, sample conditioning hardware, analyzers, and data recording/processing hardware and software.

The permittee shall maintain the most recent certification letter that the company has received from the Ohio EPA documenting that the continuous opacity monitoring system has been certified in accordance with the requirements of 40 CFR Part 60, Appendix B, Performance Specification 1. The letter of certification shall be made available to the Director upon request.

The permittee shall maintain records of the following data obtained by the continuous opacity monitoring system: percent opacity on a 6-minute block average basis, results of daily zero/span calibration checks, and magnitude of manual calibration adjustments.

The opacity monitoring requirements specified in 40 CFR sections 63.7525(b) and 63.7535 will replace the monitoring requirements of 40 CFR Part 64, and therefore, this provision will no longer apply after the compliance date in 40 CFR Part 63, Subpart DDDDD.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64]

4. The CAM plan for this emissions unit has been developed for particulate emissions. The CAM performance indicator for particulate emissions, until the compliance date in 40 CFR Part 63, Subpart DDDDD, shall be the opacity of the visible particulate emissions from the electrostatic precipitator exhaust stack.

Stack opacity shall be measured and recorded by the certified continuous opacity monitoring (COM) system. The visible particulate emissions indicator range is each six-minute block average with an opacity value greater than 15%. When the opacity value is greater than 15%, corrective action (including, but not limited to, an evaluation of the emissions unit and electrostatic precipitator) will be required.

When the opacity exceeds 15% for more than six consecutive minutes, additional corrective action focused on the ESP will be required. When opacity exceeds 15% for more than six consecutive minutes, corrective action focused on the emissions unit will be required.

III. Monitoring and/or Record Keeping Requirements (continued)

Upon detecting an excursion of the visible particulate emission value above 15% opacity, the permittee shall restore operation of the emissions unit (including the control device) to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion. Such actions may include initial inspection and evaluation, recording that operations returned to normal without operator action (such as thorough response by the computerized distribution control system), or any necessary follow-up actions to return operation to within the indicator range.

If a determination is made by the Administrator or Ohio EPA that the permittee has not used acceptable procedures in response to an excursion or exceedance based on the results of a determination made under 40 CFR Part 64.7(d)(2), the permittee may be required to develop a Quality Improvement Plan (QIP) consistent with the requirements of 40 CFR Part 64.8.

The opacity monitoring requirements specified in 40 CFR sections 63.7525(b) and 63.7535 will replace the monitoring requirements of 40 CFR Part 64, and therefore, this provision will no longer apply after the compliance date in 40 CFR Part 63, Subpart DDDDD.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64]

5. To obtain an exemption pursuant to OAC rule 3745-17-07(A)(3)(a)(i) or (A)(3)(b)(i), the permittee shall operate and maintain a temperature monitor that measures the temperature of the boiler exhaust gases entering the ESP (a) during all periods of start-up until the ESP is operational or until the inlet temperature of the ESP achieves the temperature level specified in OAC rule 3745-17-07(A)(3)(a)(i) and (b) during all periods of shutdown until the inlet temperature of the ESP drops below the temperature level specified in OAC rule 3745-17-07(A)(3)(b)(i). An electronic or hardcopy record of the temperatures during periods of start-up and shutdown shall be maintained.

The temperature monitor shall be installed, calibrated, operated, and maintained in accordance with manufacturer's recommendations, with any modifications deemed necessary by the permittee, and shall be capable of accurately measuring the temperature of the boiler exhaust gases in units of degrees Fahrenheit.

[OAC rules 3745-77-07(C)(1), 3745-17-07(A)(3)(a)(i) and 3745-17-07(A)(3)(b)(i)]

IV. Reporting Requirements

1. The permittee shall submit, on a quarterly basis, copies of the permittee's or coal supplier's analyses (wet and/or dry) for each shipment of coal which is received for burning in this emissions unit. The permittee or coal supplier's analyses shall document the ash content (percent), sulfur content (percent), and heat content (Btu/pound) of each shipment of coal. The following information shall also be included with the copies of the permittee's or coal supplier's analyses:
 - a. the total quantity of coal received in each shipment (tons);
 - b. the weighted* average ash content (percent) of the coal received during each calendar month;
 - c. the weighted* average sulfur content (percent) of the coal received during each calendar month;
 - d. the weighted* average heat content (Btu/pound) of the coal received during each calendar month; and
 - e. the weighted* average sulfur dioxide emission rate (pounds sulfur dioxide/mmBtu actual heat input) from the coal received each calendar month.

*In proportion to the quantity of coal received in each shipment during the calendar month.

These quarterly reports shall be submitted by February 15, May 15, August 15 and November 15 of each year, unless otherwise specified by the appropriate Ohio EPA District Office or local air agency, and shall cover the coal shipments received during the previous calendar quarter.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall submit reports within 30 days following the end of each calendar quarter to the Ohio EPA, Northwest District Office of all instances of opacity values in excess of the limitations specified in OAC rule 3745-17-07, detailing the date, commencement and completion times, duration, magnitude (percent opacity), reason (if known), and corrective actions taken (if any) of each 6-minute block average above the applicable opacity limitation(s).

The permittee shall submit reports within 30 days following the end of each calendar quarter to the Ohio EPA, Northwest District Office documenting any continuous opacity monitoring system downtime while the emissions unit was on line (date, time, duration and reason) along with any corrective action(s) taken. The permittee shall provide the emissions unit operating time during the reporting period and the date, time, reason, and corrective action(s) taken for each time period of emissions unit and control equipment malfunctions. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line shall be included in the quarterly report.

If there are no excess emissions during the calendar quarter, the permittee shall submit a statement to that effect along with the emissions unit operating time during the reporting period and the date, time, reason, and corrective action(s) taken for each time period of emissions unit, control equipment, and/or monitoring system malfunctions. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line also shall be included in the quarterly report. These quarterly excess emission reports shall be submitted by January 30, April 30, July 30, and October 30 of each year and shall address the data obtained during the previous calendar quarter.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64)]

V. Testing Requirements

1. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:
 - 1.a The emission testing shall be conducted within 3 months after effective date of this permit and within 6 months prior to permit expiration.
 - 1.b The emission testing shall be conducted to demonstrate compliance with the allowable mass emission rate of 0.13 lb PE/mmBtu of actual heat input.

V. Testing Requirements (continued)

- 1.c** The following test method(s) shall be employed to demonstrate compliance with the allowable mass emission rates: Methods 1 - 5 of 40 CFR, Part 60, Appendix A.
- 1.d** The test(s) shall be conducted while this emissions unit and emissions unit B002, which is vented to the same control equipment, are operating at or near their maximum capacities, unless otherwise specified or approved by the Ohio EPA, Northwest District Office.
- 2.** Not later than 30 days prior to the proposed test date(s), the permittee shall submit an "Intent to Test" notification to the Ohio EPA, Northwest District Office. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s). Failure to submit such notification for review and approval prior to the test(s) may result in the Ohio EPA, Northwest District Office's refusal to accept the results of the emission test(s).

Personnel from the Ohio EPA, Northwest District Office shall be permitted to witness the test(s), examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment.

A comprehensive written report on the results of the emissions test(s) shall be signed by the person or persons responsible for the tests and submitted to the Ohio EPA, Northwest District Office within 30 days following completion of the test(s). The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from the Ohio EPA, Northwest District Office.

- 3.** Compliance with emission limitations in section A.I. of the terms and conditions of this permit shall be determined in accordance with the following methods:
- 3.a** Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by rule.

Applicable Compliance Method: The permittee shall demonstrate compliance with the visible PE limitation above in accordance with OAC Rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 3.b** Emission Limitation: 0.13 lb PE/mmBtu

Applicable Compliance Method: Compliance with the lb PE/mmBtu limitation above shall be based upon the results of emission testing conducted in accordance with the methods specified in OAC rule 3745-17-03(B)(9) and in section A.V.1.

[OAC rule 3745-77-07(C)(1)]

- 3.c** Emission Limitation: 6.2 lbs SO₂/mmBtu of actual heat input

Applicable Compliance Method: The permittee shall demonstrate compliance with the emission limitation above through the record keeping requirements in section A.III of this permit.

If required, the permittee shall demonstrate compliance with the allowable emission limitation of 6.2 lbs SO₂/mmBtu of actual heat input using Method 6 of 40 CFR, Part 60, Appendix A.

[OAC rule 3745-77-07(C)(1)]

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
98.4 mmBtu/hr, coal-fired boiler #1, with electrostatic precipitator	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #2 (B002)
Activity Description: Boiler #2 (Coal Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
98.4 mmBtu/hr, coal-fired boiler #2, with electrostatic precipitator	OAC rule 3745-17-07(A)(1)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by rule.
	OAC rule 3745-17-10(C)(1)	0.13 lb PE/mmBtu of actual heat input (See A.I.2.a.)
	OAC rule 3745-18-41(B)(1)	6.2 lbs sulfur dioxide (SO ₂)/mmBtu actual heat input
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.b.
	40 CFR, Part 64 - Compliance Assurance Monitoring (CAM)	See Sections A.III. and A.IV. below.

2. Additional Terms and Conditions

- 2.a The emission limitation of 0.13 lb PE/mmBtu of actual heat input is based on curve P-1 of Figure I of OAC rule 3745-17-10 and a total heat input capacity of 424.8 mmBtu/hr (for emission units B001, B002, B003 and B004). Emission units B001, B002, B003 and B004 are considered either physically or operationally united.
- 2.b The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit. Requirements are listed in the attachment of this permit. Requirements for the ESP are contained within this rule.

II. Operational Restrictions

1. The quality of the coal burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable emission limitation specified in Section A.I above.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. The permittee shall collect or require the coal supplier to collect a representative grab sample of each shipment of coal that is received for burning in this emissions unit. The permittee shall perform or require the supplier to perform the coal sampling in accordance with ASTM method D2234, Standard Practice for Collection of a Gross Sample of Coal and analyze the coal sample for ash content (percent), sulfur content (percent), and heat content (Btu/pound of coal). The analytical methods to be used to determine the ash content, sulfur content, and heat content shall be the most recent version of: ASTM method D3174, Standard Test Method for Ash in the Analysis Sample of Coal and Coke from Coal; ASTM method D3177, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke or ASTM method D4239, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods; and ASTM method D5865 Standard Test Method for Gross Calorific Value of Coal and Coke, respectively. Alternative, equivalent methods may be used upon written approval from the appropriate Ohio EPA District Office or local air agency.

[OAC rule 3745-77-07(C)(1)]

2. For each shipment of coal received for burning in this emissions unit, the permittee shall maintain records of the total quantity of coal received and the permittee's or coal supplier's analyses for ash content, sulfur content, and heat content.

[OAC rule 3745-77-07(C)(1)]

3. The permittee shall operate and maintain equipment to continuously monitor and record the opacity of the visible particulate emissions from this emissions unit. Such continuous monitoring and recording equipment shall comply with the requirements specified in 40 CFR Part 60.13.

Each continuous monitoring system consists of all the equipment used to acquire data and includes the sample extraction and transport hardware, sample conditioning hardware, analyzers, and data recording/processing hardware and software.

The permittee shall maintain the most recent certification letter that the company has received from the Ohio EPA documenting that the continuous opacity monitoring system has been certified in accordance with the requirements of 40 CFR Part 60, Appendix B, Performance Specification 1. The letter of certification shall be made available to the Director upon request.

The permittee shall maintain records of the following data obtained by the continuous opacity monitoring system: percent opacity on a 6-minute block average basis, results of daily zero/span calibration checks, and magnitude of manual calibration adjustments.

The opacity monitoring requirements specified in 40 CFR sections 63.7525(b) and 63.7535 will replace the monitoring requirements of 40 CFR Part 64, and therefore, this provision will no longer apply after the compliance date in 40 CFR Part 63, Subpart DDDDD.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64]

4. The CAM plan for this emissions unit has been developed for particulate emissions. The CAM performance indicator for particulate emissions, until the compliance date in 40 CFR Part 63, Subpart DDDDD, shall be the opacity of the visible particulate emissions from the electrostatic precipitator exhaust stack.

Stack opacity shall be measured and recorded by the certified continuous opacity monitoring (COM) system. The visible particulate emissions indicator range is each six-minute block average with an opacity value greater than 15%. When the opacity value is greater than 15%, corrective action (including, but not limited to, an evaluation of the emissions unit and electrostatic precipitator) will be required.

When the opacity exceeds 15% for more than six consecutive minutes, additional corrective action focused on the ESP will be required. When opacity exceeds 15% for more than six consecutive minutes, corrective action focused on the emissions unit will be required.

III. Monitoring and/or Record Keeping Requirements (continued)

Upon detecting an excursion of the visible particulate emission value above 15% opacity, the permittee shall restore operation of the emissions unit (including the control device) to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion. Such actions may include initial inspection and evaluation, recording that operations returned to normal without operator action (such as thorough response by the computerized distribution control system), or any necessary follow-up actions to return operation to within the indicator range.

If a determination is made by the Administrator or Ohio EPA that the permittee has not used acceptable procedures in response to an excursion or exceedance based on the results of a determination made under 40 CFR Part 64.7(d)(2), the permittee may be required to develop a Quality Improvement Plan (QIP) consistent with the requirements of 40 CFR Part 64.8.

The opacity monitoring requirements specified in 40 CFR sections 63.7525(b) and 63.7535 will replace the monitoring requirements of 40 CFR Part 64, and therefore, this provision will no longer apply after the compliance date in 40 CFR Part 63, Subpart DDDDD.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64]

5. To obtain an exemption pursuant to OAC rule 3745-17-07(A)(3)(a)(i) or (A)(3)(b)(i), the permittee shall operate and maintain a temperature monitor that measures the temperature of the boiler exhaust gases entering the ESP (a) during all periods of start-up until the ESP is operational or until the inlet temperature of the ESP achieves the temperature level specified in OAC rule 3745-17-07(A)(3)(a)(i) and (b) during all periods of shutdown until the inlet temperature of the ESP drops below the temperature level specified in OAC rule 3745-17-07(A)(3)(b)(i). An electronic or hardcopy record of the temperatures during periods of start-up and shutdown shall be maintained.

The temperature monitor shall be installed, calibrated, operated, and maintained in accordance with manufacturer's recommendations, with any modifications deemed necessary by the permittee, and shall be capable of accurately measuring the temperature of the boiler exhaust gases in units of degrees Fahrenheit.

[OAC rules 3745-77-07(C)(1), 3745-17-07(A)(3)(a)(i) and 3745-17-07(A)(3)(b)(i)]

IV. Reporting Requirements

1. The permittee shall submit, on a quarterly basis, copies of the permittee's or coal supplier's analyses (wet and/or dry) for each shipment of coal which is received for burning in this emissions unit. The permittee or coal supplier's analyses shall document the ash content (percent), sulfur content (percent), and heat content (Btu/pound) of each shipment of coal. The following information shall also be included with the copies of the permittee's or coal supplier's analyses:
 - a. the total quantity of coal received in each shipment (tons);
 - b. the weighted* average ash content (percent) of the coal received during each calendar month;
 - c. the weighted* average sulfur content (percent) of the coal received during each calendar month;
 - d. the weighted* average heat content (Btu/pound) of the coal received during each calendar month; and
 - e. the weighted* average sulfur dioxide emission rate (pounds sulfur dioxide/mmBtu actual heat input) from the coal received each calendar month.

*In proportion to the quantity of coal received in each shipment during the calendar month.

These quarterly reports shall be submitted by February 15, May 15, August 15 and November 15 of each year, unless otherwise specified by the appropriate Ohio EPA District Office or local air agency, and shall cover the coal shipments received during the previous calendar quarter.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall submit reports within 30 days following the end of each calendar quarter to the Ohio EPA, Northwest District Office of all instances of opacity values in excess of the limitations specified in OAC rule 3745-17-07, detailing the date, commencement and completion times, duration, magnitude (percent opacity), reason (if known), and corrective actions taken (if any) of each 6-minute block average above the applicable opacity limitation(s).

The permittee shall submit reports within 30 days following the end of each calendar quarter to the Ohio EPA, Northwest District Office documenting any continuous opacity monitoring system downtime while the emissions unit was on line (date, time, duration and reason) along with any corrective action(s) taken. The permittee shall provide the emissions unit operating time during the reporting period and the date, time, reason, and corrective action(s) taken for each time period of emissions unit and control equipment malfunctions. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line shall be included in the quarterly report.

If there are no excess emissions during the calendar quarter, the permittee shall submit a statement to that effect along with the emissions unit operating time during the reporting period and the date, time, reason, and corrective action(s) taken for each time period of emissions unit, control equipment, and/or monitoring system malfunctions. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line also shall be included in the quarterly report. These quarterly excess emission reports shall be submitted by January 30, April 30, July 30, and October 30 of each year and shall address the data obtained during the previous calendar quarter.

[OAC rule 3745-77-07(C)(1) and 40 CFR Part 64)]

V. Testing Requirements

1. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:
 - 1.a The emission testing shall be conducted within 3 months after effective date of this permit and within 6 months prior to permit expiration.
 - 1.b The emission testing shall be conducted to demonstrate compliance with the allowable mass emission rate of 0.13 lb PE/mmBtu of actual heat input.

V. Testing Requirements (continued)

- 1.c** The following test method(s) shall be employed to demonstrate compliance with the allowable mass emission rates: Methods 1 - 5 of 40 CFR, Part 60, Appendix A.
- 1.d** The test(s) shall be conducted while this emissions unit and emissions unit B002, which is vented to the same control equipment, are operating at or near their maximum capacities, unless otherwise specified or approved by the Ohio EPA, Northwest District Office.
- 2.** Not later than 30 days prior to the proposed test date(s), the permittee shall submit an "Intent to Test" notification to the Ohio EPA, Northwest District Office. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s). Failure to submit such notification for review and approval prior to the test(s) may result in the Ohio EPA, Northwest District Office's refusal to accept the results of the emission test(s).

Personnel from the Ohio EPA, Northwest District Office shall be permitted to witness the test(s), examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment.

A comprehensive written report on the results of the emissions test(s) shall be signed by the person or persons responsible for the tests and submitted to the Ohio EPA, Northwest District Office within 30 days following completion of the test(s). The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from the Ohio EPA, Northwest District Office.

- 3.** Compliance with emission limitations in section A.I. of the terms and conditions of this permit shall be determined in accordance with the following methods:
- 3.a** Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by rule.

Applicable Compliance Method: The permittee shall demonstrate compliance with the visible PE limitation above in accordance with OAC Rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 3.b** Emission Limitation: 0.13 lb PE/mmBtu

Applicable Compliance Method: Compliance with the lb PE/mmBtu limitation above shall be based upon the results of emission testing conducted in accordance with the methods specified in OAC rule 3745-17-03(B)(9) and in section A.V.1.

[OAC rule 3745-77-07(C)(1)]

- 3.c** Emission Limitation: 6.2 lbs SO₂/mmBtu of actual heat input

Applicable Compliance Method: The permittee shall demonstrate compliance with the emission limitation above through the record keeping requirements in section A.III of this permit.

If required, the permittee shall demonstrate compliance with the allowable emission limitation of 6.2 lbs SO₂/mmBtu of actual heat input using Method 6 of 40 CFR, Part 60, Appendix A.

[OAC rule 3745-77-07(C)(1)]

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
98.4 mmBtu/hr, coal-fired boiler #2, with electrostatic precipitator	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #3 (B003)
Activity Description: Boiler #3 (#6 Oil Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
114 mmBtu/hr, #6 oil-fired boiler #3	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by rule.
	OAC rule 3745-17-10(C)(1)	0.13 lb PE/mmBtu actual heat input (See A.I.2.a.)
	OAC rule 3745-18-41(B)(2)	2.1 lbs sulfur dioxide (SO ₂)/mmBtu of actual heat input
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.b.

2. Additional Terms and Conditions

- 2.a The emission limitation of 0.13 lb PE/mmBtu of actual heat input is based on curve P-1 of Figure I of OAC rule 3745-17-10 and a total heat input capacity of 424.8 mmBtu/hr (for emission units B001, B002, B003 and B004). Emission units B001, B002, B003 and B004 are considered either physically or operationally united.
- 2.b The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit (Part II - Facility Terms and Condition A.1.a. of this permit). Requirements are listed in the attachment of this permit.

II. Operational Restrictions

1. The quality of oil burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable sulfur dioxide emission limitation of 2.1 lbs of SO₂/mmBtu of actual heat input.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. For each shipment of oil received for burning in this emissions unit, the permittee shall maintain records of the total quantity of oil received, the permittee's or oil supplier's analyses for sulfur content and heat content, and the calculated sulfur dioxide emission rate (in lbs/mmBtu). The sulfur dioxide emission rate shall be calculated in accordance with the formula specified in OAC rule 3745-18-04(F). A shipment may be comprised of multiple tank truck loads from the same supplier's batch, or may be represented by single or multiple pipeline deliveries from the same supplier's batch, and the quality of the oil for those loads or pipeline deliveries may be represented by a single batch analysis from the supplier.

The permittee shall perform or require the supplier to perform the analyses for sulfur content and heat content in accordance with 40 CFR Part 60, Appendix A, Method 19, or the appropriate ASTM methods, such as D240 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter and D4294, Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry, or equivalent methods as approved by the director.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall perform daily checks, when the emissions unit is in operation and when the weather conditions allow, for any visible particulate emissions from the stack serving this emissions unit. The presence or absence of any visible emissions shall be noted in an operations log. If visible emissions are observed, the permittee shall also note the following in the operations log:
 - a. the color of the emissions;
 - b. whether the emissions are representative of normal operations;
 - c. if the emissions are not representative of normal operations, the cause of the abnormal emissions;
 - d. the total duration of any visible emission incident; and
 - e. any corrective actions taken to minimize or eliminate the visible emissions.

If visible emissions are present, a visible emission incident has occurred. The observer does not have to document the exact start and end times for the visible emission incident under item (d) above or continue the daily check until the incident has ended. The observer may indicate that the visible emission incident was continuous during the observation period (or, if known, continuous during the operation of the emissions unit). With respect to the documentation of corrective actions, the observer may indicate that no corrective actions were taken if the visible emissions were representative of normal operations, or specify the minor corrective actions that were taken to ensure that the emissions unit continued to operate under normal conditions, or specify the corrective actions that were taken to eliminate abnormal visible emissions.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall notify the director (the appropriate District Office or local air agency) in writing of any record which shows a deviation from the allowable sulfur dioxide emission limitation contained in this permit, based upon the sulfur dioxide emission rates calculated in accordance with the formula specified in OAC rule 3745-18-04(F). The notification shall include a copy of such record and shall be sent to the director (the appropriate District Office or local air agency) within 45 days after the deviation occurs.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall submit semiannual written reports that (a) identify all days during which any visible particulate emissions were observed from the stack serving this emissions unit and (b) describe any corrective actions taken to minimize or eliminate the visible particulate emissions. These reports shall be submitted to the Director (the appropriate Ohio EPA District Office or local air agency) by January 31 and July 31 of each year and shall cover the previous 6-month period.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:
 - 1.a The emission testing shall be conducted within 6 months prior to permit expiration.
 - 1.b The emission testing shall be conducted to demonstrate compliance with the allowable mass emission rate of 0.13 lb PE/mmBtu.
 - 1.c The following test method(s) shall be employed to demonstrate compliance with the allowable mass emission rates: Methods 1- 5 of 40 CFR, Part 60, Appendix A.
 - 1.d The test(s) shall be conducted while the emissions unit is operating at or near its maximum capacity, unless otherwise specified or approved by the Director (the Ohio EPA, Northwest District Office).
2. Not later than 30 days prior to the proposed test date(s), the permittee shall submit an "Intent to Test" notification to the Ohio EPA, Northwest District Office. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s). Failure to submit such notification for review and approval prior to the test(s) may result in the Ohio EPA, Northwest District Office's refusal to accept the results of the emission test(s).

Personnel from the Ohio EPA, Northwest District Office shall be permitted to witness the test(s), examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment.

A comprehensive written report on the results of the emissions test(s) shall be signed by the person or persons responsible for the tests and submitted to the Ohio EPA, Northwest District Office within 30 days following completion of the test(s). The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from the Ohio EPA, Northwest District Office

3. Compliance with emissions limitations in section A.I of the terms and conditions of this permit shall be determined in accordance with the following methods:
 - 3.a Emission Limitation: Visible PE shall not exceed twenty percent opacity, as a six-minute average, except as provided by rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 3.b Emission Limitation: 0.13 lb PE/mmBtu of actual heat input

Applicable Compliance Method: Compliance with the lb PE/mmBtu limitation above shall be based upon the results of emission testing conducted in accordance with the methods in OAC rule 3745-17-03(B)(9).

[OAC rule 3745-77-07(C)(1)]

- 3.c Emission Limitation: 2.1 lbs SO₂/mmBtu of actual heat input

Applicable Compliance Method: The permittee shall demonstrate compliance with the emission limitation above through the record keeping requirements in section A.III of this permit.

If required, the permittee shall demonstrate compliance with the emission limitation above in accordance with 40 CFR, Part 60, Appendix A, Method 6C.

[OAC rule 3745-77-07(C)(1)]

Facility Name: **Campbell Soup Company**

Facility ID: **03-35-01-0105**

Emissions Unit: **Boiler #3 (B003)**

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
114 mmBtu/hr, #6 oil-fired boiler #3	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #4 (B004)
Activity Description: Boiler #4 (#6 Oil Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
114 mmBtu/hr, #6 oil-fired boiler #4	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by rule.
	OAC rule 3745-17-10(C)(1)	0.13 lb PE/mmBtu actual heat input (See A.I.2.a.)
	OAC rule 3745-18-41(B)(2)	2.1 lbs sulfur dioxide (SO ₂)/mmBtu of actual heat input
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.b.

2. Additional Terms and Conditions

- 2.a The emission limitation of 0.13 lb PE/mmBtu of actual heat input is based on curve P-1 of Figure I of OAC rule 3745-17-10 and a total heat input capacity of 424.8 mmBtu/hr (for emission units B001, B002, B003 and B004). Emission units B001, B002, B003 and B004 are considered either physically or operationally united.
- 2.b The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit (Part II - Facility Terms and Condition A.1.a. of this permit). Requirements are listed in the attachment of this permit.

II. Operational Restrictions

1. The quality of oil burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable sulfur dioxide emission limitation of 2.1 lbs of SO₂/mmBtu of actual heat input.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. For each shipment of oil received for burning in this emissions unit, the permittee shall maintain records of the total quantity of oil received, the permittee's or oil supplier's analyses for sulfur content and heat content, and the calculated sulfur dioxide emission rate (in lbs/mmBtu). The sulfur dioxide emission rate shall be calculated in accordance with the formula specified in OAC rule 3745-18-04(F). A shipment may be comprised of multiple tank truck loads from the same supplier's batch, or may be represented by single or multiple pipeline deliveries from the same supplier's batch, and the quality of the oil for those loads or pipeline deliveries may be represented by a single batch analysis from the supplier.

The permittee shall perform or require the supplier to perform the analyses for sulfur content and heat content in accordance with 40 CFR Part 60, Appendix A, Method 19, or the appropriate ASTM methods, such as D240 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter and D4294, Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry, or equivalent methods as approved by the director.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall perform daily checks, when the emissions unit is in operation and when the weather conditions allow, for any visible particulate emissions from the stack serving this emissions unit. The presence or absence of any visible emissions shall be noted in an operations log. If visible emissions are observed, the permittee shall also note the following in the operations log:

- a. the color of the emissions;
- b. whether the emissions are representative of normal operations;
- c. if the emissions are not representative of normal operations, the cause of the abnormal emissions;
- d. the total duration of any visible emission incident; and
- e. any corrective actions taken to minimize or eliminate the visible emissions.

If visible emissions are present, a visible emission incident has occurred. The observer does not have to document the exact start and end times for the visible emission incident under item (d) above or continue the daily check until the incident has ended. The observer may indicate that the visible emission incident was continuous during the observation period (or, if known, continuous during the operation of the emissions unit). With respect to the documentation of corrective actions, the observer may indicate that no corrective actions were taken if the visible emissions were representative of normal operations, or specify the minor corrective actions that were taken to ensure that the emissions unit continued to operate under normal conditions, or specify the corrective actions that were taken to eliminate abnormal visible emissions.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall notify the director (the appropriate District Office or local air agency) in writing of any record which shows a deviation from the allowable sulfur dioxide emission limitation contained in this permit, based upon the sulfur dioxide emission rates calculated in accordance with the formula specified in OAC rule 3745-18-04(F). The notification shall include a copy of such record and shall be sent to the director (the appropriate District Office or local air agency) within 45 days after the deviation occurs.

[OAC rule 3745-77-07(C)(1)]

2. The permittee shall submit semiannual written reports that (a) identify all days during which any visible particulate emissions were observed from the stack serving this emissions unit and (b) describe any corrective actions taken to minimize or eliminate the visible particulate emissions. These reports shall be submitted to the Director (the appropriate Ohio EPA District Office or local air agency) by January 31 and July 31 of each year and shall cover the previous 6-month period.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:
 - 1.a The emission testing shall be conducted within 6 months prior to permit expiration.
 - 1.b The emission testing shall be conducted to demonstrate compliance with the allowable mass emission rate of 0.13 lb PE/mmBtu.
 - 1.c The following test method(s) shall be employed to demonstrate compliance with the allowable mass emission rates: Methods 1- 5 of 40 CFR, Part 60, Appendix A.
 - 1.d The test(s) shall be conducted while the emissions unit is operating at or near its maximum capacity, unless otherwise specified or approved by the Director (the Ohio EPA, Northwest District Office).
2. Not later than 30 days prior to the proposed test date(s), the permittee shall submit an "Intent to Test" notification to the Ohio EPA, Northwest District Office. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s). Failure to submit such notification for review and approval prior to the test(s) may result in the Ohio EPA, Northwest District Office's refusal to accept the results of the emission test(s).

Personnel from the Ohio EPA, Northwest District Office shall be permitted to witness the test(s), examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment.

A comprehensive written report on the results of the emissions test(s) shall be signed by the person or persons responsible for the tests and submitted to the Ohio EPA, Northwest District Office within 30 days following completion of the test(s). The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from the Ohio EPA, Northwest District Office

3. Compliance with emissions limitations in section A.I of the terms and conditions of this permit shall be determined in accordance with the following methods:
 - 3.a Emission Limitation: Visible PE shall not exceed twenty percent opacity, as a six-minute average, except as provided by rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 3.b Emission Limitation: 0.13 lb PE/mmBtu of actual heat input

Applicable Compliance Method: Compliance with the lb PE/mmBtu limitation above shall be based upon the results of emission testing conducted in accordance with the methods in OAC rule 3745-17-03(B)(9).

[OAC rule 3745-77-07(C)(1)]

- 3.c Emission Limitation: 2.1 lbs SO₂/mmBtu of actual heat input

Applicable Compliance Method: The permittee shall demonstrate compliance with the emission limitation above through the record keeping requirements in section A.III of this permit.

If required, the permittee shall demonstrate compliance with the emission limitation above in accordance with 40 CFR, Part 60, Appendix A, Method 6C.

[OAC rule 3745-77-07(C)(1)]

Facility Name: **Campbell Soup Company**
Facility ID: **03-35-01-0105**
Emissions Unit: **Boiler #4 (B004)**

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
114 mmBtu/hr, #6 oil-fired boiler #4	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #5 (B007)
Activity Description: Boiler #5 (Natural Gas Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #5	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.
	OAC rule 3745-17-10(B)(1)	0.020 lb PE/mmBtu of actual heat input
	OAC rule 3745-21-07(B)	See A.I.2.b.
	OAC rule 3745-21-08(B)	See A.I.2.c.
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.d.
	OAC rule 3745-31-05 (PTI #03-13309, issued 11/17/99)	0.47 lb PE/hr, 2.06 tons PE/yr
		6.2 lbs nitrogen oxides (NOx)/hr, 27.16 tons NOx/yr
	5.2 lbs carbon monoxide (CO)/hr, 22.78 tons CO/yr	
	0.34 lb organic compounds (OC)/hr, 1.49 tons OC/yr	
	The requirements of this rule also include compliance with the requirements of OAC rules 3745-17-07(A) and 3745-17-11(B).	

2. Additional Terms and Conditions

- 2.a OAC Chapter 3745-18 does not establish sulfur dioxide emission limitations for this emissions unit because the emissions unit only employs natural gas as fuel.
- 2.b The permittee has satisfied the "latest available control techniques and operating practices" required pursuant to OAC rules 3745-21-07(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

2. Additional Terms and Conditions (continued)

- 2.c** The permittee has satisfied the "best available control techniques and operating practices" required pursuant to OAC rule 3745-21-08(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

On November 5, 2002, OAC rule 3745-21-08 was revised to delete paragraph (B); therefore, paragraph (B) is no longer part of the State regulations. However, that rule revision has not yet been submitted to U.S. EPA as a revision to Ohio's State Implementation Plan (SIP). Therefore, until the SIP revisions occurs and the U.S. EPA approves the revisions to OAC rule 3745-21-08, the requirement to satisfy the "best available control techniques and operating practices" still exists as part of the federally-approved SIP for Ohio.

- 2.d** The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit (Part II - Facility Terms and Condition A.1.a. of this permit). Requirements are listed in the attachment of this permit.

II. Operational Restrictions

1. The permittee shall burn only natural gas in this emissions unit.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. For each day during which the permittee burns a fuel other than natural gas, the permittee shall maintain a record of the type and quantity of fuel burned in this emissions unit.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall submit deviation (excursion) reports that identify each day when a fuel other than natural gas was burned in this emissions unit. Each report shall be submitted within 30 days following the end of each calendar quarter when the deviation occurs.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. Compliance with the emission limitations in Section A.1. of these terms and conditions shall be determined in accordance with the following methods:

- 1.a** Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 1.b** Emission Limitation: 0.020 lb PE/mmBtu actual heat input

Applicable Compliance Method: The permittee may determine compliance with limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft./hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mm cu.ft, and then dividing by the maximum heat input capacity of the boiler (62 mmBtu/hr).

If required, compliance shall be determined in accordance with the methods in OAC rule 3745-17-03(B)(9).

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements (continued)

1.c Emissions Limitations: 0.47 lb PE/hr, 2.06 tons PE/yr

Applicable Compliance Method: The permittee may determine compliance with hourly PE limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft/hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mmcu.ft.

If required, compliance with the hourly PE limitation shall be determined in accordance with Methods 1- 5 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.d Emissions Limitations: 6.2 lbs NOx/hr, 27.16 tons NOx/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 100 lbs NOx/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 7 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.e Emissions Limitations: 5.2 lbs CO/hr, 22.78 tons CO/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 84 lbs CO/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 10 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.f Emissions Limitations: 0.34 lbs OC/hr, 1.49 tons OC/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 3/98) of 5.5 lbs OC/mm cu. ft of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 18, 25 or 25A, as appropriate, of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

Facility Name: **Campbell Soup Company**

Facility ID: **03-35-01-0105**

Emissions Unit: **Boiler #5 (B007)**

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #5	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #6 (B008)
Activity Description: Boiler #6 (Natural Gas Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #6	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.
	OAC rule 3745-17-10(B)(1)	0.020 lb PE/mmBtu of actual heat input
	OAC rule 3745-21-07(B)	See A.I.2.b.
	OAC rule 3745-21-08(B)	See A.I.2.c.
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.d.
	OAC rule 3745-31-05 (PTI #03-13309, issued 11/17/99)	0.47 lb PE/hr, 2.06 tons PE/yr
		6.2 lbs nitrogen oxides (NOx)/hr, 27.16 tons NOx/yr
	5.2 lbs carbon monoxide (CO)/hr, 22.78 tons CO/yr	
	0.34 lb organic compounds (OC)/hr, 1.49 tons OC/yr	
	The requirements of this rule also include compliance with the requirements of OAC rules 3745-17-07(A) and 3745-17-11(B).	

2. Additional Terms and Conditions

- 2.a OAC Chapter 3745-18 does not establish sulfur dioxide emission limitations for this emissions unit because the emissions unit only employs natural gas as fuel.
- 2.b The permittee has satisfied the "latest available control techniques and operating practices" required pursuant to OAC rules 3745-21-07(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

2. Additional Terms and Conditions (continued)

- 2.c** The permittee has satisfied the "best available control techniques and operating practices" required pursuant to OAC rule 3745-21-08(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

On November 5, 2002, OAC rule 3745-21-08 was revised to delete paragraph (B); therefore, paragraph (B) is no longer part of the State regulations. However, that rule revision has not yet been submitted to U.S. EPA as a revision to Ohio's State Implementation Plan (SIP). Therefore, until the SIP revisions occurs and the U.S. EPA approves the revisions to OAC rule 3745-21-08, the requirement to satisfy the "best available control techniques and operating practices" still exists as part of the federally-approved SIP for Ohio.

- 2.d** The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit (Part II - Facility Terms and Condition A.1.a. of this permit). Requirements are listed in the attachment of this permit.

II. Operational Restrictions

1. The permittee shall burn only natural gas in this emissions unit.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. For each day during which the permittee burns a fuel other than natural gas, the permittee shall maintain a record of the type and quantity of fuel burned in this emissions unit.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall submit deviation (excursion) reports that identify each day when a fuel other than natural gas was burned in this emissions unit. Each report shall be submitted within 30 days following the end of each calendar quarter when the deviation occurs.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. Compliance with the emission limitations in Section A.1. of these terms and conditions shall be determined in accordance with the following methods:

- 1.a** Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 1.b** Emission Limitation: 0.020 lb PE/mmBtu actual heat input

Applicable Compliance Method: The permittee may determine compliance with limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft./hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mm cu.ft, and then dividing by the maximum heat input capacity of the boiler (62 mmBtu/hr).

If required, compliance shall be determined in accordance with the methods in OAC rule 3745-17-03(B)(9).

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements (continued)

1.c Emissions Limitations: 0.47 lb PE/hr, 2.06 tons PE/yr

Applicable Compliance Method: The permittee may determine compliance with hourly PE limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft/hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mmcu.ft.

If required, compliance with the hourly PE limitation shall be determined in accordance with Methods 1- 5 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.d Emissions Limitations: 6.2 lbs NOx/hr, 27.16 tons NOx/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 100 lbs NOx/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 7 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.e Emissions Limitations: 5.2 lbs CO/hr, 22.78 tons CO/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 84 lbs CO/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 10 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.f Emissions Limitations: 0.34 lbs OC/hr, 1.49 tons OC/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 3/98) of 5.5 lbs OC/mm cu. ft of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 18, 25 or 25A, as appropriate, of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

Facility Name: **Campbell Soup Company**

Facility ID: **03-35-01-0105**

Emissions Unit: **Boiler #6 (B008)**

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #6	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Boiler #7 (B009)
Activity Description: Boiler #7 (Natural Gas Fired)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #7	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.
	OAC rule 3745-17-10(B)(1)	0.020 lb PE/mmBtu of actual heat input
	OAC rule 3745-21-07(B)	See A.I.2.b.
	OAC rule 3745-21-08(B)	See A.I.2.c.
	40 CFR, Part 63, Subpart DDDDD	See A.I.2.d.
	OAC rule 3745-31-05 (PTI #03-13309, issued 11/17/99)	0.47 lb PE/hr, 2.06 tons PE/yr
		6.2 lbs nitrogen oxides (NOx)/hr, 27.16 tons NOx/yr
	5.2 lbs carbon monoxide (CO)/hr, 22.78 tons CO/yr	
	0.34 lb organic compounds (OC)/hr, 1.49 tons OC/yr	
	The requirements of this rule also include compliance with the requirements of OAC rules 3745-17-07(A) and 3745-17-11(B).	

2. Additional Terms and Conditions

- 2.a OAC Chapter 3745-18 does not establish sulfur dioxide emission limitations for this emissions unit because the emissions unit only employs natural gas as fuel.
- 2.b The permittee has satisfied the "latest available control techniques and operating practices" required pursuant to OAC rules 3745-21-07(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

2. Additional Terms and Conditions (continued)

- 2.c** The permittee has satisfied the "best available control techniques and operating practices" required pursuant to OAC rule 3745-21-08(B) by committing to comply with the best available technology requirements established pursuant to OAC rule 3745-31-05.

On November 5, 2002, OAC rule 3745-21-08 was revised to delete paragraph (B); therefore, paragraph (B) is no longer part of the State regulations. However, that rule revision has not yet been submitted to U.S. EPA as a revision to Ohio's State Implementation Plan (SIP). Therefore, until the SIP revisions occurs and the U.S. EPA approves the revisions to OAC rule 3745-21-08, the requirement to satisfy the "best available control techniques and operating practices" still exists as part of the federally-approved SIP for Ohio.

- 2.d** The permittee shall comply with all applicable requirements in 40 CFR, Part 63, Subpart DDDDD for this emissions unit (Part II - Facility Terms and Condition A.1.a. of this permit). Requirements are listed in the attachment of this permit.

II. Operational Restrictions

1. The permittee shall burn only natural gas in this emissions unit.

[OAC rule 3745-77-07(A)(1)]

III. Monitoring and/or Record Keeping Requirements

1. For each day during which the permittee burns a fuel other than natural gas, the permittee shall maintain a record of the type and quantity of fuel burned in this emissions unit.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall submit deviation (excursion) reports that identify each day when a fuel other than natural gas was burned in this emissions unit. Each report shall be submitted within 30 days following the end of each calendar quarter when the deviation occurs.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. Compliance with the emission limitations in Section A.1. of these terms and conditions shall be determined in accordance with the following methods:

- 1.a** Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 1.b** Emission Limitation: 0.020 lb PE/mmBtu actual heat input

Applicable Compliance Method: The permittee may determine compliance with limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft./hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mm cu.ft, and then dividing by the maximum heat input capacity of the boiler (62 mmBtu/hr).

If required, compliance shall be determined in accordance with the methods in OAC rule 3745-17-03(B)(9).

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements (continued)

1.c Emissions Limitations: 0.47 lb PE/hr, 2.06 tons PE/yr

Applicable Compliance Method: The permittee may determine compliance with hourly PE limitation above by multiplying the maximum hourly natural gas consumption rate (62,000 cu. ft/hr) by the emission factor from AP-42, Table 1.4-2 (revised 7/98) of 1.9 lbs PE (filterable)/mmcu.ft.

If required, compliance with the hourly PE limitation shall be determined in accordance with Methods 1- 5 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.d Emissions Limitations: 6.2 lbs NOx/hr, 27.16 tons NOx/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 100 lbs NOx/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 7 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.e Emissions Limitations: 5.2 lbs CO/hr, 22.78 tons CO/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 2/98) of 84 lbs CO/mm cu. ft. of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 1 - 4 and 10 of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

1.f Emissions Limitations: 0.34 lbs OC/hr, 1.49 tons OC/yr

Applicable Compliance Method: Compliance with the hourly limitation above may be determined by multiplying the emission factor from AP-42, Table 1.4 (revised 3/98) of 5.5 lbs OC/mm cu. ft of natural gas by the maximum natural gas burning capacity of the emissions unit (0.062 mm cu. ft/hr).

If required, compliance with the hourly limitation shall be determined in accordance with Methods 18, 25 or 25A, as appropriate, of 40 CFR, Part 60, Appendix A.

Compliance with the annual emission limitation shall be assumed as long as compliance with the hourly emission limitation is maintained (the annual emission limitation was determined by multiplying the hourly limit by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13309]

Facility Name: **Campbell Soup Company**

Facility ID: **03-35-01-0105**

Emissions Unit: **Boiler #7 (B009)**

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
62 mmBtu/hr, natural gas-fired boiler #7	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Veg Waste Dryer (P005)
Activity Description: Vegetable Waste Dryer (Rotary Dryer)

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
vegetable waste dryer (rotary dryer)	OAC rule 3745-17-07(A)	Visible particulate emissions (PE) shall not exceed 20% opacity, as a six-minute average, except as provided by the rule. 20.4 lbs PE/hr
	OAC rule 3745-17-11(B)(1)	

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

1. The permittee shall perform daily checks, when the emissions unit is in operation and when the weather conditions allow, for any visible particulate emissions from the stack serving this emissions unit. The presence or absence of any visible emissions shall be noted in an operations log. If visible emissions are observed, the permittee shall also note the following in the operations log:

- a. the color of the emissions;
- b. whether the emissions are representative of normal operations;
- c. if the emissions are not representative of normal operations, the cause of the abnormal emissions;
- d. the total duration of any visible emission incident; and
- e. any corrective actions taken to minimize or eliminate the visible emissions.

If visible emissions are present, a visible emission incident has occurred. The observer does not have to document the exact start and end times for the visible emission incident under item (d) above or continue the daily check until the incident has ended. The observer may indicate that the visible emission incident was continuous during the observation period (or, if known, continuous during the operation of the emissions unit). With respect to the documentation of corrective actions, the observer may indicate that no corrective actions were taken if the visible emissions were representative of normal operations, or specify the minor corrective actions that were taken to ensure that the emissions unit continued to operate under normal conditions, or specify the corrective actions that were taken to eliminate abnormal visible emissions.

[OAC rule 3745-77-07(C)(1)]

IV. Reporting Requirements

1. The permittee shall submit semiannual written reports that (a) identify all days during which any visible particulate emissions were observed from the stack serving this emissions unit and (b) describe any corrective actions taken to minimize or eliminate the visible particulate emissions. These reports shall be submitted to the Director (the appropriate Ohio EPA District Office or local air agency) by January 31 and July 31 of each year and shall cover the previous 6-month period.

[OAC rule 3745-77-07(C)(1)]

V. Testing Requirements

1. The permittee shall conduct, or have conducted, emission testing for this emissions unit in accordance with the following requirements:
 - 1.a The emission testing shall be conducted within 3 months after the effective date of the permit and within 6 months prior to permit expiration.
 - 1.b The emission testing shall be conducted to demonstrate compliance with the allowable mass emission rate of 20.4 lbs PE/hr.
 - 1.c The following test method(s) shall be employed to demonstrate compliance with the allowable mass emission rate: Methods 1-5 of 40 CFR, Part 60, Appendix A.
 - 1.d The test(s) shall be conducted simultaneously on all three stacks that this emissions unit is vented to and under maximum production rates unless otherwise specified or approved by the Ohio EPA, Northwest District Office.

V. Testing Requirements (continued)

2. Not later than 30 days prior to the proposed test date(s), the permittee shall submit an "Intent to Test" notification to the Ohio EPA, Northwest District Office. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions unit operating parameters, the time(s) and date(s) of the test(s), and the person(s) who will be conducting the test(s). Failure to submit such notification for review and approval prior to the test(s) may result in the Ohio EPA, Northwest District Office's refusal to accept the results of the emission test(s).

Personnel from the Ohio EPA, Northwest District Office shall be permitted to witness the test(s), examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions unit and the testing procedures provide a valid characterization of the emissions from the emissions unit and/or the performance of the control equipment.

A comprehensive written report on the results of the emissions test(s) shall be signed by the person or persons responsible for the tests and submitted to the Ohio EPA, Northwest District Office within 30 days following completion of the test(s). The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from the Ohio EPA, Northwest District Office

3. Compliance with emission limitations in section A.I of the terms and conditions of this permit shall be determined in accordance with the following methods:
 - 3.a Emission Limitation: Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by the rule.

Applicable Compliance Method: The permittee shall demonstrate compliance in accordance with the methods in OAC rule 3745-17-03(B)(1).

[OAC rule 3745-77-07(C)(1)]

- 3.b Emission Limitation: 20.4 lbs PE/hr

Applicable Compliance Method: Compliance with the hourly allowable emission limitation shall be based upon the results of emission testing conducted in accordance with the methods in OAC rule 3745-17-03(B)(10).

[OAC rule 3745-77-07(C)(1)]

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
vegetable waste dryer (rotary dryer)	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

None

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Trine Labeler #1 (R001)
Activity Description: Trine Labeler #1

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
styrofoam label adhesive line (Trine labeler #1)	OAC rule 3745-21-07(G)	None, see A.II below.
	OAC rule 3745-31-05 (PTI #03-13124, issued 2/18/99)	1.52 lbs organic compounds (OC)/hr, 6.66 tons OC/yr (See A.I.2.a.) The requirements of this rule also include compliance with the requirements of OAC rule 3745-21-07(G).

2. Additional Terms and Conditions

- 2.a The 1.52 lbs OC/hr and the 6.66 tons OC/yr emission limitations were established for PTI purposes to reflect the potentials to emit for this emissions unit. Therefore, it is not necessary to develop record keeping and/or reporting requirements to ensure compliance with these limitations.

II. Operational Restrictions

1. The use of any photochemically reactive material in this emissions unit, as defined in OAC rule 3745-21-01(C)(5), is prohibited.

[OAC rule 3745-77-07(A)(1) and PTI #03-13124]

III. Monitoring and/or Record Keeping Requirements

1. The permittee shall record and maintain each month the following information for this emissions unit:
 - a. the company identification for each adhesive material employed;
 - b. documentation on whether or not each adhesive material employed is a photochemically reactive material;
 - c. the number of gallons of each adhesive material employed;
 - d. the OC content of each adhesive material, in lbs OC/gallon, as applied;
 - e. the OC emission rate for each adhesive material, in tons/month (b x c/2000);
 - f. the total OC emission rate for all adhesive materials, in tons/month (summation of e); and
 - g. the annual, year-to-date, OC emissions from all adhesive materials employed (summation of e for each calendar month to date from January to December).

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

IV. Reporting Requirements

1. The permittee shall notify the Director (the appropriate Ohio EPA District Office or local air agency) in writing of any daily record showing the use of noncomplying materials (i.e., photochemically reactive materials) in this emissions unit. The notification shall include a copy of such record and shall be sent to the Director (the appropriate Ohio EPA District Office or local air agency) within 30 days of the date of the daily record indicating noncompliance.

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

2. The permittee shall submit annual reports that specify the total OC emissions from this emissions unit for the previous calendar year. The reports shall be submitted by April 15 of each year. This reporting requirement may be satisfied by including and identifying the specific emission data for this emissions unit in the annual Fee Emission Report.

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

V. Testing Requirements

1. Compliance with the emission limitations in section A.I of these terms and conditions shall be determined in accordance with the following methods:

- 1.a Emissions limitations: 1.52 lbs OC/hr, 6.66 tons OC/yr

Applicable compliance method: The permittee may determine compliance with the hourly allowable OC emission limitation by multiplying the maximum adhesive coating usage rate (0.20 gallon/hr) by the maximum OC content of all the adhesive coatings employed (7.59 lbs/gallon) .

If required, compliance with the hourly allowable OC mission limitation above shall be determined in accordance with Methods 18, 25 or 25A, as appropriate, of 40 CFR, Part 60, Appendix A.

Compliance with the annual OC limitation shall be assumed as long as compliance with the hourly OC limitation is maintained (the annual limitation was calculated by multiplying the hourly OC limitation by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

- The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
styrofoam label adhesive line (Trine labeler #1)	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

- The permit to install for this emissions unit (R001 and R002) was evaluated based on the actual materials (typically coatings and cleanup materials) and the design parameters of the emissions unit's exhaust system, as specified by the permittee in the permit to install application. The Ohio EPA's "Review of New Sources of Air Toxic Emissions" policy ("Air Toxic Policy") was applied for each pollutant emitted by this emissions unit using data from the permit to install application and the SCREEN 3.0 model (or other Ohio EPA approved model). The predicted 1-hour maximum ground-level concentration from the use of the SCREEN 3.0 model was compared to the Maximum Acceptable Ground-Level Concentration (MAGLC). The following summarizes the results of the modeling for the "worst case" pollutant:

Pollutant: tetrahydrofuran
 TLV (ug/m3): 590,000
 Maximum Hourly Emission Rate (lbs/hr): 3.03
 Predicted 1-Hour Maximum Ground-Level Concentration (ug/m3): 182.8
 MAGLC (ug/m3): 14,047.6

- Physical changes to or changes in the method of operation of the emissions unit after its installation or modification could affect the parameters used to determine whether or not the "Air Toxic Policy" is satisfied. Consequently, prior to making a change that could impact such parameters, the permittee shall conduct an evaluation to determine that the "Air Toxic Policy" will still be satisfied. If, upon evaluation, the permittee determines that the "Air Toxic Policy" will not be satisfied, the permittee will not make the change. Changes that can affect the parameters used in applying the "Air Toxic Policy" include the following:
 - changes in the composition of the materials used (typically for coatings or cleanup materials), or the use of new materials, that would result in the emission of a compound with a lower Threshold Limit Value (TLV), as indicated in the most recent version of the handbook entitled "American Conference of Governmental Industrial Hygienists (ACGIH)," than the lowest TLV value previously modeled;
 - changes in the composition of the materials, or use of new materials, that would result in an increase in emissions of any pollutant with a listed TLV that was proposed in the application and modeled; and
 - physical changes to the emissions unit or its exhaust parameters (e.g., increased/ decreased exhaust flow, changes in stack height, changes in stack diameter, etc.).

III. Monitoring and/or Record Keeping Requirements (continued)

3. If the permittee determines that the "Air Toxic Policy" will be satisfied for the above changes, the Ohio EPA will not consider the change(s) to be a "modification" under OAC rule 3745-31-01 solely due to the emissions of any type of toxic air contaminant not previously emitted, and a modification of the existing permit to install will not be required, even if the toxic air contaminant emissions are greater than the de minimis level in OAC rule 3745-15-05. If the change(s) is (are) defined as a modification under other provisions of the modification definition, then the permittee shall obtain a final permit to install prior to the change.

The permittee shall collect, record, and retain the following information when it conducts evaluations to determine that the changed emissions unit will still satisfy the "Air Toxic Policy:"

- a. a description of the parameters changed (composition of materials, new pollutants emitted, change in stack/exhaust parameters, etc.);
- b. documentation of its evaluation and determination that the changed emissions unit still satisfies the "Air Toxic Policy"; and
- c. where computer modeling is performed, a copy of the resulting computer model runs that show the results of the application of the "Air Toxic Policy" for the change.

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

Part III - Terms and Conditions for Emissions Units

Emissions Unit ID: Trine Labeler #2 (R002)
Activity Description: Trine Labeler #2

A. State and Federally Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

1. The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
styrofoam label adhesive line (Trine labeler #2)	OAC rule 3745-21-07(G)	None, see A.II below.
	OAC rule 3745-31-05 (PTI #03-13124, issued 2/18/99)	1.52 lbs organic compounds (OC)/hr, 6.66 tons OC/yr (See A.I.2.a.) The requirements of this rule also include compliance with the requirements of OAC rule 3745-21-07(G).

2. Additional Terms and Conditions

- 2.a The 1.52 lbs OC/hr and the 6.66 tons OC/yr emission limitations were established for PTI purposes to reflect the potentials to emit for this emissions unit. Therefore, it is not necessary to develop record keeping and/or reporting requirements to ensure compliance with these limitations.

II. Operational Restrictions

1. The use of any photochemically reactive material in this emissions unit, as defined in OAC rule 3745-21-01(C)(5), is prohibited.

[OAC rule 3745-77-07(A)(1) and PTI #03-13124]

III. Monitoring and/or Record Keeping Requirements

1. The permittee shall record and maintain each month the following information for this emissions unit:
 - a. the company identification for each adhesive material employed;
 - b. documentation on whether or not each adhesive material employed is a photochemically reactive material;
 - c. the number of gallons of each adhesive material employed;
 - d. the OC content of each adhesive material, in lbs OC/gallon, as applied;
 - e. the OC emission rate for each adhesive material, in tons/month (b x c/2000);
 - f. the total OC emission rate for all adhesive materials, in tons/month (summation of e); and
 - g. the annual, year-to-date, OC emissions from all adhesive materials employed (summation of e for each calendar month to date from January to December).

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

IV. Reporting Requirements

1. The permittee shall notify the Director (the appropriate Ohio EPA District Office or local air agency) in writing of any daily record showing the use of noncomplying materials (i.e., photochemically reactive materials) in this emissions unit. The notification shall include a copy of such record and shall be sent to the Director (the appropriate Ohio EPA District Office or local air agency) within 30 days of the date of the daily record indicating noncompliance.

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

2. The permittee shall submit annual reports that specify the total OC emissions from this emissions unit for the previous calendar year. The reports shall be submitted by April 15 of each year. This reporting requirement may be satisfied by including and identifying the specific emission data for this emissions unit in the annual Fee Emission Report.

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

V. Testing Requirements

1. Compliance with the emission limitations in section A.I of these terms and conditions shall be determined in accordance with the following methods:

- 1.a Emissions limitations: 1.52 lbs OC/hr, 6.66 tons OC/yr

Applicable compliance method: The permittee may determine compliance with the hourly allowable OC emission limitation by multiplying the maximum adhesive coating usage rate (0.20 gallon/hr) by the maximum OC content of all the adhesive coatings employed (7.59 lbs/gallon) .

If required, compliance with the hourly allowable OC mission limitation above shall be determined in accordance with Methods 18, 25 or 25A, as appropriate, of 40 CFR, Part 60, Appendix A.

Compliance with the annual OC limitation shall be assumed as long as compliance with the hourly OC limitation is maintained (the annual limitation was calculated by multiplying the hourly OC limitation by 8760, and then dividing by 2000).

[OAC rule 3745-77-07(C)(1) and PTI #03-13124]

VI. Miscellaneous Requirements

None

B. State Enforceable Section

I. Applicable Emissions Limitations and/or Control Requirements

- The specific operation(s), property, and/or equipment which constitute this emissions unit are listed in the following table along with the applicable rules and/or requirements and with the applicable emissions limitations and/or control measures. Emissions from this unit shall not exceed the listed limitations, and the listed control measures shall be employed. Additional applicable emissions limitations and/or control measures (if any) may be specified in narrative form following the table.

<u>Operations, Property, and/or Equipment</u>	<u>Applicable Rules/ Requirements</u>	<u>Applicable Emissions Limitations/Control Measures</u>
styrofoam label adhesive line (Trine labeler #2)	none	none

2. Additional Terms and Conditions

None

II. Operational Restrictions

None

III. Monitoring and/or Record Keeping Requirements

- The permit to install for this emissions unit (R001 and R002) was evaluated based on the actual materials (typically coatings and cleanup materials) and the design parameters of the emissions unit's exhaust system, as specified by the permittee in the permit to install application. The Ohio EPA's "Review of New Sources of Air Toxic Emissions" policy ("Air Toxic Policy") was applied for each pollutant emitted by this emissions unit using data from the permit to install application and the SCREEN 3.0 model (or other Ohio EPA approved model). The predicted 1-hour maximum ground-level concentration from the use of the SCREEN 3.0 model was compared to the Maximum Acceptable Ground-Level Concentration (MAGLC). The following summarizes the results of the modeling for the "worst case" pollutant:

Pollutant: tetrahydrofuran
 TLV (ug/m3): 590,000
 Maximum Hourly Emission Rate (lbs/hr): 3.03
 Predicted 1-Hour Maximum Ground-Level Concentration (ug/m3): 182.8
 MAGLC (ug/m3): 14,047.6

- Physical changes to or changes in the method of operation of the emissions unit after its installation or modification could affect the parameters used to determine whether or not the "Air Toxic Policy" is satisfied. Consequently, prior to making a change that could impact such parameters, the permittee shall conduct an evaluation to determine that the "Air Toxic Policy" will still be satisfied. If, upon evaluation, the permittee determines that the "Air Toxic Policy" will not be satisfied, the permittee will not make the change. Changes that can affect the parameters used in applying the "Air Toxic Policy" include the following:
 - changes in the composition of the materials used (typically for coatings or cleanup materials), or the use of new materials, that would result in the emission of a compound with a lower Threshold Limit Value (TLV), as indicated in the most recent version of the handbook entitled "American Conference of Governmental Industrial Hygienists (ACGIH)," than the lowest TLV value previously modeled;
 - changes in the composition of the materials, or use of new materials, that would result in an increase in emissions of any pollutant with a listed TLV that was proposed in the application and modeled; and
 - physical changes to the emissions unit or its exhaust parameters (e.g., increased/ decreased exhaust flow, changes in stack height, changes in stack diameter, etc.).

III. Monitoring and/or Record Keeping Requirements (continued)

3. If the permittee determines that the "Air Toxic Policy" will be satisfied for the above changes, the Ohio EPA will not consider the change(s) to be a "modification" under OAC rule 3745-31-01 solely due to the emissions of any type of toxic air contaminant not previously emitted, and a modification of the existing permit to install will not be required, even if the toxic air contaminant emissions are greater than the de minimis level in OAC rule 3745-15-05. If the change(s) is (are) defined as a modification under other provisions of the modification definition, then the permittee shall obtain a final permit to install prior to the change.

The permittee shall collect, record, and retain the following information when it conducts evaluations to determine that the changed emissions unit will still satisfy the "Air Toxic Policy:"

- a. a description of the parameters changed (composition of materials, new pollutants emitted, change in stack/exhaust parameters, etc.);
- b. documentation of its evaluation and determination that the changed emissions unit still satisfies the "Air Toxic Policy"; and
- c. where computer modeling is performed, a copy of the resulting computer model runs that show the results of the application of the "Air Toxic Policy" for the change.

IV. Reporting Requirements

None

V. Testing Requirements

None

VI. Miscellaneous Requirements

None

THIS IS THE LAST PAGE OF THE PERMIT

Statement of Basis For Title V Permit

Part I - General

Company Name	Campbell Soup Company
Premise Number	0335010105
What makes this facility a Title V facility?	PE, SO ₂ , CO, NO _x , HCl
Has each insignificant emissions unit been reviewed to confirm it meets the definition in OAC rule 3745-77-01 (U)?	YES
Were there any "common control" issues associated with this facility? If yes, provide a summary of those issues and explain how the DAPC decided to resolve them.	NO
Please identify the affected unit(s) and associated PTI, if applicable, along with a brief description of any changes to the permit document that qualify as a minor permit modification per OAC rule 3745-77-08(C)(1)	N/A
Please identify the affected unit(s) and associated PTI, if applicable, along with a brief description of any changes to the permit document that qualify as a significant permit modification per OAC rule 3745-77-08(C)(3)	N/A
Please identify the affected unit(s) and associated PTI, if applicable, along with a brief description of any changes to the permit document that qualify as a reopening per OAC rule 3745-77-08(D)	N/A
Please identify the affected unit(s) and associated PTI, if applicable, along with a brief description of any changes to the permit document resulting from a renewal per OAC rule 3745-77-08(E)	N/A

Part II (State and Federally Enforceable Requirements)			
Term and Condition (paragraph)	Basis		<u>Comments</u>
	SIP (3745-)	Other	
A.1		40 CFR, Part 63	States applicability of MACT rule, Subpart DDDDD for emission units B001 and B002.
A.2		40 CFR, Part 63	States applicability of MACT, Subpart A for emission units B001 and B002.
A.3		40 CFR, Part 64	States applicability of CAM rule.
A.4	77-07		Lists insignificant emission units subject to a PTI and/or one or more applicable requirements.

C

Instructions for Part II:

Each paragraph in Part II must be identified and the remainder of the table completed. If the SIP (not including 31-05) is the basis for the term and condition, identify the specific rule. If the SIP is not the basis for the term and condition, place an "N" in the column under "SIP." If the basis for the term and condition is something other than the SIP, including 3745-31-05, NSPS or MACT, a "Y" should be noted in the "Other" column, and if not, an "N" should be noted. Whether the basis for the term and condition is the "SIP" or "Other," an explanation of each term and condition in Part II must be provided in the "Comments" section.

Part III (Requirements Within the State and Federally Enforceable Section)															
Any unusual requirements or aspects of the terms and conditions in Part III that are not self-explanatory should be explained in the appropriate comment field or in a paragraph following the table for Part III.															
EU(s)	Limitation	Basis		ND	OR	M	St	ENF	R	St	Rp	St	ET	Misc	<u>Comments</u>
		SIP (3745-)	Other												

B001, B002, B003, B004	Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by rule.	17-07(A)	N	N	N	Y	N	N	Y	N	Y	N	N	N	ET-The M, R & Rp requirements are sufficient to demonstrate compliance without requiring formal Method 9 readings being conducted.
B007, B008, B009	Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by rule.	17-07(A)	N	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-The M, R & Rp requirements are sufficient to demonstrate compliance without requiring formal Method 9 readings being conducted.
B001, B002	386.1 lbs HCl/hr (Health Based Compliance Alternative)	N	Y	N	N	N	N	N	N	N	N	N	N	N	Other-40 CFR, Part 63, Subpart DDDDD M, R, Rp and ET-Requirements of 40 CFR, Part 63, Subpart DDDDD are not currently effective. The compliance date in the rule is 9/13/07.
P005	Visible PE shall not exceed 20% opacity, as a six-minute average, except as provided by rule.	17-07(A)	N	N	N	Y	N	N	Y	N	Y	N	N	N	ET-The M, R & Rp requirements are sufficient to demonstrate compliance without requiring formal Method 9 readings being conducted.
F001	Exempt	17-07(B)	N	Y	N	N	N	N	N	N	N	N	N	N	ND-This emissions unit is exempt from the visible particulate emissions limitation specified in OAC rule 3745-17-07(B), pursuant to OAC rule 3745-17-07(B)(11)(e). M, R, Rp & ET-There are no emissions limitations established pursuant to this rule, therefore, no monitoring, recordkeeping, reporting or emissions testing is required.

F001	Exempt	17-08(B)	N	Y	N	N	N	N	N	N	N	N	N	N	ND-This facility is not located within an "Appendix A" area as identified in OAC rule 3745-17-08 (it is located in Marion County). Therefore, pursuant to OAC rule 3745-17-08(A), this emissions unit is exempt from the requirements of OAC rule 3745-17-08(B). M, R, Rp & ET-There are no emissions limitations established pursuant to this rule, therefore, no monitoring, recordkeeping, reporting or emissions testing is required.
B007, B008, B009	0.020 lb PE/mmBtu of actual heat input	17-10(B)(1)	N	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-Calculations based on maximum hourly gas consumption rate, the appropriate emission factor and maximum heat input capacity are sufficient to show compliance.
B001, B002, B003, B004	0.13 lb PE/mmBtu of actual heat input	17-10(C)(1)	N	N	N	Y	N	N	Y	N	Y	N	Y	N	
P005	20.4 lbs PE/hr	17-11(B)	N	N	N	Y	N	N	Y	N	Y	N	Y	N	
B001, B002	6.2 lbs SO2/mmBtu actual heat input	18-41(B)(1)	N	N	Y	Y	N	N	Y	N	Y	N	N	N	OR-The quality of the coal burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable emission limitation. M and R include records of heat content and sulfur content. A CEM is not economically justified. CAM is not applicable. ET-The permittee shall demonstrate compliance with this emission limitation through the record keeping requirements of this permit (i.e., sulfur content and heat content).
B003, B004	2.1 lbs SO2/mmBtu of actual heat input	18-41(B)(2)	N	N	Y	Y	N	N	Y	N	Y	N	N	N	OR-The quality of the oil burned in this emissions unit shall meet a sulfur content that is sufficient to comply with the allowable emission limitation. M and R include records of heat content, sulfur content and calculated SO ₂ emission rate. A CEM is not economically justified. CAM is not applicable. ET-The permittee shall demonstrate compliance with this emission limitation through the record keeping requirements of this permit (i.e., sulfur content and heat content).

R001, R002	None	21-07(G)	N	N	Y	Y	N	N	Y	N	Y	N	N	N	OR-The use of any photochemically reactive material in this emissions unit, as defined in OAC rule 3745-21-01(C)(5), is prohibited. M and R include records of use of photochemically reactive materials. A CEM is not economically justified. CAM is not applicable. ET-There are no emissions limitations established pursuant to this rule, therefore, no emissions testing is required.
B007, B008, B009	0.47 lb PE/hr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-The limitation is based on the unit's potential to emit, therefore, no testing is required.
B007, B008, B009	2.06 tons PE/yr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-Calculations based on maximum hourly potential to emit and actual annual hours of operation are sufficient to show compliance.
B007, B008, B009	6.2 lbs NOx/hr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-The limitation is based on the unit's potential to emit, therefore, no testing is required.
B007, B008, B009	27.16 tons NOx/yr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-Calculations based on maximum hourly potential to emit and actual annual hours of operation are sufficient to show compliance.
B007, B008, B009	5.2 lbs CO/hr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-The limitation is based on the unit's potential to emit, therefore, no testing is required.
B007, B008, B009	22.78 tons CO/yr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-Calculations based on maximum hourly potential to emit and actual annual hours of operation are sufficient to show compliance.

B007, B008, B009	0.34 lb OC/hr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-The limitation is based on the unit's potential to emit, therefore, no testing is required.
B007, B008, B009	1.49 tons OC/yr	N	31-05	N	Y	Y	N	N	Y	N	Y	N	N	N	OR- Combust only natural gas. M and R includes type of fuel and fuel usage. A CEM is not economically justified. CAM is not applicable. ET-Calculations based on maximum hourly potential to emit and actual annual hours of operation are sufficient to show compliance.
R001	1.52 lbs OC/hr,	N	31-05	N	N	Y	N	N	Y	N	Y	N	N	N	ET-Calculations based on the maximum hourly adhesive coating usage and the maximum OC content are sufficient to show compliance.
R001	6.66 tons OC/yr	N	31-05	N	N	Y	N	N	Y	N	Y	N	N	N	ET-Calculations based on maximum hourly potential to emit and actual annual hours of operation are sufficient to show compliance.
B001, B002, B003, B004, B007, B008, B009	See Rule	N	Y	N	N	N	N	N	N	N	N	N	N	N	Other-40 CFR, Part 63, Subpart DDDDD M, R, Rp and ET-Requirements of 40 CFR, Part 63, Subpart DDDDD are not currently effective. The compliance date in the rule is 9/13/07.

EU = emissions unit ID

ND = negative declaration (i.e., term that indicates that a particular rule(s) is (are) not applicable to a specific emissions unit)

OR = operational restriction

M = monitoring requirements

St = streamlining term used to replace a PTI monitoring, record keeping, or reporting requirement with an equivalent or more stringent requirement

ENF = did noncompliance issues drive the monitoring requirements?

R = record keeping requirements

Rp = reporting requirements

ET = emission testing requirements (not including compliance method terms)

Misc = miscellaneous requirements

C Instructions for Part III:

C All non-insignificant EUs must be included in this table. For each EU, or group of similar EUs, each emission limitation and control requirement specified in section A.I.1 and A.I.2 of the permit must be identified and the remainder of the table completed.

C If the SIP (not including OAC rule 3745-31-05) is the basis for the term and condition, identify the specific rule. If the SIP is not the basis for the term and condition, place an "N" in the column under "SIP." If the basis for the term and condition is something other than the SIP, including OAC rule 3745-

31-05, NSPS or MACT, a “Y” should be noted in the “Other” column, and if not, an “N” should be noted. If the basis for the term and condition is “Other,” an explanation of the basis must be provided in the “Comments” section. If OAC rule 3745-31-05 is cited in the “Other” column, please indicate in the “Comments” section whether or not all of the requirements have been transferred from the permit to install.

- To complete the remainder of the table after “Basis,” except for the “Comments” section, simply specify a “Y” for yes or an “N” for no. For the “M,” “R,” “Rp,” and “ET” columns, if “N” is specified, there should be a brief explanation in the “Comments” section as to why there are no requirements. If a brief explanation is provided in the “Comments” section, please do not simply indicate that monitoring or testing requirements are not necessary. An explanation of why a requirement is not necessary should be specified.

When periodic monitoring requirements are established to satisfy the provisions of OAC rule 3745-77-07(A)(3)(a)(ii), the basis for the requirements must be explained. Whenever Engineering Guides have been used to establish the periodic monitoring requirements, the applicable Engineering Guide may be referenced in the “Comments” section. An example that should be clarified would be the situation where it has been determined that control equipment parametric monitoring will be used to evaluate ongoing compliance in lieu of performing frequent emission tests. In this situation, Engineering Guide #65 would be referenced along with the fact that the parametric monitoring range (or minimum value) corresponded to the range (or minimum value) documented during the most recent emission tests that demonstrated that the emissions unit was in compliance. If streamlining language is included in the “Monitoring,” “Record Keeping,” or “Reporting” requirements sections of the permit, explain which requirements are being streamlined (mark appropriate column above) and provide a brief explanation of why the streamlined term is equal to or more stringent than the “Monitoring,” “Record Keeping,” or “Reporting” requirements specified in the permit to install. If Engineering Guide #16 was used as the basis for establishing an emission test frequency, a simple note referencing the Engineering Guide in the “Comments” section would be sufficient.

Also, if a “Y” is noted under “OR,” “Misc,” “St,” “ND,” or “ENF” an explanation of the requirements must be provided in the “Comments” section. In addition to a general explanation of the “OR,” “Misc,” “St,” “ND,” and/or “ENF” the following must be provided:

1. For an operational restriction, clarify if appropriate monitoring, record keeping, and reporting requirements have been specified for the operational restriction and indicate whether or not CAM is currently applicable.
2. If a control plan and schedule is included in the “Miscellaneous Requirements” section of the permit, provide an explanation in the “Comments” section of the violation, basis for the violation, and the company’s proposed control plan and schedule.
3. If the “ND” column above is marked, please identify the particular rule(s) that is (are) not applicable to the specified emissions unit.
2. If the “ENF” column above is marked, please provide a brief explanation of the noncompliance issue(s) which prompted the use of the specified monitoring requirement.

An explanation is not required if an “N” is noted in the “OR,” “Misc,” “St,” “ND,” or “ENF” columns.

- **Additional information for modifications** - Several types of modifications, as defined by rule, may be processed concurrently. Please provide enough of a description for someone wishing to review the changes to the permit language to be able to identify where the change is made in the permit document. This brief description should be identified in the appropriate row in the first table of this form by replacing the “N/A” in the applicable row(s). Please also indicate if the modification is being initiated by an appeal by including the ERAC case number in the “Comments” area. Please update the term-specific text in the SOB as warranted (full insertion or replacement is acceptable; bold italic and strike out is not needed). Note all modification/reopening rows should remain “N/A” when developing the SOB during the initial permit development. Note: APA’s and Off-permit changes do not need to be noted in the SOB.



Federal Register

**Wednesday,
December 28, 2005**

Part II

Environmental Protection Agency

40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants for Industrial,
Commercial, and Institutional Boilers and
Process Heaters: Reconsideration; Final
Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2002-0058; FRL-8011-5]

RIN 2060-AM97

National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters: Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, amendments; notice of final action on reconsideration.

SUMMARY: EPA is promulgating amendments to the national emission standards for hazardous air pollutants (NESHAP) for industrial, commercial, and institutional boilers and process heaters which EPA promulgated on September 13, 2004. After promulgation of the final rule for boilers and process heaters, the Administrator received petitions for reconsideration of certain provisions in the final rule. On July 27, 2005, EPA published a notice of reconsideration and requested public comment on certain aspects of the

health-based compliance alternatives, as outlined in 40 CFR 63.7507 and appendix A to the final rule (40 CFR part 63, subpart DDDDD). After evaluating public comment on the notice of reconsideration, we are retaining the health-based compliance alternatives in the final rule in substantially the same form. However, we are making a limited number of amendments to 40 CFR 63.7507 and appendix A to the final rule to improve and clarify the process for demonstrating eligibility to comply with the health-based compliance alternatives contained in the final rule.

DATES: The final rule amendments are effective on February 27, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-OAR-2002-0058. All documents in the docket are listed in on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy form at the Air and Radiation Docket, Docket ID No. EPA-OAR-2002-0058, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., 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 and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact your State or local representative or appropriate EPA Regional Office representative. For information concerning rule development, contact Jim Eddinger, Combustion Group, Emission Standards Division (C439-01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5426, fax number (919) 541-5450, e-mail address: edding.jim@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	SIC code	NAICS code	Examples of potentially regulated entities
Any industry using a boiler or process heater in the final rule.	24	321	Manufacturers of lumber and wood products.
	26	322	Pulp and paper mills.
	28	325	Chemical manufacturers.
	29	324	Petroleum refiners and manufacturers of coal products.
	30	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	33	331	Steel works, blast furnaces.
	34	332	Electroplating, plating, polishing, anodizing, and coloring.
	37	336	Manufacturers of motor vehicle parts and accessories.
	49	221	Electric, gas, and sanitary services.
	80	622	Health services.
	82	611	Educational Services.

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

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the final rule amendments to the NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 27, 2006. Only those objections that were raised with reasonable specificity during the period

for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of the final rule amendments may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Background Information Document. EPA proposed and provided notice of the reconsideration of the NESHAP for industrial, commercial, and institutional boilers and process heaters on June 27, 2005 (70 FR 36907), and received 35 comment letters on the proposal. A memorandum "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, Summary of Public Comments and Responses to Reconsideration of the Final Rule," containing EPA's responses

to each public comment is available in Docket No. OAR-2002-0058.

Organization of this document: The information presented in this preamble is organized as follows:

- I. What is the statutory authority for the final rule?
- II. Background
- III. What revisions were made as a result of the reconsideration?
 - A. Adoption of a Weighted Average Stack Height Metric for Appendix A to the Final Rule
 - B. Correction Regarding Sources That May Demonstrate Eligibility for Health-Based Compliance Alternatives
 - C. Review of Eligibility Demonstrations by Permitting Agencies
 - D. Clarification of Eligibility Criteria
 - E. Timeline for New or Reconstructed Sources To Submit Preliminary Submission of Eligibility

- F. Requirement for Title V Permit Conditions
- G. Health-Based Alternative for Manganese Emissions and Total Selected Metals Standard
- IV. What are the responses to significant comments?
 - A. Methodology and Criteria for Demonstrating Eligibility for the Health-based Compliance Alternatives
 - B. Tiered Risk Assessment Methodology
 - C. Look-up Tables
 - D. Site-Specific Risk Assessment
 - E. Background Concentrations and Emissions From Other Sources
 - F. Health-Based Compliance Alternative for Metals
 - G. Deadline for Submission of Health-Based Applicability Determinations
 - H. Proposed Corrections to the Health-Based Compliance Alternatives
 - I. Review of Eligibility Demonstrations and Relationship With Title V
 - J. Miscellaneous
- V. Impacts of the Final Rule
- VI. Statutory and Executive Order (EO) Reviews
 - A. Executive Order 12866: Regulatory Planning and 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 and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

I. What is the statutory authority for the final rule?

Section 112 of the Clean Air Act (CAA) requires EPA to list categories and subcategories of major sources and area sources of hazardous air pollutants (HAP) and to establish NESHAP for the listed source categories and subcategories. Industrial, commercial and institutional boilers (ICI), and process heaters were listed on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

II. Background

On September 13, 2004 (69 FR 55218), we promulgated the NESHAP for ICI boilers and process heaters pursuant to section 112 of the CAA. Under section 112(d) of the CAA, the NESHAP must reflect the maximum degree of reduction in emissions of HAP that is achievable, taking into consideration the cost of achieving the emissions

reductions, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as maximum achievable control technology (MACT). However, section 112(d)(4) of the CAA also states that “[w]ith respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emissions standards under this subsection.”

We proposed standards for ICI boilers and process heaters on January 13, 2003 (68 FR 16660). The preamble for the proposed rule described the rationale for the proposed rule and solicited public comments. We requested comment on incorporating various risk-based approaches (based on section 112(d)(4) and other provisions of the CAA) into the final rule to reduce the cost of regulatory controls on those facilities that pose little risk to public health and the environment. (See 68 FR 1688–1693.) Industry trade associations, owners/operators of boilers and process heaters, State regulatory agencies, local government agencies, and environmental groups submitted comments on the proposed risk-based approaches. We received a total of 218 public comment letters on the proposed rule during the comment period. We summarized major public comments on the proposed risk-based approaches, along with our responses to those comments, in the preamble to the final rule (69 FR 55239) and in the comment response memorandum, “Response to Public Comments on Proposed Industrial, Commercial, and Institutional Boilers and Process Heaters NESHAP (Revised)” which was placed in the docket for the final rule.

In the final rule, we adopted health-based compliance alternatives for the hydrogen chloride (HCl) emission limit and the total selected metals (TSM) emission limit, based on our authority under section 112(d)(4) of the CAA. Affected sources that successfully demonstrate that they are eligible for the HCl health-based compliance alternative are not required to demonstrate compliance with specific HCl emissions limits in table 1 to the final rule, but are still subject to operating and monitoring requirements in the final rule (subpart DDDDD of 40 CFR part 63). Affected sources that demonstrate eligibility for the health-based compliance alternative for TSM are still subject to a technology-based (MACT) TSM emission limit and operating and monitoring requirements in the final rule (subpart DDDDD of 40 CFR part 63) except that they may demonstrate compliance with this TSM

emission limit based on the sum of emissions for seven metals, instead of the eight selected metals, by excluding manganese emissions.

The methodology and criteria for affected sources to use in demonstrating eligibility for the health-based compliance alternatives were promulgated in appendix A to subpart DDDDD of 40 CFR part 63. (See 69 FR 55282.) Appendix A specifies the process units and pollutants that must be included in the eligibility demonstration, the emissions testing methods, the criteria for determining if an affected source is eligible, the risk assessment methodology (look-up table analysis or site-specific risk analysis), the contents of the eligibility demonstration, the schedule for submission of the self-certified eligibility demonstrations, and the methods for ensuring that an affected source remains eligible. For an affected source to be eligible for the health-based compliance alternatives, the owner/operator of the source must conduct a risk assessment, as described in appendix A to the final rule, and submit the risk assessment, also called the eligibility demonstration, to the permitting authority along with a signed certification that the assessment is an accurate depiction of the affected facility. To ensure the source remains eligible, federally enforceable limits reflecting the parameters used in the eligibility demonstration must be incorporated into its title V permit.

Following promulgation of the final rule, the Administrator received petitions for reconsideration pursuant to section 307(d)(7)(B) of the CAA from the Natural Resources Defense Council (NRDC), Environmental Integrity Project (EIP), and General Electric (GE).¹ Under this provision, the Administrator is to initiate reconsideration proceedings if the petitioner can show that it was impracticable to raise an objection to a rule within the public comment period

¹ In addition to the petitions for reconsideration, two petitions for judicial review of the final rule were filed with the U.S. Court of Appeals for the District of Columbia by NRDC, Sierra Club, and EIP (No. 04–1385, D.C. Cir.) and American Municipal Power—Ohio and Ohio cities of Dover, Hamilton, Orrville, Painesville, Shelby, and St. Marys (No. 04–1386, D.C. Cir.). The two cases have been consolidated. Eleven additional parties have filed petitions to intervene: American Home Furnishings Alliance, Council of Industrial Boiler Owners, American Forest and Paper Association, American Chemistry Council, National Petrochemical and Refiners Association, American Petroleum Institute, National Oilseed Processors Association, Coke Oven Environmental Task Force, Utility Air Regulatory Group, and Alliance of Automobile Manufacturers are intervening with regard to the health-based compliance alternatives.

or that the grounds for the objection arose after the public comment period.

NRDC and EIP initially requested that EPA reconsider seven issues reflected in the final rule that they believe could not have been practicably addressed during the public comment period. EIP also filed a supplement to this petition which raised additional issues for reconsideration. Together, NRDC and EIP requested reconsideration of the following issues: (1) The adoption of "no control" MACT floors for certain subcategories and pollutants; (2) establishing risk-based alternatives on a plant-by-plant basis; (3) the existence of health thresholds for HCl and manganese; (4) consideration of background pollution and co-located emission sources; (5) establishing a health-based compliance alternative for a pollutant (HCl) that serves as a surrogate for other inorganic pollutants; (6) promulgating a health-based compliance alternative that allows low risk sources of manganese emissions to comply with the MACT limitations for metals without counting manganese; (7) the procedures for demonstrating compliance with the health-based alternatives; (8) consideration of emissions during periods of startup, shutdown, malfunction and, (9) the cost effectiveness of the health-based alternatives. The NRDC and EIP petition also requested that EPA stay the effectiveness of the health-based compliance alternatives pending reconsideration. By letters dated January 28, 2005, we informed NRDC and EIP that we intended to grant their joint petition for reconsideration.

On June 27, 2005, we decided to reconsider (70 FR 36907) several of the issues raised in the NRDC and EIP petition pertaining to certain provisions of the health-based compliance alternatives in appendix A to the final rule. We denied the petitioners' request to stay because in this case, a stay was not necessary to protect the public health or provide a more adequate timeline for compliance planning. We are continuing to review the issue raised by GE with respect to the emissions averaging provision of the final rule and published proposed action on that petition on October 31, 2005 (70 FR 62264).²

In the June 27, 2005, notice of reconsideration, we specifically solicited comment in the following eight areas: (1) The methodology and criteria for demonstrating eligibility for the

health-based compliance alternatives; (2) the use of a tiered analysis in appendix A to the final rule and the application of the principles set forth in the 1994 National Academy of Sciences report, "Science and Judgment in Risk Assessment" (in response to the concerns expressed by the petitioners, we entered this document into the public docket for review); (3) the methodology used to develop the look-up tables including average stack heights, the use of conservative assumptions to account for other variables such as meteorology, and the derivation of different look-up table values based on the distance from the property line; (4) the approach for conducting a site-specific risk assessment and the criteria set forth in section 7 of appendix A to the final rule; (5) the approach for selecting a hazard index (HI) and hazard quotient (HQ) applicability cutoff value of 1.0, exclusive of background or co-located emissions, and the deferral of further consideration of background and co-located sources until we assess facility-wide emissions of HAP in future residual risk actions; (6) the appropriateness of adopting a health-based compliance alternative for manganese and using the same TSM emission limit in table 1 to subpart DDDDD of 40 CFR part 63 as a limitation for seven metals, while excluding manganese from the calculation; (7) whether we should or should not extend the deadline for submission of eligibility demonstrations in light of this reconsidered action; and (8) proposed corrections regarding the scope sources that are able to demonstrate eligibility for the health-based compliance alternatives. The responses to the significant comments received on these eight areas are discussed later in this preamble. A comprehensive response to public comments is also available in a document entitled "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, Summary of Public Comments and Responses to Reconsideration of the Final Rule," which can be found in the docket for this action (Docket No. OAR-2002-0058).

III. What revisions were made as a result of the reconsideration?

We are making a limited number of amendments to 40 CFR 63.7507 and appendix A to the final rule to improve and clarify the process for demonstrating eligibility to comply with the health-based alternatives contained in the final rule. Overall, however, we

are retaining the health-based compliance alternatives in substantially the same form.

A. Adoption of a Weighted Average Stack Height Metric for Appendix A to the Final Rule

Sections 4 and 6 of appendix A to the final rule have been modified to incorporate procedures for calculating a weighted average stack height metric for use in a look-up table analysis. Equation 3 was added to section 6 to calculate a weighted average stack height for determining the maximum allowable HCl-equivalent emission rate in table 2 to the final rule. Equation 4 was also added to section 6 to calculate a weighted average stack height for determining the maximum allowable manganese emission rate in table 3 to the final rule.

The amendments made to incorporate the weighted average stack height metric also required conforming modifications to the format of equations 1 and 2 of appendix A to the final rule. Equation 1 in section 4 of appendix A was amended to clarify the calculation of the maximum hourly emissions.

B. Correction Regarding Sources That May Demonstrate Eligibility for Health-Based Compliance Alternatives

We revised the text of 40 CFR 63.7507(a) and the title of appendix A to the final rule to clarify that all subpart DDDDD, 40 CFR part 63, sources subject to HCl and TSM emission limits may demonstrate eligibility for the health-based compliance alternatives, not just large solid fuel-fired units.

C. Review of Eligibility Demonstrations by Permitting Agencies

Sections 10 and 11 of appendix A to the final rule have been amended to explicitly state that eligibility demonstrations may be reviewed by permitting agencies (i.e., EPA or any State, local, or tribal agency that has been delegated title V permitting authority) to verify that they meet the requirements of appendix A and are technically sound. To accommodate this addition and to clarify appendix A, we also moved some of the provisions in sections 9 and 10 of appendix A to different sections.

We also amended section 6 of appendix A to the final rule to clarify that a look-up table analysis may not be used for the eligibility demonstration if the permitting authority determines it is not appropriate based on site specific factors. A site specific analysis under section 7 of appendix A would be required in these circumstances.

² GE requested reconsideration of the emissions averaging provisions of the final rule to address how this provision might apply in the context of emissions units that vent to a single stack.

D. Clarification of Eligibility Criteria

With respect to site-specific compliance demonstration, we revised sections 5(c)(2) and (d)(2) of appendix A to the final rule to clarify the locations where hazards must be assessed. The phrase “where people live” has been changed to indicate that hazards must be assessed where people live or congregate (e.g., including locations such as schools or daycare centers). We also reworded other parts of these two paragraphs to better express our original intent.

E. Timeline for New or Reconstructed Sources To Submit Preliminary Submission of Eligibility

We amended section 9(c)(1) of appendix A to the final rule to specify when new or reconstructed sources that start up after the effective date of subpart DDDDD, 40 CFR part 63, must submit a preliminary eligibility demonstration. New or reconstructed sources must submit this preliminary eligibility demonstration at the same time that the source submits an application for approval of construction or reconstruction.

F. Requirement for Title V Permit Conditions

In conjunction with other revisions to section 10 of appendix A to the final rule discussed above, we moved the existing requirement that sources submit certain parameters for incorporation into a title V permit into section 8 to appendix A to the final rule and clarified that the proposed permit conditions must be submitted at the same time as the rest of the eligibility demonstration. Section 8, which addresses the contents of the eligibility demonstration, is a more natural and logical place to include this requirement. We also expanded the list of parameters that should be considered for inclusion as enforceable permit limits.

G. Health-Based Alternative for Manganese Emissions and Total Selected Metals Standard

We are retaining the health-based compliance alternative to the TSM standard for sources that can demonstrate eligibility based on emissions of manganese. However, we are modifying the language in 40 CFR 63.7507(b) and related parts of appendix A to the final rule slightly to clarify that eligible sources are subject to two alternative requirements—one is the health-based compliance alternative for manganese emissions in appendix A and the other is an alternative MACT

emissions limitations for seven selected metals set forth in 40 CFR 63.7507(b).

With respect to manganese emissions, an eligible source must satisfy the requirements of appendix A to the final rule, which include the requirement to submit, for incorporation as conditions in the title V permit, the parameters that make the affected source eligible for the health-based alternative. Compliance with these and other appendix A requirements for manganese represents compliance with the health-based alternative for these manganese emissions.

However, the remaining seven metals that are covered by the technology-based TSM standard must continue to meet a technology-based standard based on MACT. Thus, we are retaining the existing requirement that eligible sources comply with the TSM limit in table 1 to the final rule based on the sum of seven metals rather than eight. Using the same methodology we used to develop the TSM MACT limitation for eight metals, we derived an alternative MACT limitation for seven metals for the final rule promulgated on September 13, 2004. This alternative applies only to those sources that demonstrate eligibility for the health-based alternative for manganese emissions. Because our MACT methodology yielded the same MACT standard for both seven and eight metals, we expressed the alternative MACT standard for seven metals as a requirement to comply with the standard in table 1 based on the sum of seven metals instead of repeating the numerical standard in 40 CFR 63.7507(b).

We explain our basis for these revisions further below in response to individual comments.

IV. What are the responses to significant comments?

We received 35 public comment letters on the proposed rule and notice of reconsideration. Complete summaries of all the comments and EPA responses are found in the Response-to-Comments document (see **SUPPLEMENTARY INFORMATION** section). The most significant comments are summarized below.

A. Methodology and Criteria for Demonstrating Eligibility for the Health-Based Compliance Alternatives

Comment: Two commenters suggested that EPA provide for flexibility and engineering judgment by allowing an applicability cutoff HI or HQ of greater than 1.0 in individual situations. One commenter stated that a value of 1.0 is the most stringent margin of safety

required and the Agency could use a HI greater than 1.0 in certain cases. The commenter added that no additional margin of safety is required because the Reference Concentration (RfC) calculation contains many layers of protection, including safety factors to account for uncertainty.

One commenter suggested the use of an applicability cutoff HI or HQ value of at most 0.5 in order to account for cumulative and persistent risk.

Response: We disagree that an HI or HQ value other than 1.0 should be used as an applicability cutoff value for the health-based compliance alternatives. HI and HQ values are based on peer reviewed reference values such as EPA's reference concentrations (RfC). An RfC is an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure or a daily exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious non-cancer effects during a lifetime. An HI or HQ less than or equal to 1.0 means that the concentration of the pollutant (in air) is less than or equal to the reference value, and, therefore, is presumed to be without appreciable risk of adverse health effects.

As mentioned by commenters, RfC values contain uncertainty factors in order to account for scientific uncertainties that are identified in the literature. We acknowledge that EPA can consider the uncertainty inherent in these reference values when making risk-based determinations. For the health-based compliance alternatives in this rule, using an HI and HQ of 1.0 as a health-protective default is appropriate and, along with the risk assessment methods specified in appendix A to the final rule, protects public health with an ample margin of safety as required by CAA section 112(d)(4).

Comment: One commenter did not support the use of a HI less than or equal to 1.0 as the applicability cutoff value for determining eligibility with the HCl health-based compliance alternative. The commenter asserted that the HI should be changed to less than 10 but greater than 1.0 due to the additive effect of several health protective factors used for deriving the HCl HI value. Specifically, the commenter highlighted that it is overly conservative to apply the chlorine RfC to evaluate the exposure to chlorine. The commenter added that chlorine reacts in the atmosphere to form HCl, and the commenter requested EPA to evaluate the exposure to chlorine using

the equivalent amount of HCl formed in the atmospheric reactions.

Response: As we argue above, we disagree that an HI or HQ value other than 1.0 should be used as an applicability cutoff value for the health-based compliance alternatives. An HI of 1.0 corresponds to a level of pollutant exposure that is unlikely to result in adverse health effects over a lifetime. We acknowledge that EPA can consider the uncertainty inherent in reference values when making risk-based determinations. However, for the health-based compliance alternatives, using an HI and HQ of 1.0 as a health-protective default is appropriate and helps protect public health with an ample margin of safety.

Additionally, as stated above, we believe that it is appropriate to apply our risk assessment methodology to the health-based alternative compliance options in the final rule. This methodology includes calculating hazard to the individual most exposed to pollutant emissions from the source, which helps ensure that public health is protected with an ample margin of safety.

We also disagree with the commenter's suggestion to account for atmospheric reactions of chlorine to form HCl. Impacts from chlorine can occur shortly after release if a population lives near an emission point. Chlorine has a lower reference value than HCl. Thus, we make the health-protective assumption that people are exposed to chlorine emitted from the source prior to any conversion into the less potent HCl. This approach, along with the other requirements of appendix A to the final rule, helps ensure that public health is protected with an ample margin of safety.

B. Tiered Risk Assessment Methodology

Comment: Multiple commenters supported the flexibility and efficiency of a tiered risk assessment methodology, and these commenters stated that the methodology set forth in appendix A to the final rule provided an appropriate balance of conservatism and accuracy to protect the public health with an ample margin of safety. One commenter added that the tiered approach provides a simple, conservative first tier analysis that companies can achieve without hiring an outside consultant to demonstrate compliance with the health-based compliance alternative. This commenter also feels it is necessary to allow facilities to conduct site-specific analyses in tandem with the look-up analysis so that facilities can still demonstrate compliance with the health-based alternatives in the

event that the source fails the look-up analysis. Other commenters added that a tiered approach is less arbitrary than a control-based standard, which requires equivalent controls across the board, without considering the risk of an affected source.

Response: We agree with the flexible, efficient, and health-protective nature of a two-tiered risk approach. We concluded that a tiered risk approach is consistent with both the commenters' support for an approach that minimizes the impact on low-risk facilities and EPA's statutory mandate under CAA section 112.

C. Look-up Tables

Comment: Several commenters disagreed with use of the look-up tables because they believe there is an insufficient level of conservatism inherent in the look-up tables during worse-case scenarios. These commenters emphasized that if the look-up tables remained as a result of the reconsideration, the look-up tables should not be used when unique site-specific factors such as building downwash, rain caps, or complex terrain occur, because these factors are not accounted for in the look-up tables. One commenter requested that EPA clarify that sources must comply with the MACT standard in the event that a permitting agency rejects the use of look-up table analysis for demonstrating eligibility with the health-based compliance alternative.

Response: We continue to believe that the look-up tables can provide an efficient and cost-effective method for sources to comply with the health-based alternative compliance options while also protecting the public health with an ample margin of safety. However, we agree that the protective measures inherent in the look-up tables do not necessarily justify their use in all cases. We developed the look up tables by running the SCREEN3 atmospheric dispersion model with worst-case meteorology defaults, an assumption of flat terrain, an assumption that building downwash effects are not present, and an assumption that the plume does not encounter a raincap or other obstruction. As several commenters identified, we recognize that site-specific factors not accounted for in the SCREEN3 dispersion modeling, such as building downwash, the presence of rain caps, and complex terrain, could make the use of the tables inappropriate for some sources. Therefore, we agree with limiting the use of the look-up tables to those situations where the tables can conservatively represent actual site conditions. In order to

prevent the misuse of look-up tables, we are adding language in section 6 of appendix A to the final rule to clarify that, although the lookup tables are presumed to be applicable in each case, permit agencies have the authority to determine on a site-specific basis, that look-up tables may not be used if unique site-specific factors, for which the look-up tables do not account, make their use inappropriate. In such situations, a source would have to demonstrate eligibility using a site-specific risk assessment that does account for these unique factors. If a source is unable to make this demonstration (e.g. if a permitting authority ultimately finds the eligibility demonstration deficient on technical grounds), the source must then comply with the technology-based standards in the NESHAP.

Comment: Three commenters suggested alternatives to the average stack height metric. One commenter proposed an alternate method of four stack height ranges which is currently used in the State's hazardous air pollutant rule. Two commenters requested EPA to consider weighted stack heights and cited the use of a weighted stack height metric in the proposed amendments to the plywood NESHAP. The commenters suggested the weighted stack height more accurately portrays the potential risk than the average stack height metric.

Four commenters expressed concern with the appropriateness and accuracy of using the average stack height metric in the look-up tables. Three of these commenters suggested limiting the use of the look-up tables to facilities with similar stack heights to those assumed in the model.

One commenter disagreed with the use of the average stack height, contending that this approach understates risk and that EPA lacked a justification and documentation on how the EPA chose this metric. According to this commenter, risk is understated when a calculation averages the shortest, most-highly polluting stack located closest to neighboring populations with another emission point that is taller, cleaner, and farther away. The commenter also contended that there is no documentation of the analysis or data at any step of the final rulemaking, including this action, which supports the development of the average stack height metric that would enable a member of the public to evaluate EPA's methodology.

Response: We agree that the average stack height is not the best metric for characterizing risk, and that a more precise approach is the weighted stack

height metric proposed in the Plywood NESHAP amendments. We are changing the stack height metric in the boilers and process heaters rule by adding two equations to appendix A to the final rule, similar to the approach used for equations 3 and 4 listed in appendix B of 40 CFR part 63, subpart DDDD. Equations 1 and 2 of appendix A of 40 CFR part 63, subpart DDDDD, will also be modified to harmonize the existing calculations of appendix A with the new weighted stack height metric. The complete rationale for selecting the weighted stack height metric can be found in the amendments to the plywood NESHAP (70 FR 44021).

There are situations where the average stack height is health protective, (e.g. when most emissions are from the tallest stacks) and situations where the average stack height metric is not health protective, (e.g., when most emissions are from the shortest stacks). The toxicity- and emissions-weighted stack height, which we are incorporating into appendix A to the final rule, is more health protective when most emissions are from the shortest stacks. Further, using this more precise method does not undercut our reliance on health-protective assumptions in the look-up table analysis when most of the emissions come from taller stacks.

Comment: Several commenters suggested that the use of the minimum distance to property boundary metric is overly conservative. Two commenters requested EPA to allow a weighted average for the distance to property boundary when there are multiple emission units. These two commenters argued that this metric would portray more accurate estimates of the potential risk from facilities.

One commenter requested that the modeling protocol for HAP should be consistent with the modeling protocols for criteria pollutants under the PSD protocols found at 40 CFR part 51, appendix W. The commenter expressed concern that the current use of minimum property distance may not be the point of maximum impact.

Response: We disagree with changing the minimum distance to property boundary. We recognize that the minimum distance to property boundary may overestimate the ambient concentration and exposure; however, we emphasize the health-protective nature of the look-up tables and do not believe that it is appropriate to change this metric towards one that would be uniformly less health-protective.

It is incorrect to assert that, when performing a look-up table analysis, the minimum distance to the property boundary may not be the point of

maximum impact. For the look-up tables, we developed the allowable emission rate for each property boundary distance from the maximum modeled HAP concentrations beyond that property boundary. As a result, a look-up table analysis necessarily considers the point of maximum pollutant impact outside the source's property boundary. This is consistent with appendix W of 40 CFR part 51.

D. Site-Specific Risk Assessment

Comment: Several commenters disagreed with the level of guidance EPA provided for conducting a site-specific assessment. Three of these commenters added that there is a lack of basic methods or required parameters, such as the years of exposure to an individual which might lead to basing a risk assessment on a 1-year exposure instead of the traditional lifetime exposure. One commenter stated that while EPA has provided some guidance on performing site-specific assessments, EPA has a responsibility to develop constraints on the sources' discretion. The commenter contended that the lack of constraint included in the final rule does not provide specific, knowable, replicable, and enforceable legal standards necessary to govern and enforce the final rule. The commenter added that the loose guidance provided for in selecting a site-specific assessments can be interpreted as unlimited discretion for the affected source, and thus prevent any future efforts for administrative challenge.

Response: We believe that providing sources with the discretion to use any "scientifically-accepted, peer-reviewed risk assessment methodology" is appropriate. However, contrary to the assertions of some commenters, this discretion is not unlimited. In section 7(c) of appendix A to the final rule, EPA has established specific minimum criteria for site-specific compliance demonstrations. In order to demonstrate eligibility for the health-based compliance alternative, the site-specific risk assessment conducted by the facility must meet the following criteria: (1) Estimate long-term inhalation exposures through the estimation of annual or multi-year average ambient concentrations; (2) estimate the inhalation exposure for the individual most exposed to the facility's emissions; (3) use site-specific, quality-assured data wherever possible; (4) use health-protective default assumptions wherever site-specific data are not available; and (5) contain adequate documentation of the data and methods used.

Furthermore, EPA cited the Air Toxics Risk Assessment (ATRA) Reference Library to provide guidance to the sources and States on developing technically sound site-specific risk assessments. The ATRA Reference Library provides examples of how a risk assessment can be conducted. These examples include instruction in basic risk assessment methodology, in determining what parameters to include in a risk assessment, and in the constraints that should be placed on those parameters. The documents within the ATRA Reference Library have been peer-reviewed and were developed according to the principles, tools and methods outlined in the 1999 EPA Residual Risk Report to Congress. However, the guidance in the ATRA Reference Library may not be appropriate for all sources. For that reason sources may consider alternative analytical tools as long as these alternatives are scientifically defensible, peer-reviewed and transparent.

Finally, the discretion of each source is not unlimited because permitting agencies have the authority to review each site-specific eligibility demonstration to determine if it meets the requirements in section 7(c) of appendix A to the final rule and if the methodology, as applied in the demonstration of eligibility, is technically sound and appropriate. After reviewing a source's compliance demonstration, the permitting authority makes the final determination of whether site-specific assessments are completely and correctly submitted. These authorities may reject site-specific assessments if they do not meet the requirements of section 7 of appendix A or if they contain technical flaws with respect to the risk assessment methodology. Thus, it may be advisable for sources to seek prior approval when using a methodology that deviates from the approach in the ATRA Reference Library. However, we do not feel that it is necessary to require this prior approval.

E. Background Concentrations and Emissions From Other Sources

Comment: Multiple commenters disagreed with EPA's decision not to include background or co-located emissions when determining whether or not a facility qualifies for the health-based compliance alternative standards in the final rule. Several commenters stated that when evaluating whether or not a facility is eligible to comply with the health-based compliance alternatives, the background or co-located emissions should be included in the risk determination.

Several of the commenters that opposed consideration of emissions from background or co-located sources argued that the statutory language in CAA section 112(d) does not provide EPA with the legal authority to consider emissions from other source categories. Many of these commenters also provided counter-examples of sections of the CAA where the Congressional intent was focused on including background or co-located emissions. Several commenters added that background or co-located emissions do not fall into a source category or subcategory of major sources listed for regulation. Two commenters stated that there is no precedent for the consideration of background or co-located emissions during the promulgation of the benzene NESHAP or during the litigation of the vinyl chloride NESHAP.

Three commenters cited a 1990 Senate Report, and concluded that the consideration of background or co-located emission sources would be the kind of lengthy study Congress intended to avoid. Two commenters cited risk documents from the Presidential/Congressional Commission on Risk Assessment and Risk Management, and a paper written by the Residual Risk Coalition to support their position on excluding background and co-located emission sources when evaluating whether or not a facility qualifies for the health-based alternative standard in appendix A to the final rule.

One commenter argued that the public health is most protected when regulations are specific to a source category and provided examples of how the different provisions of the CAA account for different sources of HAP. The commenter added that the consideration of background emissions would over-regulate the affected source category and effectively require certain sources to compensate for other sources of HAP.

Two of the commenters that supported considering emissions from background and co-located sources contended that the major source status is based on facility-wide emissions and limiting the risk analysis to certain sources within the facility presents an unrealistic view of the facility's impact. One commenter added that EPA must meet its duty of providing for an "ample margin of safety" by evaluating the risk of background emissions now as opposed to during the residual risk evaluation. One commenter stated that risk assessment should be done in the context of all HAP sources at the facility and at nearby facilities. One of these commenters disagreed with the health-

based compliance alternative for metals because it does not adjust for facility-wide emissions

Three commenters cited the 1996 National Air Toxics Assessment (NATA) for support of the concern of high exposures to air toxics throughout the country and stated a reduction in such exposures will require a general reduction across all sources. These commenters expressed concern that excluding background or co-located emissions ignore cumulative risk and do not protect the public health.

One commenter contended that the tiered risk approach used at this State level correctly considers background emissions, in contrast to the exclusion of these background emissions in the final NESHAP. The commenter added that by excluding these background sources, the final MACT rule identifies low-risk subcategories based on an unrealistic view of the facility impact. The commenter also concluded that the refined site-specific risk screening provides no real measure of health impact without including background or co-located emission sources.

Response: Based on the arguments made by several commenters and our review of the CAA, we believe it is permissible under CAA section 112(d) to limit our analysis to establishing emissions limitations for only those sources in the individual source categories subject to this action. Therefore, in developing emissions limitations under section 112(d), we believe emissions from sources outside of this source category need not be considered to determine eligibility for the health based compliance alternatives for ICI boilers and process heaters. Although we may combine several source categories into one NESHAP rulemaking as we did in this action, we do not construe the CAA to require that we regulate the emissions from all other source categories through an individual section 112(d) rule for particular source categories.

The focus of section 112(d) of the CAA is on establishing emission standards for individual source categories. Section 112(d)(1) indicates that the administrator is to "promulgate regulations establishing emission standards for each category or subcategory of major sources and area source of hazardous air pollutants listed for regulation pursuant to subsection (c) of this section in accordance with the schedule provided in subsections (c) and (e) of this section." The health-based compliance alternatives are included among the emissions standards we have established for ICI boilers and process heaters under

section 112(d). Section 112(d)(4) states that "the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection." The subsection described in this provision of the statute is CAA subsection 112(d). Since the "ample margin of safety" provision is also contained within section 112(d), we do not interpret this part of the CAA to require that we consider emissions from other source categories in establishing a health-based alternative under section 112(d)(4) for one category of sources. Based on the overall focus of section 112(d) on sources in specific categories, we believe the "ample margin of safety" criteria should be applied to the emissions of threshold pollutants from the individual source category subject to each NESHAP rulemaking.

We agree with several commenters that the legislative history supports this view that Congress intended for EPA to focus only on the emissions from sources within a particular category when establishing health-based standards for a particular source category under CAA section 112(d)(4). The Senate Report stated that the following:

The Administrator is authorized by section 112(d)(4) to use the no observable effects or NOEL (again with an ample margin of safety) as the emissions limitation in lieu of more stringent "best technology" requirements. Following this scenario, only those sources in the category which present a risk to public health (those emitting in amounts greater than the safety threshold) would be required to install controls, even though the general policy is "maximum achievable technology" everywhere.

This statement suggests an intent for EPA to address only whether "sources in the category" present a risk to public health when EPA is determining whether individual sources in the category should have to comply with a technology-based emissions limitation or may avoid installation of controls by demonstrating that the emissions from a source do not present risks greater than an established health threshold.

Thus, we believe it is permissible to conclude that the facility-wide impact is not the focus of the analysis in the development of a CAA section 112(d) rule. Under our interpretation, the appropriate analysis under the CAA is whether the emissions of sources in the applicable category (without consideration of emissions from sources in other categories) are below the health threshold. Under the eligibility demonstration methodology set forth in appendix A of subpart DDDDD of 40 CFR part 63, a source must demonstrate

eligibility based on the emissions from all units in the ICI boilers and process heaters source category. Because all emissions units in the category are covered, any background emissions or emissions from other sources at a particular location would have to be emissions from sources in other categories or emissions that occur naturally.

We do not read CAA section 112(d) to require us to use emissions from sources outside the category to establish health-based alternatives for sources in the ICI boilers category. Likewise, we do not believe eligibility for health-based alternative should be determined by using a sum of emissions from all source categories or by lowering the health threshold for emissions from one source category to account for emissions from other source categories. We believe we should concentrate on only the emissions from each source category to establish health-based emissions limitations for that category and in determining whether sources in that category are eligible to comply with a health-based emissions limitation or must meet a technology-based emissions limitation.

Although a particular facility may be identified as a major source of HAP for purposes of CAA section 112 on the basis of emissions from affected sources in multiple source categories, this does not require that we establish eligibility for a health-based emissions limitation in a particular source category based on emissions from co-located sources outside the category. Emissions units in other source categories located at the same major source site remain subject to the technology-based emissions limitations contained in other NESHAP rulemaking promulgated under section 112(d). The sources covered by these NESHAP rules are not eligible to comply with the health-based alternatives in the ICI boilers and process heaters NESHAP because an ICI boiler or process heater at the same site is eligible for the health-based alternative in the NESHAP for ICI boilers and process heaters.

Under either scenario, each source is subject to regulatory requirements (whether health or technology-based) that address the health risks posed by emissions from that facility. The health-based compliance alternatives in the 40 CFR part 63, subpart DDDDD, are only available for HCl and manganese, and only if emissions of these HAP meet the health-based criteria defined in appendix A to the final rule. Affected sources that can comply with the health-based alternatives in appendix A

are still subject to other emissions standards under the NESHAP.

With respect to the concerns about cumulative risk, emission standards under CAA section 112(d) are only one aspect of a broader national air toxics control program. Under the residual risk program, we may consider, as appropriate, risks from other source categories and risks from the total emissions from a particular location. This approach was reiterated in the recently finalized Coke Oven Residual Risk rule where we said we will only consider emissions from the regulated source category when determining "acceptable risk" during the first step of the residual risk analysis. However, during the second step, where we determine the ample margin of safety considering costs and technical feasibility (70 FR 19997), we may consider co-located sources and background levels where appropriate.

Comment: Three commenters agreed with the Agency suggestion to revisit the consideration of background emission during future residual risk evaluations. However, one commenter disagreed with the suggestion to revisit facility-wide residual risk determinations in future residual risk rules and stated that EPA does not have the authority to mandate facility-wide residual risk determinations. The commenter provided an attachment of the Coke Oven Residual Risk rule to support their position. Several commenters stated an intention to address this issue in subsequent residual risk rulemakings if EPA proposes to revisit facility-wide emissions at this stage.

Four commenters expressed concern on considering co-located emissions only during the residual risk analysis. One commenter stated that deferring the risk screening acts is contrary to the intent of the CAA. Three commenters were not satisfied with the residual risk evaluations performed to date. Two commenters specifically cited that background concentrations for benzene or any other HAP were not incorporated into the Coke Oven Residual Risk report. One commenter added that EPA must meet its duty of providing for an "ample margin of safety" by evaluating the risk of background emissions now as opposed to during the residual risk evaluation. The commenter added that in deferring the consideration of these background emission sources until the residual risk evaluation, the agency is acting arbitrary, capricious, and otherwise not in accordance with law.

Response: To the extent necessary, we believe the appropriate stage for considering total facility risk from air

toxics emissions is at the residual risk rulemaking stage under section 112(f) of the CAA. As noted above, we do not construe the requirement in CAA section 112(d)(4) to "consider such threshold, with an ample margin of safety, when establishing emission standards" under CAA subsection (d) to require assessment of the cumulative risk at a given location due to the emissions from all source categories at this stage of NESHAP rule development. However, as stated in our recent residual risk rule for coke ovens, we do not agree that CAA section 112(f) entirely precludes EPA from considering emissions other than those from the relevant source category during a residual risk rulemaking analysis for an individual source category. (70 FR 19992, 19998; April 15, 2005) Section 112(f) of the CAA directs EPA to consider whether promulgation of additional standards "is required to provide an ample margin of safety to protect public health."

Although the phrase "ample margin of safety" is used in both CAA sections 112(d)(4) and 112(f), the context surrounding the phrase is different in each section. The context of CAA subsection 112(d) focuses on each individual source category for which we are promulgating a NESHAP rulemaking under CAA subsection (d). Although we agree that the first stage of our section 112(f) analysis should focus on the risks from each individual source category, we believe we may consider cumulative risks to some extent in implementing the "ample margin of safety" requirement in the context of CAA subsection (f) and in evaluating "other relevant factors" under this subsection. (70 FR at 19998). As a result, we believe the appropriate stage for any consideration of cumulative facility risks is this second part of the residual risk analysis rather than in the development and implementation of a health-based alternative under section 112(d)(4) of the CAA.

We do not construe section 112(d)(4) of the CAA to accelerate the residual risk analysis under CAA section 112(f) when we invoke section 112(d)(4) to establish a health-based standard during the first stage or rulemaking under section 112(d). In this action, we are implementing section 112(d) and are not writing a regulation based on section 112(f). Section 112(d)(4) does not call for a residual risk analysis for all sources in the category. Rather, this provision allows EPA to consider the existence of health thresholds (with an adequate margin of safety) for particular pollutants at the first stage of the NESHAP promulgation process.

Comment: Two commenters felt it was unclear how the health-based compliance alternatives will affect CAA section 112(f) residual risk evaluations for HCl and manganese, and asked if these two threshold pollutants will be exempted from residual risk assessments.

Response: HCl and manganese will not be exempted in future CAA 112(f) analyses. Rather, exposure to these two pollutants will be assessed along with exposure to other HAP emitted from the source category.

F. Health-Based Compliance Alternative for Metals

Comment: Multiple commenters agreed with EPA's method for evaluating manganese and the basis of excluding manganese from the TSM emission limit for units that comply with the manganese health-based compliance alternative. These commenters also stated that the health-based compliance alternative adequately protects the public health. One commenter cited EPA re-analysis of the MACT floor based on seven instead of eight metals, and concluded that because manganese was only about 5 percent of the TSM, the MACT floor remained the same.

Several commenters disagreed with the appropriateness and lawfulness of the manganese health-based compliance alternative. Three commenters stated that EPA has not provided a justifiable explanation for the exclusion of manganese from the calculation of TSM. The commenters contended that although EPA found the MACT floor to be the same whether or not manganese was included in the floor analysis, this reasoning does not justify removing manganese from the TSM limit. One commenter stated the mechanism through which the manganese compliance alternative operates unlawfully allows plants with low manganese emissions to avoid controlling the emissions of other non-mercury metals. Further, the commenter suggested that the top-performing sources used to calculate the MACT floor may have low manganese emissions because existing controls at the source may reduce manganese emissions, such that the TSM emission limit would not be affected by the incorporation of manganese concentrations. The commenter emphasized that dirtier sources would also be allowed to exclude manganese from their TSM limit calculations and as a result be allowed to emit higher levels of manganese and the other seven metals included in the TSM standard.

Response: We believe the alternative TSM emissions limit for sources that qualify for the health-based alternative is technically-sound and supported by the record. The alternative emissions limitation set forth in 40 CFR 63.7507(b) subpart DDDDD, is a MACT (technology-based) standard for seven metals (excluding manganese). This alternative MACT emissions limit is applicable only to those sources who qualify for the health-based compliance alternative for TSM based on their emissions of manganese. The manganese emissions from these sources are subject to the health-based alternative standard, which is enforceable through the operating conditions in the title V permit of sources that successfully demonstrate eligibility for the health-based alternative. However, the remaining seven metals that are included in the TSM calculation must still be subject to a MACT (technology-based) emissions limit. As a result, we derived an alternative MACT emissions limit for these seven selected metals using the same MACT methodology that we used for other emissions limits in subpart DDDDD. Only sources that qualify for the health-based alternative for TSM are eligible to apply this alternative TSM MACT limit in 40 CFR 63.7507(b) because the manganese emissions are otherwise controlled to health-based levels through the operating conditions in the title V permit established pursuant to appendix A to the final rule.

The methodology for the MACT floor analysis conducted for establishing this alternative, technology-based TSM limit is described in the memorandum "MACT Floor Analysis for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants" in the docket. When we investigated the possibility of establishing an alternative TSM emission limit for these seven metals, we performed the same MACT floor analysis that we conducted for the TSM emission limit for eight metals. That is, we reexamined the emission test data for solid fuel units that included emissions results for all of the eight total selected metals (arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium) with manganese removed from the summation. The technology-based TSM limit for these seven metals (excluding manganese) resulted in a MACT floor emission level for existing large solid fuel units of 0.001 pound per million British thermal units (lb/mmBtu). This is the same level as the eight-metal

(including manganese) TSM MACT emission level proposed and promulgated for existing large solid fuel units. Our MACT floor analysis for new solid fuel units achieved the same result. Thus, rather than repeating the emissions limit already contained in table 1 to the final rule in 40 CFR 63.7507(b), we expressed the alternative, technology-based TSM limit for these seven metals for eligible sources as a requirement to meet the same emissions limitation without counting manganese.

The seven-metal and eight-metal technology-based TSM limit were the same because the manganese emissions from the unit serving as the basis for the limit only accounted for less than 5 percent of the total selected metals. When we conducted our MACT floor analysis for the seven metals standard, we determined that the unit we used as the basis for the setting the TSM limit for eight metals was the same as the unit selected under the analysis for seven metals.

We understand, but do not agree with commenters concerns that allowing sources to exclude manganese from their TSM limit calculation will result in higher emissions of the other seven metals. Based on the available data, we do not expect sources other than biomass-fired sources to qualify for the health-based alternative for manganese and TSM. The record does not indicate that sources using biomass fuels emit significant quantities of metals other than manganese. Thus, while in theory the exclusion of manganese from the TSM limitation could allow an eligible source to increase emissions of the other seven metals, the record does not indicate that eligible sources are capable of doing so.

The TSM limit in the final rule was included at proposal because the Agency was sensitive to the fact that some sources burn fuels (e.g. biomass) that contain very little metals but have sufficient particulate matter (PM) emissions to require control under the PM provision of the final rule. In these cases, we did not think that PM would be an appropriate surrogate for metallic HAP. Under the rules in subpart DDDDD of 40 CFR part 63, a source may choose to comply with the alternative TSM emission limit instead of the PM limit. The eight metals included in the TSM summation represent the most common and the largest emitted metallic HAP from boilers and process heaters. Based on the impacts analysis done for the final rule, the TSM emission limit would minimize the impacts on small entities (e.g., furniture industry, sugar cane industry) since

some of the potential small entities burn biomass.

Biomass (e.g., wood, bagasse, peanut hulls, etc.) generally does not contain measurable amounts of metals except for manganese. For example, fuel analyses of bagasse from sugar cane mills in Louisiana did not detect any of the metals except for manganese. Fuel analyses of bagasse from sugar cane mills in Florida only detected manganese, lead, and selenium, with lead and selenium totaling 0.00032 lb/mmBtu, and this is assuming that all the metals in the fuel is emitted which would not be the case due to some remaining in the bottom ash. Wood also contains little metals except for manganese. Fuel analyses of wood combusted as fuel at three furniture facilities detected only manganese. Fuel analysis at another furniture facility did detect cadmium, chromium, and nickel beside manganese, but the total of those three metals (0.00005 lb/mmBtu) was only 1.3 percent the level of manganese or 5 percent of the TSM limit. Other biomass materials, such as peanut hulls, used as fuel also have similar metals composition. Fuel analysis conducted by EPA on peanut hulls only detected the presence of manganese.

The metal makeup of biomass differs greatly from coal. Coal contains detectable levels of all eight metals. Fuel analyses from six coal-fired facilities indicate that even if a coal-fired facility could demonstrate eligibility with the TSM health-based compliance alternative and may exclude manganese emissions, it would still require high efficient PM control to achieve the TSM limit. Thus, when we promulgated the TSM health-based compliance alternative, we believed, and still believe that only biomass units will seek to demonstrate that they do not need to employ PM controls by showing they qualify to exclude manganese from the TSM compliance demonstration, since manganese is the principal metal in biomass while manganese only makes up a small fraction of the metals contained in coal.

Comment: One commenter stated that EPA cannot adopt risk-based exemptions for pollutants for which no health threshold has been established. The commenter contended, based on documents in EPA's Integrated Risk Information System (IRIS), that no health threshold has been established for manganese. On the contrary, two commenters specified that manganese has long been recognized as a threshold pollutant. Another commenter stated that unlike other metals in the MACT list, manganese is not a carcinogen, rather it is a Class D pollutant.

Response: We agree that health-based compliance alternatives adopted under section 112(d)(4) of the CAA can apply only to pollutants for which a threshold for health effects has been established. For the pollutants for which we have elected to establish health-based compliance alternatives (manganese and HCl), the scientific data support a threshold approach to evaluating the potential for adverse health effects.

For air toxics risk assessments, we identify pertinent toxicity or dose-response values using a default hierarchy of sources to assist us in identifying the most scientifically appropriate benchmarks. EPA's IRIS is the preferred source in this hierarchy. The values in the IRIS database reflect EPA consensus values and their development typically incorporates extensive peer review. When adequate toxicity information is not available in IRIS, we consult other sources in a default hierarchy that recognizes the desirability of peer review and consistency with EPA risk assessment guidelines to ensure that we have consistent and scientifically sound assessments. For substances lacking current IRIS assessments, U.S. Agency for Toxic Substances and Disease Registry (ATSDR) chronic minimal risk levels received next preference, followed by California Environmental Protection Agency (CalEPA) chronic reference exposure levels and unit risk estimates. Furthermore, when there is an IRIS assessment but that assessment substantially lags the current scientific knowledge, we are committed to consider alternative credible and readily available assessments.

Based on our analysis of manganese using this approach, we believe the data currently available show that a health threshold has been established for manganese and that we are therefore authorized under CAA section 112(d)(4) to establish a health-based alternative for this pollutant. Under our default hierarchy approach, we first consulted IRIS. IRIS may be found on Internet at www.epa.gov/iris, but we have added the relevant pages in IRIS to the docket for this rulemaking action. As listed in table 4 of the preamble to the rule (68 FR 1690; Jan. 13, 2003), IRIS contains a reference concentration for manganese. However, IRIS does not contain a unit risk estimate, which addresses cancer risk. EPA's assessment in IRIS indicates that there is inadequate evidence of carcinogenicity for manganese. In addition, a cancer assessment for manganese is not available from any of the other sources in our default hierarchy or from another scientifically-credible source. Based on this

information, which we believe is the best available at the present time, our judgment is that it is only appropriate for EPA to evaluate manganese with regard to non-cancer effects. In the absence of specific scientific evidence to the contrary, it has been our policy to classify non-carcinogenic effects as threshold effects. RfC development is the default approach for threshold (or nonlinear) effects. Thus, in the absence of adequate evidence that manganese is a carcinogen and based on the presence of a reference concentration in IRIS for non-cancer effects of manganese, our best scientific judgment at this time is that manganese is a threshold pollutant. We also used this approach to reach a similar conclusion with respect to HCl. (See Comment-Response Document, pg. 233 (February 2004).)

Regarding the lowest observable adverse effect level issue, the methodology employed by EPA recognizes that while a no observable adverse effect level is preferable to a LOAEL for use as the point of departure to which uncertainty factors are applied to derive an RfC, a LOAEL may also be used. (U.S. Environmental Protection Agency. 1994. Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry. Office of Research and Development. EPA/600/8-90/066F.) IRIS incorporates factors to account for uncertainties in the scientific database. The use of a LOAEL to derive the RfC for manganese is one of these uncertainties and is appropriately addressed through the application of uncertainty factors as part of the IRIS process.

We disagree with the commenter that we did not consider acute effects. We performed a risk assessment evaluating the potential acute effects of boiler emissions, including manganese (see docket item #OAR-2002-0058-0608). We used acute inhalation reference values, taken from the table on EPA's air toxics Web site (www.epa.gov/ttn/atw/toxsource/table2.pdf), for all pollutants in this assessment. Although the commenter is correct that this table does not contain an acute exposure guidelines level (AEG) value for manganese compounds, the table does contain an immediately dangerous to life and health (IDLH)/10 value of 50 mg/m³. This is the acute dose-response value that we used, as reflected in table 3 (converted to 50000 ug/m³) of the screening assessment memorandum (OAR-2002-0058-0608). Thus, the commenter's assertion that the table on the Web site contains no acute dose-response value or that EPA does not know what that value might be is

incorrect. As described in the screening assessment memorandum, for HAP with more than one acute dose-response value, the most health-protective value was chosen. EPA has not prioritized these values. Since we only had one value for manganese, we used that value in our acute assessment. The results indicate that HAP emissions, including manganese, from the industrial boilers source category are unlikely to pose acute risks to human health.

G. Deadline for Submission of Health-Based Applicability Determinations

Comment: Numerous commenters did not deem it as necessary for the Agency to extend the deadline for the submission of eligibility or final compliance dates provided that certain timelines and components of the health-based compliance alternatives were maintained as a result of this reconsideration.

Several commenters requested that the Agency consider including an extension of at least 1 year to both the submission of eligibility and final compliance dates in the final rule. These commenters added that the uncertainties resulting from the reconsideration and ongoing litigation made the original deadlines impractical.

One commenter disagreed with extending the submission of eligibility demonstration or compliance dates of affected sources under any circumstances. The commenter contended that an extension will only further delay the installation of the pollution controls that are required by the CAA. The commenter added that it is unlawful to extend compliance dates of affected sources.

Response: We do not believe it is appropriate at this time to adjust the deadline for submitting eligibility demonstrations. Most commenters representing the regulated industry believed that they would not need an extension if EPA met certain conditions.

EPA has met the conditions outlined by these commenters. We have completed the reconsideration in a timely manner and have not made significant changes to the rule. As stated in the notice of reconsideration as proposed (70 FR 36913), we did not anticipate that significant revisions would be made as a result of the reconsideration, and we advised affected sources to "proceed to prepare their eligibility demonstrations under the existing process promulgated in the final rule." Although we are making some clarifying amendments, we are not changing the final rule substantially. Thus, this action will not have the impact on the eligibility-demonstration

process that concerned several other commenters. Therefore, we do not believe an extension is necessary in order for sources to complete their eligibility demonstrations by September 2006.

In addition, we do not have cause to extend the compliance date for existing sources. Section 112(i)(3)(A) of the CAA specifies that NESHAP for existing sources can have compliance dates of no more than 3 years. For the ICI boiler and process heater NESHAP, EPA provided the maximum 3 years for covered sources to comply with the new standards.

It is not unusual for promulgation of CAA standards to be followed by litigation or petitions for reconsideration. Section 307(b)(1) of the CAA specifically provides that the filing of a petition for reconsideration of a rule does not postpone the effectiveness of a rule. To date, EPA has not, during the pendency of a reconsideration request, extended the compliance deadlines for promulgated MACT standards to provide compliance periods in excess of the statutory 3-year maximum. In contrast, where the Agency has amended a MACT standard in a significant way, we have found it appropriate to set a new compliance date for the rule that takes into account new requirements not contained in the original rule.

In this action, we are making relatively minor clarifying amendments to the eligibility demonstration methodology for the health-based alternatives and have not reconsidered or changed any aspect of the technology-based MACT standards. EPA indicated in the reconsideration notice, as proposed, that we were unlikely to change the compliance deadline and that the petitions for reconsideration had not provided new information suggesting a need for significant revisions to the applicability demonstration methodology for the health-based alternatives. (70 FR 36910, 36913) Thus, affected sources were on notice that significant revisions to health-based alternatives were not anticipated. Furthermore, we indicated that we intended to complete this reconsideration action expeditiously to shorten any uncertainty that may have been created by our partial granting of these petitions for reconsideration. (70 FR 36910) The time required to complete the reconsideration process has not been extraordinarily lengthy.

We disagree with the request to provide a blanket compliance date extension for all sources in the category under section 112(i)(3)(B) of the CAA. The granting of an extension under this

provision is up to the individual permitting authorities, and is restricted to specific situations where a source can demonstrate that such time is necessary for the installation of controls. We have not been provided with sufficient evidence to show that all sources in the category would be able to (or even have a need to) make such a showing.

H. Proposed Corrections to the Health-Based Compliance Alternatives

Comment: Three commenters disagreed with the proposed correction to extend the risk-based exemptions beyond the large solid-fuel subcategory. These commenters believed the expansion of the health-based compliance alternative to other subcategories to be a significant rule change that would require a separate formal rulemaking process with public notice and a comment period. These commenters expressed concern that this correction will allow more sources, specifically smaller sources with shorter stacks that tend to be located closer to populous regions, to become eligible for the risk-based exemptions. One commenter added that the analysis of TSM contained in the docket was specific to large solid fuel units and not all units for which the proposed correction seeks to offer applicability. One commenter cited sections within the final preamble language that indicated the alternatives applied to large solid fuel-fired sources.

Two commenters contended that there is no technical reason why the type of unit or fuel burned should restrict a facility from the right to demonstrate eligibility.

Response: We do not agree that a separate rulemaking proceeding is necessary to adopt the proposed correction to clarify that sources in all subcategories may demonstrate eligibility for the health-based compliance alternatives. Although this correction was coupled with EPA's response to a petition for reconsideration, EPA provided notice and opportunity to comment on the proposed revisions to the text of the final rule in accordance with the rulemaking requirements of section 307(d) of the CAA. Commenters have not cited legal authority in the CAA or elsewhere that requires EPA to address an allegedly "significant" change to a rule in a separate or independent rulemaking action.

We acknowledge that our original intent with respect to the scope of the health-based compliance alternatives is unclear and contradictory. EPA included language in 40 CFR 63.7507(a) that limits the applicability of the

health-based compliance alternative for HCl to sources in the large solid fuel-fired subcategory. We also made several statements in the preamble, highlighted by the commenters, which indicate an intent to limit one or both health-based alternatives to large solid fuel sources. These statements were made because the existing solid fuel-fired units at major sources are the main category of sources potentially affected by the health-based compliance alternatives. Furthermore, the number of new small solid fuel-fired units at major sources projected in the future (see Docket OAR-2002-0058) is relatively small. However, we also took certain actions in the final rule which show an intent to allow sources in all subcategories to demonstrate eligibility for the health-based compliance alternatives. For example, we did not include language in 40 CFR 63.7507(b) that limits the health-based alternative for TSM to sources in the large solid fuel subcategory. Likewise, we did not include any language in section 2 of appendix A to the final rule limiting the health-based alternative for HCl to just sources in the large solid-fuel subcategory. In that provision, we said that "each new, reconstructed, or existing source may demonstrate that they are eligible for the health-based compliance alternatives." Thus, the bottom line is that various portions of the final rule and preamble are inconsistent on the intended scope of eligibility for the health-based compliance alternatives.

As a result of these inconsistencies, we proposed a correction that would make these elements of the final rule consistent. Although we indicated in the proposal that this correction was intended to reflect our original intent, we agree that this terminology was imprecise. Given the conflicting statements and regulatory text in the final rule cited above, we concede that the Agency's original intent was not clear one way or the other. To remedy this confusion, we are resolving the inconsistency by eliminating regulatory language that could be read to limit one or both of the health-based alternatives to only sources in the large solid fuel category. Thus, we are taking the action we proposed, which is to remove the words "for large solid fuel boilers located at a single facility" from 40 CFR 63.7507(a) and the words "Specified for the Large Solid Fuel Subcategory" from the title of appendix A to the final rule.

Because large solid fuel-fired units are not the only units that have applicable manganese and HCl MACT limits, we believe it is technically correct, and appropriate, to allow all affected sources

with manganese and HCl limits the opportunity to demonstrate eligibility for the health-based compliance alternatives. Where EPA has determined that no adverse health effects are expected below a certain threshold level of exposure, there is no reasoned basis for precluding smaller industrial boilers and process heaters from using the health-based compliance alternative so long as their emissions do not result in human exposure above the designated threshold value. To the extent we are expanding the availability of the health-based compliance alternative to all sources, this will not subject the public to adverse health effects.

We do not believe health risks are increased by allowing smaller sources to qualify for the health-based compliance alternatives, even if the commenters are correct that these sources tend to have shorter stacks and are closer to populous areas. The amendments we are making in the final rule do not automatically make all small sources eligible for the health-based compliance alternatives. Such sources must still demonstrate eligibility under the procedures and criteria in appendix A to the final rule, which consider stack heights and distance to populated areas in determining eligibility. If these characteristics indicate that a particular source has emissions that pose risks above the threshold levels, the source will not be eligible for the health-based compliance alternative. In addition, emissions rates are also part of the analysis under appendix A. Because small sources have lower emissions rates, all other things being equal, small sources present less risk than large sources.

We do not believe this correction to the rule requires an extensive re-analysis of the cost or emissions reduction impacts of the health-based compliance alternatives. We have sufficient information to conclude that this correction will not result in a meaningful change to the cost or emissions impacts of the final rule.

In the final rule, the cost and economic analyses developed as part of the final MACT rule were based on the estimated costs for all affected sources to install, maintain, and operate controls and to comply with MACT requirements. Costs were not based on the health-based compliance alternatives since the cost of compliance with controls is significantly higher than the cost to comply with the health-based compliance alternatives. The costs associated with voluntarily conducting risk analyses were not analyzed and, therefore, not re-analyzed to account for this correction to the

applicability of the health-based alternatives to all affected units.

Our supplemental analysis of the impact on control costs and emissions reductions resulting from adoption of the health-based alternatives cited by commenter showed that the estimated costs of the final rule would be lower if the health-based provisions were adopted. This "rough assessment" of the number of sources that would qualify for the health-based alternatives focused on large sources because these sources were the sources most likely to seek to demonstrate eligibility to comply with the health-based alternatives.

Based on the available information on sources in the category, we do not expect this correction to enable a significant number of additional sources to qualify for the health-based alternatives. Thus, this correction to the final rule will not result in a dramatic difference in our rough control cost and emissions reduction estimates. Since we evaluated the costs of the final rule without the health-based compliance alternatives, we have no reason to believe this amendment will increase compliance costs above these high-end estimates. The analysis we conducted in this reconsideration proceeding is sufficient to enable us to conclude that compliance costs will not be significantly different if a few additional sources are able to demonstrate eligibility as a result of this correction. For similar reasons, we do not have a basis to believe this change dramatically alters the emissions reductions that will be achieved under the final rule.

We adopted the health-based alternatives in part to reduce the compliance costs of the NESHAP while continuing to maintain the health protection called for in the Clean Air Act. The potential for this correction to reduce compliance costs further does not undermine this reason for adopting health-based compliance alternatives. We did not rely on these cost and emission reduction estimates as a basis for establishing technology-based MACT emissions limitations or the eligibility criteria for the health-based compliance alternatives. We conducted the cost and emission reduction estimates in order to present a summary of the environmental and economic impacts of final rule. The estimates included in our supplemental analysis of the impact on control costs and emissions reductions were presented in order to provide a comparative summary of impacts of the final rule based on a rough estimate of facilities that might opt to comply with the health-based compliance alternatives. Additionally, these cost estimates are necessary in order

complete several Statutory and Executive Order Reviews including: the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act of 1995.

I. Review of Eligibility Demonstrations and Relationship With Title V

Comment: Several commenters pointed out that the health-based compliance alternative is dependent on the approval from a permitting authority via issuance of a title V permit that includes enforceable alternative limits. These commenters stated that the proposed process for reviewing and incorporating the health-based compliance alternatives into the permits is unworkable because many parameters that affect air dispersion modeling and risks are not required to be incorporated into the title V permit.

One commenter requested EPA to clarify in sections 9 and 10 of appendix A to the final rule that a facility's compliance with the health-based compliance alternatives is dependent on the approval from a permitting authority via issuance of a title V permit that includes the alternative limits. The commenter added, if the eligibility determination is not approved, the facility must comply with the final NESHAP rule requirements.

One commenter opposed a requirement to obtain EPA or State agency approval of the site-specific risk assessments as currently stated in the hazardous waste combustion rule (HWC) rule. The commenter believed that requiring approval would likely create delays in the eligibility process and result in very short compliance timelines if a reviewing authority rejected a site-specific assessment or did not complete the review in a timely manner. The commenter added there is no technical justification for requiring approval in the final HWC MACT rule and recommended not doing so in the final boiler and process heater rule.

Response: We agree that the preferred approach is to not require affirmative approval by the permitting authority of each risk assessment before a source is eligible to comply with the health-based alternative. Thus, under the procedures in appendix A of subpart DDDDD of 40 CFR part 63, as amended in this action, a source becomes eligible to comply with the health-based alternatives at the time it submits an eligibility demonstration meeting the requirements of section 8 of appendix A to the final rule.

However, for a source to remain eligible to comply with the health-based alternatives the eligibility

demonstration must be complete and the application for a permit modification must ultimately be approved by the permitting authority. Thus, as part of this process, permitting agencies do have the authority to review eligibility demonstrations to verify that they meet the requirements of appendix A to the final rule and are technically sound. For example, a permitting authority may notify a source that its eligibility demonstration is deficient if the demonstration is incomplete or if a look-up table analysis is performed in a situation when site-specific conditions exist that make the use of the look-up tables inappropriate. Based upon the technical findings of the review, permitting agencies have the authority to inform a source that it is no longer eligible for the health-based alternative if the eligibility demonstration is deficient. EPA will also review some demonstrations as part of an audit program.

This review authority derives from the title V permit program through which the health-based compliance alternatives are implemented, and it was inherent in the final rule when promulgated on September 14, 2004. Subpart DDDDD of 40 CFR part 63 contains applicable requirements that are incorporated in title V permits. The title V permit program provides a process for identifying and consolidating all of the applicable requirements for each source. Through this process, the permit authority reviews each application to verify the applicable requirements for each source. Thus, when a source submits a demonstration of eligibility for the health-based alternatives in subpart DDDDD, the title V permitting authority has the ability to review this submission to determine whether the applicable requirements for that source are the health-based or the technology-based requirements in subpart DDDDD.

However, to clarify this issue, we are adding explicit language in sections 10 and 11 of appendix A to the final rule to make clear that permitting agencies may review each facility's eligibility demonstration. If the permitting authority identifies deficiencies with the eligibility determination or the permit modification is eventually disapproved based on problems with the eligibility demonstration, then the facility is no longer eligible for the health-based alternative and must comply with the MACT emission standards by the compliance dates specified in 40 CFR 63.7495.

For new sources, we are establishing a slightly different procedure because new sources will be relying upon the

health-based alternative at start-up. In these cases, the source will have a grace period of 30 to 90 days to correct any deficiencies before ceasing to be eligible for the health-base alternative. This grace period is not needed for existing sources because their eligibility demonstrations must be submitted 12 months prior to the compliance date. We believe this provides sufficient time for permitting authorities to notify sources of any deficiencies and for a source to correct any deficiencies.

Comment: Several commenters requested that EPA specify additional process and non-process related parameters under section 11 of appendix A to the final rule to clarify the enforceable requirements for the facility. One commenter specifically requested that "emission rate" be added to the list of parameters. Three commenters requested that non-process parameters that can affect air dispersion modeling be included, such as stack height, exit gas temperature, distance to the plant property line, and changes in RFC or land-use.

Response: We recognize that a large number of parameters can affect continuous compliance with the health-based compliance alternatives. These parameters include, but are not limited to, HAP emission rates, fuel type, type of control device, stack parameters, reference values, and location of local residences. Some of these parameters are appropriate for incorporation into title V permits (e.g., HAP emission rates or a surrogate for emission rate such as production volume) while others are not (e.g., reference values). However, changes in any of these parameters can trigger the need for a re-assessment. Therefore, we are adding language to appendix A to the final rule expanding the list of parameters that should be considered for inclusion as enforceable permit limits. In section 11 of appendix A, we are also expanding the list of parameters that, if changes occur, could also necessitate a re-assessment.

Comment: Three commenters requested that EPA clarify the deadline for compliance for sources whose health-based eligibility determination is found to be deficient. These commenters also suggested an allowance period of 12 months after the facility receives notice of a deficiency in their health-based eligibility determination.

Two commenters stated that the health-based compliance alternative will delay compliance with MACT for sources that attempt to unsuccessfully demonstrate eligibility with the health-based compliance alternatives.

Response: We disagree that there will be a delay in compliance caused by the health-based compliance alternatives. Sources that submit eligibility demonstrations in an attempt to comply with the health-based compliance alternative but do so unsuccessfully must still be in compliance within 3 years after the rule was promulgated. We do not believe it is appropriate to automatically extend the compliance date in these situations. As noted above, for existing sources, there is a 1-year window in which permitting authorities and sources can work out any deficiencies in an eligibility demonstration. The health-based compliance alternative is an optional compliance approach. Some risk is involved in electing to comply with the MACT standard via the health-based compliance alternatives. This assumed risk could include a shorter amount of time to install the controls that are required to meet technology standards in the event that a source does not submit a health-based eligibility demonstration that meets the requirements of Appendix A to the final rule. We do not necessarily endorse the use of CAA section 112(i)(3)(B) to grant compliance date extensions in these circumstances. However, we will leave the decision of whether to grant such a compliance date extension on a site-specific basis to permitting authorities.

J. Miscellaneous

Comment: Two commenters addressed the vagueness of the criteria for determining the location at which the affected source must demonstrate that the HI for HCl and chlorine (Cl₂) and the HQ for manganese is less than or equal to 1.0. One commenter requested to incorporate potential land use changes where people could reasonably be expected to live in the future into the demonstrations of eligibility. The commenter stated that the rule language “where people live” does not account for the individual most exposed in the future for a location that was not residentially zoned at the time of the risk assessment. One commenter suggested replacing “where people live” with the “point of maximum impact beyond the facility’s property boundary.”

Response: We agree that there is a need clarify the wording of the phrase “where people live” in section 5 of Appendix A. To address some of the commenters concerns, we are changing the phrase to “where people live or congregate (e.g. including schools or daycares).” We believe that this is an appropriate approach given that, as described in EPA’s Air Toxics Risk

Assessment Reference Library, sources can deviate from the default assumption that an exposed individual remains at the location of highest exposure for 24 hours per day, 365 days per year.

We do not believe any additional changes are needed in section 5 of Appendix A to account for future land use changes. The final rule requires that a source complying with a health-based compliance alternative must resubmit their demonstration of eligibility if process or non-process parameters change in a way that could increase public health risk. Thus, if people have moved into an area, or if schools or daycare centers are constructed, the demonstration of eligibility must be resubmitted with a new risk assessment that incorporates updated parameters to account for the public health risk of these new populations. This resubmission of the eligibility demonstration is part of the existing requirements of Appendix A to the final rule for maintaining continuous compliance. If a source is no longer in compliance with the health-based alternative due to changes in land use, that source must comply with the technology standards in the MACT.

V. Impacts of the Final Rule

The revisions incorporated as a result of the final rule amendments do not change any of the impacts presented in section V of the preamble to the final rule which was published at 69 FR 55218 (September 13, 2004).

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is “significant” and, therefore, subject to review by OMB and the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that today’s action is a “significant regulatory action” because it raises novel legal or policy issues. As such, the action was submitted to OMB for review under Executive Order 12866. Revisions made in response to OMB suggestions or recommendations are documented in the public record (see **ADDRESSES** section of this preamble).

B. Paperwork Reduction Act

Today’s final rule amendments impose no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of the final rule amendments, the information collection request has not been revised. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2060–0551 (EPA No. 2028.02). A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations are listed in 40 CFR part 9 and 40 CFR chapter 15.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's final rule amendments.

For purposes of assessing the impacts of today's final rule amendments on small entities, a small entity is defined as: (1) A small business having no more than 500 to 750 employees, depending on the business' NAICS code; (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 that is not dominant in its field.

We conclude that the final rule amendments will not have a significant economic impact on a substantial number of small entities. This rule will not impose additional regulatory requirements on small entities. After evaluating public comment on the notice of reconsideration, we are retaining the health-based compliance alternatives in the final rule in substantially the same form. However, we are making a limited number of amendments to 40 CFR 63.7507 and appendix A to the final rule to improve and clarify the process for demonstrating eligibility to comply with the health-based compliance alternatives contained in the rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least

burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that today's final rule amendments do 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 1 year. Although the final rule have annualized costs estimated to range from \$690 to \$860 million (depending on the number of facilities eventually demonstrating eligibility for the health-based compliance alternatives), today's final rule amendments do not add new requirements that would increase this cost. Thus, today's final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the final rule amendments do not significantly or uniquely affect small governments because there are no new requirements that apply to such governments or impose obligations upon them. Therefore, today's final rule amendments are not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that 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."

The final rule amendments do 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. None of the affected facilities are owned or operated by State governments, and the requirements discussed in today's action will not supersede State regulations that are more stringent. Thus, Executive Order 13132 does not apply to today's final rule amendments.

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

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects 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." The final rule amendments do not have tribal implications, as specified in Executive Order 13175.

The final rule amendments do not significantly or uniquely affect the communities of Indian tribal governments. We do not know of any ICI boilers or process heaters owned or operated by Indian tribal governments. However, if there are any, the effect of these rules on communities of tribal governments would not be unique or disproportionate to the effect on other communities. EPA specifically solicited additional comment on the final rule from tribal officials, but received none. Thus, Executive Order 13175 does not apply to today's final rule amendment.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective

and reasonably feasible alternatives we considered.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today’s final rule amendments are not subject to the Executive Order because eligibility demonstrations submitted in support of the health-based alternative compliance options will be based on noncancer human health reference values (e.g., reference concentrations) that are designed to be protective of sensitive subpopulations, including children.

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

Today’s final rule amendments are not a “significant energy actions” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that today’s final rule amendments are not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB, with explanations when EPA decides not to use available and applicable voluntary consensus standards.

During the development of the final rule, EPA searched for voluntary consensus standards that might be applicable. The search identified three voluntary consensus standards that were considered practical alternatives to

the specified EPA test methods. An assessment of these and other voluntary consensus standards is presented in the preamble to the final rule (69 FR 55251, September 13, 2004). Today’s final rule amendments do not involve the use of any additional technical standards beyond those cited in the final rule. Therefore, EPA did not consider the use of any additional voluntary consensus standards.

J. Congressional Review Act

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, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective February 27, 2006.

List of Subjects in 40 CFR Part 63

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

Dated: December 15, 2005.

Stephen L. Johnson,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter 1 of the code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Subpart DDDDD—[Amended]

■ 2. Section 63.7507 is revised to read as follows:

§ 63.7507 What are the health-based compliance alternatives for the hydrogen chloride (HCl) and total selected metals (TSM) standards?

(a) As an alternative to the requirement to demonstrate compliance with the HCl emission limit in table 1 to this subpart, you may demonstrate eligibility for the health-based compliance alternative for HCl emissions under the procedures prescribed in appendix A to this subpart.

(b) As an alternative to the requirement to demonstrate compliance with the TSM emission limit in table 1 to this subpart based on the sum of emissions for the eight selected metals, you may demonstrate eligibility for the health-based alternative for manganese emissions under the procedures prescribed in appendix A to this subpart and comply with the TSM emission standards in table 1 based on the sum of emissions for seven selected metals (by excluding manganese emissions from the summation of TSM emissions).

* * * * *

■ 3. Appendix A to subpart DDDDD is amended as follows:

- a. By revising the heading.
- b. In Section 4 by revising paragraph (g).
- c. In Section 5 by revising paragraphs (c)(2) and (d)(2).
- d. In Section 6 by revising the introductory text and paragraphs (a) and (b).
- e. In Section 8 by revising paragraphs (b)(1) and adding paragraph (d).
- f. In Section 9 by revising paragraphs (b), (c)(1) and (c)(2).
- g. Revising Section 10.
- h. Revising Section 11.

Appendix A to Subpart DDDDD—Methodology and Criteria for Demonstrating Eligibility for the Health-Based Compliance Alternatives

* * * * *

4. How do I determine HAP emissions from my affected source?

* * * * *

(g) You must determine the maximum hourly emission rate for each appropriate emission point according to Equation 1 of this appendix. An appropriate emission point is any emission point emitting HCl, Cl₂, or Manganese from a subpart DDDDD emission unit.

$$E_{i,s} = \sum_{j=1}^t (R_{i,j} \times I_j) \quad (\text{Eq. 1})$$

Where:

E_{i,s} = maximum hourly emission rate for HAP i at each emission point s associated

with a subpart DDDDD emission unit j, lbs/hr

i = applicable HAP, where i = (HCl, Cl₂, or Manganese) s = individual emission point
 j = each subpart DDDDD emission unit associated with an emission point, s
 t = total number of subpart DDDDD emission units associated with an emission point s
 R_{i,j} = emission rate (the 3-run average as determined according to table 1 of this appendix or the pollutant concentration in the fuel samples analyzed according to § 63.7521) for HAP i at subpart DDDDD emission unit j associated with emission point s, lb per million Btu.
 I_j = Maximum rated heat input capacity of each subpart DDDDD unit j emitting HAP i associated with emission point s, million Btu per hour.

5. What are the criteria for determining if my facility is eligible for the health-based compliance alternatives?

* * * * *
 (c) * * *
 (2) Your site-specific compliance demonstration indicates that none of your HI values for HCl and Cl₂ are greater than 1.0 at locations where people live or congregate (e.g., schools, daycare centers, etc.);
 (d) * * *
 (2) Your site-specific compliance demonstration indicates that none of your HQ values for manganese are greater than 1.0 at locations where people live or congregate (e.g., schools, daycare centers, etc.).

6. How do I conduct a look-up table analysis?

You may use look-up tables to demonstrate that your facility is eligible for either the

compliance alternative for HCl emissions limit or the compliance alternative for the TSM emissions limit, unless your permitting authority determines that the look-up table analysis in this section is not applicable to your facility on technical grounds due to site-specific variations that are not accounted for in the look-up table analysis (e.g. presence of complex terrain, rain caps, or building downwash effects).

(a) *HCl compliance alternative.* (1) Using the emission rates for HCl and Cl₂ determined according to section 4 of this appendix, calculate, using equation 2 of this appendix, the toxicity-weighted emission rate (expressed in HCl-equivalents) for each emission point that emits HCl or Cl₂ from any subpart DDDDD sources. Then, calculate the weighted average stack height using equation 3 of this appendix.

$$TW_s = E_{HCl,s} + E_{Cl_2,s} \left(\frac{RV_{HCl}}{RV_{Cl_2}} \right) \quad (\text{Eq. 2})$$

Where:

TW_s = the toxicity-weighted emission rate (in HCl-equivalent) for each emission point s, lb/hr.

s = individual emission points
 E_{HCl,s} = the maximum hourly emission rate for HCl at emission point s, lb/hr
 E_{Cl₂,s} = the maximum hourly emission rate for Cl₂ at emission point s, lb/hr

RV_{Cl₂} = the reference value for Cl₂
 RV_{HCl} = the reference value for HCl
 (reference values for HCl and Cl₂ can be found at <http://www.epa.gov/ttn/atw/toxsource/summary.html>).

$$H_{HCl} = \frac{\sum_{s=1}^n (TW_s \times H_s)}{TW_T} \quad (\text{Eq. 3})$$

Where:

H_{HCl} = weighted average stack height for determining the maximum allowable HCl-equivalent emission rate (in Table 2 to this appendix), m.
 s = individual emission points
 n = total number of emission points
 TW_s = toxicity-weighted HCl-equivalent emission rate from each emission point (from equation 2), lb/hr.
 H_s = height of each individual stack, m
 TW_T = total toxicity-weighted HCl-equivalent emission rate from the source (summed for all emission points), lb/hr.

identify the appropriate maximum allowable toxicity weighted emission rate for your affected source, expressed in HCl-equivalents, from table 2 of this appendix. Appropriate emission points are those that emit HCl or Cl₂, or both, from subpart DDDDD units. If one or both of these values does not match the exact values in the look-up tables, then use the next lowest table value. (**Note:** If your weighted average stack height is less than 5 meters (m), you must use the 5 meter row.) Your affected source is eligible to comply with the health-based alternative for HCl emissions if the value calculated in paragraph (a)(2) of this section, determined using the methods specified in this appendix, does not exceed the appropriate value in table 2 of this appendix.

for all your subpart DDDDD units. Identify the appropriate allowable emission rate in table 3 of this appendix for your affected source using the weighted average stack height value and the minimum distance between any appropriate subpart DDDDD emission point at the facility and the property boundary. Appropriate emission points are those that emit manganese from subpart DDDDD units. If one or both of these values does not match the exact values in the look-up tables, then use the next lowest table value. (**Note:** If your weighted average stack height is less than 5 meters, you must use the 5 meter row.) Your affected source is eligible to comply with the health-based alternative for manganese emissions and may exclude manganese when demonstrating compliance with the TSM emission limit if the total manganese emission rate, determined using the methods specified in this appendix, does not exceed the appropriate value specified in table 3 of this appendix.

(b) *TSM Compliance Alternative.* Using the emission rates for manganese determined according to section 4 of this appendix, calculate the total manganese emission rate for your affected source by summing the maximum hourly manganese emission rates

$$H_{Mn} = \frac{\sum_{s=1}^n (E_{Mn,s} \times H_s)}{E_{Mn,T}} \quad (\text{Eq. 4})$$

Where:

H_{Mn} = weighted average stack height for determining the maximum allowable emission rate for manganese (in table 3 to this appendix), m.

s = individual emission points

n = total number of emission points

$E_{Mn,s}$ = maximum hourly manganese emissions from emission point s, lbs/hr.

H_s = height of each individual stack s

$E_{Mn,T}$ = total maximum hourly manganese emissions from affected source (sum emission rates from all emission points), lb/hr

* * * * *

8. What Must My Health-Based Eligibility Demonstration Contain?

* * * * *

(b) * * *

(1) Calculations used to determine the weighted average stack height of the subpart DDDDD emission points that emit manganese, HCl, or Cl₂.

* * * * *

(d) To be eligible for either health-based compliance alternative, the parameters that defined your affected source as eligible for the health-based compliance alternatives must be submitted to your permitting authority for incorporation into your title V permit, as federally enforceable limits, at the same time you submit your health-based eligibility demonstration. These parameters include, but are not limited to, fuel type, fuel mix (annual average), emission rate, type of control devices, process parameters (e.g., maximum heat input), and non-process parameters (e.g., stack height).

9. When Do I Have to Complete and Submit My Health-Based Eligibility Demonstration?

* * * * *

(b) If you have a new or reconstructed affected source that starts up before the effective date of subpart DDDDD, or an affected source that is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP before the effective date of subpart DDDDD, then you may submit an eligibility demonstration at any time after September 13, 2004 but you must comply with the emissions limits in table 1 to this subpart and all other requirements of subpart DDDDD until your eligibility demonstration is submitted to your permitting authority in accordance with the requirements of section 10 of this appendix.

(c) * * *

(1) You must complete and submit a preliminary eligibility demonstration based on the information (e.g., equipment types, estimated emission rates, process and non-process parameters, reference values, etc.) that will be used to apply for your title V permit. This preliminary eligibility demonstration must be submitted with your application for approval of construction or reconstruction. You must base your preliminary eligibility demonstration on the maximum emissions allowed under your title V permit. If the preliminary eligibility demonstration indicates that your affected

source facility is eligible for either compliance alternative, then you may start up your new affected source and your new affected source will be considered in compliance with the alternative standard and subject to the compliance requirements in this appendix.

(2) You must conduct the emission tests or analyses specified in section 4 of this appendix upon initial startup and use the results of these emissions tests to complete and submit your eligibility demonstration within 180 days following your initial startup date.

10. When Do I Become Eligible for the Health-Based Compliance Alternatives?

(a) For existing sources, new sources, or reconstructed sources that start up before the effective date of subpart DDDDD, or an affected source that is an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP before the effective date of subpart DDDDD, you are eligible to comply with a health-based compliance alternative upon submission of a complete demonstration meeting all the requirements of paragraph 8 for the applicable alternative. However, your eligibility demonstration may be reviewed by the permitting authority or by EPA to verify that the demonstration meets the requirements of appendix A to this subpart and is technically sound (i.e. use of the look-up tables is appropriate or the site-specific assessment is technically valid). If you are notified by the permitting authority or by EPA of any deficiencies in your submission, then you are not eligible for the health-based compliance alternative until the permitting authority or EPA verifies that the deficiencies are corrected.

(b) For new or reconstructed sources that start up after the effective date of subpart DDDDD, you are eligible to comply with a health-based compliance alternatives upon submission of a complete preliminary eligibility determination in accordance with paragraph (c)(1) of section 9 that demonstrates your affected source is eligible for the applicable alternative. You may then start up your source and conduct the necessary testing in accordance with paragraph (c)(2) of section 9. The eligibility demonstration submitted in accordance with paragraph (c)(2) of section 9 may be reviewed by the permitting authority or by EPA to verify that the demonstration meets the requirements of appendix A to this subpart and is technically sound (i.e. use of the look-up tables is appropriate or the site-specific assessment is technically valid). If you are notified in writing by the permitting authority of any deficiencies in your submission, then you have 30 days to correct the deficiencies unless the permitting authority agrees to extend this time to a period not to exceed 90 days. If the deficiencies are not corrected within the applicable time period, you will not be eligible for the health-based compliance alternative until the permitting authority verifies that the deficiencies are corrected.

(c) If the title V permit conditions requested in accordance with paragraph (d)

of section 8 are disapproved by the permitting authority, then your affected source must comply with the applicable emission limits, operating limits, and work practice standards in subpart DDDDD by the compliance dates specified in § 63.7495. Until the requested conditions (or alternative conditions meeting the requirements of paragraph (d) of section 8) are incorporated into the permit, compliance with the proposed conditions shall be considered compliance with the health-based alternative.

11. How Do I Ensure That My Facility Remains Eligible for the Health-Based Compliance Alternatives?

(a) You must update your eligibility demonstration and resubmit it each time that any of the parameters that defined your affected source as eligible for the health-based compliance alternatives changes in a way that could result in increased HAP emissions or increased risk from exposure to emissions. These parameters include, but are not limited to, fuel type, fuel mix (annual average), type of control devices, HAP emission rate, stack height, process parameters (e.g., heat input capacity), relevant reference values, and locations where people live).

(b) If you are updating your eligibility demonstration to account for an action in paragraph (a) of this section that is under your control (e.g. change in heat input capacity of your boiler), you must submit your revised eligibility demonstration to the permitting authority prior to making the change and revise your permit to incorporate the change. If your affected source is no longer eligible for the health-based compliance alternatives, then you must comply with the applicable emission limits, operating limits, and compliance requirements in subpart DDDDD prior to making the process change and revising your permit. If you are updating your eligibility demonstration to account for an action in paragraph (a) of this section that is outside of your control (e.g. change in a reference value), and that change causes your source to no longer be able to meet the criteria for the health-based compliance alternatives, your source must comply with the applicable emission limits, operating limits, and compliance requirements in subpart DDDDD within 3 years.

(c) Your revised eligibility demonstration may be reviewed by the permitting authority or EPA to verify that the demonstration meets the requirements of appendix A to this subpart and is technically sound (i.e. use of the look-up tables is appropriate or the site-specific assessment is technically valid). If you are notified by the permitting authority or EPA of any deficiencies in your submission, you will not remain eligible for the health-based compliance alternatives until the permitting authority or EPA verifies that the deficiencies are corrected.

* * * * *

Issued in Fort Worth, Texas, on November 21, 2006.

Walter L. Tweedy,

Acting Manager, System Support Group, ATO Central Service Area.

[FR Doc. 06-9531 Filed 12-5-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2002-0058; FRL-8252-2]

RIN 2060-AN32

National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters: Reconsideration of Emissions Averaging Provision and Technical Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of final action on reconsideration.

SUMMARY: EPA is promulgating amendments to the National Emission Standards for Hazardous Air Pollutants

(NESHAP) for Industrial, Commercial, and Institutional Boilers and Process Heaters. After promulgation of this final rule, the Administrator received petitions for reconsideration of certain provisions in the final rule. Subsequently, EPA published a notice of the reconsideration and requested public comment on proposed amendments to the NESHAP. After evaluating public comments, we are adopting each of the amendments that we proposed.

DATES: This final rule is effective on February 5, 2007. The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Office of **Federal Register** as of February 5, 2007.

ADDRESSES: EPA has established a docket for this action under docket ID No. EPA-HQ-OAR-2002-0058. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 through <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave., 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: Mr. James Eddinger, Energy Strategies Group, Sector Policies and Programs Division (D243-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5426, fax number: (919) 541-5450, e-mail address: eddinger.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by the final rule:

Category	NAICS code	Examples of potentially regulated entities
Any industry using a boiler or process heater in the final rule ...	321	Manufacturers of lumber and wood products.
	322	Pulp and paper mills.
	325	Chemical manufacturers.
	324	Petroleum refiners and manufacturers of coal products.
	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	331	Steel works.
	332	Electroplating, plating, polishing, anodizing, and coloring.
	336	Manufacturers of motor vehicle parts and accessories.
	221	Electric, gas, and sanitary services.
	622	Health services.
	611	Educational Services.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this final rule. To determine whether your facility would be regulated by this final rule, you should carefully examine the applicability criteria in 40 CFR 63.7485 of this final rule. If you have any questions regarding the applicability of this final rule to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

WorldWide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will be available on the WWW through the Technology Transfer Network Web site (TTN). EPA has posted a copy of the final rule 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.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 5, 2007. Under CAA section 307(d)(7)(B), only an objection to the final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under CAA section 307(b)(2), the requirements established by today's final action may not be challenged separately in any civil

or criminal proceedings brought by EPA to enforce these requirements.

Background Information Document. EPA proposed and provided notice of the reconsideration of the NESHAP for industrial, commercial, and institutional boilers and process heaters on October 31, 2005 (70 FR 62264) and received 17 comment letters on the proposal. A memorandum "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, Summary of Public Comments and Responses to GE Petition and Reconsideration of the Final Rule," containing EPA's responses to each public comment is available in Docket No. EPA-HQ-OAR-2002-0058.

Organization of this document: The information presented in this preamble is organized as follows:

- I. Statutory Authority for the Final Rule
- II. Background
- III. What changes are included in this final rule?
 - A. American Society for Testing and Materials (ASTM) Test Methods
 - B. Utility Steam Generating Units
 - C. Fuel Analysis Requirement
 - D. Consolidated Testing
 - 1. Compliance With Consolidated Testing
 - 2. Monitoring of Common Stack
 - 3. Emissions Averaging when Units in Different Subcategories are Ducted to Common Stack
 - 4. Continuous Compliance With the Emissions Averaging Provision
 - 5. Monthly Compliance Demonstrations and Calculations
 - E. Definitions
- IV. Responses to Significant Comments
 - A. Scope of Emissions Averaging Provision
 - B. Compliance Testing and Monitoring
 - C. Definitions
 - D. Testing Methods
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and 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 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. Congressional Review Act

I. Statutory Authority for the Final Rule

Section 112 of the Clean Air Act (CAA) requires us to list categories and subcategories of major sources and area sources of hazardous air pollutant (HAP) and to establish NESHAP for the listed source categories and subcategories. Industrial boilers, commercial and institutional boilers, and process heaters were listed on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP.

II. Background

On September 13, 2004 (69 FR 55218), we promulgated the NESHAP for industrial, commercial, and institutional (ICI) boilers and process heaters (Boilers NESHAP) as subpart DDDDD of 40 CFR part 63 under section 112(d) of the CAA. The NESHAP contain technology-based emissions standards reflecting the

maximum achievable control technology and a health-based compliance alternative for certain threshold pollutants. We proposed these standards for ICI boilers and process heaters on January 13, 2003 (68 FR 1660).

In the preamble for the January 2003 proposed rule, we discussed our consideration of a bubbling compliance alternative and requested comment on incorporating a bubbling compliance alternative (*i.e.*, emission averaging) into this final rule as part of EPA's general policy of encouraging the use of flexible compliance approaches where they can be properly monitored and enforced. (See 68 FR 1686.) Industry trade associations, owners/operators of boilers and process heaters, State regulatory agencies, local government agencies, and environmental groups submitted comments on the emissions averaging approach. We received a total of 40 public comment letters regarding the emissions averaging approach in the proposed rule during the comment period. We summarized major public comments on the proposed emissions averaging approach, along with our responses to those comments, in the preamble to the final rule (69 FR 55238) and in the memorandum "Response to Public Comments on Proposed Industrial, Commercial, and Institutional Boilers and Process Heaters NESHAP (Revised)" (RTC Memorandum) which was placed in the docket for the final rule.

In the September 2004 final rule, we adopted an emissions averaging provision for existing large solid fuel boilers. The procedures that affected sources must use to demonstrate compliance through emissions averaging were promulgated at 40 CFR 63.7522. (See 69 FR 55257.) For each existing large solid fuel boiler in the averaging group, the emissions are capped at the emission level being achieved on the effective date of the final rule (November 12, 2004). Under emissions averaging provision in the 2004 final rule, compliance must be demonstrated on a 12-month rolling average basis, determined at the end of every calendar month. If a facility uses this option, it must also develop and submit an implementation plan to the applicable regulatory authority for review and approval no later than 180 days before the date that the facility intends to demonstrate compliance.

Following promulgation of the emissions averaging provision in the final rule, the Administrator received a petition for reconsideration pursuant to section 307(d)(7)(B) of the CAA from General Electric (GE). Under this

section, the Administrator is to initiate reconsideration proceedings if the petitioner can show that it was impracticable to raise an objection to a rule within the public comment period or that the grounds for the objection arose after the public comment period.

GE requested that EPA reconsider portions of the emissions averaging provision that it believes could not have been practicably addressed during the public comment period. In the alternative, GE requested clarification that the final rule already allows for consolidated testing of commonly vented boilers. By a letter dated April 27, 2005, we informed GE that we intended to grant their petition for reconsideration. On October 31, 2005, we published a notice of reconsideration and proposed amendments to the final rule (70 FR 62264).

In the notice of reconsideration of the emissions averaging provision, we proposed amendments to 40 CFR 63.7522 and solicited comment in the following areas: (1) Allowing testing of a common stack in situations where each of the units vented to the common stack are in the existing solid fuel subcategory; (2) treating a group of boilers that vent through a common emissions control system to a common stack as a single existing solid fuel boiler for the purpose of subpart DDDDD of 40 CFR part 63; (3) treating a group of boilers that vent through more than one common emissions control system as distinct units and requiring individual compliance testing according to the methods specified in Table 8 to subpart DDDDD; (4) demonstrating compliance with opacity limits using a single continuous opacity monitoring system (COMS) located in the common stack if each of the boilers venting to the common stack has an applicable opacity limit; (5) treating certain common stack situations as a single emission point for purposes of averaging emissions with other existing large solid fuel boilers located at the facility.

In addition, our October 31, 2005 notice of proposed rulemaking included several corrections to subpart DDDDD of 40 CFR part 63 that were not related to emissions averaging. Several clarifying amendments addressed: (1) The applicability of firetube boilers in the small unit subcategories and limited use subcategories; (2) the definitions of firetube and watertube boilers with respect to "hybrid boilers"; and (3) the equivalent methods allowed in Table 6 to subpart DDDDD. The proposed corrections include language that: (1) Excludes electric utility steam

generating units that are covered by 40 CFR part 60, subpart Da or 40 CFR part 60, subpart HHHH; (2) adds Equation 4A to subpart DDDDD for calculating a 12-month rolling average emission rate when using the emissions averaging option; (3) requires an oxygen monitor to be installed when a carbon monoxide monitor is required by the rule; and (4) updates American Society of Testing and Materials (ASTM) test methods in Table 6 to subpart DDDDD.

A comprehensive response to public comments is available in a document entitled "National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, Summary of Public Comments and Responses to GE Petition and Reconsideration of the Final Rule," which can be found in the docket (Docket No. EPA-HQ-OAR-2002-0058).

III. What Changes Are Included in This Final Rule?

In this final action, we are making a limited number of corrections and amendments to 40 CFR 63.14 and sections 63.7491, 63.7510, 63.7522, 63.7525, 63.7540, 63.7541, 63.7575, and Table 6 of subpart DDDDD consistent with our October 2005 proposal. These changes improve and clarify the procedures for implementing the emissions averaging provision and for conducting compliance testing when boilers are vented to a common stack. Among other technical corrections, we also are clarifying several definitions to help affected sources classify "limited use" and "hybrid" boilers. We have modified some of regulatory language that we proposed based on public comments, but overall, we are adopting amendments to the emission averaging provision and other provision in subpart DDDDD that are in substantially the same form as what we proposed in October 2005.

A. American Society for Testing and Materials (ASTM) Test Methods

We are adopting the proposed revisions relating to ASTM test methods without change. As suggested by the ASTM, we are amending Table 6 to subpart DDDDD to reflect updated ASTM test methods. Similar changes are also being made to 40 CFR 60.14 (Incorporation by Reference) of the General Provisions. Additionally, we are publishing in Table 1 of this preamble a list of testing methods that EPA previously reviewed and approved for use as "alternative" methods that are considered "equivalent" for the purpose of Table 6 to subpart DDDDD.

TABLE 1.—LIST OF EQUIVALENT METHODS APPROVED AS OF FEBRUARY 15, 2005

Pollutant or Analyte	EPA-approved equivalent method
Arsenic	SW-846-7060. ^a SW-846-7060A.
Chlorine	ASTM D2361.
Hydrogen Chloride	SW-846-5050. SW-846-9056. SW-846-9076. SW-846-9250. ASTM E776-87.
Mercury	EPA Method 1631E. SW-846-1631. ASTM D6722-01. EPA 821-R-01-013.
Higher Heating Value	ASTM E711-87 (1996). ASTM D240. ASTM D2691-95.
Moisture content of Coal Fuel.	
Moisture Analysis Digestion Procedure	EPA 160.3 Mod. EPA-821-R-01-03. ASTM D586 (Dry Ash method). SW-846-3050B.
Sample Preparation for TSM.	
Sample Preparation and Digestion for TSM.	SW-846-3050. TAPPI T266.
Sample Preparation and Grinding.	ASTM E829-94.
Selenium	SW-846-7740. EPA 200.8. ASTM D6357-04. ASTM D4606-03. EPA 7060A.
Total Selected Metals	SW-846-6020A. SW-846-6020.

^a <http://www.epa.gov/epaoswer/hazwaste/test/sw846.htm>.

This table is not meant to be exhaustive, because the list of equivalent methods is dynamic. This table is meant to serve as guidance for the methods that have been approved to date. We emphasize that equivalent methods may be used in lieu of the prescribed methods in Table 6 to subpart DDDDD at the discretion of the source owner or operator. Therefore, maintaining a list of "approved methods" in the final rule is not necessary. Similarly, approval of equivalent methods by EPA or the delegated implementation authority is not necessary.

B. Utility Steam Generating Units

We are adopting the regulatory language that we proposed to avoid overlapping coverage between subpart DDDDD of 40 CFR part 63 and other rules that apply to certain types of electric utility steam generating units. The types of boilers and process heaters that are not subject to subpart DDDDD are listed in 40 CFR 63.7491. Our

intention was to exempt from subpart DDDDD any units that are already or will be subject to regulation for HAP under another standard. (See 69 FR 1663.) Because regulations relating to electric utility steam generating units were under development at the time of promulgation of subpart DDDDD, we were unable to reference a specific rule citation that applied to electric utility steam generating units. Instead, subpart DDDDD excluded electric utility steam generating units by using only the definition of electric utility steam generating units contained in section 112(a)(8) of the CAA.

On May 18, 2005, EPA promulgated the Clean Air Mercury Rule (70 FR 28606). In that rule, EPA established standards of performance for mercury (40 CFR part 60, subpart Da) from new electric utility steam generating units, as well as mercury emission guidelines for existing electric utility steam generating units (40 CFR part 60, subpart HHHH). After that rule was promulgated, it was brought to our attention that the scope of the exclusion in subpart DDDDD of 40 CFR part 63 for electric utility steam generating units was unclear. Confusion resulted because 40 CFR part 60, subparts Da and HHHH, employ different definitions to determine applicability. (See 70 FR at 28609.) Thus, to clarify applicability of subpart DDDDD, we are amending 40 CFR 63.7491(c) to exclude "an electric utility steam generating unit (including a unit covered by 40 CFR part 60, subpart Da) or a Mercury Budget unit covered by 40 CFR part 60, subpart HHHH."

C. Fuel Analysis Requirement

We received a comment raising the question of whether we intended for units which combust only a single fuel type to be required to conduct fuel analysis when demonstrating compliance through performance (stack) testing, as required by 40 CFR 63.7510(a). Our intent, as stated in the September 2004 preamble to the final rule (69 FR 55225), was that "Units burning only a single fuel type (not including startup fuels) do not need to determine, by fuel analysis, the fuel inlet operating limit when conducting performance tests." In this final action, we are adding similar language to 40 CFR 63.7510(a) to make this understanding explicit in the text of our regulations. This change was not included among the corrections we proposed in October 2005. However, since this revision is based on language in the September 2004 preamble that has not given rise to any objection, we are adopting this correction as part of this final rule.

D. Consolidated Testing and Emissions Averaging

The current language for the emissions averaging option in 40 CFR 63.7522 requires testing of each individual boiler in the averaging group. Our intent with regard to the emissions averaging option in the final rule was to provide an equivalent, more flexible, and less costly compliance alternative. Since testing emissions from a common stack for a group of boilers would be equivalent to the average emissions calculated from emissions tests on each individual boiler, we are amending subpart DDDDD of 40 CFR part 63 to allow testing of emissions at the common stack under specified situations described below.

Consolidated testing of the common stack must be conducted when each boiler is operated under representative testing conditions as specified in the National Stack Testing Guidance issued by EPA on September 30, 2005.

The amendments to 40 CFR 63.7522 adopted in this action are substantially the same as what we proposed in October 2005. However, based on public comments, we have modified some of the proposed language and added some conforming amendments to other provisions of subpart DDDDD of 40 CFR part 63 that relate to emissions averaging.

1. Compliance With Consolidating Testing

GE sought clarification on the consolidated testing procedures necessary to demonstrate compliance in two different common stack situations. In one situation, the exhaust from three existing large solid fuel boilers are combined and vented through a common emissions control system to a common stack. In the other situation, the exhaust from two existing large solid fuel boilers are each individually controlled prior to being vented to a common stack. In the revised regulatory provisions set forth below, we are amending this final rule to clarify how to demonstrate compliance under these two circumstances. The final amendments address these two circumstances in the same way that we proposed in October 2005.

In the first situation, a group of units that share a common control device before venting to a common stack is treated as a single source. In such situations, an operator can demonstrate compliance by testing at the common stack without using the emissions averaging equations in 40 CFR 63.7522 for each unit or submitting an implementation plan. We are also

adding language in section 63.7522(k) of subpart DDDDD to clarify that the common stack situations described above may be treated as a separate single emission point for purpose of including these units in an emissions averaging group with other existing large solid fuel boilers located at the facility.

We are adopting a slightly different approach for averaging emissions from groups of affected units that vent to a common stack through more than one emissions control system. These distinct approaches are necessary to ensure that a source with more than one emissions control system demonstrates continuous compliance at each emissions control system. Where a group of boilers vents to a common stack through more than one emission control system, continuous compliance will be demonstrated according to the methods specified in Table 8 to subpart DDDDD.

2. Monitoring of Common Stack

In this final action, we are adding an amendment to section 63.7541 of subpart DDDDD to address the COMS requirements for facilities participating in the emissions averaging option. If each of the boilers venting to a common stack has an applicable opacity operating limit, a dry control system, and no units from other subcategories or nonaffected units vent to the common stack, then a single COMS may be located in the common stack instead of each duct to the common stack. Alternately, if any of the boilers venting to the common stack does not have an applicable opacity operating limit, but each of the existing solid fuel units is equipped with a dry control system and no nonaffected units vent to the common stack, a COMS monitor may be located at the common stack instead of each duct to the common stack. We amended 40 CFR 63.7541 to allow for a COMS monitor at the common stack in this situation.

We discussed this approach in the October 2005 proposal (70 FR at 62268), but did not include any regulatory language in that action. Commenters requested that we make explicit in our regulations that this practice is permissible when sources elect to demonstrate compliance using emissions averaging.

3. Emissions Averaging When Units in Different Subcategories Are Ducted to Common Stack

In response to the GE petition for reconsideration, we proposed amendments that would limit the emissions averaging provision to common stack scenarios that contained

solely units in the existing large solid fuel subcategory. In this final action, we have decided to expand the emissions averaging provision to allow units in the existing large solid fuel subcategory to conduct performance tests at the end of a common stack configuration with affected units from other subcategories and nonaffected units under specific circumstances.

As a result of public comments submitted, we now recognize that affected units from several subcategories (e.g., both gas and solid fuel fired units) and nonaffected units are sometimes ducted to a common stack. To address these situations, we are adopting a revised amendment to the emissions averaging provision in 40 CFR 63.7522 that allows consolidated testing of units in the existing large solid fuel subcategory as long as the commonly vented units from other subcategories and nonaffected units follow specific procedures during the consolidated compliance test.

The emissions averaging provision is only applicable to units in the existing large solid fuel subcategory. EPA did not find cause to promulgate emissions limitations for many of the subcategories of existing units. However, new units are subject to different emissions limitations than existing units. These differing emissions limitations make it difficult to allow consolidated testing of emissions from sources in different subcategories under an emissions averaging approach.

However, to eliminate this obstacle to consolidated testing when existing large solid fuel units may share a duct or stack with units in other subcategories or nonaffected units covered by another NESHAP category, we are requiring facilities to shut down, or vent to a different stack, affected boilers or process heaters in other subcategories or nonaffected units in other categories prior to performing a consolidated compliance test for the units in the large solid fuel subcategory. Testing of a common stack in these situations will measure the average emissions from the averaging group of existing large solid fuel units, just as if each boiler in the large solid fuel subcategory was tested individually and their emissions averaged. By requiring the affected units from other subcategories or nonaffected units to be shut off, or vented to a different stack, during testing, the consolidated testing for certain stack configurations allows the group of existing large solid fuel boilers to demonstrate initial compliance at a lower cost.

Allowing the testing of a common stack under these conditions also

satisfies the criteria discussed in the September 2004 preamble to the final rule (69 FR 55239) that EPA has generally imposed on the scope and nature of emissions averaging programs. These criteria include: (1) No averaging between different types of pollutants, (2) no averaging between sources that are not part of the same major source, (3) no averaging between sources within the same major source that are not subject to the same NESHAP, and (4) no averaging between existing sources and new sources. This final rule fully satisfies each of these criteria.

The provision promulgated in this action only allows averaging of emissions from existing units in the large solid fuel subcategory. Emissions from units that are shut down or vented elsewhere during compliance testing are not included in the average or commingled with the emissions that are the focus of the test.

4. Continuous Compliance With the Emissions Averaging Provision

As a result of this expansion to the emissions averaging provision, we had to establish continuous compliance procedures with this provision to address common stack scenarios with units from multiple subcategories or nonaffected units. In this final rule, we are also amending 40 CFR 63.7541 to establish continuous compliance procedures under the emissions averaging provision for common stack configurations with different subcategories or nonaffected units. These amendments require affected units to maintain 3-hour average parametric limits on all the control devices for existing large solid fuel boilers venting to a common stack. The parametric limits will ensure that the control devices continue to operate under the conditions established during the initial compliance test. These amendments establish continuous compliance requirements for common stack configurations that were not previously eligible to comply with the emissions averaging provision.

5. Monthly Compliance Demonstrations and Calculations

This final rule includes several additional amendments to subsections (d), (e), and (f) of section 63.7522 that were recommended in public comments. These amendments clarify that, under the emissions averaging provision, continuous compliance must be demonstrated at the end of every month (12 times per year). In addition, we have made several corrections to the formulas used in emissions averaging calculations. Additional details on these

amendments are reflected in the Response-to-Comments document that is available in Docket No. EPA-HQ-OAR-2002-0058.

E. Definitions

In the October 2005 notice, we proposed to add or amend several definitions in subpart DDDDD of 40 CFR part 63 to clarify our intent and correct inadvertent omissions. In this final action, we are adopting modified versions of several definitions based on public comments. In addition, we are promulgating three additional definitions to provide additional clarity requested by commenters.

We have added a definition for “common stack” similar to the definition provided in 40 CFR part 72 at the request of some of the commenters.

We have also added a definition for “voluntary consensus standards” since this term is used to define “equivalent” as this term is used in Table 6 of subpart DDDDD. We are adopting the same definition of “equivalent” that we proposed, but we have added language to Table 6 of subpart DDDDD to clarify that equivalent methods may be used in lieu of the prescribed methods in Table 6 at the discretion of the source owner or operator.

The definitions for both “firtube boiler” and “watertube boiler” are amended to include criteria for classifying boilers designed with both firtubes and watertubes, commonly referred to as “hybrid boilers.” Based on comments, we are adopting a modified definition of firtube boiler to include boilers that utilize a containment shell that encloses firtubes and allows the water to vaporize and steam to separate. We have also modified the definition of watertube boilers that we proposed to include boilers that incorporate a steam drum with tubes connected to the drum to separate steam from water.

We have amended the proposed definitions for both small gaseous and small liquid fuel subcategories to clarify that these subcategories include all firtube boilers, regardless of size, as well as other types of boilers with a rated capacity of 10 million MMBtu per hour heat input or less. We have amended the definitions to clarify our intent that firtube boilers greater than 10 MMBtu per hour heat input are still part of the small subcategory.

We have also added an amendment to the definitions for both the small and large gaseous fuel subcategories to allow for units in these two categories to periodically test using liquid fuel as long as the tests do not exceed a combined total of 48 hours during any calendar year. This allowance was

adopted because of the need to test an emergency fuel in order to ensure that the unit could effectively operate using the emergency fuel during a period of gas curtailment. California regulations stipulate a 48-hour limit on this periodic testing on emergency fuels, and we have adopted their precedent.

We are also amending the definition of “fuel type” in response to a comment we received. Questions have been raised on whether we intended for units that may burn evidence seized in drug raids as a public service for a variety of enforcement agencies to test these materials as part of the compliance testing requirements. It is reportedly exceedingly difficult to arrange for a test of these materials given the security that surrounds them. Also, facilities have been approached about burning retired U.S. flags. Burning is the preferred mode of disposal of retired U.S. flags. Since we did not intend to include contraband materials, or U.S. flags, as a fuel when a facility is conducting performance tests or fuel analyses to demonstrate compliance, we are amending the definition of “fuel type” to include the statement “Contraband, prohibited goods, or retired U.S. flags, burned at the request of a government agency, are not considered a fuel type for the purpose of this subpart.” We do not classify facilities designed and operated for energy recovery as commercial and industrial solid waste incinerators if they combust small amounts of others materials. (See 70 FR 55568, 55575; September 22, 2005.)

A revision to the definition of “fuel type” was not included among the corrections that we proposed. However, since this amendment addresses a *de minimis* situation that supports law enforcement efforts and respect for a national symbol, we are adopting this correction in this final action.

IV. Responses to Significant Comments

We received 17 public comment letters on the proposed rule and notice of reconsideration. Complete summaries of all the comments and EPA responses are found in the Response-to-Comments document (see **SUPPLEMENTARY INFORMATION** section). The most significant comments are summarized below.

A. Scope of Emissions Averaging Provision

Comment: Several commenters requested that EPA expand the common stack testing option to include common stack configurations with groups of boilers from different subcategories or units not subject to the boiler NESHAP. Two of these commenters added that in

many situations the layout of boilers and ductwork to common stacks make it impractical to perform emissions testing on each individual boiler venting to the common stack due to a lack of appropriate sampling location and duct configurations. One commenter (OAR-2002-0058-0722) added that in order to test each individual unit a source would have to build a temporary testing system of stacks and ductwork to demonstrate initial compliance, and this temporary system would still not be suitable for demonstrating continuous compliance. The commenter contended that without expanding the testing to groups of boilers from different source categories venting to a common stack, the NESHAP would require a source to reconfigure its ductwork and build new stacks.

One commenter approved of EPA's amendments to allow common stack performance testing under the circumstances provided in the proposed amendments.

Response: We agree in part with the commenters' recommendation and have modified the rule to allow performance testing to be conducted at the end of stacks that receive emissions from boilers from different subcategories and nonaffected units in other NESHAP categories, as long as the emissions from these other units are stopped or redirected as described further below. However, we do not consider it appropriate to allow averaging of emissions from units in other subcategories or nonaffected units or consolidated testing of co-mingled emissions from units in other subcategories or nonaffected units. EPA has generally imposed limits on emissions averaging programs, which includes no averaging between emission units that are not part of the same source category. Since these units are generally subject to different emissions limitations, averaging or co-mingling of emissions would not provide a reliable demonstration of compliance with the applicable emissions limitation for those sources in a particular category or subcategory.

Nevertheless, we do consider it appropriate under specified conditions described further below to allow testing at the end of the common stack for existing large solid fuel units at facilities with stack configurations that contain units from other subcategories (e.g., gas-fired units) and nonaffected units. EPA has established a clear and enforceable method for demonstrating initial, annual, and continuous compliance when units of different subcategories and nonaffected units vent to a common stack. Further, extending the common

stack testing option to these stack configurations will not cause adverse effects to human health or the environment. The total emissions out of the stack will not increase as a result of this extension and compliance with the emission limits of each unit feeding the common stack will be determined by parametric limits on the control device through which the units vent to the common stack.

Facilities that have common stack configurations consisting of units subject to the boiler NESHAP and units from other source categories also have the prerogative to petition for alternate testing and compliance plans on a site-specific basis.

B. Compliance Testing and Monitoring

Comment: Several commenters suggested an alternative methodology to meet the requirements of initial and annual compliance tests for units opting to use the emissions averaging provision. These commenters suggested that during the initial and subsequent annual compliance tests, all boilers venting to the common stack that are not subject to emission limits be turned off (i.e. gas-fired units or nonaffected units). These commenters suggested that shutting down units of different subcategories or nonaffected units would satisfy the requirements of the boiler NESHAP. One commenter added that these methods will still provide reliable test data to the regulatory authorities to demonstrate compliance. One commenter added that since many large solid fuel units share a stack with gas-fired units, the NESHAP, as proposed in the notice of reconsideration, would require individual performance testing on each large solid fuel boiler, which would greatly increase the costs of testing compliance and increase system downtime.

Response: We agree that turning off units from other subcategories (e.g., gas-fired units) and nonaffected units during the testing period, satisfies the requirements of the boiler NESHAP emissions averaging provision. Allowing the testing of a common stack, when units from other subcategories and nonaffected units are turned off satisfies the criteria that EPA has generally imposed on the scope and nature of emissions averaging programs. These criteria include: (1) No averaging between different types of pollutants, (2) no averaging between sources that are not part of the same major source, (3) no averaging between sources within the same major source that are not subject to the same NESHAP, and (4) no averaging between existing sources and

new sources. The provision promulgated in this action only allows averaging of emissions from existing units in the large solid fuel subcategory. Emissions from units that are shut down or vented elsewhere during compliance testing are not included in the average or co-mingled with the emissions that are the focus of the test.

Facilities that have common stack configurations, with units subject to the boiler NESHAP and nonaffected units, have the prerogative to petition for alternate testing and compliance plans on a site-specific basis. The type of testing discussed here is one example of an alternate testing and compliance plan that a facility would petition for on a site-specific basis. We have adjusted the rule language in 40 CFR 63.7522(h) to allow for shutting down units from other subcategories and nonaffected units to demonstrate compliance with the emissions averaging provision when units belonging to different subcategories of the boiler NESHAP and nonaffected units vent to the same stack as large solid fuel boilers.

Comment: Two commenters suggested that parametric limits be set on all control devices used on solid fuel fired units and that these parametric limits be used to demonstrate continuous compliance with the emissions averaging provision of the boiler NESHAP. These commenters added that parametric limits on the control devices for existing large solid-fuel boilers would ensure that these control devices operated under the conditions established during the initial compliance test and provide a defensible way to demonstrate continuous compliance with the emissions averaging provision of the boiler NESHAP. One commenter suggested that parametric compliance limits be set on any control device in the group of units sharing a common stack, regardless of whether the conditions are wet or dry in the stack.

Response: We agree that setting parametric limits on all control devices for existing large solid-fuel boilers venting to a common stack is an acceptable method for demonstrating continuous compliance with the emissions averaging provision of the boiler NESHAP. These parametric limits are a clear and enforceable method of demonstrating compliance. We have adjusted the rule language in 40 CFR 63.7541 to allow for a facility to demonstrate continuous compliance under the emissions averaging provision by using parametric limits on the control devices of existing large solid fuel units venting to a common stack.

Comment: One commenter requested that EPA allow for a COMS at a common stack even when a source does not make use of the emissions averaging provision and opts to do performance testing on individual boilers. The commenter added that this regulatory flexibility will reduce compliance costs and maintain adequate levels of emissions monitoring.

Two commenters requested that EPA clarify 40 CFR 63.7525(b) to allow a COMS to be located at the common stack, regardless of whether the group of boilers sharing a common stack consists of boilers of different subcategories. One commenter suggested that it did not believe EPA intended to require a COMS on individual units sharing a common stack. The commenter added that it is impractical, due to a lack of space or adequate location, to install individual COMS monitors in the duct work for groups of boilers that share a common stack. The commenter cites 40 CFR part 60, appendix B, Performance Specification (PS)-1, to reference that in many cases this requirement has been satisfied by placing a COMS on the common stack.

One commenter suggested that language be added to 40 CFR 63.7522(j)(3) to indicate that a COMS monitor is required at a common stack, even when each individual boiler unit has a separate opacity operating limit. The commenter is concerned that without additional language, 40 CFR 63.7522(j)(3) could be misinterpreted to require a COMS in each duct leading to the common stack. The commenter noted that although there is discussion of this intent in the preamble (70 FR 62268), the commenter suggested that there be language added to this effect in the actual rule text. The commenter also suggested that language be added to 40 CFR 63.7541(a)(2) to clarify that a single COMS monitor for a group of units that each vents through a unique control system and then to a common stack. The commenter suggested this language is necessary so that this group of units is treated similarly to a group of units venting through a common control device to a common stack with respect to the requirements of a COMS.

Response: We agree with these suggestions as long as all units feeding the common stack are in the existing large solid fuel subcategory. The emissions averaging provision was intended to be an option for affected facilities to allow for increased regulatory flexibility. We reiterate here that if a source chooses to do performance testing for HAP emissions at each individual unit, the source is still eligible to locate a COMS monitor

on the common stack as long as all the units feeding the common stack are in the existing large solid fuel subcategory.

We disagree with the commenter's suggestion to allow for a COMS monitor to be located at the common stack when groups of boilers from different affected subcategories or nonaffected units are feeding the stack. We also disagree with allowing a single COMS unit to be placed on the common stack if the units feeding the common stack belong to other source categories.

C. Definitions

Comment: Several commenters requested that EPA modify the definitions of firetube and watertube boilers to account for hybrid boilers. The commenters suggested that EPA make the distinction between the two units based on the location of the containment or steam separation system in the unit in order to clarify the basic difference between fire tube and water tube units. Three commenters added that water tube units incorporate a steam drum, which provides for steam separation from water, whereas a fire tube unit uses a containment shell, inside which the water vaporizes and steam separates. One commenter suggested that a water tube boiler be defined as a boiler that has a water tube type of steam drum, with no additional heat exchange surface in the form of fire tubes running through the drum. The commenter suggested that a fire tube boiler be defined as any hybrid type of boiler where steam separation takes place in a vessel that also contains fire tubes that provide the major heat input to the water. The commenter added that this approach will simplify interpretation of this definition. Two commenters requested that EPA adopt the following addition to the definition of firetube boiler to account for hybrid boilers: "All owners or operators of hybrid boilers that have been registered/certified by the National Board of Boiler and Pressure Vessel Inspectors and/or the State as firetube boilers as indicated by "Form P-2" (Manufacturers Data Report For All Types of Boilers Except Watertube and Electric As Required by the Provisions of the American Society of Mechanical Engineers (ASME) Code Rules, Section I) shall be considered small units for the purpose of this subpart."

Response: We agree with the distinction between a firetube and watertube boiler using the criteria of whether a unit has a containment shell or a steam drum. We consider the ASME Code Rules and Forms to be an acceptable and established method for classifying vessel types. We have

modified the proposed definitions of watertube and firetube boilers to allow a facility to classify its hybrid vessel by one of two methods: (1) Determining whether or not the unit has a steam drum or containment system, or (2) the indication of firetube boiler on the ASME P-2 form.

Comment: Two commenters requested that the definition for large gaseous fuel units be changed to allow for units to combust oil during periods of natural gas supply emergencies or natural gas curtailment. The commenters added that if the unit combusts oil for periodic testing under these circumstances, this unit should not be automatically categorized in the large oil fuel subcategory.

Response: We agree that it is necessary for gas-fired units that are designed for combusting oil during periods of natural gas curtailment to periodically tune the unit for proper oil firing and combustion to be prepared for such periods. Based on review of current regulations in California regarding equipment testing of non-gaseous fuel, periodic testing of oil is allowed for a combined total of 48 hours during any calendar year. This periodic testing for up to 48 hours, which is in addition to periods of combusting oil during natural gas curtailment, will not cause a boiler to be categorized in the oil fuel subcategories. We have amended the definitions to clarify that gas boilers that fire liquid fuel for the purposes of periodic testing are not included in the liquid fuel subcategories.

D. Testing Methods

Comment: Several commenters requested that EPA list some specific examples of equivalent methods in Table 6 to subpart DDDDD. The commenters specifically added that since the promulgation of the NESHAP, EPA has received and approved many site-specific requests for the use "equivalent" methods. The commenters requested that any approved methods be added to Table 6.

Another commenter disagreed with deleting test method ASTM D3684-01 from Table 6 to subpart DDDDD. The commenter added that this test method should be retained in Table 6, and the final revised table should indicate that this test method is applicable for determining both arsenic and selenium.

Two commenters requested that the latest revisions of following test methods be listed in Table 6 to subpart DDDDD: ASTM D3684 for coal mercury analysis, ASTM D3683 for coal total selected metals, and ASTM D4208 for coal chlorine content. These

commenters added that these methods have a long history as established standard methods. By adding these methods to Table 6, sources or testing companies would not have to petition for approval of these established methods. These commenters also added that many coal chlorine levels exceed the upper bound (1136 parts per million) on the concentration range for repeatability and reproducibility on ASTM D6721, and that ASTM D4208 is a more appropriate testing method on coals with high chlorine concentrations.

Two commenters recommended that EPA provide authority to the States for approving equivalent testing methods that have already been accepted by EPA on multiple similar site-specific requests. The commenters added that providing authority to the States is an efficient way to determine approved equivalent testing methods.

Response: With this action, we have clarified the definition of equivalent method. Equivalent methods are voluntary consensus standards (VCS) or EPA methods which are applicable to the fuel type or target analyte being measured. Although we disagree with adding a complete list of equivalent methods already approved to the final rule itself, we have provided a list of these previously approved methods in the preamble to the final rule. We have also added a definition of VCS to the final rule to help clarify what equivalent methods are. Equivalent methods may be used in lieu of the prescribed methods in Table 6 to subpart DDDDD at the discretion of the source owner or operator. Therefore, publishing a list of or adding to the list of approved methods is not necessary. Similarly, State or EPA approval of equivalent methods is not necessary.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it is likely to raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This final action imposes no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of the final rule amendments, the information collection request has not been revised. OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060-0551 (EPA No. 2028.02). A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 assessing the impact of this final rule on small entities, a small entity is defined as: (1) A small business as defined by the Small

Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, country, 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 that is not dominant in its field.

After considering the economic impacts of this final rule on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. EPA has determined that none of the small entities will experience a significant impact because the final rule imposes no additional regulatory requirements on owners or operators of affected sources.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private section, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, for least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA's regulatory proposals with significant Federal intergovernmental mandates, and

informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this final 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 1 year. Although the original NESHAP had annualized costs estimated to range from \$690 to \$860 million (depending on the number of facilities eventually demonstrating eligibility for the health-based compliance alternatives), this final rule does not add new requirements that would increase this cost. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this final rule does not significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, this final rule is not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” are defined in the Executive Order to include regulations that 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.”

This final rule 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. The requirements discussed in this action will not supersede State regulations that are more stringent. Thus, Executive Order 13132 does not apply to this final rule.

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

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of

regulatory policies that have tribal implications.”

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. No affected facilities are owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this final rule.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant,” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

This final rule is not subject to the Executive Order because EPA does not have reason to feel that the environmental health or safety risks associated with the emissions addressed by this action presents a disproportionate risk to children. This demonstration is based on the fact that this action does not affect the emissions limits contained in this final rule.

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

This final rule is not a “significant energy actions” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this action is not likely to have any adverse energy effect.

I. National Technology Transfer and Advancement Act

As noted in the final rule, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent

with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB, with explanations when EPA decides not to use available and applicable voluntary consensus standards.

This action involves technical standards. During the development of this final rule, EPA searched for voluntary consensus standards that might be applicable. EPA adopted the following standards in this final rule: (1) ASTM D2013–04, “Standard Practice for Preparing Coal Samples for Analysis,” (2) ASTM D2234–D2234M–03E01, “Standard Practice for Collection of a Gross Sample of Coal,” (3) ASTM D6721–01, “Standard Test Method for Determination of Chlorine in Coal by Oxidative Hydrolysis Microcoulometry,” (4) ASTM D3173–03, “Standard Test Method for Moisture in the Analysis Sample of Coal and Coke,” (5) ASTM D4606–03, “Standard Test Method for Determination of Arsenic and Selenium in Coal by the Hydride Generation/Atomic Absorption Method,” (6) ASTM D6357–04, “Standard Test Methods for Determination of Trace Elements in Coal, Coke, and Combustion Residues from Coal Utilization Processes by Inductively Coupled Plasma Atomic Emission Spectrometry, Inductively Coupled Plasma Mass Spectrometry, and Graphite Furnace Atomic Absorption Spectrometry,” (7) ASTM D6722–01, “Standard Test Method for Total Mercury in Coal and Coal Combustion Residues by the Direct Combustion Analysis,” and (8) ASTM D5865–04, “Standard Test Method for Gross Calorific Value of Coal and Coke.”

Table 6 to subpart DDDDD of 40 CFR part 63 lists the fuel analysis methods included in this final rule. Under 40 CFR 63.7(f) in subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures.

J. Congressional Review Act

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, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This final rule will be effective February 5, 2007.

List of Subjects in 40 CFR Part 63

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

Dated: November 30, 2006.

Stephen L. Johnson,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter 1 of the code of Federal Regulations is amended to read as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Amended]

■ 2. Section 63.14 is amended by adding paragraphs (b)(55) through (62) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(55) ASTM D2013–04, Standard Practice for Preparing Coal Samples for Analysis, IBR approved for Table 6 to subpart DDDDD of this part.

(56) ASTM D2234–D2234M–03¹, Standard Practice for Collection of a Gross Sample of Coal, IBR approved for Table 6 to subpart DDDDD of this part.

(57) ASTM D6721–01, Standard Test Method for Determination of Chlorine in Coal by Oxidative Hydrolysis Microcoulometry, IBR approved for Table 6 to subpart DDDDD of this part.

(58) ASTM D3173–03, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved for Table 6 to subpart DDDDD of this part.

(59) ASTM D4606–03, Standard Test Method for Determination of Arsenic and Selenium in Coal by the Hydride Generation/Atomic Absorption Method, IBR approved for Table 6 to subpart DDDDD of this part.

(60) ASTM D6357–04, Standard Test Methods for Determination of Trace Elements in Coal, Coke, and Combustion Residues from Coal Utilization Processes by Inductively Coupled Plasma Atomic Emission Spectrometry, Inductively Coupled Plasma Mass Spectrometry, and Graphite Furnace Atomic Absorption Spectrometry, IBR approved for Table 6 to subpart DDDDD of this part.

(61) ASTM D6722–01, Standard Test Method for Total Mercury in Coal and Coal Combustion Residues by the Direct Combustion Analysis, IBR approved for Table 6 to subpart DDDDD of this part.

(62) ASTM D5865–04, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for Table 6 to subpart DDDDD of this part.

* * * * *

Subpart DDDDD—[Amended]

■ 3. Section 63.7491 is amended by revising paragraph (c) to read as follows:

§ 63.7491 Are any boilers or process heaters not subject to this subpart?

* * * * *

(c) An electric utility steam generating unit (including a unit covered by 40 CFR part 60, subpart Da) or a Mercury (Hg) Budget unit covered by 40 CFR part 60, subpart HHHH.

* * * * *

■ 4. Section 63.7510 is amended by revising paragraph (a) to read as follows:

§ 63.7510 What are my initial compliance requirements and by what date must I conduct them?

(a) For affected sources that elect to demonstrate compliance with any of the emission limits of this subpart through performance testing, your initial compliance requirements include conducting performance tests according to § 63.7520 and Table 5 to this subpart, conducting a fuel analysis for each type of fuel burned in your boiler or process heater according to § 63.7521 and Table 6 to this subpart, establishing operating limits according to § 63.7530 and Table 7 to this subpart, and conducting CMS performance evaluations according to

§ 63.7525. For affected sources that burn a single type of fuel, you are exempted from the initial compliance requirements of conducting a fuel analysis for each type of fuel burned in your boiler or process heater according to § 63.7521 and Table 6 to this subpart.

* * * * *

■ 5. Section 63.7522 is amended as follows:

- a. By revising paragraph (b),
- b. By revising paragraph (c),
- c. By revising paragraph (d),
- d. By revising paragraph (e),
- e. By revising paragraph (f), and
- f. By adding paragraphs (h) through (k).

§ 63.7522 Can I use emission averaging to comply with this subpart?

* * * * *

(b) Separate stack requirements. For a group of two or more existing large solid fuel boilers that each vent to a separate stack, you may average particulate matter or TSM, HCl and mercury emissions to demonstrate compliance with the limits in Table 1 to this subpart if you satisfy the requirements in paragraphs (c), (d), (e), (f), and (g) of this section.

(c) For each existing large solid fuel boiler in the averaging group, the emission rate achieved during the initial compliance test for the HAP being averaged must not exceed the emission level that was being achieved on November 12, 2004 or the control technology employed during the initial compliance test must not be less effective for the HAP being averaged than the control technology employed on November 12, 2004.

(d) The emissions rate from the existing large solid fuel boilers participating in the emissions averaging option must be in compliance with the limits in Table 1 to this subpart at all times following the compliance date specified in § 63.7495.

(e) You must demonstrate initial compliance according to paragraph (e)(1) or (2) of this section.

(1) You must use Equation 1 of this section to demonstrate that the particulate matter or TSM, HCl, and mercury emissions from all existing large solid fuel boilers participating in the emissions averaging option do not exceed the emission limits in Table 1 to this subpart.

$$\text{Ave Weighted Emissions} = \frac{\sum_{i=1}^n (E_r \times H_m)}{\sum_{i=1}^n H_m} \quad (\text{Eq. 1})$$

Where:

Ave Weighted Emissions = Average weighted emissions for particulate matter or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate (as calculated according to Table 5 to this subpart or by fuel analysis (as calculated by the applicable equation in § 63.7530(d))) for boiler, i, for particulate matter or TSM, HCl, or

mercury, in units of pounds per million Btu of heat input.

Hm = Maximum rated heat input capacity of boiler, i, in units of million Btu per hour.
n = Number of large solid fuel boilers participating in the emissions averaging option.

(2) If you are not capable of monitoring heat input, you may use

Equation 2 of this section as an alternative to using Equation 1 of this section to demonstrate that the particulate matter or TSM, HCl, and mercury emissions from all existing large solid fuel boilers participating in the emissions averaging option do not exceed the emission limits in Table 1 to this subpart.

$$\text{Ave Weighted Emissions} = \frac{\sum_{i=1}^n (Er \times Sm \times Cf)}{\sum_{i=1}^n Sm \times Cf} \quad (\text{Eq. 2})$$

Where:

Ave Weighted Emissions = Average weighted emission level for PM or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate (as calculated according to Table 5 to this subpart or by fuel analysis (as calculated by the applicable equation in § 63.7530(d))) for boiler, i, for particulate matter or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Sm = Maximum steam generation by boiler, i, in units of pounds.

Cf = Conversion factor, calculated from the most recent compliance test, in units of million Btu of heat input per pounds of steam generated.

(f) You must demonstrate continuous compliance on a monthly basis determined at the end of every month (12 times per year) according to paragraphs (f)(1) through (3) of this

section. The first monthly period begins on the compliance date specified in § 63.7495.

(1) For each calendar month, you must use Equation 3 of this section to calculate the monthly average weighted emission rate using the actual heat capacity for each existing large solid fuel boiler participating in the emissions averaging option.

$$\text{Ave Weighted Emissions} = \frac{\sum_{i=1}^n (Er \times Hb)}{\sum_{i=1}^n Hb} \quad (\text{Eq. 3})$$

Where:

Ave Weighted Emissions = monthly average weighted emission level for particulate matter or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate, (as calculated during the most recent compliance test, (as calculated according to Table 5 to this subpart) or fuel analysis (as calculated by the applicable equation in § 63.7530(d))

for boiler, i, for particulate matter or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Hb = The average heat input for each calendar month of boiler, i, in units of million Btu.

n = Number of large solid fuel boilers participating in the emissions averaging option.

(2) If you are not capable of monitoring heat input, you may use Equation 4 of this section as an alternative to using Equation 3 of this section to calculate the monthly weighted emission rate using the actual steam generation from the large solid fuel boilers participating in the emissions averaging option.

$$\text{Ave Weighted Emissions} = \frac{\sum_{i=1}^n (Er \times Sa \times Cf)}{\sum_{i=1}^n Sa \times Cf} \quad (\text{Eq. 4})$$

Where:

Ave Weighted Emissions = monthly average weighted emission level for PM or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Er = Emission rate, (as calculated during the most recent compliance test (as calculated according to Table 5 to this subpart) or by fuel analysis (as calculated by the applicable equation in § 63.7530(d))) for boiler, i, for particulate matter or TSM, HCl, or mercury, in units of pounds per million Btu of heat input.

Sa = Actual steam generation for each calendar month by boiler, i, in units of pounds.

Cf = Conversion factor, as calculated during the most recent compliance test, in units of million Btu of heat input per pounds of steam generated.

(3) Until 12 monthly weighted average emission rates have been accumulated, calculate and report only the monthly average weighted emission rate determined under paragraph (f)(1) or (2) of this section. After 12 monthly weighted average emission rates have been accumulated, for each subsequent calendar month, use Equation 4A of this section to calculate the 12-month rolling average of the monthly weighted average emission rates for the current month and the previous 11 months.

Eavg = 12-month rolling average emission rate, (pounds per million Btu heat input)
ERi = Monthly weighted average, for month "i", (pounds per million Btu heat input)(as calculated by (f)(1) or (2))

* * * * *

(h) Common stack requirements. For a group of two or more existing large solid fuel boilers, each of which vents through a single common stack, you may average particulate matter or TSM, HCl and mercury to demonstrate compliance with the limits in Table 1 to this subpart if you satisfy the requirements in paragraph (i) or (j) of this section.

(i) For a group of two or more existing large solid fuel boilers, each of which vents through a common emissions control system to a common stack, that

$$E_{avg} = \frac{\sum_{i=1}^n ER_i}{12} \quad (\text{Eq. 4A})$$

Where:

does not receive emissions from units in other subcategories or categories, you may treat such averaging group as a single existing solid fuel boiler for purposes of this subpart and comply with the requirements of this subpart as if the group were a single boiler.

(j) For all other groups of boilers subject to paragraph (h) of this section, the owner or operator may elect to:

(1) Conduct performance tests according to procedures specified in § 63.7520 in the common stack (if affected units from other subcategories (e.g., gas-fired units) or nonaffected units vent to the common stack, the units from other subcategories and nonaffected units must be shut down or vented to a different stack during the performance test); and

(2) Meet the applicable operating limit specified in § 63.7540 and Table 8 to this subpart for each emissions control system (except that, if each boiler venting to the common stack has an applicable opacity operating limit, then a single continuous opacity monitoring system may be located in the common stack instead of in each duct to the common stack).

(k) *Combination requirements.* The common stack of a group of two or more boilers subject to paragraph (h) of this section may be treated as a separate stack for purposes of paragraph (b) of this section and included in an emissions averaging group subject to paragraph (b) of this section.

■ 6. Section 63.7525 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.7525 What are my monitoring, installation, operation, and maintenance requirements?

(a) If you have an applicable work practice standard for carbon monoxide, and your boiler or process heater is in any of the large subcategories and has a heat input capacity of 100 MMBtu per hour or greater, you must install, operate, and maintain a continuous emission monitoring system (CEMS) for carbon monoxide and oxygen according to the procedures in paragraphs (a)(1) through (6) of this section by the compliance date specified in § 63.7495. The carbon monoxide and oxygen shall be monitored at the same location at the outlet of the boiler or process heater.

(1) Each CEMS must be installed, operated, and maintained according to the applicable procedures under Performance Specification (PS) 3 or 4A of 40 CFR part 60, appendix B, and according to the site-specific monitoring plan developed according to § 63.7505(d).

* * * * *

■ 7. Section 63.7540 is amended by revising paragraph (a)(4) to read as follows:

§ 63.7540 How do I demonstrate continuous compliance with the emission limits and work practice standards?

(a) * * *

(4) If you demonstrate compliance with an applicable HCl emission limit through performance testing and you plan to burn a new type of fuel or a new mixture of fuels, you must recalculate the maximum chlorine input using Equation 5 of § 63.7530. If the results of recalculating the maximum chlorine input using Equation 5 of § 63.7530 are higher than the maximum chlorine input level established during the previous performance test, then you must conduct a new performance test within 60 days of burning the new fuel type or fuel mixture according to the procedures in § 63.7520 to demonstrate that the HCl emissions do not exceed the emission limit. You must also establish new operating limits based on this performance test according to the procedures in § 63.7530(c).

* * * * *

■ 8. Section 63.7541 is amended as follows:

■ a. By revising paragraph (a) introductory text,

■ b. By revising paragraph (a)(2),

■ c. By adding paragraph (a)(5), and

■ d. By revising paragraph (b).

§ 63.7541 How do I demonstrate continuous compliance under the emission averaging provision?

(a) Following the compliance date, the owner or operator must demonstrate compliance with this subpart on a continuous basis by meeting the requirements of paragraphs (a)(1) through (5) of this section.

* * * * *

(2) You must maintain the applicable opacity limit according to paragraphs (a)(2)(i) through (ii) of this section.

(i) For each existing solid fuel boiler participating in the emissions averaging option that is equipped with a dry control system and not vented to a common stack, maintain opacity at or below the applicable limit.

(ii) For each group of boilers participating in the emissions averaging option where each boiler in the group is an existing solid fuel boiler equipped with a dry control system and vented to a common stack that does not receive emissions from affected units from other subcategories or nonaffected units, maintain opacity at or below the applicable limit at the common stack;

* * * * *

(5) For each existing large solid fuel boiler participating in the emissions averaging option venting to a common stack configuration containing affected units from other subcategories and/or nonaffected units, maintain the appropriate operating limit for each unit as specified in Tables 2 through 4 to this subpart that applies.

(b) Any instance where the owner or operator fails to comply with the continuous monitoring requirements in paragraphs (a)(1) through (5) of this section, except during periods of startup, shutdown, and malfunction, is a deviation.

■ 9. Section 63.7575 is amended as follows:

■ a. By revising the definitions for “Firetube boiler,” “Fuel type,” “Large gaseous fuel subcategory,” “Large liquid fuel subcategory,” “Large solid fuel subcategory,” “Small gaseous fuel subcategory,” “Small liquid fuel subcategory,” “Watertube boiler,” and

■ b. By adding definitions for “Common Stack,” “Equivalent,” and “Voluntary Consensus Standard” in alphabetical order.

§ 63.7575 What definitions apply to this subpart?

* * * * *

Common Stack means the exhaust of emissions from two or more affected units through a single flue.

* * * * *

Equivalent means the following only as this term is used in Table 6 to subpart DDDDD:

(1) An equivalent sample collection procedure means a published voluntary consensus standard or practice (VCS) or EPA method that includes collection of a minimum of three composite fuel samples, with each composite consisting of a minimum of three increments collected at approximately equal intervals over the test period.

(2) An equivalent sample compositing procedure means a published VCS or EPA method to systematically mix and obtain a representative subsample (part) of the composite sample.

(3) An equivalent sample preparation procedure means a published VCS or EPA method that: Clearly states that the standard, practice or method is appropriate for the pollutant and the fuel matrix; or is cited as an appropriate sample preparation standard, practice or method for the pollutant in the chosen VCS or EPA determinative or analytical method.

(4) An equivalent procedure for determining heat content means a published VCS or EPA method to obtain gross calorific (or higher heating) value.

(5) An equivalent procedure for determining fuel moisture content means a published VCS or EPA method to obtain moisture content. If the sample analysis plan calls for determining metals (especially the mercury, selenium, or arsenic) using an aliquot of the dried sample, then the drying temperature must be modified to prevent vaporizing these metals. On the other hand, if metals analysis is done on an "as received" basis, a separate aliquot can be dried to determine moisture content and the metals concentration mathematically adjusted to a dry basis.

(6) An equivalent pollutant (mercury, TSM, or total chlorine) determinative or analytical procedure means a published VCS or EPA method that clearly states that the standard, practice, or method is appropriate for the pollutant and the fuel matrix and has a published detection limit equal or lower than the methods listed in Table 6 to subpart DDDDD for the same purpose.

* * * * *

Firetube boiler means a boiler that utilizes a containment shell that encloses firetubes (tubes in a boiler having water on the outside and carrying the hot gases of combustion inside), and allows the water to vaporize and steam to separate. Hybrid boilers that have been registered/certified by the National Board of Boiler and Pressure Vessel Inspectors and/or the State as firetube boilers as indicated by "Form P-2" (Manufacturers' Data Report for All Types of Boilers Except Watertube and Electric, As Required by the Provisions of the ASME Code Rules, Section I), are considered to be firetube boilers for the purpose of this subpart.

* * * * *

Fuel type means each category of fuels that share a common name or classification. Examples include, but are not limited to, bituminous coal, subbituminous coal, lignite, anthracite, biomass, construction/demolition material, salt water laden wood, creosote treated wood, tires, residual oil. Individual fuel types received from different suppliers are not considered new fuel types except for construction/demolition material. Contraband, prohibited goods, or retired U.S. flags, burned at the request of a government agency, are not considered a fuel type for the purpose of this subpart.

* * * * *

Large gaseous fuel subcategory includes any watertube boiler or process heater that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or for periodic testing of liquid fuel, has a rated capacity of greater than 10 MMBtu per hour heat input, and does not have a federally enforceable annual average capacity factor of equal to or less than 10 percent. Periodic testing of liquid fuel is not to exceed a combined total of 48 hours during any calendar year.

Large liquid fuel subcategory includes any watertube boiler or process heater that does not burn any solid fuel and burns any liquid fuel either alone or in combination with gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and does not have a federally enforceable annual average capacity factor of equal to or less than 10 percent. Large gaseous fuel boilers and process heaters that burn liquid fuel during periods of gas curtailment, gas supply emergencies or for periodic testing of liquid fuel not to exceed a combined total of 48 hours during any calendar year are not included in this definition.

Large solid fuel subcategory includes any watertube boiler or process heater that burns any amount of solid fuel either alone or in combination with liquid or gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and does not have a federally enforceable annual average capacity factor of equal to or less than 10 percent.

* * * * *

Small gaseous fuel subcategory includes any size of firetube boiler and any other boiler or process heater with a rated capacity of less than or equal to 10 MMBtu per hour heat input that burn gaseous fuels not combined with any solid fuels and burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or for periodic testing of liquid fuel. Periodic testing is not to exceed a combined total of 48 hours during any calendar year.

Small liquid fuel subcategory includes any size of firetube boiler and any other boiler or process with a rated capacity of less than or equal to 10 MMBtu per hour heat input that do not burn any solid fuel and burn any liquid fuel either alone or in combination with gaseous fuels. Small gaseous fuel boilers

and process heaters that burn liquid fuel during periods of gas curtailment, gas supply emergencies or for periodic testing of liquid fuel not to exceed a combined total of 48 hours during any calendar year are not included in this definition.

* * * * *

Watertube boiler means a boiler that incorporates a steam drum with tubes connected to the drum to separate steam from water.

* * * * *

Voluntary Consensus Standards or VCS mean technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. EPA/OAQPS has by precedent only used VCS that are written in English. Examples of VCS bodies are: American Society of Testing and Materials (ASTM), American Society of Mechanical Engineers (ASME), International Standards Organization (ISO), Standards Australia (AS), British Standards (BS), Canadian Standards (CSA), European Standard (EN or CEN) and German Engineering Standards (VDI). The types of standards that are not considered VCS are standards developed by: the U.S. states, e.g., California (CARB) and Texas (TCEQ); industry groups, such as American Petroleum Institute (API), Gas Processors Association (GPA), and Gas Research Institute (GRI); and other branches of the U.S. government, e.g. Department of Defense (DOD) and Department of Transportation (DOT). This does not preclude EPA from using standards developed by groups that are not VCS bodies within their rule. When this occurs, EPA has done searches and reviews for VCS equivalent to these non-EPA methods.

* * * * *

■ 10. Table 6 and text before table to subpart DDDDD are revised to read as follows:

As stated in § 63.7521, you must comply with the following requirements for fuel analysis testing for existing, new or reconstructed affected sources. However, equivalent methods may be used in lieu of the prescribed methods at the discretion of the source owner or operator:

TABLE 6.—TO SUBPART DDDDD OF PART 63—FUEL ANALYSIS REQUIREMENTS

To conduct a fuel analysis for the following pollutant * * *	You must * * *	Using * * *
1. Mercury * * *	a. Collect fuel samples * * * b. Composite fuel samples * * * .. c. Prepare composited fuel samples * * *. d. Determine heat content of the fuel type * * *. e. Determine moisture content of the fuel type * * *. f. Measure mercury concentration in fuel sample * * *. g. Convert concentration into units of pounds of pollutant per MMBtu of heat content.	Procedure in § 63.7521(c) or ASTM D2234–D2234M–03€ ¹ (for coal) (IBR, see § 63.14(b)) or ASTM D6323–98 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. Procedure in § 63.7521(d) or equivalent. SW–846–3050B (for solid samples) or SW–846–3020A (for liquid samples) or ASTM D2013–04 (for coal) (IBR, see § 63.14(b)) or ASTM D5198–92 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D5865–04 (for coal) (IBR, see § 63.24(b)) or ASTM E711–87 (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D3173–03 (IBR, see § 63.14(b)) or ASTM E871–82 (1998) (IBR, see § 63.14(b)) or equivalent. ASTM D6722–01 (for coal) (IBR, see § 63.14(b)) or SW–846–7471A (for solid samples) or SW–846–7470A (for liquid samples or equivalent).
2. Total Selected metals * * *	a. Collect fuel samples * * * b. Composite fuel samples * * * .. c. Prepare composited fuel samples * * *. d. Determine heat content of the fuel type * * *. e. Determine moisture content of the fuel type * * *. f. Measure total selected metals concentration in fuel sample * * *. g. Convert concentrations into units of pounds of pollutant per MMBtu of heat content.	Procedure in § 63.7521(c) or ASTM D2234–D2234M–03€ ¹ (for coal) (IBR, see § 63.14(b)) or ASTM D6323–98 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. Procedure in § 63.7521(d) or equivalent. SW–846–3050B (for solid samples) or SW–846–3020A (for liquid samples) or ASTM D2013–04 (for coal) (IBR, see § 63.14(b)) or ASTM D5198–92 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D5865–04 (for coal) (IBR, see § 63.14(b)) or ASTM E711–87 (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D3173–03 (IBR, see § 63.14(b)) or ASTM E871–82 (IBR, see § 63.14(b)) or equivalent. SW–846–6010B or ASTM D6357–04 (for arsenic, beryllium, cadmium, chromium, lead, manganese, and nickel for all solid fuels) and ASTM D4606–03 (for selenium in coal) (IBR, see § 63.14(b)) or ASTM E885–88 (1996) for biomass) (IBR, see § 63.14(b)) or equivalent.
3. Hydrogen Chloride * * *	a. Collect fuel samples * * * b. Composite fuel samples * * * .. c. Prepare composited fuel samples * * *. d. Determine heat content of the fuel type * * *. e. Determine moisture content of the fuel type * * *. f. Measure chlorine concentration in fuel sample * * *. g. Convert concentrations into units of pounds of pollutant per MMBtu of heat content..	Procedure in § 63.7521(c) or ASTM D2234–D2234M–03€ ¹ (for coal) (IBR, see § 63.14(b)) or ASTM D6323–98 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. Procedure in § 63.7521(d) or equivalent. SW–846–3050B (for solid samples) or SW–846–3020A (for liquid samples) or ASTM D2013–04 (for coal) (IBR, see § 63.14(b)) or ASTM D5198–92 (2003) (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D5865–04 (for coal) (IBR, see § 63.14(b)) or ASTM E711–87 (1996) (for biomass) (IBR, see § 63.14(b)) or equivalent. ASTM D3173–03 (IBR, see § 63.14(b)) or ASTM E871–82 (1998) or equivalent. SW–846–9250 or ASTM D6721–01 (for coal) or ASTM E776–87 (1996) (for biomass) (IBR, see § 63.14(b)) or equivalent.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 70****[FDMS Docket No. EPA-R03-OAR-2006-0933; FRL-8252-3]****State Operating Permit Programs; Delaware; Amendments to the Definition of a "Major Source"****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action to amend the State of Delaware's operating permit program to correct the definition of "major source." Delaware's revision was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to submit to EPA program revisions in accordance with the Federal Title V regulations. The EPA granted final approval of Delaware's operating permit program on November 19, 2001. Delaware amended its operating permit program to address the Federal EPA amendment to the Federal Title V regulation, which went into effect on November 27, 2001, and this action approves this amendment. Any parties interested in commenting on this action granting approval of Delaware's amendment to the Title V operating permit program should do so at this time.

DATES: This rule is effective on February 5, 2007 without further notice, unless EPA receives adverse written comment by January 5, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0933 by one of the following methods:

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

B. E-mail: campbell.dave@epa.gov.

C. Mail: EPA-R03-OAR-2006-0933, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. 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-R03-OAR-2006-0933. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, (215) 814-3377, or by e-mail at nino.rose@epa.gov.

SUPPLEMENTARY INFORMATION: On May 18, 2004, the State of Delaware

submitted an amendment to its State operating permit program. This amendment is the subject of this document and this section provides additional information on the amendment by addressing the following questions:

What Is the State Operating Permit Program?

What Are the State Operating Permit Program Requirements?

What Is Being Addressed in This Document?

What Is Not Being Addressed in This Document?

What Changes to Delaware's Operating Permit Program Is EPA Approving?

What Action Is Being Taken by EPA?

What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain Federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of "major" sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM₁₀ and PM_{2.5}); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.