report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 21, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 9, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(72) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(72) Revisions to the New Jersey State Implementation Plan (SIP) concerning the Enhanced Inspection and Maintenance Program, submitted on December 3, 2002 by the New Jersey State Department of Environmental Protection (NJDEP).

(i) Incorporation by reference:

(A) New Jersey Revised Statutes.

(*1*) Public Law 2002, Chapter 34, paragraph 15 amending N.J.S.A. 39:8–2.c, enacted on July 1, 2002.

[FR Doc. 03–3697 Filed 2–14–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0045; AD–FRL–7446–6]

RIN 2060–AK53

National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills, which were issued on January 12, 2001 under section 112 of the Clean Air Act (CAA). The amendments clarify and consolidate the monitoring and testing requirements and add a site-specific alternative standard for one pulp mill. We are issuing these amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills if significant adverse comments are filed.

DATES: The direct final rule is effective on May 19, 2003, without further notice, unless EPA receives significant adverse comments by March 20, 2003. If significant adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** to notify the public that the rule will not take effect. The incorporation by reference of certain publications in the rule is approved by the Director of the Office of the Federal Register as of May 19, 2003.

ADDRESSES: Comments may be submitted by mail (in duplicate, if possible) to EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0045. By hand delivery/courier, comments may be submitted (in duplicate, if possible) to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0045.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD–C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5427, facsimile number (919) 541–5600, electronic mail (e-mail) address *telander.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action are those kraft, soda, sulfite, and stand-alone semichemical pulp mills with chemical recovery processes that involve the combustion of spent pulping liquor. Categories and entities potentially regulated by this action include:

Category	NAICS code*	Examples of regulated entities
Industry	32211 32212 32213	Kraft, soda, sulfite, and stand-alone semichemical pulp mills.
Federal government		Not affected.
State/local/tribal government		Not affected.

*North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.860 of the national emission standards. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this document.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0045. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B–108, 1301 Constitution Avenue, NW, Washington, DC 2004. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search'' and key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information and other information whose disclosure is restricted by statute, which are not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in this document.

Direct Final Rule. We are publishing the direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate significant adverse comments. We anticipate no significant adverse comments because EPA received no adverse comments when we published similar amendments during 2001. Furthermore, with respect to the amendment regarding an individual sulfite pulp mill located in Cosmopolis, Washington, EPA has already received favorable comments on the amendment from the State of Washington. The EPA received one adverse comment during the CAA section 113(g) comment period on the draft settlement agreement between EPA and Weyerhaeuser Paper Company, which described the amendment at issue, which comment is being addressed directly in this notice (although this response does not bar further comment). However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills if significant adverse comments are filed.

If we receive any significant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule, should the Agency determine to issue one. Any of the distinct amendments in today's rule for which we do not receive significant adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's document will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this action will be posted 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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct 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 April 21, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading the preamble to the direct final rule.

I. Background

The EPA promulgated national emission standards for hazardous air pollutants for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills on January 12, 2001 (66 FR 3180). The final rule (40 CFR part 63, subpart MM) includes standards for hazardous air pollutants (HAP), as well as monitoring, performance testing, recordkeeping, and reporting requirements. The EPA established a site-specific potential compliance date under subpart MM for Georgia-Pacific Corporation's stand-alone semichemical pulp mill in Big Island, Virginia (66 FR 16400, March 26, 2001). The EPA published technical corrections to subpart MM on July 19, 2001 (66 FR 37591), which corrected the compliance date and oxygen correction equations and clarified the performance testing requirements to account for all applicable test methods and sources. Today's action includes amendments to clarify and consolidate the monitoring and testing requirements and adds a site-specific alternative standard for HAP metals for Weyerhaeuser Paper Company's sulfite pulp mill in Cosmopolis, Washington.

A. Site-Specific Alternative Standard

The NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills includes a HAP metals standard for existing sulfite combustion units, using particulate matter (PM) emissions as a surrogate for HAP metals emissions. The final rule requires existing sulfite combustion units to reduce HAP metals emissions, measured as PM, to a level less than or equal to 0.040 grains per dry standard cubic foot (gr/dscf), corrected to 8 percent oxygen (§ 63.862(a)(2)).

Following promulgation of the rule, Weyerhaeuser Paper Company requested that EPA issue a site-specific alternative standard under subpart MM for Weyerhaeuser's Cosmopolis, Washington sulfite pulp mill. The alternative standard would allow Weyerhaeuser to reduce HAP metals emissions from an onsite emission source called a hog fuel dryer in lieu of complying with the HAP metals standard for existing sulfite combustion units. The hog fuel dryer at the Cosmopolis mill is used to dry solid fuel, such as bark, prior to combustion of the fuel in an onsite boiler. The hog fuel dryer is not regulated under a NESHAP and appears to be unique. Compliance with the alternative standard will result in greater annual HAP metals emissions reductions, lower annual energy utilization, and lower compliance costs at the Cosmopolis mill than would have been achieved through compliance with the HAP metals standard for sulfite combustion units.

Weyerhaeuser's Cosmopolis, Washington mill is a magnesium-based sulfite mill with three chemical recovery furnaces. These three recovery furnaces are subject to the HAP metals standard in subpart MM for existing sulfite combustion units. The emissions from each recovery furnace are first routed through a multiclone to recover magnesium oxide (particulate) and then through a cooling tower followed by absorption towers to recover sulfur dioxide. Following the absorption towers, the emissions from the three recovery furnaces are combined and treated in an educted venturi scrubber before being emitted to the atmosphere through a common stack.

The recovery furnaces are subject to a Washington State permit PM limit of 0.1 gr/dscf. The applicable NESHAP limit of 0.040 gr/dscf, corrected to 8 percent oxygen, is more stringent and would supersede the State limit. The hog fuel dryer is also subject to a State permit PM limit of 0.1 gr/dscf. However, the hog fuel dryer is not subject to any NESHAP. The hog fuel dryer is equipped with cyclones to reduce PM emissions. The alternative standard probably cannot be achieved without installation of a fabric filter, and Weyerhaeuser intends to replace the existing cyclones on the hog fuel dryer with a fabric filter after promulgation of the site-specific alternative standard.

Environmentally beneficial practices at the Cosmopolis mill include the use of oxygen delignification and elemental chlorine-free and oxygen bleaching. The load on the recovery furnaces has increased as a result of oxygen delignification and a decision by the mill to burn sludge from onsite wastewater treatment in the recovery furnaces. Although the mill recovers energy from burning the biosolids, this practice has resulted in an increase in PM emissions from the recovery furnaces. However, the mill is still able to consistently meet its State permit PM limit.

The sulfite recovery furnaces at the Cosmopolis mill are tested monthly for PM. Based on the monthly data collected during the past 12 years, the mill cannot consistently meet EPA's NESHAP standard for HAP metals from existing sulfite recovery furnaces (0.040 gr/dscf at 8 percent oxygen, measured as PM) without a significant investment in a new emission control device. Because the exhaust gas volume from the hog fuel dryer is much smaller than the exhaust gas volume from the recovery furnaces, Weyerhaeuser determined that it would be much less costly for the Cosmopolis mill to install more efficient controls to reduce HAP metals emissions from the hog fuel dryer than from the recovery furnaces. Weyerhaeuser estimates that the capital cost of controlling the emissions from the recovery furnaces would be approximately $4 million (based on installation of a wet electrostatic precipitator) versus approximately $1.3 million to control emissions from the hog fuel dryer (based on installation of a fabric filter). The operating cost of the fabric filter for control of hog fuel dryer emissions would be about the same as the operating costs of the existing mechanical cyclone, which the fabric filter would replace. Weyerhaeuser also estimates that the operating costs of the wet electrostatic precipitator for control of recovery furnace emissions would be approximately $60,000 per year.

Weyerhaeuser conducted HAP emission tests to determine and compare the quantity of HAP metals emitted from the recovery furnaces (combined stack) versus the hog fuel dryer under current operating conditions. The recovery furnaces and hog fuel dryer were tested for the following 11 HAP metals: antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium. Based on the results of the emission tests, the sulfite recovery furnaces collectively emit approximately 212 pounds per year (lb/yr) of HAP metals, and the hog fuel dryer emits approximately 441 lb/yr. (See Docket ID No. OAR–2002–0045.) Both the recovery furnaces and hog fuel dryer emit very similar types of HAP metals. For both emission sources, the top four HAP metals emitted were manganese, lead, chromium, and nickel, accounting for 98.5 percent of the recovery furnace HAP metals emissions and 98.9 percent of the hog fuel dryer HAP metals emissions. Manganese was the predominant HAP metal emitted from both sources. The recovery furnaces emitted 0.025 pounds per hour (lb/hr) of manganese, accounting for 86 percent of the recovery furnace HAP metals emissions. The hog fuel dryer emitted 0.10 lb/hr of manganese, accounting for 97 percent of the hog fuel dryer HAP metals emissions. (See Docket ID No. OAR–2002–0045.) None of these metals are added to the mill's manufacturing process but are naturally occurring metals present in the wood chips and hog fuel processed at the mill.

Compliance with EPA's HAP metals standard for existing sulfite combustion units would reduce HAP metals emissions from the recovery furnaces by about 30 percent using PM as a surrogate for HAP metals. Assuming the same emissions reductions are achieved for HAP metals as for PM, compliance with the HAP metals standard for existing sulfite combustion units would reduce HAP metals emissions from the recovery furnaces by approximately 64 lb/yr. As an alternative to controlling HAP metals emissions from the recovery furnace, Weyerhaeuser proposes that the hog fuel dryer at their Cosmopolis, Washington mill meet a PM emission limit of 10.0 lb/hr (with PM serving as a surrogate for HAP metals emissions), which is equivalent to a PM emissions concentration of 0.030 gr/dscf. The hog fuel dryer's current PM emissions concentration is 0.081 gr/dscf. Weyerhaeuser's proposed PM emission limit for the hog fuel dryer would require that the mill reduce PM emissions from the hog fuel dryer by approximately 63 percent. Assuming the same emissions reductions are achieved for HAP metals as for PM, the total HAP metals emission reduction for the alternative standard would be approximately 278 lb/yr, which is more than four times the HAP metals

emissions reductions that would be achieved through compliance with the HAP metals standard for existing sulfite combustion units.

After reviewing the test reports and other documentation provided by Weyerhaeuser, we agree with Weyerhaeuser's request to include an alternative standard in subpart MM because the alternative achieves greater emissions reductions of the same HAP metals and does so by controlling a source otherwise unregulated under subpart MM or any other NESHAP. The emission test reports and other documents related to the alternative standard are provided in the project docket. (*See* Docket ID No. OAR–2002–0045.)

The EPA received one adverse comment on the proposed settlement agreement. The commenter maintained that once EPA learned that there was an unregulated emission point at the Cosmopolis mill, the Agency had no choice but to develop a maximum achievable control technology (MACT) standard for that emission point in addition to the MACT standard for all other emission points. The commenter further suggested that the unregulated emission point would be subject to case-by-case MACT (under section 112(j) of the Act).

The EPA appreciates this thoughtful comment, but does not agree with it. First, although the commenter's approach is permissible, it is not compelled. The EPA typically develops MACT standards for a series of aggregated plant operations, not for individual emission points, in keeping with the requirement in section 112(d)(2) to develop emission standards applicable to new or existing ''sources''. A ''source'' can include an entire facility. See sections 112(a)(3) and 111(a)(3). In this case, EPA has determined that MACT for the aggregated unit operations involved in black liquor recovery (the source category subject to this rule) is a given amount of HAP emissions. Indeed, the standard for HAP metals in the existing rule (the HAP also emitted by the hog fuel dryer) is expressed as an aggregated limit (along with an alternative standard expressing the standard on an emission point by emission point basis). See section 63.862(a)(1)(ii)(A). In this rule, EPA is providing an alternative means of complying with that MACT limit (a means which, as explained above, results in more HAP reduction than otherwise provided for in the rule). The EPA notes further that it has pursued this same approach to compliance in a number of Project XL applications. See, *e.g.* 66 FR 34119, 34120 (June 27, 2001) (final rule) and 66 FR 16637, 16640 (March 27, 2001) (proposed rule).

The commenter's further point regarding use of 112(j) to develop case-by-case MACT for the single emission point also is not compelled (and probably is not permissible). Once EPA promulgates a valid MACT standard for a source category, the Agency has fulfilled its statutory obligation and no case-by-case limitation may issue.

Finally, even if one were to accept the commenter's argument that MACT must be developed on an emission point by emission point basis, a standard for a hog fuel dryer would likely be some type of beyond-the-floor, given the absence of this emission point at other facilities and absence of controls at the one facility operating this type of unit. The EPA thus would be compelled to consider the cost, non-air quality environmental and health impacts and energy requirements of a standard (as required by section 112(d)(2)), and would not be obligated to promulgate a standard based upon consideration of those factors. Thus, even under the commenter's approach, it would not follow that a standard would result.

B. Technical Corrections

The NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills includes standards, as well as monitoring, performance testing, recordkeeping, and reporting requirements. Technical corrections to subpart MM were published by EPA on July 19, 2001, correcting the compliance date and oxygen concentration equations and clarifying the performance testing requirements to account for all applicable test methods and sources. After these technical corrections were published, it became evident that additional technical corrections were needed to provide further clarification of the monitoring and testing requirements. Today's action includes those technical corrections, which are described previously in this preamble.

II. Amendments to Subpart MM

Today's action includes amendments to clarify and consolidate the monitoring and testing requirements and adds a site-specific alternative standard for Weyerhaeuser Paper Company's sulfite pulp mill in Cosmopolis, Washington.

As described above, the alternative standard will allow the mill to reduce emissions from an onsite hog fuel dryer in lieu of complying with the standard for HAP metals for existing sulfite combustion units specified in § 63.862(a)(2). The alternative standard will limit HAP metals emissions from the hog fuel dryer by limiting PM emissions to a level less than or equal to 10.0 lb/hr. Weyerhaeuser will install a fabric filter on the hog fuel dryer to achieve compliance with the alternative standard and must continuously monitor the performance of the fabric filter using a bag leak detection system with an audible alarm system. Weyerhaeuser must perform an initial compliance test using the test methods specified in the NESHAP to demonstrate that the PM emissions from the hog fuel dryer meet the alternative standard. Weyerhaeuser also must develop and implement a written startup, shutdown, and malfunction plan that contains specific procedures to be followed for operating and maintaining the hog fuel dryer and fabric filter during periods of startup, shutdown, and malfunction, and a program of corrective action if the hog fuel dryer or fabric filter malfunctions. Weyerhaeuser must take corrective action as specified in its startup, shutdown, and malfunction plan whenever the bag leak detection alarm sounds. The Cosmopolis mill will be in violation of the alternative standard if corrective action is not initiated within 1 hour of a bag leak detection alarm, corrective action is not completed in accordance with the startup, shutdown, and malfunction plan, or the alarm is engaged for more than 5 percent of the total operating time during a 6-month block reporting period.

The EPA is granting Weyerhaeuser's request for an alternative standard for its Cosmopolis, Washington sulfite mill because compliance with the alternative standard will result in a greater reduction in HAP metals emissions than would be achieved through compliance with the HAP metals standard for existing sulfite combustion units, and at a lower cost to the mill. The HAP metals emissions reductions will be at least four times greater under the alternative standard, and energy utilization will be lower.

The changes to subpart MM resulting from inclusion of amendments to clarify the monitoring and testing requirements and addition of a site-specific alternative standard for Weyerhaeuser's Cosmopolis, Washington mill are described in Table 1 of this preamble.

TABLE 1.—SUMMARY OF AMENDMENTS TO SUBPART MM

Citation	Change
§ 63.860(b)	Change the number of referenced paragraphs from (b)(1) through (6) to (b)(1) through (7) to reflect the addition of paragraph (b)(7) (hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill) to the list of affected sources.
§ 63.860(b)(5)	Revise the definition of affected source for sulfite combustion units to exclude the units at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.860(b)(7)	Add the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill to the list of affected sources.
§ 63.861	Add definitions in alphabetical order for Bag leak detection system, Fabric filter, and Hog fuel dryer.
§ 63.862(a)(1)(i)(B)	Introduce the terms kg/Mg and lb/ton to read kilogram per megagram and pound per ton, respectively.
§ 63.862(a)(2)	Specify the alternative standard in paragraph (d) as an exception to the HAP metals standard for existing sulfite combustion units.
§ 63.862(d)	Add an alternative standard for HAP metals for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.864	Add a site-specific monitoring plan and monitoring specifications for continuous opacity monitoring systems and continuous parameter monitoring systems to clarify the monitoring requirements. Add monitoring specifications, corrective action provisions, and violation provisions for bag leak detection systems for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill. Allow sources to identify and exclude periods of no gas flow in calculating average parameter values by adding flow monitor provisions and data availability restrictions. Under § 63.7(a), initial performance tests (and the establishment of operating parameter values) are not required until 180 days after the compliance date. Enable sources to demonstrate whether they are in compliance during the period between the compliance date and the performance test date by adding a provision requiring sources to maintain during this period a log that details the operation and maintenance of the process and emissions control equipment. Add two provisions to this section based on provisions moved from § 63.865(e) and (f). These two provisions include procedures for establishing operating parameter values and procedures for obtaining approval of operating parameters for alternative control devices. Move three provisions in § 63.864(a)(6), (b)(1), and (b)(4) to § 63.865 so as to consolidate all performance testing provisions under § 63.865. These three provisions include performance test exemptions for new non-direct contact evaporator (NDCE) recovery furnaces equipped with a dry electrostatic precipitator (ESP) system and performance test requirements for all other sources, including those sources complying with the overall PM bubble emission limit. Delete the performance test exemption in § 63.864(b)(3) for new NDCE recovery furnaces equipped with a dry ESP system as repetitive of the same provision in § 63.864(a)(6).
§ 63.865	Add an introductory paragraph based on a provision moved from § 63.864(b)(1). This provision requires sources to conduct an initial performance test.
§ 63.865(a)(1)	Revise the term tons/d to read ton/d.
§ 63.865(a)(2)(vi)	Add a new paragraph (a)(2)(iv) based on a provision moved from § 63.864(b)(4). This provision requires sources complying with the overall PM bubble emission limit to demonstrate compliance with the approved PM emission limits for the process units using the referenced test methods and procedures.
§ 63.865(b)	Include the alternative standard in § 63.862(d) in the list of standards for which sources must determine compliance using the referenced test methods and procedures.
§ 63.865(b)(1)	Clarify that the sampling time, sample volume, and cleanup solvent requirements apply to Methods 5, 29, and 17 (40 CFR part 60, appendix A). Allow sources to use the test methods to measure concentration or mass of PM. Include the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill in the list of units to be tested.
§ 63.865(b)(2)	Revise the reference paragraph (a) or (b) of § 63.862 to read § 63.862(a) or (b).
§ 63.865(b)(3)	Include the voluntary consensus standard American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) Performance Test Code (PTC) 19.10–1981-part 10 as an alternative to Method 3B. Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, EPA is directed to use voluntary consensus standards in its regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA has identified the voluntary consensus standard ANSI/ASME PTC 19.10–1981-part 10 as an acceptable alternative to EPA Method 3B with regard to the standard's manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas.
§ 63.865(b)(5)	Revise this paragraph and add paragraphs (b)(5)(i) through (iv) to include the alternative EPA methods to Methods 1, 2, and 3 in 40 CFR part 60, appendix A (i.e., Methods 1A, 2A, 2C, 2D, 2F, 2G, 3A, and 3B) and the alternative voluntary consensus standard to Method 3B (i.e., ANSI/ASME PTC 19.10–1981-part 10).
§ 63.865(c), (c)(1), (c)(2)	Revise paragraph (c) to introduce the performance and testing requirements for all new recovery furnaces. Revise paragraph (c)(1) based on a provision moved from § 63.864(a)(6). This provision exempts new NDCE recovery furnaces equipped with a dry ESP system from conducting a performance test. Revise paragraph (c)(2) and add new paragraphs (c)(2)(i) and (c)(2)(ii) to provide the required test method (Method 308 (40 CFR part 63, appendix A)) and emission rate equations for new recovery furnaces not equipped with a dry ESP system. In paragraph (c)(2), refer to paragraphs (b)(5)(i) through (iv) for additional test methods beyond Method 308. In paragraph (c)(2)(i), introduce the terms Mg/hr and ton/hr to read megagrams per hour and tons per hour, respectively.
§ 63.865(d)	Refer to paragraphs (b)(5)(i) through (iv) for additional test methods beyond Method 25A in 40 CFR part 60, appendix A. Specify the calibration gas as propane for each Method 25A test run.
§ 63.865(d)(1)	Revise the list of variables for Equation 11 to clarify that the THC emission rate and mass emission rate must be reported as carbon.

TABLE 1.—SUMMARY OF AMENDMENTS TO SUBPART MM—Continued

Citation	Change
§ 63.865(e) and (f)	Move two provisions in § 63.865(e) and (f) to § 63.864 so as to consolidate all monitoring provisions under § 63.864. These two provisions include procedures for establishing operating parameter values and procedures for obtaining approval of operating parameters for alternative control devices.
§ 63.866(c)	Change the number of referenced paragraphs from (c)(1) through (6) to (c)(1) through (7) to reflect the addition of paragraph (c)(7) (bag leak detection system records) to the recordkeeping requirements.
§ 63.866(c)(1) and (2)	Abbreviate the terms megagrams/day and tons/day to read Mg/d and ton/d, respectively.
§ 63.866(c)(7)	Add recordkeeping requirements for the bag leak detection system for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.
§ 63.867(a)(3)	Add a notification of compliance status requirement for the bag leak detection system for the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington mill.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in standards 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 entitlement, 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 these amendments do not constitute a ''significant regulatory action'' because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2060–0377. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1805.03) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (MD–2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at *auby.susan@epa.gov*, or by calling (202) 566–1672. A copy may also be downloaded from the internet at *http://www.epa.gov/icr*.

Today's action makes clarifying changes to the final rule and imposes no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of this direct final rule, the ICR has not been revised.

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 purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business that has fewer than 750 employees for NAICS codes 32211, 32212, and 32213 (pulp, paper, and paperboard mills); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives which minimize any significant economic impact of the proposed rule on small entities (5 U.S.C. 603–604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive effect on the small entities subject to the rule. The amendments in today's rule make improvements to the emission standards, primarily by clarifying issues in the areas of testing and monitoring and add a new compliance option. We have, therefore, concluded that today's final rule will have no adverse impacts on any small entities and may relieve burden in some cases.

D. Unfunded Mandates Reform Act of 1995

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, the 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 to State, local, and tribal governments, in the aggregate, or to 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 the 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 the 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 the 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 regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the direct 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 aggregate, or the private sector in any 1 year, nor does the direct final rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to the direct final rule.

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'' is 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 direct 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. None of the affected facilities are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to the direct 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.'' The final rule does not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to the amendments. Thus, Executive Order 13175 does not apply to the direct final rule.

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

Executive Order 13045 applies to any rule that EPA determines (1) is ''economically significant'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency 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 the Agency.

The EPA interprets Executive Order 13045 as applying only to 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. The direct final rule is not subject to Executive Order 13045, because it is based on technology performance and not on health or safety risks.

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

The direct final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the NTTAA (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. One voluntary consensus standard, ANSI/ASME PTC 19.10–1981—Part 10 (''Flue and Exhaust Gas Analysis''), has been identified as an acceptable alternative to EPA Method 3B for the purposes of this action. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 is cited in today's action for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10–1981—Part 10 is an acceptable alternative to EPA Method 3B. The EPA is not proposing/adopting any other voluntary consensus standards in this action.

J. Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by SBREFA 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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. The direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). The direct final rule will become effective on May 19, 2003, unless significant adverse comments are received by March 20, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: January 27, 2003.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 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 A—[Amended]

2. Section 63.14 is amended by revising paragraph (i) and removing paragraph (j) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) The following materials are available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2900, Fairfield, NJ 07007–2900; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112.

(1) ASME standard number QHO–1–1994, ''Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators,'' IBR approved for § 63.1206(c)(6)(iii).

(2) ASME standard number QHO–1a-1996 Addenda to QHO–1–1994, ''Standard for the Qualification and Certification of Hazardous Waste Incinerator Operators,'' IBR approved for § 63.1206(c)(6)(iii).

(3) ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],'' IBR approved for §§ 63.865(b), 63.3360(e)(1)(iii), 63.4166(a)(3), and 63.5160(d)(1)(iii).

* * * * *

Subpart MM—[Amended]

3. Section 63.860 is amended by:

a. Revising paragraph (b) introductory text;

b. Revising paragraph (b)(5); and

c. Adding paragraph (b)(7).

The revisions and addition read as follows:

§ 63.860 Applicability and designation of affected source.

* * * * *

(b) *Affected sources.* The requirements of this subpart apply to each new or existing affected source listed in paragraphs (b)(1) through (7) of this section:

* * * * *

(5) Each new or existing sulfite combustion unit located at a sulfite pulp mill, except such existing units at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. AP–10).

* * * * *

(7) The requirements of the alternative standard in § 63.862(d) apply to the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14).

* * * * *

4. Section 63.861 is amended by adding, in alphabetical order, definitions for the terms *Bag leak detection system, Fabric filter,* and *Hog fuel dryer* to read as follows:

§ 63.861 Definitions.

* * * * *

Bag leak detection system means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other principle to monitor relative PM loadings.

* * * * *

Fabric filter means an air pollution control device used to capture PM by filtering a gas stream through filter media; also known as a baghouse.

* * * * *

Hog fuel dryer means the equipment that combusts fine particles of wood waste (hog fuel) in a fluidized bed and directs the heated exhaust stream to a rotary dryer containing wet hog fuel to be dried prior to combustion in the hog fuel boiler at Weyerhaeuser Paper Company's Cosmopolis, Washington facility. The hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility is Emission Unit no. HD–14.

* * * * *

5. Section 63.862 is amended by:

a. Revising paragraph (a)(1)(i)(B);

b. Revising paragraph (a)(2); and

c. Adding paragraph (d).

The revisions and addition read as follows:

§ 63.862 Standards.

(a) *Standards for HAP metals: existing sources.*

(1) * * *

(i) * * *

(B) The owner or operator of each existing kraft or soda smelt dissolving tank must ensure that the concentration of PM in the exhaust gases discharged to the atmosphere is less than or equal to 0.10 kilogram per megagram (kg/Mg) (0.20 pound per ton (lb/ton)) of black liquor solids fired.

* * * * *

(2) Except as specified in paragraph (d) of this section, the owner or operator of each existing sulfite combustion unit must ensure that the concentration of PM in the exhaust gases discharged to the atmosphere is less than or equal to 0.092 g/dscm (0.040 gr/dscf) corrected to 8 percent oxygen.

* * * * *

(d) *Alternative standard.* As an alternative to meeting the requirements of paragraph (a)(2) of this section, the owner or operator of the existing hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must ensure that the mass of PM in the exhaust gases discharged to the atmosphere from the hog fuel dryer is less than or equal to 4.535 kilograms per hour (kg/hr) (10.0 pounds per hour (lb/hr)).

6. Section 63.864 is revised to read as follows:

§ 63.864 Monitoring requirements.

(a) *General.* For each monitoring system required in this section, the owner or operator of each affected source or process unit must develop and make available for inspection by the Administrator, upon request, a site-specific monitoring plan that addresses the provisions in paragraphs (a)(1) through (6) of this section.

(1) Installation of the sampling probe or other interface at a measurement location relative to each affected source or process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; and

(3) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (3), and (4)(ii);

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and

(6) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c), (e)(1), (e)(2)(i) and 63.866.

(b) The owner or operator of each affected source or process unit must conduct a performance evaluation of each monitoring system in accordance with the site-specific monitoring plan.

(c) The owner or operator of each affected source or process unit must operate and maintain the monitoring system in continuous operation according to the site-specific monitoring plan.

(d) *Continuous opacity monitoring system (COMS).* The owner or operator of each affected kraft or soda recovery furnace or lime kiln equipped with an ESP must install, calibrate, maintain, and operate a COMS according to the provisions in paragraphs (d)(1) through (4) of this section.

(1) Each COMS must be installed, operated, and maintained according to Performance Specification 1 of 40 CFR part 60, appendix B.

(2) A performance evaluation of each COMS must be conducted according to the requirements in § 63.8 and according to Performance Specification 1 of 40 CFR part 60, appendix B.

(3) As specified in § 63.8(c)(4)(i), each COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(4) The COMS data must be reduced as specified in § 63.8(g)(2).

(e) *Continuous parameter monitoring system (CPMS).* For each CPMS required in this section, the owner or operator of each affected source or process unit must meet the requirements in paragraphs (e)(1) through (14) of this section.

(1) Satisfy all requirements of performance specifications for CPMS upon promulgation of such performance specifications.

(2) Satisfy all requirements of quality assurance (QA) procedures for CPMS upon promulgation of such QA procedures.

(3) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period.

(4) To calculate a valid hourly average, there must be at least four equally spaced values for that hour, excluding data collected during the periods described in paragraph (e)(6) of this section.

(5) Have valid hourly data for at least 75 percent of the hours during the averaging period.

(6) The CPMS data taken during periods in which the control devices are not functioning in controlling emissions, as indicated by periods of no gas flow for all or a portion of an affected source or process unit, must not be considered in the averages.

(7) Calculate 3-hour averages using all of the valid hourly averages for each operating day during the semiannual reporting period.

(8) Record the results of each inspection, calibration, and validation check.

(9) Except for redundant sensors, any device that is used to conduct an initial validation or accuracy audit of a CPMS must meet the accuracy requirements specified in paragraphs (e)(9)(i) and (ii) of this section.

(i) The device must have an accuracy that is traceable to National Institute of Standards and Technology standards.

(ii) The device must be at least three times as accurate as the required accuracy for the CPMS.

(10) The owner or operator of each affected kraft or soda recovery furnace, kraft or soda lime kiln, sulfite combustion unit, or kraft or soda smelt dissolving tank equipped with a wet scrubber must install, calibrate, maintain, and operate a CPMS that can be used to determine and record the pressure drop across the scrubber and the scrubbing liquid flow rate using the procedures in § 63.8(c), as well as the procedures in paragraphs (e)(10)(i) and (ii) of this section:

(i) The monitoring device used for the continuous measurement of the pressure drop of the gas stream across the scrubber must be certified by the manufacturer to be accurate to within a gage pressure of ±500 pascals (±2 inches of water gage pressure); and

(ii) The monitoring device used for continuous measurement of the scrubbing liquid flow rate must be certified by the manufacturer to be accurate within ±5 percent of the design scrubbing liquid flow rate.

(11) The owner or operator of each affected semichemical combustion unit equipped with an RTO must install, calibrate, maintain, and operate a CPMS that can be used to determine and record the operating temperature of the RTO using the procedures in § 63.8(c). The monitor must compute and record the operating temperature at the point of incineration of effluent gases that are emitted using a temperature monitor accurate to within ±1 percent of the temperature being measured.

(12) The owner or operator of the affected hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must meet the requirements in paragraphs (e)(12)(i) through (xi) of this section for each bag leak detection system.

(i) The owner or operator must install, calibrate, maintain, and operate each triboelectric bag leak detection system according to the ''Fabric Filter Bag Leak Detection Guidance,'' (EPA–454/R–98–015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division; Emission Measurement Center, MD–D205–02, Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network under Emission Measurement Center Continuous Emission Monitoring. The owner or operator must install, calibrate, maintain, and operate other types of bag leak detection systems in a manner consistent with the manufacturer's written specifications and recommendations.

(ii) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(iii) The bag leak detection system sensor must provide an output of relative PM loadings.

(iv) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(v) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(vi) For positive pressure fabric filter systems, a bag leak detector must be installed in each baghouse compartment or cell.

(vii) For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(ix) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the ''Fabric Filter Bag Leak Detection Guidance.''

(x) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points, or alarm delay time may not be adjusted except as detailed in the site-specific

monitoring plan. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete fabric filter inspection which demonstrates that the fabric filter is in good operating condition. Record each adjustment.

(xi) The owner or operator must record the results of each inspection, calibration, and validation check.

(13) The owner or operator of each affected source or process unit that uses an ESP, wet scrubber, RTO, or fabric filter may monitor alternative control device operating parameters subject to prior written approval by the Administrator.

(14) The owner or operator of each affected source or process unit that uses an air pollution control system other than an ESP, wet scrubber, RTO, or fabric filter must provide to the Administrator an alternative monitoring request that includes the site-specific monitoring plan described in paragraph (a) of this section, a description of the control device, test results verifying the performance of the control device, the appropriate operating parameters that will be monitored, and the frequency of measuring and recording to establish continuous compliance with the standards. The alternative monitoring request is subject to the Administrator's approval. The owner or operator of the affected source or process unit must install, calibrate, operate, and maintain the monitor(s) in accordance with the alternative monitoring request approved by the Administrator. The owner or operator must include in the information submitted to the Administrator proposed performance specifications and quality assurance procedures for the monitors. The Administrator may request further information and will approve acceptable test methods and procedures. The owner or operator must monitor the parameters as approved by the Administrator using the methods and procedures in the alternative monitoring request.

(f) If flow to a control device could be intermittent, the owner or operator must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to identify periods of no gas flow.

(g) The owner or operator of each affected source or process unit complying with the gaseous organic HAP standard of § 63.862(c)(1) through the use of an NDCE recovery furnace equipped with a dry ESP system is not required to conduct any continuous monitoring to demonstrate compliance with the gaseous organic HAP standard.

(h) Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator of the affected source or process unit must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating, including periods of startup, shutdown, and malfunction.

(i) The owner or operator of an affected source or process unit may not use data recorded during monitoring malfunctions, associated repairs, required quality assurance or control activities, and periods of no gas flow for all or a portion of an affected source or process unit in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. The owner or operator must use all of the data collected during all other periods in assessing the operation of the control device and associated control system.

(j) *Determination of operating ranges.* (1) During the initial performance test required in § 63.865, the owner or operator of any affected source or process unit must establish operating ranges for the monitoring parameters in paragraphs (e)(10) through (14) of this section, as appropriate; or

(2) The owner or operator may base operating ranges on values recorded during previous performance tests or conduct additional performance tests for the specific purpose of establishing operating ranges, provided that test data used to establish the operating ranges are or have been obtained using the test methods required in this subpart. The owner or operator of the affected source or process unit must certify that all control techniques and processes have not been modified subsequent to the testing upon which the data used to establish the operating parameter ranges were obtained.

(3) The owner or operator of an affected source or process unit may establish expanded or replacement operating ranges for the monitoring parameter values listed in paragraphs (e)(10) through (14) of this section and established in paragraph (j)(1) or (2) of this section during subsequent performance tests using the test methods in § 63.865.

(4) The owner or operator of the affected source or process unit must continuously monitor each parameter and determine the arithmetic average value of each parameter during each performance test. Multiple performance tests may be conducted to establish a range of parameter values.

(5) During the period of each performance test, the owner or operator of the affected source or process unit must establish the operating range for each monitoring parameter according to the requirements in paragraphs (j)(5)(i) and (ii) of this section.

(i) For wet scrubbers, the owner or operator must record the pressure drop across the scrubber and the scrubbing liquid flow rate over the same time period as the performance test while the vent stream is routed and constituted normally. The owner or operator must locate the pressure and flow monitoring devices in positions that provide representative measurements of these parameters.

(ii) For RTO, the owner or operator must record the operating temperature averaged over the same time period as the performance test. The owner or operator must locate the temperature monitor in a position that provides a representative temperature.

(6) During the period, if any, between the compliance date specified for the affected source in § 63.863 and the date upon which monitoring systems have been installed and validated and any applicable operating ranges for monitoring parameters have been set, the owner or operator of the affected source or process unit must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(k) *On-going compliance provisions.* (1) Following the compliance date, owners or operators of all affected sources or process units are required to implement corrective action, as specified in the startup, shutdown, and malfunction plan prepared under § 63.866(a) if the monitoring exceedances in paragraphs (k)(1)(i) through (vi) of this section occur:

(i) For a new or existing kraft or soda recovery furnace or lime kiln equipped with an ESP, when the average of ten consecutive 6-minute averages result in a measurement greater than 20 percent opacity;

(ii) For a new or existing kraft or soda recovery furnace, kraft or soda smelt dissolving tank, kraft or soda lime kiln, or sulfite combustion unit equipped with a wet scrubber, when any 3-hour average parameter value is outside the range of values established in paragraph (j) of this section.

(iii) For a new or existing semichemical combustion unit equipped with an RTO, when any 1-hour average temperature falls below

the temperature established in paragraph (j) of this section;

(iv) For the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), when the bag leak detection system alarm sounds.

(v) For an affected source or process unit equipped with an ESP, wet scrubber, RTO, or fabric filter and monitoring alternative operating parameters established in paragraph (e)(13) of this section, when any 3-hour average value is outside the range of parameter values established in paragraph (j) of this section; and

(vi) For an affected source or process unit equipped with an alternative air pollution control system and monitoring operating parameters approved by the Administrator as established in paragraph (e)(14) of this section, when any 3-hour average value is outside the range of parameter values established in paragraph (j) of this section.

(2) Following the compliance date, owners or operators of all affected sources or process units are in violation of the standards of § 63.862 if the monitoring exceedances in paragraphs (k)(2)(i) through (vii) of this section occur:

(i) For an existing kraft or soda recovery furnace equipped with an ESP, when opacity is greater than 35 percent for 6 percent or more of the operating time within any quarterly period;

(ii) For a new kraft or soda recovery furnace or a new or existing lime kiln equipped with an ESP, when opacity is greater than 20 percent for 6 percent or more of the operating time within any quarterly period;

(iii) For a new or existing kraft or soda recovery furnace, kraft or soda smelt dissolving tank, kraft or soda lime kiln, or sulfite combustion unit equipped with a wet scrubber, when six or more 3-hour average parameter values within any 6-month reporting period are outside the range of values established in paragraph (j) of this section;

(iv) For a new or existing semichemical combustion unit equipped with an RTO, when any 3-hour average temperature falls below the temperature established in paragraph (j) of this section;

(v) For the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), when corrective action is not initiated within 1 hour of a bag leak detection system alarm, corrective action is not completed in accordance with the startup, shutdown, and malfunction plan, and the alarm is engaged for more than 5 percent of the total operating time in a 6-month block reporting period. In calculating the operating time fraction, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted; if corrective action is required, each alarm is counted as a minimum of 1 hour; if corrective action is not initiated within 1 hour, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(vi) For an affected source or process unit equipped with an ESP, wet scrubber, RTO, or fabric filter and monitoring alternative operating parameters established in paragraph (e)(13) of this section, when six or more 3-hour average values within any 6-month reporting period are outside the range of parameter values established in paragraph (j) of this section; and

(vii) For an affected source or process unit equipped with an alternative air pollution control system and monitoring operating parameters approved by the Administrator as established in paragraph (e)(14) of this section, when six or more 3-hour average values within any 6-month reporting period are outside the range of parameter values established in paragraph (j) of this section.

(3) For purposes of determining the number of nonopacity monitoring exceedances, no more than one exceedance will be attributed in any given 24-hour period.

7. Section 63.865 is amended by:

a. Adding § 63.865 introductory text, revising paragraph (a)(1), and adding paragraph (a)(2)(vi);

b. Revising paragraphs (b) introductory text, (b)(1), (b)(2), (b)(3), and (b)(5), and adding paragraphs (b)(5)(i) through (iv);

c. Revising paragraph (c);

d. Revising paragraphs (d) introductory text and (d)(1); and

e. Removing paragraphs (e) and (f).

The revisions and additions read as follows:

§ 63.865 Performance test requirements and test methods

The owner or operator of each affected source or process unit subject to the requirements of this subpart is required to conduct an initial performance test using the test methods and procedures listed in § 63.7 and paragraph (b) of this section, except as provided in paragraph (c)(1) of this section.

(a) * * *

(1) Determine the overall PM emission limit for the chemical recovery system at the mill using Equation 1 of this section as follows:

$$EL_{PM} = \frac{\left[\left(C_{ref,\,RF}\right)\left(Q_{RFtot}\right) + \left(C_{ref,\,LK}\right)\left(Q_{LKtot}\right)\right](F1)}{\left(BLS_{tot}\right) + ER1_{ref,\,SDT}} \qquad \text{(Eq. 1)}$$

Where:

EL_{PM} = Overall PM emission limit for all existing process units in the chemical recovery system at the kraft or soda pulp mill, kg/Mg (lb/ton) of black liquor solids fired;

$C_{ref,RF}$ = Reference concentration of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen for existing kraft or soda recovery furnaces;

Q_{RFtot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 8 percent oxygen for all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill, dry standard cubic meters per minute (dscm/min) (dry standard cubic feet per minute [dscf/min]);

$C_{ref,LK}$ = Reference concentration of 0.15 g/dscm (0.064 gr/dscf) corrected to 10 percent oxygen for existing kraft or soda lime kilns;

Q_{LKtot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 10 percent oxygen for all existing lime kilns in the chemical recovery system at the kraft or soda pulp mill, dscm/min (dscf/min);

F1 = Conversion factor, 1.44 minutes • kilogram/day • gram (min • kg/d • g) (0.206 minutes • pound/day • grain [min • lb/d • gr]);

BLS_{tot} = Sum of the average black liquor solids firing rates of all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill measured during the performance test, megagrams per day (Mg/d) (tons per day [ton/d]) of black liquor solids fired; and

$ER1_{ref,SDT}$ = Reference emission rate of 0.10 kg/Mg (0.20 lb/ton) of black liquor solids fired for existing kraft or soda smelt dissolving tanks.

(2) * * *

(vi) After the Administrator has approved the PM emissions limits for each kraft or soda recovery furnace, smelt dissolving tank, and lime kiln, the owner or operator complying with an overall PM emission limit established in § 63.862(a)(1)(ii) must demonstrate compliance with the HAP metals standard by demonstrating compliance with the approved PM emissions limits for each affected kraft or soda recovery furnace, smelt dissolving tank, and lime kiln, using the test methods and procedures in paragraph (b) of this section.

(b) The owner or operator seeking to determine compliance with § 63.862(a), (b), or (d) must use the procedures in paragraphs (b)(1) through (6) of this section.

(1) For purposes of determining the concentration or mass of PM emitted from each kraft or soda recovery furnace, sulfite combustion unit, smelt dissolving tank, lime kiln, or the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), Method 5 or 29 in appendix A of 40 CFR part 60 must be used, except that Method 17 in appendix A of 40 CFR part 60 may be used in lieu of Method 5 or Method 29 if a constant value of 0.009 g/dscm (0.004 gr/dscf) is added to the results of Method 17, and the stack temperature is no greater than 205 °C (400 °F). For Methods 5, 29, and 17, the sampling time and sample volume for each run must be at least 60 minutes and 0.90 dscm (31.8 dscf), and water must be used as the cleanup solvent instead of acetone in the sample recovery procedure.

(2) For sources complying with § 63.862(a) or (b), the PM concentration must be corrected to the appropriate oxygen concentration using Equation 7 of this section as follows:

$$C_{corr} = C_{meas} \times \frac{(21 - X)}{(21 - Y)} \qquad \text{(Eq. 7)}$$

Where:

C_{corr} = The measured concentration corrected for oxygen, g/dscm (gr/dscf);

C_{meas} = The measured concentration uncorrected for oxygen, g/dscm (gr/dscf);

X = The corrected volumetric oxygen concentration (8 percent for kraft or soda recovery furnaces and sulfite combustion units and 10 percent for kraft or soda lime kilns); and

Y = The measured average volumetric oxygen concentration.

(3) Method 3A or 3B in appendix A of 40 CFR part 60 must be used to determine the oxygen concentration. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to using Method 3B. The gas sample must be taken at the same time and at the same traverse points as the particulate sample.

* * * * *

(5)(i) For purposes of selecting sampling port location and number of traverse points, Method 1 or 1A in appendix A of 40 CFR part 60 must be used;

(ii) For purposes of determining stack gas velocity and volumetric flow rate, Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60 must be used;

(iii) For purposes of conducting gas analysis, Method 3, 3A, or 3B in appendix A of 40 CFR part 60 must be used. The voluntary consensus standard ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14) may be used as an alternative to using Method 3B; and

(iv) For purposes of determining moisture content of stack gas, Method 4 in appendix A of 40 CFR part 60 must be used.

* * * * *

(c) The owner or operator of each affected source or process unit complying with the gaseous organic HAP standard in § 63.862(c)(1) must demonstrate compliance according to the provisions in paragraphs (c)(1) and (2) of this section.

(1) The owner or operator complying through the use of an NDCE recovery furnace equipped with a dry ESP system is not required to conduct any performance testing to demonstrate compliance with the gaseous organic HAP standard.

(2) The owner or operator complying without using an NDCE recovery furnace equipped with a dry ESP system must use Method 308 in appendix A of this part, as well as the methods listed in paragraphs (b)(5)(i) through (iv) of this section. The sampling time and sample volume for each Method 308 run must be at least 60 minutes and 0.014 dscm (0.50 dscf), respectively.

(i) The emission rate from any new NDCE recovery furnace must be determined using Equation 9 of this section as follows:

$$ER_{NDCE} = \frac{(MR_{meas})}{BLS} \qquad \text{(Eq. 9)}$$

Where:

ER_{NDCE} = Methanol emission rate from the NDCE recovery furnace, kg/Mg (lb/ton) of black liquor solids fired;

MR_{meas} = Measured methanol mass emission rate from the NDCE recovery furnace, kg/hr (lb/hr); and

BLS = Average black liquor solids firing rate of the NDCE recovery furnace, megagrams per hour (Mg/hr) (tons per hour (ton/hr)) determined using process data measured during the performance test.

(ii) The emission rate from any new DCE recovery furnace system must be determined using Equation 10 of this section as follows:

$$ER_{DCE} = \left[\frac{(MR_{meas,\,RF})}{BLS_{RF}}\right] + \left[\frac{MR_{meas,\,BLO}}{BLS_{BLO}}\right] \qquad \text{(Eq. 10)}$$

Where:

ER_{DCE} = Methanol emission rate from each DCE recovery furnace system, kg/Mg (lb/ton) of black liquor solids fired;

$MR_{meas,RF}$ = Average measured methanol mass emission rate from each DCE recovery furnace, kg/hr (lb/hr);

$MR_{meas,BLO}$ = Average measured methanol mass emission rate from the black liquor oxidation system, kg/hr (lb/hr);

BLS_{RF} = Average black liquor solids firing rate for each DCE recovery furnace, Mg/hr (ton/hr) determined using process data measured during the performance test; and

BLS_{BLO} = The average mass rate of black liquor solids treated in the black liquor oxidation system, Mg/hr (ton/hr) determined using process data measured during the performance test.

(d) The owner or operator seeking to determine compliance with the gaseous organic HAP standards in § 63.862(c)(2) for semichemical combustion units must use Method 25A in appendix A of 40 CFR part 60, as well as the methods listed in paragraphs (b)(5)(i) through (iv) of this section. The sampling time for each Method 25A run must be at least 60 minutes. The calibration gas for each Method 25A run must be propane.

(1) The emission rate from any new or existing semichemical combustion unit must be determined using Equation 11 of this section as follows:

$$ER_{SCCU} = \frac{(THC_{meas})}{BLS} \qquad \text{(Eq. 11)}$$

Where:

ER_{SCCU} = THC emission rate reported as carbon from each semichemical combustion unit, kg/Mg (lb/ton) of black liquor solids fired;

THC_{meas} = Measured THC mass emission rate reported as carbon, kg/hr (lb/hr); and

BLS = Average black liquor solids firing rate, Mg/hr (ton/hr); determined using process data measured during the performance test.

* * * * *

8. Section 63.866 is amended by:

a. Revising paragraph (c) introductory text;

b. Revising paragraph (c)(1);

c. Revising paragraph (c)(2); and

d. Adding paragraph (c)(7).

The revisions and addition read as follows:

§ 63.866 Recordkeeping requirements.

* * * * *

(c) In addition to the general records required by § 63.10(b)(2), the owner or operator must maintain records of the information in paragraphs (c)(1) through (7) of this section:

(1) Records of black liquor solids firing rates in units of Mg/d or ton/d for all recovery furnaces and semichemical combustion units;

(2) Records of CaO production rates in units of Mg/d or ton/d for all lime kilns;

* * * * *

(7) For the bag leak detection system on the hog fuel dryer fabric filter at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14), records of each alarm, the time of the alarm, the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken.

* * * * *

9. Section 63.867 is amended by adding paragraph (a)(3) to read as follows:

§ 63.867 Reporting requirements.

(a) * * *

(3) In addition to the requirements in subpart A of this part, the owner or operator of the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington facility (Emission Unit no. HD–14) must include analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.864(a)(7) in the Notification of Compliance Status.

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LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 18, 2003.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; (202) 336–8817; *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2003 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 7, 2003 (68 FR 6457).

List of Subjects in 45 CFR 1611

Grant programs—law, Legal services.

For reasons set forth above, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows: