

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72 and 75

[EPA-HQ-OAR-2009-0837; FRL-9148-1]

RIN 2060-AQ06

Amendments to the Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Reconsideration.

SUMMARY: Recent EPA gas audit results indicate that some gas cylinders used to calibrate continuous emission monitoring systems on stationary sources do not meet EPA's performance specification. Reviews of stack test reports in recent years indicate that some stack testers do not properly follow EPA test methods or do not correctly calculate test method results. Therefore, EPA is proposing to amend its Protocol Gas Verification Program (PGVP) and the minimum competency requirements for air emission testing (formerly air emission testing body requirements) to improve the accuracy of emissions data. EPA is also proposing to amend other sections of the Acid Rain Program continuous emission monitoring system regulations by adding and clarifying certain recordkeeping and reporting requirements, removing the provisions pertaining to mercury monitoring and reporting, removing certain requirements associated with a class-approved alternative monitoring system, disallowing the use of a particular quality assurance option in EPA Reference Method 7E, adding an incorporation by reference that was inadvertently left out of the January 24, 2008 final rule, and clarifying the language and applicability of certain provisions.

DATES: Comments must be received on or before July 12, 2010. Under the

Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget (OMB) receives a copy of your comments on or before July 12, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2009-0837 (which includes Docket ID No. EPA-HQ-OAR-2005-0132, and Docket ID No. EPA-HQ-OAR-2008-0800), by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- **Mail:** Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- **Hand Delivery:** Air and Radiation Docket, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2009-0837. 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 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. 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: John Schakenbach, U.S. Environmental Protection Agency, Clean Air Markets Division, MC 6204J, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 343-9158, e-mail at schakenbach.john@epa.gov. Electronic copies of this document can be accessed through the EPA Web site at: <http://epa.gov/airmarkets>.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities regulated by this action primarily are fossil fuel-fired boilers, turbines, and combined cycle units that serve generators that produce electricity for sale or cogenerate electricity for sale and steam. Regulated categories and entities include:

Category	NAICS code	Examples of potentially regulated industries
Industry	221112 and others	Electric service providers.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities which EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be

regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability provisions in §§ 72.6, 72.7, and 72.8 of title 40 of the Code of Federal Regulations. 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.

Considerations in Preparing Comments for EPA.

A. Submitting CBI. Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly

mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Outline. The following outline is provided to aid in locating information in this preamble.

- I. Detailed Discussion of Proposed Rule Revisions
 - A. Amendments to the Protocol Gas Verification Program
 - B. Amendments to the Minimum Competency Requirements for Air Emission Testing
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 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
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 - 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 Advancement Act

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

I. Detailed Discussion of Proposed Rule Revisions

On January 24, 2008, revisions to 40 CFR part 75, the Acid Rain Program continuous emission monitoring regulations, were published in the **Federal Register** (see 73 FR 4340 January 24, 2008). These amendments included provisions requiring that EPA Protocol gases used for Part 75 purposes be obtained from specialty gas producers that participate in a PGVP. The final rule further provided that only PGVP participants were allowed to market calibration gas as “EPA Protocol gas”. The January 24, 2008 rulemaking also included a provision requiring minimum competency requirements for air emission testing bodies (AETBs). The PGVP and AETB provisions became effective on January 1, 2009.

The Administrator received a Petition for Review, and a Petition for Reconsideration, claiming that EPA had not properly promulgated the PGVP. The Agency also received a Petition for Review challenging the AETB requirements. Subsequently, EPA published a final rule in the **Federal Register** staying the AETB requirements (73 FR 65554, November 4, 2008). EPA also posted a notice on an Agency Web site stating that the PGVP is not in effect, and a revised PGVP would not be effective until EPA goes through notice and comment rulemaking on any revised procedure. EPA is today announcing its reconsideration of certain aspects of the January 24, 2008 final rule and is proposing to amend the PGVP and AETB requirements. If these revisions become final, the amended rule will replace the existing AETB requirements, effectively removing the stay.

EPA is also proposing to amend other sections of Part 75 by adding several data elements associated with EPA’s Emissions Collection and Monitoring Plan System (ECMPS) software, clarifying the requirements for including cover letters with monitoring plan submittals, certification applications, and recertification applications, removing the provisions pertaining to mercury monitoring and reporting, removing certain

requirements associated with a class-approved alternative monitoring system, disallowing the use of a particular quality assurance option in EPA Reference Method 7E, adding an incorporation by reference that was inadvertently left out of the January 24, 2008 final rule, and clarifying the language and applicability of certain provisions.

A. Amendments to the Protocol Gas Verification Program

The purpose of the proposed EPA Protocol Gas Verification Program (PGVP) is to ensure the accuracy of EPA Protocol gases. EPA proposes to require that the owner or operator of a Part 75 affected source ensure that all calibration gases used to quality assure the operation of instrumentation meet the definition of calibration gas contained in § 72.2, and the relevant provision in Section 5.1 of Appendix A of Part 75. In turn, § 72.2 defines calibration gas to include, among other things, EPA Protocol gas. EPA Protocol gas is a calibration gas mixture prepared and analyzed according to Section 2 of the “EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,” or such revised procedure as approved by the Administrator. All of the other calibration gases defined in § 72.2 are analyzed by the National Institute of Standards and Technology (NIST) or are produced following a more rigorous procedure and are presumed more accurate (and costly) than EPA Protocol gases. Therefore, only EPA Protocol gases are included in the PGVP described in today’s proposed rule. The proposed rule would revise § 75.21 to require a Part 75 affected source that uses EPA Protocol gas to obtain it from an EPA Protocol gas production site which is on the EPA list of sites participating in the PGVP at the time the owner or operator procures the gases.

EPA is proposing that any EPA Protocol gas production site that chooses to participate in the PGVP must notify the Administrator of its intent to participate. EPA would then issue a unique vendor identification number (ID) to the EPA Protocol gas production site (e.g., a company’s four participating EPA Protocol gas production sites might be issued vendor IDs: 75.1, 75.2, 75.3 and 75.4). Affected units would report the vendor ID as a required data element in each electronic quarterly report, thus confirming that the affected unit’s calibration gases are being supplied by a participating EPA Protocol gas production site.

Proposed § 75.21(g) would require an EPA Protocol gas production site to notify EPA of its participation in the

PGVP by following the instructions on the Forms page of the Clean Air Markets Division (CAMD) Web site (notification will likely be through an official EPA e-mail box). Initial participation in the program would commence on the date of notification and would extend from that date through the remainder of the calendar year. An EPA Protocol gas production site that elects to continue participating in the PGVP in the next calendar year would be required to notify the Administrator of its intent to continue in the program by December 31 of the current year. The names of EPA Protocol gas production sites participating in the PGVP would be made publicly available by posting on official EPA Web sites. EPA believes that annual posting will be frequent enough to allow EPA Protocol gas users to verify that their calibration gases are being provided by PGVP participants.

The contents of the initial notification and subsequent re-notification(s) would be as follows:

- (i) The specialty gas company name which owns or operates the EPA Protocol gas production site;
- (ii) The name and address of that participating EPA Protocol gas production site owned or operated by the specialty gas company; and
- (iii) The name, e-mail address, and telephone number of a contact person for that participating EPA Protocol gas production site.

If any of the above information changes during the year, updates may be sent to EPA, and Agency Web sites will be amended accordingly.

Under the PGVP as proposed, the Agency may annually audit up to four EPA Protocol gas cylinders from each participating EPA Protocol gas production site. The same number and type of cylinders (*i.e.*, cylinders with the same certified components, approximately the same certified component concentration, and same number of certified components) would be obtained from each participating EPA Protocol gas production site that produces such cylinders to allow for better intercompany comparisons.

Each year, EPA intends to audit all participating EPA Protocol gas production sites that produce the type of gas being audited, and to obtain EPA Protocol gas cylinders that are as representative of the normal production process as possible, given the limited sample size. To achieve this goal, the Agency intends to obtain cylinders in such a way that an EPA Protocol gas production site is not aware that its cylinders are being audited. In the past, the Agency has hired a company that uses EPA Protocol gas cylinders as part

of its normal business to purchase cylinders. It is possible that EPA would hire a different company each year for this purpose. The Agency specifically requests comment on how it can better ensure that cylinders are obtained from each production site without raising suspicion that the cylinders are being audited. One possibility is to place cylinder orders from locations that are geographically close to a production site. However, there is no guarantee that EPA can always find a purchaser in such a location.

After obtaining all of the EPA Protocol gas cylinders to be audited, EPA would notify each participating EPA Protocol gas production site that its EPA Protocol gas cylinders are being audited and would identify the purchaser as an EPA representative or contractor participating in the audit process. EPA proposes that each participating EPA Protocol gas production site would then either cancel that purchaser's invoice or credit the purchaser's account for the purchase of those EPA Protocol gas cylinders, and provide funding to the National Institute of Standards and Technology (NIST) for analysis of those EPA Protocol gas cylinders, for their portion of an electronic NIST audit report on all audited cylinders for the current audit, for demurrage, and for return shipment of their cylinders. The rule as proposed would require that at the EPA Protocol gas production site's own cost, audit results be submitted electronically by NIST to EPA upon completion of NIST's analyses of all audit cylinders. A copy of NIST's analysis of EPA Protocol gas cylinders from an EPA Protocol gas production site could also be provided to that site, if that provision is part of the production site's agreement with NIST.

Section 75.21(g) of the proposed rule provides minimum criteria for auditing cylinders and reporting the results to EPA at cost to the production site. As proposed each participating EPA Protocol gas production site would reach formal agreement with and pay NIST to analyze its EPA Protocol gas cylinders within two weeks of NIST's receipt of the batch containing those cylinders (or as soon as possible thereafter) using procedures at least as rigorous as the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards" (Traceability Protocol), September 1997 (EPA-600/R-97/121) or equivalent written cylinder analysis protocol that has been approved by EPA. The two week deadline assumes that EPA Protocol gas cylinders would be sent to NIST in manageable batches, which EPA intends to do.

Each cylinder's concentration would be determined and the results compared to the cylinder's certification documentation and tag value and for conformity to Section 5.1 of Appendix A. After NIST analysis, a participant would then have to assure that each cylinder has a NIST analyzed concentration with an uncertainty of plus or minus 1.0 percent (inclusive) or better, unless otherwise approved by EPA. The Agency notes that especially with very low concentration cylinders, it may not be possible to meet the 1.0 percent uncertainty and reserves the right to make appropriate adjustments. Further, the proposed rule would require that the certification documentation must be verified in the audit report as meeting the requirements of the Traceability Protocol or such revised procedure as approved by the Administrator.

All of the information described in §§ 75.21(g)(9)(ii)–(v) would be provided in an audit report submitted electronically by NIST to EPA at the end of the current (annual) audit. The Agency would post on EPA Web sites the results of the NIST analysis in the same format as Figure 3 (or the Note below Figure 3, as applicable) or a revised format approved by EPA.

EPA believes that owners or operators of Part 75 affected units will use the results of the NIST analysis to better inform their EPA Protocol gas purchase decisions. We specifically request comment on whether the format and information contained in proposed Figure 3 and the Note below Figure 3 are useful for this purpose.

In proposed § 75.21(g)(4), EPA would reserve the right to remove an EPA Protocol gas production site from the list of PGVP participants for any of the following reasons:

(1) If the production site fails to provide all of the information required by § 75.21(g)(1), specifically, items (i) through (iii), listed above;

(2) If, after being notified that its EPA Protocol gas cylinders are being audited by EPA, the EPA Protocol gas production site fails to cancel its invoice or to credit the purchaser's account for the cylinders; or

(3) Any participating EPA Protocol gas production site whose cylinders were sent to NIST by EPA for analysis but are not in the electronic audit report submitted by NIST to EPA.

EPA would relist an EPA Protocol gas production site as follows:

(1) An EPA Protocol gas production site may be relisted immediately, after its failure is remedied, if the only failure is not providing all of the information required by § 75.21(g)(1);

(2) If EPA fails to receive from the participating EPA Protocol gas production site a written invoice cancellation or a hardcopy credit receipt for the cylinders within two weeks of notifying the production site that its cylinders are being audited by EPA, the cylinders would be returned to the production site and that production site would not be eligible for relisting until December 31 of the current year and until it submits to EPA the information required by § 75.21(g)(1), in accordance with the procedures in §§ 75.21(g)(2) and 75.21(g)(3); and

(3) Any participating EPA Protocol gas production site whose cylinders were sent to NIST by EPA for analysis, but are not in the electronic audit report submitted by NIST to EPA, would not be eligible for relisting until December 31 of the next year and until it submits to EPA the information required by § 75.21(g)(1), in accordance with the procedures in §§ 75.21(g)(2) and 75.21(g)(3). The eligible relisting date of December 31 of the next year is later than the eligible relisting date in (2), above, because EPA will not know whether a particular EPA Protocol gas production site is missing from the NIST audit report until the last half of the calendar year. Thus, a production site would potentially be removed from the list of participants for only a few months if the eligible relisting date were December 31 of the current year, which may not be sufficient to prevent gaming of the program.

EPA believes that removing EPA Protocol gas production sites from the participants list for cause will provide sufficient incentive for good faith participation. However, EPA specifically requests comment on whether there are better mechanisms to ensure good faith participation once a company elects to participate in the PGVP.

EPA notes that some EPA Protocol gas production sites produce EPA Protocol gas cylinders claiming NIST traceability for both NO and NO_x concentrations in the same cylinder. If, as provided in the proposed rule, such cylinders were analyzed by NIST for the PGVP, they would have to be analyzed and the results reported for both the NO and NO_x components, where total NO_x is determined by NO plus NO₂. The Agency believes that this requirement would better assure NIST traceability, regardless of whether NO or NO_x is used when performing QA/QC tests.

The Agency believes that there are approximately 14 specialty gas companies in the U.S. Some companies have multiple production sites, resulting in approximately 30 potential

EPA Protocol gas production sites. If all production sites were to participate in the PGVP and EPA were to audit 4 cylinders from each production site, NIST would have to analyze 120 cylinders each year. If it takes NIST two weeks to analyze 20 cylinders, and if EPA shipped a batch of 20 cylinders every two weeks, it would take NIST 3 months to analyze all 120 cylinders (six batches). NIST would need additional time to produce an analysis report and submit it electronically to EPA. NIST has indicated that it can analyze 120 cylinders and submit an analysis report to EPA within six months.

However, if cylinder analyses and report submittal ever take longer than one year to complete, an annual PGVP would not be possible. To address this and other possibilities, the Agency specifically requests comments on the following options.

Option 1: EPA could interpret that an "EPA Protocol gas production site that is on the EPA list of sites participating in the PGVP at the time the owner or operator procures such gases" has the literal meaning that an EPA Protocol gas production site simply has to be on the EPA list to be able to provide EPA Protocol gases to owners or operators of Part 75 affected units. Therefore, if EPA does not procure gases for audit in a given year (and consequently NIST does not analyze the gases), an EPA Protocol gas production site could still market its EPA Protocol gases to Part 75 sources. Option 1 would also allow NIST to take longer than 12 months to analyze and report on all audit cylinders. However, a downside would be that audit results would be posted at less than an annual frequency, and Part 75 sources would not be able to determine the best performing EPA Protocol gas production sites as frequently.

Option 2: EPA could reduce the number of cylinders audited per production site in a year so that NIST could analyze and report on all audit cylinders, and EPA could post results on an annual basis. While each production site would still be represented in the audit, a downside to Option 2 would be that fewer cylinders per production site would be audited.

Option 3: Instead of procuring cylinders from all production sites, EPA could select fewer production sites from each specialty gas company. A downside would be that not all production sites would be audited, even though each specialty gas company would still be represented in the audit sample.

Option 4: EPA could use any of the above three options or some combination in a given year. The

Agency prefers this option because of the increased flexibility it provides. This flexibility might be required to address certain situations, e.g., an expansion in the number of EPA Protocol gas production sites, unforeseen delays in cylinder analyses or logistics, and possible Federal budget constraints.

EPA proposes that if an EPA Protocol gas production site is removed from the list of PGVP participants after EPA Protocol gas cylinders have been purchased from that site, the owner or operator would be allowed to use the cylinders for Part 75 applications until the earlier of the cylinder's expiration date or until the cylinder gas pressure reaches 150 psig.¹ Further, if on the effective date of § 75.21(g), a Part 75 affected source, or an emissions testing group or testing company has in its possession EPA Protocol gases from an EPA Protocol gas production site that is not participating in the PGVP, use of those cylinder gases would also be permitted for Part 75 applications until the earlier of the cylinder's expiration date or until the cylinder gas pressure reaches 150 psig. EPA believes that these proposed rule provisions help clarify the liability of Part 75 affected sources in such cases.

After analysis, each EPA Protocol gas cylinder would be returned to the EPA Protocol gas production site that provided it. The EPA Protocol gas cylinders being returned to the production site would be almost full and have an accompanying NIST analyzed concentration with an uncertainty of plus or minus 1.0 percent (inclusive) or better, which more than meets the Part 75 EPA Protocol gas plus or minus 2.0 percent of cylinder tag value requirement.

In order to help contain the cost of NIST's cylinder analyses, NIST has agreed to implement the following cost containment measures:

(1) The concentrations of the gaseous components of interest in each batch of cylinders will be within predefined concentration ranges. This will allow NIST to setup instrumentation and form calibration curves more efficiently.

(2) The arrival of each batch of cylinders will be coordinated with the work schedules of key NIST personnel. This will allow NIST to more efficiently manage its resources.

(3) NIST has modeled the cross interactions of the analytical species on

¹ Section 2.1.6.4 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," establishes a minimum compressed gas cylinder pressure of 150 pounds per square inch gravimetric, below which the cylinder gas concentration cannot be assured.

its instrumentation. Future work can make use of that modeling, so that NIST needs only to confirm that the correction factors are still good before using them.

(4) Since NIST's uncertainty² requirements for intermediate gas standards are quite stringent (*i.e.*, less than 0.5% uncertainty, and 1% expanded), NIST can use intermediate standards for all of this work. This keeps the cost down, because expensive primary standards do not have to be used. In addition, NIST has invested in tri-mix working standards that will allow them to validate their methods much more quickly.

(5) For the future, NIST is considering using a Fourier Transform Infrared Spectroscopy (FTIR) method, which might further reduce costs by consolidating all of the analytical work in a single automated instrument.

NIST has agreed to analyze audit cylinders to 0.5% uncertainty (1% expanded uncertainty). The reason for this uncertainty goal is to allow reasonable certainty when judging an audited cylinder with a 2.0% uncertainty requirement under Part 75. No reasonable cost savings will be achieved by increasing the uncertainty to 1% (2% expanded).

According to NIST, high concentration cylinders will always cost less to analyze. The lowest concentration cylinders will cost NIST approximately 25% more to analyze.

Based on 2009 cost data from NIST and recent cylinder shipping costs, EPA estimates that the average cost for NIST to analyze one EPA Protocol gas cylinder, produce a report and return ship a cylinder is approximately \$1,800. This cost assumes implementation of cost containment measures #1 through #3 described above. The cost may decrease further as a result of implementing measures #4 and #5.

EPA proposes to add the following simple recordkeeping and reporting requirements under §§ 75.59 and 75.64 to enable the Agency to verify that Part 75 affected sources are using EPA Protocol gases from EPA Protocol gas production sites that are participating in the PGVP, and to inform the gas cylinder selection for the PGVP audits:

(i) Gas level code;
(ii) A code for the type of EPA Protocol gas used for each gas monitor that uses EPA Protocol gas for daily calibrations;

(iii) A code for type of EPA Protocol gas used for each gas monitor that uses EPA Protocol gas for quarterly linearity checks;

(iv) Start and end date and hour for EPA Protocol gas type code for gases used on CEMS;

(v) A code for type of EPA Protocol gas used with EPA Reference Methods 3A and/or 6C and/or 7E, when those methods are used to perform relative accuracy test audits (RATAs) for certification, recertification, routine quality assurance, or diagnostic testing of Part 75 monitoring systems; and

(vi) The PGVP vendor ID issued by EPA.

EPA specifically requests comments on the following proposed codes for the type of EPA Protocol gas used. These codes would not be specified in the rule, but rather in the electronic reporting instructions:

SO₂ = EPA Protocol gas standard consisting of a single certified component, SO₂, and a balance gas.

NO_x = EPA Protocol gas standard consisting of a single certified component, NO_x, and a balance gas.

NO = EPA Protocol gas standard consisting of a single certified component, NO, and a balance gas.

CO₂ = EPA Protocol gas standard consisting of a single certified component, CO₂, and a balance gas.

O₂ = EPA Protocol gas standard consisting of a single certified component, O₂, and a balance gas.

SC = EPA Protocol gas bi-blend standard consisting of two certified components, SO₂ and CO₂, and a balance gas.

SN = EPA Protocol gas bi-blend standard consisting of two certified components, SO₂ and NO and a balance gas.

SN₁ = EPA Protocol gas bi-blend standard consisting of two certified components, SO₂ and NO_x and a balance gas.

NC = EPA Protocol gas bi-blend standard consisting of two certified components, NO and CO₂, and a balance gas.

N₁C = EPA Protocol gas bi-blend standard consisting of two certified components, NO_x and CO₂, and a balance gas.

NCO = EPA Protocol gas bi-blend standard consisting of two certified components, NO and CO, and a balance gas.

N₁CO = EPA Protocol gas bi-blend standard consisting of two certified components, NO_x and CO, and a balance gas.

OC = EPA Protocol gas bi-blend standard consisting of two certified

components, O₂ and CO₂, and a balance gas.

OCO = EPA Protocol gas bi-blend standard consisting of two certified components, O₂ and CO, and a balance gas.

SO = EPA Protocol gas bi-blend standard consisting of two certified components, SO₂ and O₂, and a balance gas.

SCO = EPA Protocol gas bi-blend standard consisting of two certified components, SO₂ and CO, and a balance gas.

SN₂ = EPA Protocol gas tri-blend standard consisting of three certified components, SO₂, NO, and NO_x and a balance gas.

N₂C = EPA Protocol gas tri-blend standard consisting of three certified components, NO, NO_x, and CO₂, and a balance gas.

N₂CO = EPA Protocol gas tri-blend standard consisting of three certified components, NO, NO_x, and CO, and a balance gas.

SNC = EPA Protocol gas tri-blend standard consisting of three certified components, SO₂, NO, and CO₂, and a balance gas.

SN₁C = EPA Protocol gas tri-blend standard consisting of three certified components, SO₂, NO_x, and CO₂, and a balance gas.

NCC = EPA Protocol gas tri-blend standard consisting of three certified components, NO, CO₂, and CO, and a balance gas.

N₁CC = EPA Protocol gas tri-blend standard consisting of three certified components, NO_x, CO₂, and CO, and a balance gas.

NSC = EPA Protocol gas tri-blend standard consisting of three certified components, SO₂, NO, and CO, and a balance gas.

N₁SC = EPA Protocol gas tri-blend standard consisting of three certified components, SO₂, NO_x, and CO, and a balance gas.

OCC = EPA Protocol gas tri-blend standard consisting of three certified components, O₂, CO₂, and CO, and a balance gas.

OSC = EPA Protocol gas tri-blend standard consisting of three certified components, O₂, SO₂, and CO, and a balance gas.

SN₂C = EPA Protocol gas quad-blend standard consisting of four certified components, SO₂, NO, NO_x, and CO₂, and a balance gas.

N₂CC = EPA Protocol gas quad-blend standard consisting of four certified components, NO, NO_x, CO₂, and CO, and a balance gas.

N₂SC = EPA Protocol gas quad-blend standard consisting of four certified components, SO₂, NO, NO_x, and CO, and a balance gas.

² Like any measurement, cylinder gas concentration is subject to uncertainty due to instrument measurement accuracy and repeatability, operator error, measurement methodology, accuracy of reference standards used, and other sources of error.

EPA proposes to allow participation in the PGVP on and after the effective date of the rule. The proposed rule would require PGVP-related recordkeeping requirements to start six months after the effective date of this rule. On and after January 1, 2011, the new PGVP-related data elements in § 75.64 (described in items (i) through (vi) listed above) would be submitted prior to or concurrent with the submittal of the relevant quarterly electronic data report. However, if the final rule is delayed, EPA reserves the right to amend the reporting deadline. The Agency believes that this will provide both EPA and the regulated community adequate time to reprogram recordkeeping/reporting software.

The Agency is also proposing to amend Section 6.5.10 of Appendix A to Part 75 to require that the EPA Protocol gases used when performing Methods 3A, 6C, and/or 7E must be from EPA Protocol gas production sites participating in the PGVP. The Agency anticipates that this will help improve the data quality when these test methods are used at Part 75 affected sources.

B. Amendments to the Minimum Competency Requirements for Air Emission Testing

EPA proposes to add minimum competency requirements for air emission testing under § 75.21(f). This proposed section describes where the minimum competency requirements apply and where they do not.

EPA proposes to add simple recordkeeping requirements under § 75.59 and reporting requirements under §§ 75.63 and 75.64 to enable the Agency to verify that Qualified Individuals and Air Emission Testing Bodies (AETBs) meet the requirements of this rule should we take final action. On and after January 1, 2011, the new AETB-related data elements in § 75.64 would be submitted prior to or concurrent with the submittal of the relevant quarterly electronic data report required under § 75.64. However, if the final rule is delayed, EPA reserves the right to amend the reporting deadline. The Agency believes that this will provide both EPA and the regulated community adequate time to reprogram recordkeeping/reporting software.

Proposed revisions to Sections 6.1.2(a), (b), and (c) of Appendix A to Part 75 would provide that all relative accuracy test audits (RATAs) of Part 75 CEMS and stack tests conducted under § 75.19 and Appendix E to Part 75 are to be conducted by an AETB that has provided to the owner or operator a certification that as of the time of testing

the AETB is operating in conformance with ASTM D7036–04. That certification is a certificate of accreditation or interim accreditation for the relevant test method issued by a recognized national accreditation body or a letter of certification for the relevant test methods signed by a member of the senior management staff of the AETB. The owner or operator would also record and report: (a) The name, telephone number and e-mail address of the Air Emission Testing Body; (b) the name of the on-site Qualified Individual; (c) For the reference method(s) that were performed, the date that the on-site Qualified Individual took and passed the relevant qualification exam(s), required by ASTM D 7036–04; and (d) the name and e-mail address of the qualification exam provider (*see* Section 6.1.2(b)). All of this information would have to be recorded and kept on site for at least 3 years and would be reported to EPA, except for the certificate of accreditation or interim accreditation and the letter of certification. The certificate of accreditation or interim accreditation and the letter of certification would not be reported to EPA but would be retained on-site for at least 3 years.

The AETB must reasonably have all of this information available to be in compliance with ASTM D 7036–04, §§ 5.4.11 and 8.3.7. Section 5.4.11 states that the AETB shall “be able to provide documentation or otherwise demonstrate, on request from the persons or organizations evaluating its competence, that it complies with * * * this practice.” Section 8.3.7 states that “The qualification credentials of each qualified individual shall be available for inspection at the test site.” Qualification credentials are defined in the ASTM standard as “evidence that the qualified individual meets the requirements of 8.3.2 * * *.” Section 8.3.2 includes criteria on experience, qualification exams, and a statement saying that all test projects conducted under the QI’s supervision “will conform to the AETB’s quality manual and to this practice in all respects.”

EPA is proposing to remove the reference to sorbent trap testing from Section 6.1.2(a) of Appendix A, in view of the vacatur of the Clean Air Mercury Regulation (CAMR) by the D.C. Court of Appeals. Proposed Section 6.1.2(d) of Appendix A recommends that the owner or operator of a Part 75 affected source request the following information from an AETB:

- (1) The AETB’s quality manual;
- (2) The results of any external or internal audits performed by the AETB in the prior 12 months;

(3) A written description of any corrective actions being implemented by the AETB in the prior 12 months; and

(4) Any AETB training records in the prior 12 months. This proposed provision is merely a recommendation, will not affect data validation, and does not require the owner or operator to review, retain or report copies of such records. The provision is simply for the protection of the owner or operator. The Agency believes this will provide the owner or operator more assurance that the AETB is complying with all the requirements of ASTM D 7036–04. The Agency anticipates that testers would have this information with them in their vehicles when visiting a site in view of the requirements of the ASTM standard.

If an AETB fails to provide information provided in Section 6.1.2(d) when requested by an owner or operator, the proposed rule provides that EPA can demand that an AETB provide evidence to the Administrator that the AETB has provided the information to the owner or operator. If the AETB fails to provide such evidence, which EPA anticipates would be clearly identified in the demand, EPA would have several courses of action. First, as described below, under Section 6.1.2(g), the EPA could list the offending AETB on its Web sites. Secondly, as more fully explained below, since EPA’s authority to make the demand is premised on Clean Air Act Section 114 (42 U.S.C. 7414)(CAA), a non-compliant AETB could be subject to enforcement action by EPA under CAA Section 113. The CAA provides for several levels of enforcement that include administrative, civil, and criminal penalties. The CAA allows for injunctive relief to compel compliance and civil and administrative penalties of up to \$32,500 per day. EPA believes that the availability of these enforcement tools, coupled with the owner or operator’s express right to require the enumerated information from the AETB, are significant deterrents and will result in better quality testing.

Proposed Section 6.1.2(e) of Appendix A states that testing must be conducted or overseen on site by at least one Qualified Individual (QI), who is qualified in the methods employed in the test project. It is expected that when a QI is overseeing a test, that the QI would be actively observing the test for its duration. It is also expected that if a QI is conducting a test, that a QI would actively conduct the test for its duration. However, allowance would be made for normal activities of a QI who is overseeing or conducting a test, *e.g.*, bathroom breaks, food breaks, etc., and emergencies that may arise during a test.

Proposed Section 6.1.2(e) also provides that if during the test period, it is discovered that a Qualified Individual is not present on site either conducting or overseeing the methods employed for the test project, that test must be invalidated and repeated with a Qualified Individual present. This provision is intended to encourage the owner or operator and those observing the test to make it standard operating practice to verify that a QI is present while the testing is still in progress, thereby preventing potentially large amounts of data from being invalidated (e.g., if six months after the completion of a RATA, EPA were to discover that a QI was not on site during the test period). The Agency notes that an owner or operator could act as an AETB for its own source or for other sources, provided that the requirements of Section 6.1.2 are met.

Of course, having a QI on site either conducting or overseeing the methods employed in the test project does not guarantee proper performance of the test. Third party (e.g., state agency) oversight is recommended to help ensure that testing is properly conducted. (The Agency notes that even though third party oversight is highly recommended, it is not required in today's proposed rule.)

Proposed Section 6.1.2(f) of Appendix A, states that (in the absence of other information such as evidence of collusion during testing), test data that otherwise meet the requirements of Part 75 will be considered valid, provided that the AETB provides to the owner or operator a certificate of accreditation (or interim accreditation) or letter of certification described in Sections 6.1.2(b)(1) and (2), and the Qualified Individual requirements in Section 6.1.2(e) are met.

The Agency notes that ASTM D7036–04 requires that the QI re-take and pass a qualification exam at least once every five years (see § 8.3.3 of the ASTM standard). Therefore, EPA, State and local air agencies will be checking that QI exam certificates are current. The Agency recommends, but is not requiring, that owners or operators of Part 75 affected sources also check that the exam certificates are current.

EPA believes that requiring submittal of the name and e-mail address of the qualification exam provider is important for two reasons: (1) It will be a valuable deterrent to an AETB providing false qualification exam dates or certifications because the Agency may from time to time check with the exam provider; and (2) it allows the Agency to more easily verify the QI's credentials.

EPA understands that it may be unfair to hold an owner or operator of an affected source responsible for certain actions (or inactions) related to an external AETB's compliance with ASTM D7036–04. Therefore, proposed Section 6.1.2(f) also provides that "The certification described in paragraph (b) of this section, and compliance with paragraph (e), shall be sufficient proof of validity of test data that otherwise meet the requirements of this part." Proposed paragraph (g) provides that "[i]f the Administrator finds that an AETB has not provided accurate or complete information required by this section to an affected source or requested by an affected source under this section, the Administrator may post the name of the offending AETB on Agency Web sites, and provide the AETB a description of the failures to be remedied." EPA believes that this would be a deterrent to non-compliance with ASTM D7036–04. The Agency requests comments on whether posting an offending AETB's name on Agency Web sites is an appropriate response in these situations.

Further, EPA would have the express authority under proposed Section 6.1.2(h) to require an AETB to provide certain information relating to evaluation of the effectiveness of these provisions and the accuracy of information provided thereunder. If the Administrator learns that an AETB has not provided accurate or complete information or has not provided information to an owner or operator upon request as recommended in this rule, EPA has the authority under CAA Section 114 to itself require the AETB to provide evidence to the Agency that the AETB has in fact provided such information. EPA's authority under § 114 is broad, and extends to any person "who the Administrator believes may have information necessary for the purposes" of carrying out the CAA, even if that person is not otherwise subject to the CAA. The broad requirement to provide "such information as the Administrator may reasonably require", can be one-time or on a continuous basis.

By specifically authorizing EPA to collect information from persons subject to any requirement of the CAA, as well as any person whom the Administrator believes may have necessary information, Congress clearly intended that EPA could gather information from persons not otherwise subject to CAA requirements. In an effort to resolve problems which affected sources have had with air emissions testing bodies, EPA is proposing these amendments to Parts 72 and 75, and information to be available to owners or operators from

AETBs is an integral part of that regulatory structure. Therefore, a clear statement of EPA's authority to obtain information relevant to that which an owner or operator might solicit from an AETB is merited.

Further, if following demand, an AETB fails to provide evidence to the Agency that (1) it has provided accurate or complete information or (2) it has in fact made information available to the owner or operator upon request, an AETB could be subject to enforcement action by EPA under CAA Section 113. As structured, the proposed rule provides that upon learning of an AETB's deviation from the rule, EPA would provide notice to the offender and provide a reasonable period for the AETB to correct the deviation. If an AETB does not comply, EPA has the authority to bring an enforcement action. EPA's enforcement authority includes injunctive relief to compel compliance and civil and administrative penalties of up to \$32,500 per day. Deviations from the rule that could ultimately be considered violations include, but are not limited to, failure to provide such information as a certification of accreditation or interim accreditation, or a letter of certification and the date on which the on-site QI took and passed the qualification exam for the relevant test method, assuring that the QI meets the periodic timing requirement of examinations to retain his QI status. Additionally, as discussed above, EPA also would have the authority to publish the name of the offending AETB on its Web sites.

EPA is also attempting to clarify internal and external audit provisions in ASTM D 7036–04, self certification, and accreditation by a recognized, national accreditation body provisions in this preamble. EPA also specifically requests comment on whether AETBs should be required to be accredited.

If the AETB chooses to be accredited by a recognized, national accreditation body (neither the January 24, 2008 final rule nor today's proposed rule requires such accreditation), compliance with ASTM D7036–04 is determined by that accreditation body. If an AETB fails to meet the requirements of ASTM D7036–04, the accreditation body may revoke the AETB's accreditation.

However a revoked or denied accreditation might not affect compliance with the Part 75 AETB requirements. Section 4 of the ASTM practice states that the "quality manual and its implementation (including test protocols, reports, and personnel testing)" will provide the "sole basis" for determining conformance of the AETB with the practice. Under Section 7.4 of

the practice, AETBs are required to conduct annual internal audits to identify any deficiencies and determine and document the effectiveness of corrective action. Under Sections 18 and 19 of the practice, the AETB also must have policies and procedures, and designate appropriate authorities, for implementing corrective action when nonconforming work or departures from its quality system are identified. For purposes of the Part 75 rule, an AETB that is conducting internal (or external) audits and implementing its policies and procedures for corrective action is operating in conformance with the ASTM practice, despite any deficiencies in the AETB certification or certificate of accreditation or interim accreditation required under Section 6.1.2(b) of Appendix A that might be discovered by the AETB or by a third party during an audit.

EPA intends to post a list of activities on Agency Web site(s) to assist sources in complying with ASTM D7036–04. Additionally, EPA plans to similarly post questions and answers (Qs&As) related to the air emission testing minimum competency requirements. Such Qs&As will be developed and made available as implementation of the air emission testing minimum competency requirements progresses.

Regarding the AETB-related recordkeeping requirements, EPA believes that a commencement date of six months after the effective date of a final rule would allow sufficient time for stack testers and stack testing companies to become fully compliant with the AETB provisions. Affected sources and air emission testing bodies have known that EPA would impose AETB requirements since August 22, 2006, when the first AETB-related rule was proposed (*see* 71 FR 49300, August 22, 2006). On and after January 1, 2011, the new AETB-related data elements in § 75.64 would be submitted to EPA prior to or concurrent with the submittal of the relevant quarterly electronic data report. However, if the final rule is delayed, EPA reserves the right to amend the reporting deadline. The Agency believes that this will provide both EPA and the regulated community adequate time to reprogram recordkeeping/reporting software.

C. Other Amendments

1. Compliance Dates

EPA is proposing to amend paragraphs (b)(2) and (c)(2) of § 75.4 to remove the 90 unit operating days provision pertaining to the monitoring system certification deadline for new Acid Rain Program (ARP) units and

newly-affected units that lose their ARP-exempt status under 40 CFR 72.6. A new ARP unit would have 180 calendar days after the date the unit commences commercial operation to complete certification tests of all monitoring systems, and would, according to § 72.9(c)(3)(iv), be required to commence holding SO₂ allowances when the 180 day window expires. A newly-affected ARP unit would also have 180 days to complete monitor certification testing and begin holding allowances, except that in this case, the reference point would be the date on which the unit becomes subject to the ARP, rather than the date on which the unit commenced commercial operation. Since § 75.61(a)(2) requires the owner or operator to notify EPA of the date on which a new unit commences commercial operation or the date on which a previously ARP-exempt unit loses its exempt status, the Agency believes the proposed amendments to §§ 75.4(b) and (c) will clarify and simplify the determination of when new and newly-affected ARP units must complete certification testing and commence holding SO₂ allowances.

EPA is also proposing to amend § 75.4(e), chiefly to clarify the applicability of this section. Section 75.4(e) applies to the construction of a new stack or the installation of add-on SO₂ or NO_x emission controls (or both) at an existing Acid Rain Program (ARP) unit after the compliance date specified in § 75.4(a). For these events, the owner or operator is given 90 unit operating days or 180 calendar days (whichever occurs first) after gases first exit to the atmosphere through the new stack, flue, or emission control device to complete all necessary monitoring system certification testing.

Under 40 CFR 72.2, a “new” ARP unit is defined as one that commences commercial operation on or after November 15, 1990. Since § 75.4(e) applies only to “existing” units, it only covers Phase I and Phase II ARP units that commenced commercial operation prior to November 15, 1990.

Therefore, to ensure that the owner or operator of a new ARP unit that commences commercial operation after November 15, 1990 is given the same 90 operating day/180 calendar day flexible window of time to perform the necessary monitoring system testing when a new stack is constructed or add-on SO₂ or NO_x emission controls are installed, EPA proposes to amend § 75.4(e), as follows:

- First, the reference to the compliance date in § 75.4(a), which applies only to existing units, would be expanded to include the compliance

date in § 75.4(b), which applies to new units.

- Second, the reference to “certification testing” of the monitoring systems would be expanded to include the terms “recertification” and “diagnostic testing,” because new stack construction and/or addition of emission controls does not necessarily require a full battery of certification tests to be performed.

- Third, the exact starting time of the 90 operating day/180 calendar day window would be clarified. For construction of a new stack, no change is proposed—the clock will start when gases first exit to the atmosphere through the new stack. However, for SO₂ or NO_x control device addition, the clock would start when reagent is first injected into the gas stream. In cases where there is both new stack construction and control device addition, the start of the clock would be governed by the new stack construction.

- Finally, the allowable data reporting options during the flexible 90 operating day/180 calendar day window of time would be clarified.

2. Incorporation by Reference

The Agency is proposing to amend § 75.6 by including reference to Section 3, Small Volume Provers, First Edition, of the American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 4—Proving Systems. Section 3 was inadvertently left out of the January 24, 2008 final rule.

3. Miscellaneous Recordkeeping Requirements

EPA is proposing to amend certain recordkeeping and reporting provisions in §§ 75.53(g)(1)(i)(A), (g)(1)(i)(C), (g)(1)(i)(E), (g)(1)(i)(F), (g)(1)(v)(F), (g)(1)(v)(G), (g)(1)(vi)(J), (h)(2)(i), and (h)(5), §§ 75.58(d)(4)(iii)(A)–(H), §§ 75.59(a)(1)(iii), (a)(5)(ii)(L), (a)(5)(iii)(H), (a)(12)(iv)(G), (d)(3)(xii) and (xiii), § 75.62(d), and § 75.63(d) by adding various data elements that were inadvertently left out of the August 22, 2006 proposed rule and the January 24, 2008 final rule. These data elements have already been included in the data acquisition and handling systems of Part 75 affected units, and are needed to make EPA’s new reporting software data requirements consistent with the regulatory requirements. Because there was zero tolerance for reporting errors during the transition to the EPA’s re-engineered reporting software system (ECMPS), the Agency is confident that all Part 75 affected sources have already met the reporting deadlines for these data elements.

4. Reference Methods

In § 75.22(a)(5)(iv), the Agency is proposing to disallow multiple Method 7E runs to be performed before conducting the post-run bias or system calibration error check. EPA is concerned that if the use of this option, which is described in Section 8.5 of Method 7E, were allowed, less accurate gas concentration measurements are likely to result; and correction of the run-level data for calibration bias would become unnecessarily complex and prone to error.³

5. Alternative Monitoring Systems

EPA is proposing to remove the requirement for an owner or operator to demonstrate that emissions for a class-approved alternative monitoring system (AMS) are de minimis from § 75.47(b). EPA believes that the de minimis emissions concept is not appropriate for Subpart E petitions because in order to be approved, an AMS must be shown to be equivalent to a continuous emission monitoring system (CEMS). In the Acid Rain Program and in other Part 75 emissions trading programs, the de minimis emissions concept has been used only to justify allowing the use of less rigorous monitoring methods for low-emitting units (such as the Appendix E methodology for gas-fired and oil-fired peaking units and the low mass emissions (LME) methodology in § 75.19) rather than for justifying the use of CEMS or AMS shown to be equivalent to CEMS. There are also potential problems defining de minimis emissions for a class of units, and tracking the available increment. The Agency notes that today's proposed revision to § 75.47(b) does not imply that it will be easier to get a class-approved AMS petition granted under Subpart E.

The Agency is also proposing to remove the self-imposed requirement

for EPA to publish a **Federal Register** notice for a 30-day public comment period prior to granting a class-approved AMS in § 75.47(c). This Federal Register notice is unnecessary in view of EPA's authority under Subpart E to approve alternative monitoring systems, and the rigorous requirements in §§ 75.40 through 75.48 that an AMS must meet in order to be certified.

6. Cover Letters

EPA is proposing to amend §§ 75.62 and 75.63, regarding the need for cover letter text to accompany official monitoring plan submittals, certification applications, and recertification applications. Sections 72.21 and 72.22 of the Acid Rain Program core rules require each official Program submittal to come from the Designated Representative (DR) or the Alternate Designated Representative (ADR), and to include a certification statement attesting that the information in the submittal is, to the best of his or her knowledge, true and accurate.

In past years, EPA had required a hard copy form (*i.e.*, EPA form 7610-14) to be included with all initial monitoring plan submittals, and with all certification and recertification applications. Form 7610-14 included a certification statement and a signature block for the DR or ADR. However, the form eventually became outdated, and in the January 24, 2008 rulemaking, EPA removed the requirement to include it in future monitoring plan, certification application, and recertification application submittals. Although discontinuing the use of Form 7610-14 was appropriate, it resulted in a loss of the official status of these submittals.

Today's proposed rule would add a new paragraph, (d), to both § 75.62 and § 75.63. Section 75.62(d) would require the DR or ADR to enclose a hard copy cover letter with each hard copy monitoring plan submittal. The cover letter would be submitted to the EPA Regional Office and to the State or local air agency. Consistent with § 72.21(b), the cover letter would include the DR's (or ADR's) signature and a certification statement. Section 75.63(d) would similarly require a hard copy cover letter and a signed certification statement from the DR or ADR to accompany the hard copy portion of each certification or recertification application.

In contrast, for electronic monitoring plan submittals and the electronic portions of certification and recertification applications, there is no need for cover letter text. For these official Program submittals, the

requirements of §§ 72.21 and 72.22 are met by means of the DR's (or ADR's) electronic signature and electronic certification statements. However, the DR or ADR may wish to provide important explanatory text and comments along with an official electronic submittal. In view of this, EPA proposes to include in §§ 75.62(d) and 75.63(d) provisions allowing such text and comments to accompany both electronic monitoring plan submittals and the electronic portions of certification and recertification applications, provided that the information is communicated in an electronic format compatible with the rest of the data required under §§ 75.62 and 75.63. This is consistent with § 75.64(g), which allows the DR or ADR to provide EPA with similar textual information in electronic format, so long as it is compatible with the rest of the data in the quarterly emissions reports.

7. Recordkeeping and Reporting Formats

EPA proposes to amend Part 75, Appendix A, Section 4 to update recordkeeping and reporting formats.

8. Calibration Gas Tag Values

EPA proposes to amend Part 75, Appendix A, Sections 5.1.4(b) and 5.1.5 to clarify the meaning of the plus or minus 2.0 percent performance specification for EPA Protocol gases and research gas mixtures.

Section 5.1.4(b) currently requires calculation of a 95 percent confidence interval which may provide justification for a specialty gas company to claim that it is permissible for an EPA Protocol gas cylinder tag value to be more than 2.0 percent different than the actual cylinder gas concentration. The Agency generally does not assign an uncertainty to a performance specification, *e.g.*, cylinder concentration must be within 2.0% of cylinder tag value, because performance specifications are used to determine compliance.

Proposed Section 5.1.4(b) would state that "EPA Protocol gas concentrations must be certified by a specialty gas company to have an analytical uncertainty to be not more than plus or minus 2.0 percent (inclusive)."

Section 5.1.5 currently states that research gas mixtures (RGM) must be vendor certified to be within 2.0 percent of the cylinder tag value. This statement may be confusing because the National Institute of Standards and Technology (rather than a specialty gas vendor) actually certifies an RGM concentration.

Proposed Section 5.1.5 would state: "Concentrations of research gas

³ EPA instrumental Method 7E was developed and validated with a requirement to conduct a system bias or calibration error check before and after each run to ensure that each reference method run is accurate. Method 7E also includes a procedure to correct for drift if the drift is less than the allowable specification. This mathematical correction assumes (not always correctly) that the drift over the duration of the testing run is uniform and therefore adjusts the run measurement to the average system bias calibration response. In a recent revision to Section 8.5 of Method 7E, an option was added to allow testers to forgo the run-by-run quality assurance (QA) and instead only test the calibration of the reference method measurement equipment at the beginning and end of a series of runs. This change lengthens the interval between QA checks and thus increases the likelihood that the uniform drift assumption is not true. Furthermore, even if the uniform drift assumption were true, the resulting correction would be appropriate for the middle runs but not for the early or later runs of a test.

mixtures, as defined in § 72.2 of this chapter, must be certified by the National Institute of Standards and Technology to be within plus or minus 2.0 percent (inclusive) of the concentration specified on the cylinder label (*i.e.*, the tag value) in order to be used as calibration gas under this part.”

The Agency requests comments on these proposed changes to Sections 5.1.4(b) and 5.1.5, particularly regarding the appropriateness of the 2.0 percent specification for very low gas concentrations. Would an alternative specification (*e.g.*, in terms of absolute difference) be more appropriate for very low concentration gases?

9. Removal of Mercury Monitoring Provisions

EPA is proposing to remove the mercury (Hg) monitoring, recordkeeping, and reporting provisions from Parts 72 and 75. These provisions were originally published in May 2005, in support of the Clean Air Mercury Rule (CAMR) (*see* 70 FR 28606, May 18, 2005), and were subsequently amended on September 7, 2007 and January 24, 2008 (*see* 72 FR 51494, September 7, 2007 and 73 FR 4312, January 24, 2008).

CAMR provided a blueprint for a national Hg emissions reduction program, using a “cap and trade” approach. However, the rule was challenged, and on February 8, 2008, the *District of Columbia Court of Appeals in New Jersey v. EPA*, 517 F.3d 574 (D.C. Cir. 2008) vacated the rule. The sole purpose of the Part 75 Hg monitoring provisions was to facilitate the implementation of CAMR. EPA appealed the Court’s ruling on CAMR, but the petition for a rehearing was denied.

In view of vacatur of CAMR, today’s proposed amendments would not only remove the more visible Hg monitoring sections of the rule, such as Subpart I (Hg mass emissions monitoring options), § 75.15 (operation of sorbent trap monitoring systems), §§ 75.38 and 75.39 (Hg missing data provisions), §§ 75.57(i) and (j) (Hg recordkeeping provisions), Section 9 of Appendix F (Hg mass emissions calculations), and Appendix K (QA procedures for sorbent trap systems), but would also remove a myriad of less obvious references to Hg monitoring scattered throughout the rule text, Tables, and Figures.

The rule texts affected by the proposed amendments are as follows: § 72.2, § 75.2(d), § 75.4(d), § 75.6, § 75.10(d), §§ 75.20(a) through (d), § 75.21(a), §§ 75.22(a) and (b), § 75.24(d), §§ 75.31(a) and (b), § 75.32(a), Table 1 in § 75.33, §§ 75.34(a) and (d), § 75.38, § 75.39, § 75.53(g),

§§ 75.57(i) and (j), Table 4a in § 75.57, § 75.58(b), §§ 75.59(a), (c) and (e), § 75.60(b), §§ 75.61(a) and (b), §§ 75.80 through 75.84, Appendix A, Sections 1.1, 2.1.7, 2.1.7.1 through 2.1.7.4, 2.2.3, 3.1(c), 3.2(3), 3.3.8, 3.4.3, 4 introductory text, 5.1.9, 6.2 introductory text, (g) and (h), 6.3.1 introductory text, 6.4 introductory text, 6.5 introductory text, (c), (e), and (g), 6.5.1, 6.5.6(c), 6.5.10, 7.3 introductory text, 7.6 introductory text, 7.6.1, 7.6.5(b) and (f), Appendix B, Sections 1.1.4, 1.5, 1.5.1 through 1.5.6, 2.1.4(a), 2.2.1, 2.3.1.1(a), 2.3.1.3(a), 2.3.2(d) and (i), 2.3.4, 2.6, Figures 1 and 2, Appendix F, section 9, and Appendix K.

10. Miscellaneous Corrections and Additions

EPA also proposes to make several minor corrections and additions to Part 75, most of which are in the rule sections cited immediately above. Many of the proposed revisions are simply grammatical in nature, for added clarity. The more substantive proposed revisions are as follows. First, in §§ 75.21 and 75.22 and Section 6.5.10 of Appendix A, corrections would be made to the citations of the Appendices to Part 60 in which the EPA reference methods are found. Second, Equation A-7 in Appendix A would be corrected. Third, references to SO₂-diluent monitoring systems, which are no longer used for Part 75 reporting, would be removed from § 75.59, Section 2.3.1.1(a) of Appendix B, and from Figure 2 of Appendix B. Fourth, the reference to moisture sensors, which are not required to perform daily calibration error tests, would be removed from Section 2.1.4(a) of Appendix B. Fifth, a reference to the NO_x emission tests of low mass emissions units, which had been inadvertently omitted, would be added to § 75.22. Sixth, in Table 4a in § 75.57, the reference to the maximum potential flow rate (MPF) would be removed from the description of Method of Determination Code (MODC) “23”. Code 23 pertains to data reporting for an unmonitored bypass stack. Section 75.16(c)(3) states that during bypass hours, the standard missing data procedures are to be used for stack gas flow rate, rather than reporting the MPF. Finally, a new MODC, “53”, would be added to Table 4a. This code would be used for certain alternative emissions data approved by petition. MODC “53” differs from existing code “54”, in that the hours in which code “53” is reported would be considered “available” hours that do not affect the percent monitor data availability (PMA). An example of a case where code “53” might be used is a situation where a developing

problem with a monitor (*e.g.*, a dilution probe leak) is undetectable by means of daily or quarterly QA tests, but it is later discovered, at the time of the annual RATA. Ordinarily, this could result in an extended period of missing data substitution, including the use of maximum potential values, and a sharp reduction in the PMA. However, if the probe leak could be reasonably quantified, EPA would consider a petition under § 75.66 to make an upward adjustment to the data recorded by the monitor during the leak period and to report the adjusted data using MODC “53” instead of applying the standard Part 75 missing data routines.

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2203.03. The currently approved Information Collection Request (ICR) document prepared by EPA reflects the January 24, 2008 rule (EPA ICR Number 2203.02; OMB No.: 2060–0626). (OMB control numbers for EPA regulations are listed in 40 CFR part 9.) The information requirements covered by EPA ICR Number 2203.03 reflect the revisions to the requirements in 40 CFR parts 72, and 75 that are being proposed in this action.

Basic information on the identity of EPA Protocol gas production sites and on the type of cylinders used by Part 75 affected sources will be collected by the Agency. These data will allow the Agency to verify that a Part 75 affected source is using EPA Protocol gases from EPA Protocol gas production sites that are participating in the Protocol Gas Verification Program (PGVP), and to inform the gas cylinder selection for the PGVP audits. This same type of information will be collected when EPA Protocol gases are used to perform certain EPA test methods. The Agency anticipates that this will help improve

the quality of results when these test methods are used.

EPA has added simple recordkeeping and reporting requirements to enable the Agency to verify that Qualified Individuals and Air Emission Testing Bodies meet the requirements of this rule. EPA maintains that the main costs for air emission testing bodies to comply with the minimum competency requirements in ASTM D7036–04 are associated with taking qualified individual (QI) competency exams, and the development and revision of quality assurance manuals. The costs will be passed through to the customers (Part 75 affected sources, primarily large electric utility and industrial companies), and the Agency notes that these costs will be offset by the savings generated by fewer failed or incorrectly performed relative accuracy test audits (RATAs), and fewer repeat tests required.

EPA is also requiring certain recordkeeping and reporting provisions for various data elements that were inadvertently left out of the August 22, 2006 proposed rule and the January 24, 2008 final rule. These data elements have already been incorporated in the data acquisition and handling systems of Part 75 affected units, and are required to make EPA's new reporting

software data requirements consistent with the regulatory requirements.

All of the above data collections are mandatory under 40 CFR part 75. None of the data are considered confidential business information under 40 CFR part 2, subpart B.

This proposed rule does not significantly change the existing requirements in 40 CFR Parts 72, and 75 and thus does not significantly change the existing information collection burden. The total annual respondent burden is estimated to be 2,254 hours, with total annual labor and O&M costs estimated to be \$1,081,989. This estimate includes the burden associated with the increase in fees from AETBs and PGVP vendors resulting from their compliance with the new requirements in the rule as well as the small labor burden for sources to review the new requirements and comply with the modified recordkeeping and reporting requirements (*See Exhibits 1 and 2*). Burden is defined at 5 CFR 1320.3(b). The respondent burden for this collection of information is estimated to be a small fraction of both the 124,976 labor hours, and the \$8,581,420 total cost that were calculated for the existing supporting statement (ICR 2203.02) for revisions to 40 CFR Parts 72 & 75.

Most of these costs are expected to be borne by the private sector and will be passed through to the customers (Part 75 affected sources, primarily large electric utility and industrial companies, or the rate payers). The Agency notes that much of the overall cost will be offset by the savings generated by fewer failed or incorrectly performed daily calibration error tests, quarterly linearity checks, and relative accuracy test audits (RATAs), and fewer repeat tests required.

Exhibits 1 and 2 summarize the respondent burden and cost estimates performed for the ICR (2203.03) supporting statement for revisions to 40 CFR Parts 72 & 75. EPA estimates that: (a) 1,249 ARP sources and 253 additional CAIR sources will need to review the revised requirements and comply with the modified reporting requirements; and (b) 3,736 ARP sources and 777 additional CAIR sources will need to perform quality assurance testing and maintenance tasks. Low mass emissions units will not have to modify their DAHS, and sources with only new units already have their initial startup burdens and costs accounted for in the underlying program ICRs. Exhibit 1 shows the total burden and total cost based on this respondent universe.

EXHIBIT 1—INCREASED RESPONDENT BURDEN/COST (LABOR ONLY) ESTIMATES RELATED TO REVISIONS OF 40 CFR PARTS 72 & 75

Information collection activity	Mean hourly rate	Hours per activity/year	Number of respondents (facilities)	Respondent hours/year	Total labor cost/year
ARP Respondents One Time Rule Review	80.71	1	1,249	1,249	100,807
ARP Respondents Compliance with Modified Reporting Requirements	80.71	0.5	1,249	624.5	50,444
CAIR Respondents One Time Rule Review	80.71	1	253	253	20,420
CAIR Respondents Compliance with Modified Reporting Requirements	80.71	0.5	253	126.5	10,210
Total			1,502	2,254	181,881

EXHIBIT 2—INCREASED RESPONDENT BURDEN/COST (QA AND MAINTENANCE) ESTIMATES RELATED TO REVISIONS OF 40 CFR PARTS 72 & 75

Information collection activity	Previously established cont./O&M cost	Increased cont./O&M cost per respondent	Number of respondents (units)	Increased total cost/year
ARP Perform QA Testing and Maintenance				
Model A (CEMS)	\$31,949	\$319	1,046	\$333,674
Model C (App D—NO _x CEM)	17,818	178	2,107	375,046
Model D (App D and E)	1,843	19	438	8,322
Model E (LME)	1,991	20	145	2,900
CAIR Perform QA Testing and Maintenance				
• Non ARP Sources in PM/O ₃ and PM Only States				
—Solid Fuel: SO ₂ , NO _x , and Flow CEMS (units)	31,200	312	102	31,824
—Gas-Oil: NO _x CEMS and App D (units)	17,400	174	493	85,782
—Gas-Oil Peaking Units: App D, App E, or LME methods (units)	1,800	18	150	2,700

EXHIBIT 2—INCREASED RESPONDENT BURDEN/COST (QA AND MAINTENANCE) ESTIMATES RELATED TO REVISIONS OF 40 CFR PARTS 72 & 75—Continued

Information collection activity	Previously established cont./O&M cost	Increased cont./O&M cost per respondent	Number of respondents (units)	Increased total cost/year
• Non ARP Sources in O ₃ Only States				
—Solid Fuel: SO ₂ , NO _x , and Flow CEMS (units)	20,800	208	4	832
—Gas-Oil: NO _x CEMS and App D (units)	17,400	174	28	4,872
—Gas-Oil Peaking Units: App D, App E, or LME methods (units)	1,800	18	0	0
PGVP Increased Costs				
(\$2 per cylinder at an assumed average of 6 cylinders per year) .....	.....	12	4,513	54,156
Total .....	.....	.....	.....	900,108

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 in 40 CFR are listed in 40 CFR Part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA-HQ-OAR-2009-0837. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 11, 2010, a comment to OMB is best assured of having its full effect if OMB receives it by July 12, 2010. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rule on small

entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

EPA conducted a screening analysis of today's rule on small entities in the following manner. The SBA defines small utilities as any entity and associated affiliates whose total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. The SBA 4 million megawatt hour threshold was applied to the Energy Information Administration (EIA) Annual Form EIA-923, "Power Plant Operations Report" 2008 net generation megawatt hour data and results in an estimated 1169 facilities. This data is then paired with facility owner and associated affiliates data (owners with net generation over 4 million were disregarded) resulting in a total of 620 small entities with a 2008 average net generation of 650,169 megawatt hours. Multiplying net generation by the 2009 EIA average retail price of electricity (9.72 cents per kilowatt hour), the average revenue stream per small entity was determined to be \$63,196,427 dollars. In contrast the average respondent costs burden for this rule was determined to be \$720.37 per year, which is considerably less than one percent of the estimated average revenue stream per entity. All of the 620 small entities except for one had respondent costs that were less than one percent of the estimated revenue stream.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic

impact on a substantial number of small entities. All but one of the 620 small electric utilities directly affected by this proposed rule are expected to experience costs that are well under one percent of their estimated revenues.

The proposed rule revisions represent minor changes to existing monitoring requirements under Part 75. There will be some small level of annual costs to participate in a gas audit program, taking a qualified stack test individual competency exam and developing or revising a quality assurance manual, and a slight up-front cost to reprogram existing electronic data reporting software used under Part 75. The Agency notes that these costs will be offset by the savings generated by fewer failed or incorrectly performed daily calibration error tests, quarterly linearity checks, and relative accuracy test audits (RATAs), and fewer repeat tests required.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annual respondent burden is estimated to be 2,254 hours, with total annual labor and O&M costs estimated to be \$1,081,989. This estimate includes the burden associated with the increase in fees from AETBs and PGVP vendors resulting from their compliance with the new requirements in the rule as well as the small labor burden for sources to review the new requirements and comply with the modified recordkeeping and reporting requirements (See Exhibits 1 and 2). The respondent burden for this collection of

information is estimated to be a small fraction of both the 124,976 labor hours, and the \$8,581,420 total cost that were calculated for the existing supporting statement (ICR 2203.03) for revisions to 40 CFR Parts 72 & 75. The costs incurred by AETBs and PGVP vendors will be passed through to their customers (Part 75 affected sources, primarily large electric utility and industrial companies, or the rate payers). The Agency notes that much of the costs will be offset by the savings generated by fewer failed or incorrectly performed daily calibration error tests, quarterly linearity checks, and relative accuracy test audits (RATAs), and fewer repeat tests required. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This proposed rule would generally affect large electric utility or industrial companies.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule primarily amends the Protocol Gas Verification Program, and the minimum competency requirements for air emission testing (first promulgated on January 24, 2008 (See 73 FR 4340, 4364, and 4365)) by having specialty gas company funds go to the National Institute of Standards and Technology, who has statutory authority to receive such funds, to fund gas cylinder analyses, by changing the rule language to rely on certain documentation provided at the time of stack testing as sufficient proof of validity of test data that otherwise meets the requirements of Part 75, by adding simple recordkeeping/reporting requirements, and by extending relevant compliance deadlines. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule primarily amends the Protocol Gas Verification Program, and the minimum competency requirements for air emission testing (first promulgated on January 24, 2008 (See 73 FR 4340, 4364, and 4365)) by having specialty gas company funds go to the National Institute of Standards and Technology, who has statutory authority to receive such funds, to fund gas cylinder analyses, by changing the rule language to rely on certain documentation provided at the time of stack testing as sufficient proof of validity of test data that otherwise meets the requirements of Part 75, by adding simple recordkeeping/reporting requirements, and by extending relevant compliance deadlines. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods,

sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. The Agency found an applicable voluntary consensus standard, ASTM D 7036–04, Standard Practice for Competence of Air Emission Testing Bodies, for use with the air emission testing body provisions of the proposed rule. However, EPA could not identify any applicable voluntary consensus standard for the Protocol Gas Verification Program. Therefore, for the PGVP, EPA has decided to use “EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,” September 1997, EPA–600/R–97/121 or such revised procedure as approved by the Administrator.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this proposed regulation.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed rule primarily amends the Protocol Gas Verification Program, and the minimum competency requirements for air emission testing (first promulgated on January 24, 2008 (See 73 FR 4340, 4364, and 4365)) by having specialty gas company funds go to the National

Institute of Standards and Technology, who has statutory authority to receive such funds, to fund gas cylinder analyses, by changing the rule language to rely on certain documentation provided at the time of stack testing as sufficient proof of validity of test data that otherwise meets the requirements of Part 75, by adding simple recordkeeping/reporting requirements, and by extending relevant compliance deadlines.

List of Subjects in 40 CFR Parts 72 and 75

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Electric utilities, Carbon dioxide, Continuous emission monitoring, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur oxides, Reference test methods.

Dated: April 29, 2010.

Lisa P. Jackson,
Administrator.

40 CFR parts 72 and 75 are proposed to be amended as follows:

PART 72—PERMITS REGULATION

1. The authority citation for part 72 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 72.2 is amended by:

a. Revising definitions of “Air Emission Testing Body (AETB)”, “EPA Protocol Gas”, “EPA Protocol Gas Verification Program”, and “Qualified Individual”;

b. Revising the introductory text of the definition of “Continuous emission monitoring system or CEMS”;

c. Removing paragraph (7) of the definition of “Continuous emission monitoring system or CEMS”

d. Removing the definitions of “NIST traceable elemental Hg standards”, “NIST traceable source of oxidized Hg”, “Sorbent trap monitoring system”, and “Specialty Gas Producer”; and

e. Adding in alphabetical order definitions for “EPA Protocol Gas Production Site”, and “Specialty Gas Company”, to read as follows:

§ 72.2 Definitions.

* * * * *

Air Emission Testing Body (AETB) means a company or other entity that provides to the owner or operator the certification required by section 6.1.2(b) of appendix A to part 75 of this chapter.

* * * * *

Continuous emission monitoring system or CEMS means the equipment required by part 75 of this chapter used

to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of SO₂, NO_x, or CO₂ emissions or stack gas volumetric flow rate. The following are the principal types of continuous emission monitoring systems required under part 75 of this chapter. Sections 75.10 through 75.18, and § 75.71(a) of this chapter indicate which type(s) of CEMS is required for specific applications:

* * * * *

EPA Protocol Gas means a calibration gas mixture prepared and analyzed according to section 2 of the “EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,” September 1997, EPA-600/R-97/121 or such revised procedure as approved by the Administrator.

EPA Protocol Gas Production Site means a site that produces or blends calibration gas mixtures prepared and analyzed according to section 2 of the “EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards,” September 1997, EPA-600/R-97/121 or such revised procedure as approved by the Administrator.

EPA Protocol Gas Verification Program or PGVP means a calibration gas audit program described in § 75.21(g) of this chapter and implemented by EPA in cooperation with the National Institute of Standards and Technology (NIST).

* * * * *

Qualified Individual (QI) means an individual who is identified by an AETB as meeting the requirements described in ASTM D7036-04 “Standard Practice for Competence of Air Emission Testing Bodies” (incorporated by reference under § 75.6 of this part), as of the date of testing.

* * * * *

Specialty Gas Company means an organization that wholly or partially owns or operates one or more EPA Protocol gas production sites.

* * * * *

PART 75—CONTINUOUS EMISSION MONITORING

3. The authority citation for part 75 continues to read as follows:

Authority: 42 U.S.C. 7601, 7651k, and 7651k note.

§ 75.2 [Amended]

4. Section 75.2 is amended by removing paragraph (d).

5. Section 75.4 is amended by:

a. Revising paragraphs (b)(2) and (c)(2);

b. Revising paragraph (d) introductory text; and

c. Revising paragraphs (d)(1) and (e), to read as follows:

§ 75.4 Compliance dates.

* * * * *

(b) * * *

(2) 180 calendar days after the date the unit commences commercial operation, notice of which date shall be provided under subpart G of this part.

(c) * * *

(2) 180 calendar days after the date on which the unit becomes subject to the requirements of the Acid Rain Program, notice of which date shall be provided under subpart G of this part.

(d) This paragraph (d) applies to affected units under the Acid Rain Program and to units subject to a State or Federal pollutant mass emissions reduction program that adopts the emission monitoring and reporting provisions of this part. In accordance with § 75.20, for an affected unit which, on the applicable compliance date, is either in long-term cold storage (as defined in § 72.2 of this chapter) or is shut down as the result of a planned outage or a forced outage, thereby preventing the required continuous monitoring system certification tests from being completed by the compliance date, the owner or operator shall provide notice of such unit storage or outage in accordance with § 75.61(a)(3) or § 75.61(a)(7), as applicable. For the planned and unplanned unit outages described in this paragraph (d), the owner or operator shall ensure that all of the continuous monitoring systems for SO₂, NO_x, CO₂, opacity, and volumetric flow rate required under this part (or under the applicable State or Federal mass emissions reduction program) are installed and that all required certification tests are completed no later than 90 unit operating days or 180 calendar days (whichever occurs first) after the date that the unit recommences commercial operation, notice of which date shall be provided under § 75.61(a)(3) or § 75.61(a)(7), as applicable. The owner or operator shall determine and report SO₂ concentration, NO_x emission rate, CO₂ concentration, and flow rate data (as applicable) for all unit operating hours after the applicable compliance date until all of the required certification tests are successfully completed, using either:

(1) The maximum potential concentration of SO₂ (as defined in section 2.1.1.1 of appendix A to this part), the maximum potential NO_x emission rate, as defined in § 72.2 of this chapter, the maximum potential

flow rate, as defined in section 2.1.4.1 of appendix A to this part, or the maximum potential CO₂ concentration, as defined in section 2.1.3.1 of appendix A to this part; or

* * * * *

(e) In accordance with § 75.20, if the owner or operator of an affected unit completes construction of a new stack or flue, flue gas desulfurization system, or add-on NO_x emission controls after the applicable deadline in paragraph (a) or (b) of this section:

(1) The owner or operator shall ensure that all required certification and/or recertification and/or diagnostic tests of the monitoring systems required under this part (*i.e.*, the SO₂, NO_x, CO₂, opacity, and volumetric flow rate monitoring systems, as applicable) are completed not later than 90 unit operating days or 180 calendar days (whichever occurs first) after:

(i) The date that emissions first exit to the atmosphere through the new stack or flue, notice of which date shall be provided under subpart G of this part; or

(ii) The date that reagent is first injected into the flue gas desulfurization system or add-on NO_x emission controls, notice of which date shall be provided under subpart G of this part.

(2) If the project involves both new stack or flue construction and installation of add-on emission controls, the 90 unit operating days and 180 calendar days shall be reckoned from the date that emissions first exit to the atmosphere through the new stack or flue.

(3) The owner or operator shall determine and report SO₂ concentration, NO_x emission rate, CO₂ concentration, and volumetric flow rate data for all unit operating hours after emissions first pass through the new stack or flue, or reagent is injected into the flue gas desulfurization system or add-on NO_x emission controls (as applicable) until all required certification and/or recertification and/or diagnostic tests are successfully completed, using either:

(i) The applicable missing data substitution procedures under §§ 75.31 through 75.37; or

(ii) The conditional data validation provisions of § 75.20(b)(3); or

(iii) Reference methods under § 75.22(b); or

(iv) Another procedure approved by the Administrator pursuant to a petition under § 75.66.

* * * * *

6. Section 75.6 is amended by:

a. Removing and reserving paragraphs (a)(38), (a)(43), and (a)(44); and

b. Revising paragraphs (a)(48) and (f)(3) to read as follows:

§ 75.6 Incorporation by reference.

* * * * *

(a) * * *

(38) [Reserved]

* * * * *

(43) [Reserved]

(44) [Reserved]

* * * * *

(48) ASTM D7036–04, Standard Practice for Competence of Air Emission Testing Bodies, for § 72.2, § 75.59(a)(9)(xi)(iii), (a)(15)(iii), (b)(6)(iii), (d)(4)(iii), and appendix A, § 6.1.2 of this part.

* * * * *

(f) * * *

(3) American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapter 4—Proving Systems, Section 2—Pipe Provers (Provers Accumulating at Least 10,000 Pulses), Second Edition, March 2001, Section 3—Small Volume Provers, First Edition, and Section 5—Master-Meter Provers, Second Edition, May 2000, for appendix D to this part.

* * * * *

7. Section 75.10 is amended by:

a. Revising the second sentence of paragraph (d)(1); and

b. Revising the first sentence of paragraph (d)(3), to read as follows:

§ 75.10 General operating requirements.

* * * * *

(d) * * *

(1) * * * The owner or operator shall reduce all SO₂ concentrations, volumetric flow, SO₂ mass emissions, CO₂ concentration, O₂ concentration, CO₂ mass emissions (if applicable), NO_x concentration, and NO_x emission rate data collected by the monitors to hourly averages. * * *

* * * * *

(3) Failure of an SO₂, CO₂, or O₂ emissions concentration monitor, NO_x concentration monitor, flow monitor, moisture monitor, or NO_x-diluent continuous emission monitoring system to acquire the minimum number of data points for calculation of an hourly average in paragraph (d)(1) of this section shall result in the failure to obtain a valid hour of data and the loss of such component data for the entire hour. * * *

* * * * *

§ 75.15 [Removed and reserved]

8. Section 75.15 is removed and reserved as follows:

9. Section 75.20 is amended by:

a. Revising paragraph (a)(5)(i);

b. Revising the first sentence of paragraph (b) introductory text;

c. Revising paragraph (c)(1) introductory text;

d. Revising paragraphs (c)(1)(ii) and (c)(1)(iii);

e. Removing paragraph (c)(1)(vi);

f. Removing and reserving paragraph (c)(9); and

g. Removing paragraph (d)(2)(ix), to read as follows:

§ 75.20 Initial certification and recertification procedures.

(a) * * *

(5) * * *

(i) Until such time, date, and hour as the continuous emission monitoring system can be adjusted, repaired, or replaced and certification tests successfully completed (or, if the conditional data validation procedures in paragraphs (b)(3)(ii) through (b)(3)(ix) of this section are used, until a probationary calibration error test is passed following corrective actions in accordance with paragraph (b)(3)(ii) of this section), the owner or operator shall substitute the following values, as applicable, for each hour of unit operation during the period of invalid data specified in paragraph (a)(4)(iii) of this section or in § 75.21: The maximum potential concentration of SO₂, as defined in section 2.1.1.1 of appendix A to this part, to report SO₂ concentration; the maximum potential NO_x emission rate, as defined in § 72.2 of this chapter, to report NO_x emissions in lb/mmBtu; the maximum potential concentration of NO_x, as defined in section 2.1.2.1 of appendix A to this part, to report NO_x emissions in ppm (when a NO_x concentration monitoring system is used to determine NO_x mass emissions, as defined under § 75.71(a)(2)); the maximum potential flow rate, as defined in section 2.1.4.1 of appendix A to this part, to report volumetric flow; the maximum potential concentration of CO₂, as defined in section 2.1.3.1 of appendix A to this part, to report CO₂ concentration data; and either the minimum potential moisture percentage, as defined in section 2.1.5 of appendix A to this part or, if Equation 19–3, 19–4 or 19–8 in Method 19 in appendix A to part 60 of this chapter is used to determine NO_x emission rate, the maximum potential moisture percentage, as defined in section 2.1.6 of appendix A to this part; and

* * * * *

(b) *Recertification approval process.*

Whenever the owner or operator makes a replacement, modification, or change in a certified continuous emission monitoring system or continuous opacity monitoring system that may significantly affect the ability of the system to accurately measure or record the SO₂ or CO₂ concentration, stack gas volumetric flow rate, NO_x emission rate,

NO_x concentration, percent moisture, or opacity, or to meet the requirements of § 75.21 or appendix B to this part, the owner or operator shall recertify the continuous emission monitoring system or continuous opacity monitoring system, according to the procedures in this paragraph. * * *

* * * * *

(c) * * *

(1) For each SO₂ pollutant concentration monitor, each NO_x concentration monitoring system used to determine NO_x mass emissions, as defined under § 75.71(a)(2), and each NO_x-diluent continuous emission monitoring system:

* * * * *

(ii) A linearity check, where, for the NO_x-diluent continuous emission monitoring system, the test is performed separately on the NO_x pollutant concentration monitor and the diluent gas monitor;

(iii) A relative accuracy test audit. For the NO_x-diluent continuous emission monitoring system, the RATA shall be done on a system basis, in units of lb/mmBtu. For the NO_x concentration monitoring system, the RATA shall be done on a ppm basis;

* * * * *

(9) [Reserved]

* * * * *

10. Section 75.21 is amended by:

a. Revising paragraph (a)(3); and

b. Adding paragraphs (f) and (g), to read as follows:

§ 75.21 Quality assurance and quality control requirements.

(a) * * *

(3) The owner or operator shall perform quality assurance upon a reference method backup monitoring system according to the requirements of Method 2, 6C, 7E, or 3A in Appendices A-1, A-2 and A-4 to part 60 of this chapter (supplemented, as necessary, by guidance from the Administrator), instead of the procedures specified in appendix B to this part.

* * * * *

(f) *Requirements for Air Emission Testing.* On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], relative accuracy testing under § 75.74(c)(2)(ii), section 6.5 of appendix A to this part, and section 2.3.1 of appendix B to this part, and stack testing under § 75.19 and section 2.1 of appendix E to this part shall be performed by an "Air Emission Testing Body", as defined in § 72.2 of this chapter. Conformance to the requirements of ASTM D7036-04, referred to in section 6.1.2 of appendix A to this part, section 1.1.4 of appendix

B to this part, and section 2.1 of appendix E to this part shall apply only to these tests. Tests and activities under this part that do not have to be performed by an AETB as defined in § 72.2 include daily CEMS operation, daily calibration error checks, daily flow interference checks, quarterly linearity checks, routine maintenance of CEMS, voluntary emissions testing, or emissions testing required under other regulations.

(g) *Requirements for EPA Protocol Gas Verification Program.* Any EPA Protocol gas production site that chooses to participate in the EPA Protocol Gas Verification Program (PGVP) must notify the Administrator of its intent to participate. An EPA Protocol gas production site's initial participation shall commence immediately upon such notification and shall extend through the end of the calendar year in which notification is provided. EPA will issue a vendor ID to each participating EPA Protocol gas production site. In each year of the PGVP, EPA may audit up to four EPA Protocol gas cylinders from each participating EPA Protocol gas production site.

(1) A production site participating in the PGVP shall provide the following information in its initial and ongoing notifications to EPA:

(i) The specialty gas company name which owns or operates the production site;

(ii) The name and address of that participating EPA Protocol gas production site, owned or operated by the specialty gas company; and

(iii) The name, e-mail address, and telephone number of a contact person for that participating EPA Protocol gas production site.

(2) An EPA Protocol gas production site that elects to continue participating in the PGVP in the next calendar year must notify the Administrator of its intent to continue in the program by December 31 of the current year by submitting to EPA the information described in paragraph (g)(1) of this section.

(3) EPA Protocol gas production sites shall provide the initial and on-going notifications described in paragraph (g)(1) of this section by following the instructions on the Forms page of the CAMD Web site (<http://www.epa.gov/airmarkets/business/forms.html>). A list of the names of EPA Protocol gas production sites participating in the PGVP will be made publicly available by posting on EPA Web sites.

(4) EPA may remove an EPA Protocol gas production site from the list of PGVP participants for any of the following reasons:

(i) If the EPA Protocol gas production site fails to provide all of the information required by paragraph (g)(1) of this section;

(ii) If, after being notified that its EPA Protocol gas cylinders are being audited by EPA, the EPA Protocol gas production site fails to cancel its invoice or to credit the purchaser's account for the cylinders; or

(iii) If, after the EPA Protocol gas production site is notified that its EPA Protocol gas cylinders are being audited, EPA does not receive an electronic audit report required by paragraph (g)(9)(iv) of this section for the EPA Protocol gas production site's cylinders.

(5) EPA may relist an EPA Protocol gas production site as follows:

(i) An EPA Protocol gas production site may be relisted immediately after its failure is remedied if the only reason for removal from the list of PGVP participants is failure to provide all of the information required by paragraph (g)(1) of this section;

(ii) If EPA does not receive written proof of a credit receipt or of cancellation of the invoice for the cylinders from the EPA Protocol gas production site within two weeks of notifying the EPA Protocol gas production site that its cylinders are being audited by EPA, the cylinders shall be returned to the EPA Protocol gas production site and that EPA Protocol gas production site shall not be eligible for relisting until December 31 of the current year and until it submits to EPA the information required by paragraph (g)(1) of this section, in accordance with the procedures in paragraphs (g)(2) and (g)(3) of this section; and

(iii) Any EPA Protocol gas production site which is notified by EPA that its cylinders are being audited and for whom EPA does not receive an electronic audit report required by paragraph (g)(9)(iv) of this section, shall not be eligible for relisting until December 31 of the next year and until it submits to EPA the information required by paragraph (g)(1) of this section, in accordance with the procedures in paragraphs (g)(2) and (g)(3) of this section.

(6) For each affected unit under this part that uses EPA Protocol gases, the owner or operator must obtain such gases from either an EPA Protocol gas production site that is on the EPA list of sites participating in the PGVP at the time the owner or operator procures such gases or from a reseller that sells to the owner or operator unaltered EPA Protocol gases produced by an EPA Protocol gas production site that is on the EPA list of participating sites. In the

event that an EPA Protocol gas production site is removed from the list of PGVP participants after such gases are procured, but before the gases have been consumed, the gas cylinders may continue to be used for the purposes of this part until the earlier of the cylinder's expiration date or the date on which the cylinder gas pressure reaches 150 psig.

(7) EPA Protocol gas cylinders purchased prior to [EFFECTIVE DATE OF FINAL RULE] from a production site that is not participating in the PGVP may be used for the purposes of this part until the earlier of the cylinder's expiration date or the date on which the cylinder gas pressure reaches 150 psig.

(8) If EPA notifies a participating EPA Protocol gas production site that its EPA Protocol gas cylinders are being audited and identifies the purchaser as an EPA representative or contractor participating in the audit process, the production site shall then either cancel that purchaser's invoice or credit that purchaser's account for the purchase of those EPA Protocol gas cylinders, and provide sufficient funding to NIST for analysis of those EPA Protocol gas cylinders by NIST, and for the production site's pro-rata share of a NIST electronic audit report on all cylinders in the current audit, as specified in paragraphs (g)(9)(i) through (g)(9)(v) of this section, for demurrage, and for return shipment of its cylinders.

(9) If EPA notifies a participating EPA Protocol gas production site that its EPA Protocol gas cylinders are being audited, then:

(i) Each participating EPA Protocol gas production site must reach formal agreement with NIST to analyze its EPA Protocol gas cylinders provided for audit as soon after NIST receives the batch containing those cylinders as possible, preferably within two weeks, using analytical procedures consistent with metrology institute practices and at least as rigorous as the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards" (Traceability Protocol), September 1997 (EPA-600/R-97/121) or equivalent written cylinder analysis protocol that has been approved by EPA.

(ii) Each cylinder's concentration must be determined by NIST and the results compared to each cylinder's certification documentation and tag value to establish conformance with section 5.1 of appendix A to this part. After NIST analysis, each cylinder must be provided with a NIST analyzed concentration with an uncertainty of plus or minus 1.0 percent (inclusive) or

better, unless otherwise approved by EPA.

(iii) The certification documentation accompanying each cylinder must be verified in the audit report as meeting the requirements of the Traceability Protocol or a revised procedure approved by the Administrator.

(iv) Each participating EPA Protocol gas production site shall have NIST provide all of the information required by paragraphs (g)(9)(ii) through (g)(9)(v) of this section in an audit report. The audit report shall be submitted electronically by NIST to EPA upon completion of the current audit. The audit report shall contain complete documentation of the NIST procedures used to analyze the cylinders, including the analytical reference standards, analytical method, analytical method uncertainty, analytical instrumentation, and instrument calibration procedures. The audit report shall include a table with the information and in the format specified by Figure 3 (or the Note below Figure 3, as applicable) of appendix B to this part or such revised format as approved by the Administrator. The Agency will post the results of the NIST analyses in the same format on EPA Web sites.

(v) For EPA Protocol gas production sites that produce EPA Protocol gas cylinders claiming NIST traceability for both NO and NO_x concentrations in the same cylinder, if analyzed by NIST for the PGVP, such cylinders must be analyzed by NIST for both the NO and NO_x components (where total NO_x is determined by NO plus NO₂) and the results of the analyses shall be included in the audit report.

(10) After analysis by NIST, each EPA Protocol gas cylinder shall be returned to the EPA Protocol gas production site that provided it.

(11) The data validation procedures under §§ 2.1.4, 2.2.3, and 2.3.2 of appendix B to this part apply.

11. Section 75.22 is amended by:

- a. Revising paragraph (a) introductory text;
- b. Revising paragraph (a)(5)(iv);
- c. Adding paragraph (a)(5)(v)
- d. Removing paragraph (a)(7);
- e. Revising paragraph (b) introductory text; and
- f. Removing paragraphs (b)(5) through (b)(8), to read as follows:

§ 75.22 Reference test methods.

(a) The owner or operator shall use the following methods, which are found in appendices A-1 through A-4 to part 60 of this chapter, to conduct the following tests: Monitoring system tests for certification or recertification of continuous emission monitoring

Systems; NO_x emission tests of low mass emission units under § 75.19(c)(1)(iv); NO_x emission tests of excepted monitoring systems under appendix E to this part; and required quality assurance and quality control tests:

* * * * *

(5) * * *

(iv) Section 8.6 of the method allowing for the use of "Dynamic Spiking" as an alternative to the interference and system bias checks of the method. Dynamic spiking may be conducted (optionally) as an additional quality assurance check; and

(v) That portion of Section 8.5 of the method allowing multiple sampling runs to be conducted before performing the post-run system bias check or system calibration error check.

* * * * *

(b) The owner or operator may use any of the following methods, which are found in appendices A-1 through A-4 to part 60 of this chapter, as a reference method backup monitoring system to provide quality-assured monitor data:

* * * * *

12. Section 75.24 is amended by revising paragraph (d) to read as follows:

§ 75.24 Out-of-control periods and adjustment for system bias.

* * * * *

(d) When the bias test indicates that an SO₂ monitor, a flow monitor, a NO_x-diluent continuous emission monitoring system, or a NO_x concentration monitoring system used to determine NO_x mass emissions, as defined in § 75.71(a)(2), is biased low (*i.e.*, the arithmetic mean of the differences between the reference method value and the monitor or monitoring system measurements in a relative accuracy test audit exceed the bias statistic in section 7 of appendix A to this part), the owner or operator shall adjust the monitor or continuous emission monitoring system to eliminate the cause of bias such that it passes the bias test or calculate and use the bias adjustment factor as specified in section 2.3.4 of appendix B to this part.

* * * * *

13. Section 75.31 is amended by revising paragraphs (a) and (b) to read as follows:

§ 75.31 Initial missing data procedures.

(a) During the first 720 quality-assured monitor operating hours following initial certification of the required SO₂, CO₂, O₂, or moisture monitoring system(s) at a particular unit or stack location (*i.e.*, the date and time

at which quality assured data begins to be recorded by CEMS(s) installed at that location), and during the first 2,160 quality assured monitor operating hours following initial certification of the required NO_x-diluent, NO_x concentration, or flow monitoring system(s) at the unit or stack location, the owner or operator shall provide substitute data required under this subpart according to the procedures in paragraphs (b) and (c) of this section. The owner or operator of a unit shall use these procedures for no longer than three years (26,280 clock hours) following initial certification.

(b) *SO₂, CO₂, or O₂ concentration data, and moisture data.* For each hour of missing SO₂ or CO₂ emissions concentration data (including CO₂ data converted from O₂ data using the procedures in appendix F of this part), or missing O₂ or CO₂ diluent concentration data used to calculate heat input, or missing moisture data, the owner or operator shall calculate the substitute data as follows:

(1) Whenever prior quality-assured data exist, the owner or operator shall substitute, by means of the data acquisition and handling system, for each hour of missing data, the average of the hourly SO₂, CO₂, or O₂

concentrations or moisture percentages recorded by a certified monitor for the unit operating hour immediately before and the unit operating hour immediately after the missing data period.

(2) Whenever no prior quality assured SO₂, CO₂, or O₂ concentration data or moisture data exist, the owner or operator shall substitute, as applicable, for each hour of missing data, the maximum potential SO₂ concentration or the maximum potential CO₂ concentration or the minimum potential O₂ concentration or (unless Equation 19-3, 19-4 or 19-8 in Method 19 in appendix A-7 to part 60 of this chapter is used to determine NO_x emission rate) the minimum potential moisture percentage, as specified, respectively, in sections 2.1.1.1, 2.1.3.1, 2.1.3.2 and 2.1.5 of appendix A to this part. If Equation 19-3, 19-4 or 19-8 in Method 19 in appendix A-7 to part 60 of this chapter is used to determine NO_x emission rate, substitute the maximum potential moisture percentage, as specified in section 2.1.6 of appendix A to this part.

* * * * *

14. Section 75.32 is amended by revising the first sentence of paragraph (a) introductory text, to read as follows:

§ 75.32 Determination of monitor data availability for standard missing data procedures.

(a) Following initial certification of the required SO₂, CO₂, O₂, or moisture monitoring system(s) at a particular unit or stack location (*i.e.*, the date and time at which quality assured data begins to be recorded by CEMS(s) at that location), the owner or operator shall begin calculating the percent monitor data availability as described in paragraph (a)(1) of this section, and shall, upon completion of the first 720 quality-assured monitor operating hours, record, by means of the automated data acquisition and handling system, the percent monitor data availability for each monitored parameter. * * *

* * * * *

15. Section 75.33 is amended by:
a. Revising the section heading; and
b. Revising Table 1 and the footnotes below Table 1, to read as follows:

§ 75.33 Standard missing data procedures for SO₂, NO_x, and flow rate.

* * * * *

TABLE 1—MISSING DATA PROCEDURE FOR SO₂ CEMS, CO₂ CEMS, MOISTURE CEMS, AND DILUENT (CO₂ OR O₂) MONITORS FOR HEAT INPUT DETERMINATION

Trigger conditions		Calculation routines	
Monitor data availability (percent)	Duration (N) of CEMS outage (hours) ²	Method	Lookback period
95 or more	N ≤ 24	Average	HB/HA.
		For SO ₂ , CO ₂ , and H ₂ O**, the greater of:	HB/HA.
		Average	HB/HA.
		90th percentile	720 hours*.
90 or more, but below 95	N ≤ 8	For O ₂ and H ₂ O ^x , the lesser of:	HB/HA.
		10th percentile	720 hours*.
		Average	HB/HA.
		For SO ₂ , CO ₂ , and H ₂ O**, the greater of:	HB/HA.
80 or more, but below 90	N > 8	Average	HB/HA.
		95th percentile	720 hours*.
		For O ₂ and H ₂ O ^x , the lesser of:	HB/HA.
		Average	HB/HA.
Below 80	N > 0	5th Percentile	720 hours*.
		For SO ₂ , CO ₂ , and H ₂ O**, Maximum value ¹	720 hours*.
		For O ₂ and H ₂ O ^x : Minimum value ¹	720 hours*.
		Maximum potential concentration ³ or % (for SO ₂ , CO ₂ , and H ₂ O**) or Minimum potential concentration or % (for O ₂ and H ₂ O ^x).	None

HB/HA = hour before and hour after the CEMS outage.

* Quality-assured, monitor operating hours, during unit operation. May be either fuel-specific or non-fuel-specific. For units that report data only for the ozone season, include only quality assured monitor operating hours within the ozone season in the lookback period. Use data from no earlier than 3 years prior to the missing data period.

¹ Where a unit with add-on SO₂ emission controls can demonstrate that the controls are operating properly during the missing data period, as provided in § 75.34, the unit may use the maximum controlled concentration from the previous 720 quality-assured monitor operating hours.

² During unit operating hours.

³ Where a unit with add-on SO₂ emission controls can demonstrate that the controls are operating properly during the missing data period, the unit may report the greater of: (a) The maximum expected SO₂ concentration or (b) 1.25 times the maximum controlled value from the previous 720 quality-assured monitor operating hours (see § 75.34).

* Use this algorithm for moisture except when Equation 19-3, 19-4 or 19-8 in Method 19 in appendix A-7 to part 60 of this chapter is used for NO_x emission rate.

** Use this algorithm for moisture *only* when Equation 19–3, 19–4 or 19–8 in Method 19 in appendix A–7 to part 60 of this chapter is used for NO_x emission rate.

* * * * *

16. Section 75.34 is amended by:
 a. Revising paragraph (a)(2)(ii); and
 b. Revising the first sentence of paragraph (d), to read as follows:

§ 75.34 Units with add-on emission controls.

- (a) * * *
 (2) * * *

(ii) For the purposes of the missing data lookback periods described under §§ 75.33 (c)(1), (c)(2), (c)(3) and (c)(5) of this section, the substitute data values shall be taken from the appropriate database, depending on the date(s) and hour(s) of the missing data period. That is, if the missing data period occurs inside the ozone season, the ozone season data shall be used to provide substitute data. If the missing data period occurs outside the ozone season, data from outside the ozone season shall be used to provide substitute data.

* * * * *

(d) In order to implement the options in paragraphs (a)(1), (a)(3) and (a)(5) of this section; and §§ 75.31(c)(3) and 75.72(c)(3), the owner or operator shall keep records of information as described in § 75.58(b)(3) to verify the proper operation of all add-on SO₂ or NO_x emission controls, during all periods of SO₂ or NO_x emission missing data.

* * *

§§ 75.38–75.39 [Removed and Reserved]

17. Sections 75.38 and 75.39 are removed and reserved.

18. Section 75.47 is amended by:
 a. Revising paragraph (b)(2); and
 b. Removing paragraphs (b)(3) and (c), to read as follows:

§ 75.47 Criteria for a class of affected units.

* * * * *

- (b) * * *

(2) A description of the class of affected units, including data describing all of the affected units that will comprise the class.

19. Section 75.53 is amended by:
 a. Revising paragraphs (g)(1)(i)(A), (g)(1)(i)(C), (g)(1)(i)(E), (g)(1)(i)(F), (g)(1)(iii) introductory text, (g)(1)(v)(F), (g)(1)(v)(G), (g)(1)(vi)(H), and (g)(1)(vi)(I);
 b. Adding paragraph (g)(1)(vi)(J); and
 c. Revising paragraphs (h)(2)(i) and (h)(5), to read as follows:

§ 75.53 Monitoring plan.

* * * * *

- (g) * * *
 (1) * * *

(i) * * *

(A) A representation of the exhaust configuration for the units in the monitoring plan. On and after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) of the configuration. Provide the ID number of each unit and assign a unique ID number to each common stack, common pipe multiple stack and/or multiple pipe associated with the unit(s) represented in the monitoring plan. For common and multiple stacks and/or pipes, provide the activation date and deactivation date (if applicable) of each stack and/or pipe;

* * * * *

(C) The stack exit height (ft) above ground level and ground level elevation above sea level, and the inside cross-sectional area (ft²) at the flue exit and at the flow monitoring location (for units with flow monitors, only). Also use appropriate codes to indicate the material(s) of construction and the shape(s) of the stack or duct cross-section(s) at the flue exit and (if applicable) at the flow monitor location. On and after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) for the information in this paragraph (g)(1)(i)(C);

* * * * *

(E) The type(s) of emission controls that are used to reduce SO₂, NO_x, and particulate emissions from each unit. Also provide the installation date, optimization date, and retirement date (if applicable) of the emission controls, and indicate whether the controls are an original installation;

(F) Maximum hourly heat input capacity of each unit. On and after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) for this parameter; and

* * * * *

(iii) For each required continuous emission monitoring system, each fuel flowmeter system, and each continuous opacity monitoring system, identify and describe the major monitoring components in the monitoring system (e.g., gas analyzer, flow monitor, opacity monitor, moisture sensor, fuel flowmeter, DAHS software, *etc.*). Other important components in the system (e.g., sample probe, PLC, data logger, *etc.*) may also be represented in the monitoring plan, if necessary. Provide

the following specific information about each component and monitoring system:

* * * * *

(v) * * *

(F) Effective date/hour, and (if applicable) inactivation date/hour of each span value. On and after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) for the measurement scale and dual span information in paragraphs (g)(1)(v)(A), (g)(1)(v)(G), and (g)(1)(v)(H) of this section;

(G) An indication of whether dual spans are required. If two span values are required, then, on and after [EFFECTIVE DATE OF FINAL RULE], indicate whether an autoranging analyzer is used to represent the two measurement scales; and

* * * * *

(vi) * * *

(H) Date and hour that the value is no longer effective (if applicable);

(I) For units using the excepted methodology under § 75.19, the applicable SO₂ emission factor; and

(J) On and after [EFFECTIVE DATE OF FINAL RULE], group identification code.

* * * * *

(h) * * *

(2) * * *

(i) *Electronic*. Unit operating and capacity factor information demonstrating that the unit qualifies as a peaking unit, as defined in § 72.2 of this chapter for the current calendar year or ozone season, including: Capacity factor data for three calendar years (or ozone seasons) as specified in the definition of peaking unit in § 72.2 of this chapter; the method of qualification used; and an indication of whether the data are actual or projected data. On and after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) for the peaking unit qualification information in this paragraph (h)(2)(i).

* * * * *

(5) For qualification as a gas-fired unit, as defined in § 72.2 of this part, the designated representative shall include in the monitoring plan, in electronic format, the following: Current calendar year, fuel usage data for three calendar years (or ozone seasons) as specified in the definition of gas-fired in § 72.2 of this chapter, the method of qualification used, and an indication of whether the data are actual or projected data. On and

after [EFFECTIVE DATE OF FINAL RULE], provide the activation date and deactivation date (if applicable) for the gas-fired unit qualification information in this paragraph (h)(5).

* * * * *

20. Section 75.57 is amended by:

a. Revising paragraph (a)(5);

b. Revising paragraph (a)(6);

c. Adding paragraph (a)(7);

d. Revising Table 4a; and
e. Removing paragraphs (i) and (j), to read as follows:

§ 75.57 General recordkeeping provisions.

* * * * *

(a) * * *

(5) The current monitoring plan as specified in § 75.53, beginning with the initial submission required by § 75.62;

(6) The quality control plan as described in section 1 of appendix B to this part, beginning with the date of provisional certification; and

(7) The information required by sections 6.1.2(b) and (c) of appendix A to this part.

* * * * *

TABLE 4a—CODES FOR METHOD OF EMISSIONS AND FLOW DETERMINATION

Code	Hourly emissions/flow measurement or estimation method
1	Certified primary emission/flow monitoring system.
2	Certified backup emission/flow monitoring system.
3	Approved alternative monitoring system.
4	Reference method: SO ₂ : Method 6C. Flow: Method 2 or its allowable alternatives under appendix A to part 60 of this chapter. NO _x : Method 7E. CO ₂ or O ₂ : Method 3A.
5	For units with add-on SO ₂ and/or NO _x emission controls: SO ₂ concentration or NO _x emission rate estimate from Agency preapproved parametric monitoring method.
6	Average of the hourly SO ₂ concentrations, CO ₂ concentrations, O ₂ concentrations, NO _x concentrations, flow rates, moisture percentages or NO _x emission rates for the hour before and the hour following a missing data period.
7	Initial missing data procedures used. Either: (a) the average of the hourly SO ₂ concentration, CO ₂ concentration, O ₂ concentration, or moisture percentage for the hour before and the hour following a missing data period; or (b) the arithmetic average of all NO _x concentration, NO _x emission rate, or flow rate values at the corresponding load range (or a higher load range), or at the corresponding operational bin (non-load-based units, only); or (c) the arithmetic average of all previous NO _x concentration, NO _x emission rate, or flow rate values (non-load-based units, only).
8	90th percentile hourly SO ₂ concentration, CO ₂ concentration, NO _x concentration, flow rate, moisture percentage, or NO _x emission rate or 10th percentile hourly O ₂ concentration or moisture percentage in the applicable lookback period (moisture missing data algorithm depends on which equations are used for emissions and heat input).
9	95th percentile hourly SO ₂ concentration, CO ₂ concentration, NO _x concentration, flow rate, moisture percentage, or NO _x emission rate or 5th percentile hourly O ₂ concentration or moisture percentage in the applicable lookback period (moisture missing data algorithm depends on which equations are used for emissions and heat input).
10	Maximum hourly SO ₂ concentration, CO ₂ concentration, NO _x concentration, flow rate, moisture percentage, or NO _x emission rate or minimum hourly O ₂ concentration or moisture percentage in the applicable lookback period (moisture missing data algorithm depends on which equations are used for emissions and heat input).
11	Average of hourly flow rates, NO _x concentrations or NO _x emission rates in corresponding load range, for the applicable lookback period. For non-load-based units, report either the average flow rate, NO _x concentration or NO _x emission rate in the applicable lookback period, or the average flow rate or NO _x value at the corresponding operational bin (if operational bins are used).
12	Maximum potential concentration of SO ₂ , maximum potential concentration of CO ₂ , maximum potential concentration of NO _x , maximum potential flow rate, maximum potential NO _x emission rate, maximum potential moisture percentage, minimum potential O ₂ concentration or minimum potential moisture percentage, as determined using § 72.2 of this chapter and section 2.1 of appendix A to this part (moisture missing data algorithm depends on which equations are used for emissions and heat input).
13	Maximum expected concentration of SO ₂ , maximum expected concentration of NO _x , or maximum controlled NO _x emission rate. (See § 75.34(a)(5)).
14	Diluent cap value (if the cap is replacing a CO ₂ measurement, use 5.0 percent for boilers and 1.0 percent for turbines; if it is replacing an O ₂ measurement, use 14.0 percent for boilers and 19.0 percent for turbines).
15	1.25 times the maximum hourly controlled SO ₂ concentration, Hg concentration, NO _x concentration at the corresponding load or operational bin, or NO _x emission rate at the corresponding load or operational bin, in the applicable lookback period (See § 75.34(a)(5)).
16	SO ₂ concentration value of 2.0 ppm during hours when only “very low sulfur fuel”, as defined in § 72.2 of this chapter, is combusted.
17	Like-kind replacement non-redundant backup analyzer.
19	200 percent of the MPC; default high range value.
20	200 percent of the full-scale range setting (full-scale exceedance of high range).
21	Negative hourly CO ₂ concentration, SO ₂ concentration, NO _x concentration, percent moisture, or NO _x emission rate replaced with zero.
22	Hourly average SO ₂ or NO _x concentration, measured by a certified monitor at the control device inlet (units with add-on emission controls only).
23	Maximum potential SO ₂ concentration, NO _x concentration, CO ₂ concentration, or NO _x emission rate, or minimum potential O ₂ concentration or moisture percentage, for an hour in which flue gases are discharged through an unmonitored bypass stack.
24	Maximum expected NO _x concentration, or maximum controlled NO _x emission rate for an hour in which flue gases are discharged downstream of the NO _x emission controls through an unmonitored bypass stack, and the add-on NO _x emission controls are confirmed to be operating properly.
25	Maximum potential NO _x emission rate (MER). (Use only when a NO _x concentration full-scale exceedance occurs and the diluent monitor is unavailable.)
26	1.0 mmBtu/hr substituted for Heat Input Rate for an operating hour in which the calculated Heat Input Rate is zero or negative.
40	Fuel specific default value (or prorated default value) used for the hour.
53	Other quality-assured data approved through petition. These are treated as available hours for percent monitor availability calculations and are included in missing data lookback.

TABLE 4a—CODES FOR METHOD OF EMISSIONS AND FLOW DETERMINATION—Continued

Code	Hourly emissions/flow measurement or estimation method
54	Other quality assured methodologies approved through petition. These hours are included in missing data lookback and are treated as unavailable hours for percent monitor availability calculations.
55	Other substitute data approved through petition. These hours are not included in missing data lookback and are treated as unavailable hours for percent monitor availability calculations.

* * * * *

21. Section 75.58 is amended by:
a. Revising paragraphs (b)(3) and (d)(4)(ii); and
b. Adding paragraph (d)(4)(iii), to read as follows:

§ 75.58 General recordkeeping provisions for specific situations.

* * * * *

(b) * * *
(3) Except as otherwise provided in § 75.34(d), for units with add-on SO₂ or NO_x emission controls following the provisions of §§ 75.34(a)(1), (a)(2), (a)(3) or (a)(5), the owner or operator shall record:

(i) Parametric data which demonstrate, for each hour of missing SO₂ or NO_x emission data, the proper operation of the add-on emission controls, as described in the quality assurance/quality control program for the unit. The parametric data shall be maintained on site and shall be submitted, upon request, to the Administrator, EPA Regional office, State, or local agency;

(ii) A flag indicating, for each hour of missing SO₂ or NO_x emission data, either that the add-on emission controls are operating properly, as evidenced by all parameters being within the ranges specified in the quality assurance/quality control program, or that the add-on emission controls are not operating properly.

* * * * *

(d) * * *

(4) * * *

(ii) For boilers, hourly average boiler O₂ reading (percent, rounded to the nearest tenth) (flag if value exceeds by more than 2 percentage points the O₂ level recorded at the same heat input during the previous NO_x emission rate test); and

(iii) On and after [EFFECTIVE DATE OF FINAL RULE], operating condition codes for the following:

(A) Unit operated on emergency fuel;
(B) Correlation curve for the fuel mixture has expired;

(C) Operating parameter is outside of normal limits;

(D) Uncontrolled hour;

(E) Operation above highest tested heat input rate point on the curve;

(F) Operating parameter data missing or invalid;

(G) Designated operational and control equipment parameters within normal limits; and

(H) Operation below lowest tested heat input rate point on the curve.

* * * * *

22. Section 75.59 is amended by:

a. Revising paragraph (a)(1)

introductory text;

b. Revising paragraph (a)(1)(iii);

c. Revising paragraphs (a)(3) introductory text, (a)(5) introductory text, and (a)(5)(ii) introductory text;

d. Revising paragraph (a)(5)(ii)(L);

e. Revising paragraphs (a)(5)(iii)(F) and (G);

f. Adding paragraph (a)(5)(iii)(H);

g. Revising paragraph (a)(6)

introductory text;

h. Removing and reserving paragraph (a)(7)(vii);

i. Removing the title of reserved paragraph (a)(7)(viii);

j. Removing paragraph (a)(7)(x);

k. Revising paragraph (a)(9)

introductory text;

l. Revising paragraph (a)(9)(vi);

m. Adding paragraphs (a)(9)(x) and (xi);

n. Revising paragraphs (a)(12)(iv)(E) and (F);

o. Adding paragraph (a)(12)(iv)(G);

p. Removing and reserving paragraph (a)(14);

q. Adding paragraph (a)(15);

r. Adding paragraph (b)(6);

s. Revising paragraph (c) introductory text;

t. Revising paragraphs (d)(3)(x) and (xi);

u. Adding paragraphs (d)(3)(xii) and (xiii);

v. Adding paragraph (d)(4);

w. Removing paragraph (e); and

x. Redesignating paragraph (f) as paragraph (e), to read as follows:

§ 75.59 Certification, quality assurance, and quality control record provisions.

* * * * *

(a) * * *

(1) For each SO₂ or NO_x pollutant concentration monitor, flow monitor, CO₂ emissions concentration monitor (including O₂ monitors used to determine CO₂ emissions), or diluent gas monitor (including wet- and dry-basis O₂ monitors used to determine percent moisture), the owner or operator

shall record the following for all daily and 7-day calibration error tests, and all off-line calibration demonstrations, including any follow-up tests after corrective action:

* * * * *

(iii) On and after [EFFECTIVE DATE OF FINAL RULE], date, hour, and minute;

* * * * *

(3) For each SO₂ or NO_x pollutant concentration monitor, CO₂ emissions concentration monitor (including O₂ monitors used to determine CO₂ emissions), or diluent gas monitor (including wet- and dry-basis O₂ monitors used to determine percent moisture), the owner or operator shall record the following for the initial and all subsequent linearity check(s), including any follow-up tests after corrective action.

* * * * *

(5) For each SO₂ pollutant concentration monitor, flow monitor, each CO₂ emissions concentration monitor (including any O₂ concentration monitor used to determine CO₂ mass emissions or heat input), each NO_x-diluent continuous emission monitoring system, each NO_x concentration monitoring system, each diluent gas (O₂ or CO₂) monitor used to determine heat input, each moisture monitoring system, and each approved alternative monitoring system, the owner or operator shall record the following information for the initial and all subsequent relative accuracy test audits:

* * * * *

(ii) Individual test run data from the relative accuracy test audit for the SO₂ concentration monitor, flow monitor, CO₂ emissions concentration monitor, NO_x-diluent continuous emission monitoring system, diluent gas (O₂ or CO₂) monitor used to determine heat input, NO_x concentration monitoring system, moisture monitoring system, or approved alternative monitoring system, including:

* * * * *

(L) Average gross unit load, expressed as a total gross unit load, rounded to the nearest MWe, or as steam load, rounded to the nearest thousand lb/hr; on and after [EFFECTIVE DATE OF FINAL

RULE], for units that do not produce electrical or thermal output, record, instead, the average stack gas velocity at the operating level being tested; and

* * * * *

(iii) * * *

(F) Bias test results as specified in section 7.6.4 of appendix A to this part;

(G) Bias adjustment factor from Equation A-12 in appendix A to this part for any monitoring system that failed the bias test (except as otherwise provided in section 7.6.5 of appendix A to this part) and 1.000 for any monitoring system that passed the bias test; and

(H) On and after [EFFECTIVE DATE OF FINAL RULE], RATA frequency code.

* * * * *

(6) For each SO₂, NO_x, or CO₂ pollutant concentration monitor, each component of a NO_x-diluent continuous emission monitoring system, and each CO₂ or O₂ monitor used to determine heat input, the owner or operator shall record the following information for the cycle time test:

* * * * *

(7) * * *

(vii) [Reserved]

(viii) [Reserved]

* * * * *

(9) When hardcopy relative accuracy test reports, certification reports, recertification reports, or semiannual or annual reports for gas or flow rate CEMS are required or requested under § 75.60(b)(6) or § 75.63, the reports shall include, at a minimum, the following elements (as applicable to the type(s) of test(s) performed):

* * * * *

(vi) Laboratory calibrations of the source sampling equipment.

* * * * *

(x) For testing involving use of EPA Protocol gases, the owner or operator shall record in electronic and hardcopy format the following information, as applicable:

(A) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for each gas monitor, for both low and high measurement ranges, record the following information for the mid-level or high-level EPA Protocol gas (as applicable) that is used for daily calibration error tests, and the low-, mid-, and high-level gases used for quarterly linearity checks. For O₂, if purified air is used as the high-level gas for daily calibrations or linearity checks, record the following information for the low- and mid-level EPA Protocol gas used for linearity checks, instead:

(1) Gas level code;

(2) A code for the type of EPA Protocol gas used;

(3) Start date and hour for EPA Protocol gas type code;

(4) End date and hour (if applicable) for EPA Protocol gas type code;

(5) The PGVP vendor ID issued by EPA for the EPA Protocol gas production site that supplied the gas cylinder.

(6) Start date and hour for PGVP vendor ID; and

(7) End date and hour (if applicable) for PGVP vendor ID.

(B) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for each usage of Reference Method 3A in appendix A-2 to part 60 of this chapter, or Method 6C or 7E in appendix A-4 to part 60 of this chapter performed using EPA Protocol gas for the certification, recertification, routine quality assurance or diagnostic testing (reportable diagnostics, only) of a Part 75 monitoring system, record the information required by paragraphs (a)(9)(x)(A)(1), (2), and (5) of this section.

(xi) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for all RATAs performed pursuant to § 75.74(c)(2)(ii), section 6.5 of appendix A to this part and section 2.3.1 of appendix B to this part, and for all NO_x emission testing performed pursuant to section 2.1 of appendix E to this part, or § 75.19(c)(1)(iv), the owner or operator shall record the following information as provided by the AETB:

(A) The name, telephone number and e-mail address of the Air Emission Testing Body;

(B) The name of the on-site Qualified Individual, as defined in § 72.2 of this chapter;

(C) For the reference method(s) that were performed, the date that the on-site Qualified Individual took and passed the relevant qualification exam(s) required by ASTM D 7036-04; and

(D) The name and e-mail address of the qualification exam provider.

* * * * *

(12) * * *

(iv) * * *

(E) Type of extension;

(F) Quarter and year; and

(G) On and after [EFFECTIVE DATE OF FINAL RULE], fuel code for Ozone Season Only reporters under § 75.74(c).

* * * * *

(14) [Reserved]

(15) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for all RATAs

performed pursuant to § 75.74(c)(2)(ii), section 6.5 of appendix A to this part or section 2.3.1 of appendix B to this part, the owner or operator shall record in electronic format the following information as provided by the AETB:

(i) The name, telephone number and e-mail address of the Air Emission Testing Body;

(ii) The name of the on-site Qualified Individual, as defined in § 72.2 of this chapter;

(iii) For the reference method(s) that were performed, the date that the on-site Qualified Individual took and passed the relevant qualification exam(s) required by ASTM D 7036-04; and

(iv) The name and e-mail address of the qualification exam provider.

(b) * * *

(6) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for all stack testing performed pursuant to section 2.1 of appendix E to this part, the owner or operator shall record in electronic format the following information as provided by the AETB:

(i) The name, telephone number and e-mail address of the Air Emission Testing Body;

(ii) The name of the on-site Qualified Individual, as defined in § 72.2 of this chapter;

(iii) For the reference method(s) that were performed, the date that the on-site Qualified Individual took and passed the relevant qualification exam(s) required by ASTM D 7036-04; and

(iv) The name and e-mail address of the qualification exam provider.

(c) Except as otherwise provided in § 75.58(b)(3)(i), for units with add-on SO₂ or NO_x emission controls following the provisions of § 75.34(a)(1) or (a)(2), the owner or operator shall keep the following records on-site in the quality assurance/quality control plan required by section 1 of appendix B to this part:

* * * * *

(d) * * *

(3) * * *

(x) Documentation supporting the qualification of all units in the group for reduced testing, in accordance with the criteria established in § 75.19(c)(1)(iv)(B)(1);

(xi) Purpose of group tests;

(xii) On and after [EFFECTIVE DATE OF FINAL RULE], the number of tests for group; and

(xiii) On and after [EFFECTIVE DATE OF FINAL RULE], the number of units in group.

(4) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], for all NO_x emission testing performed pursuant to

§ 75.19(c)(1)(iv), the owner or operator shall record in electronic format the following information as provided by the AETB:

(i) The name, telephone number and e-mail address of the Air Emission Testing Body;

(ii) The name of the on-site Qualified Individual, as defined in § 72.2 of this chapter;

(iii) For the reference method(s) that were performed, the date that the on-site Qualified Individual took and passed the relevant qualification exam(s) required by ASTM D 7036–04; and

(iv) The name and e-mail address of the qualification exam provider.

§ 75.60 [Amended]

23. Section 75.60 is amended by removing paragraph (b)(8).

24. Section 75.61 is amended by:

- Revising paragraph (a)(1) introductory text;

- Revising the first sentence of paragraph (a)(5) introductory text; and

- Revising paragraph (a)(8), to read as follows:

§ 75.61 Notifications.

(a) * * *

(1) *Initial certification and recertification test notifications.* The owner or operator or designated representative for an affected unit shall submit written notification of initial certification tests and revised test dates as specified in § 75.20 for continuous emission monitoring systems, for alternative monitoring systems under subpart E of this part, or for excepted monitoring systems under appendix E to this part, except as provided in paragraphs (a)(1)(iii), (a)(1)(iv) and (a)(4) of this section. The owner or operator shall also provide written notification of testing performed under § 75.19(c)(1)(iv)(A) to establish fuel-and-unit-specific NO_x emission rates for low mass emissions units. Such notifications are not required, however, for initial certifications and recertifications of excepted monitoring systems under appendix D to this part.

* * * * *

(5) *Periodic relative accuracy test audits, appendix E retests, and low mass emissions unit retests.* The owner or operator or designated representative of an affected unit shall submit written notice of the date of periodic relative accuracy testing performed under section 2.3.1 of appendix B to this part, of periodic retesting performed under section 2.2 of appendix E to this part, and of periodic retesting of low mass emissions units performed under § 75.19(c)(1)(iv)(D), no later than 21

days prior to the first scheduled day of testing. * * *

* * * * *

(8) *Certification deadline date for new or newly affected units.* The designated representative of a new or newly affected unit shall provide notification of the date on which the relevant deadline for initial certification is reached, either as provided in § 75.4(b) or § 75.4(c), or as specified in a State or Federal SO₂ or NO_x mass emission reduction program that incorporates by reference, or otherwise adopts, the monitoring, recordkeeping, and reporting requirements of subpart F, G, or H of this part. The notification shall be submitted no later than 7 calendar days after the applicable certification deadline is reached.

* * * * *

25. Section 75.62 is amended by adding paragraph (d) to read as follows:

§ 75.62 Monitoring plan submittals.

* * * * *

(d) On and after [EFFECTIVE DATE OF FINAL RULE], consistent with § 72.21 of this chapter, a hardcopy cover letter signed by the Designated Representative (DR) or the Alternate Designated Representative (ADR) shall accompany each hardcopy monitoring plan submittal. The cover letter shall include the certification statement described in § 72.21(b) of this chapter, and shall be submitted to the applicable EPA Regional Office and to the appropriate State or local air pollution control agency. For electronic monitoring plan submittals to the Administrator, a cover letter is not required. However, at his or her discretion, the DR or ADR may include important explanatory text or comments with an electronic monitoring plan submittal, so long as the information is provided in an electronic format that is compatible with the other data required to be reported under this section.

26. Section 75.63 is amended by adding paragraph (d) to read as follows:

§ 75.63 Initial certification or recertification application.

* * * * *

(d) Consistent with § 72.21 of this chapter, a hardcopy cover letter signed by the Designated Representative (DR) or the Alternate Designated Representative (ADR) shall accompany the hardcopy portion of each certification or recertification application. The cover letter shall include the certification statement described in § 72.21(b) of this chapter, and shall be submitted to the applicable EPA Regional Office and to the appropriate State or local air pollution

control agency. For the electronic portion of a certification or recertification application submitted to the Administrator, a cover letter is not required. However, at his or her discretion, the DR or ADR may include important explanatory text or comments with the electronic portion of a certification or recertification application, so long as the information is provided in an electronic format compatible with the other data required to be reported under this section.

27. Section 75.64 is amended by:

- Revising paragraph (a)(5);
- Revising paragraph (a)(7)(xi);
- Revising paragraph (a)(7)(xii)(D);
- Adding paragraph (a)(7)(xiii); and
- Redesignating paragraph (a)(127) as paragraph (a)(12), to read as follows:

§ 75.64 Quarterly reports.

(a) * * *

(5) Except for the daily calibration error test data, daily interference check, and off-line calibration demonstration information required in § 75.59(a)(1) and (2), which must always be submitted with the quarterly report, the certification, quality assurance, and quality control information required in § 75.59 shall either be submitted prior to or concurrent with the submittal of the relevant quarterly electronic data report. On and after January 1, 2011, the information required in § 75.59(a)(9)(x), (a)(15), (b)(6), and (d)(4) shall either be submitted prior to or concurrent with the submittal of the relevant quarterly electronic data report.

* * * * *

(7) * * *

(xi) Data and results of RATAs that are aborted or invalidated due to problems with the reference method or operational problems with the unit and data and results of linearity checks that are aborted or invalidated due to problems unrelated to monitor performance;

(xii) * * *

(D) The data under § 75.59(a)(7)(ix)(A) through (F) shall be reported for all flow RATAs at rectangular stacks or ducts in which Method 2 in appendices A–1 and A–2 to part 60 of this chapter is used and a wall effects adjustment factor is applied; and

(xiii) The certification required by section 6.1.2(b) of appendix A to this part and recorded under § 75.57(a)(7).

* * * * *

Subpart I [Removed]

28. Subpart I, consisting of §§ 75.80 through 75.84 is removed.

29. Appendix A to Part 75 is amended by:

- a. Revising section 1.1;
- b. Removing sections 2.1.7, 2.1.7.1 through 2.1.7.4, and 2.2.3;
- c. Removing paragraph (c) of section 3.1 and paragraph (3) of section 3.2;
- d. Removing sections 3.3.8 and 3.4.3;
- e. Revising the introductory text of section 4;
- f. Revising paragraph (6) of section 4;
- g. Revising paragraph (b) of Section 5.1.4;
- h. Removing paragraph (c) of Section 5.1.4;
- i. In section 5.1.4 by redesignating paragraph (d) as paragraph (c) and by revising newly designated paragraph (c);
- j. Revising the first sentence in Section 5.1.5;
- k. Removing section 5.1.9;
- l. Revising section 6.1.2;
- m. Revising the first sentence of section 6.2 introductory text;
- n. Removing paragraphs (g) and (h) of section 6.2;
- o. Revising the introductory text of section 6.3.1;
- p. Revising the introductory text of sections 6.4 and 6.5;
- q. Revising paragraphs (c), (e), and (g) of section 6.5;
- r. Revising section 6.5.1;
- s. Removing paragraph (c) of section 6.5.6;
- t. Revising paragraphs (a) and (b) of section 6.5.7;
- u. Revising section 6.5.10;
- v. Revising the introductory text of section 7.3;
- w. Revising section 7.3.1;
- x. Revising the introductory text of section 7.6;
- y. Revising section 7.6.1; and
- z. Revising paragraphs (b) and (f) of section 7.6.5, to read as follows:

Appendix A to Part 75—Specifications and Procedures

1. Installation and Measurement Location

1.1 Gas Monitors

(a) Following the procedures in section 8.1.1 of Performance Specification 2 in appendix B to part 60 of this chapter, install the pollutant concentration monitor or monitoring system at a location where the pollutant concentration and emission rate measurements are directly representative of the total emissions from the affected unit. Select a representative measurement point or path for the monitor probe(s) (or for the path from the transmitter to the receiver) such that the SO₂, CO₂, O₂, or NO_x concentration monitoring system or NO_x-diluent CEMS (NO_x pollutant concentration monitor and diluent gas monitor) will pass the relative accuracy test (see section 6 of this appendix).

(b) It is recommended that monitor measurements be made at locations where the exhaust gas temperature is above the dew-point temperature. If the cause of failure to meet the relative accuracy tests is

determined to be the measurement location, relocate the monitor probe(s).

* * * * *

4. Data Acquisition and Handling Systems

(a) Automated data acquisition and handling systems shall read and record the entire range of pollutant concentrations and volumetric flow from zero through full-scale and provide a continuous, permanent record of all measurements and required information in an electronic format. These systems also shall have the capability of interpreting and converting the individual output signals from an SO₂ pollutant concentration monitor, a flow monitor, a CO₂ monitor, an O₂ monitor, a NO_x pollutant concentration monitor, a NO_x-diluent CEMS, and a moisture monitoring system to produce a continuous readout of pollutant emission rates or pollutant mass emissions (as applicable) in the appropriate units (e.g., lb/hr, lb/mmBtu, tons/hr).

(b) Data acquisition and handling systems shall also compute and record: Monitor calibration error; any bias adjustments to SO₂, NO_x, flow rate, or NO_x emission rate data; and all missing data procedure statistics specified in subpart D of this part.

(c) For an excepted monitoring system under appendix D or E of this part, data acquisition and handling systems shall:

* * * * *

(6) Provide a continuous, permanent record of all measurements and required information in an electronic format.

* * * * *

5.1 Reference Gases

* * * * *

5.1.4 EPA Protocol Gases

* * * * *

(b) EPA Protocol gas concentrations must be certified by a specialty gas company to have an analytical uncertainty to be not more than plus or minus 2.0 percent (inclusive).

(c) A copy of EPA-600/R-97/121 is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 703-605-6585 or <http://www.ntis.gov>, and from <http://www.epa.gov/ttn/emc/news.html>.

5.1.5 Research Gas Mixtures

Concentrations of research gas mixtures, as defined in § 72.2 of this chapter, must be certified by the National Institute of Standards and Technology to be within plus or minus 2.0 percent (inclusive) of the concentration specified on the cylinder label (i.e., the tag value) in order to be used as calibration gas under this part.* * *

* * * * *

6.1 General Requirements

* * * * *

6.1.2 Requirements for Air Emission Testing

(a) On and after [DATE THAT IS SIX MONTHS FROM THE EFFECTIVE DATE OF FINAL RULE], all relative accuracy test audits (RATAs) of CEMS under this part, and stack testing in § 75.19 and Appendix E to this part shall be conducted by an Air Emission Testing Body (AETB) which has

provided to the owner or operator of an affected unit the documentation required in paragraph (b) of this section, demonstrating its conformance to ASTM D7036-04 (incorporated by reference under § 75.6 of this part).

(b) The owner or operator shall obtain from the AETB a certification that as of the time of testing the AETB is operating in conformance with ASTM D7036-04. This certification shall be provided in the form of either:

(1) A certificate of accreditation or interim accreditation for the relevant test methods issued by a recognized, national accreditation body; or

(2) A letter of certification for the relevant test methods signed by a member of the senior management staff of the AETB.

(c) The owner or operator shall obtain from the AETB the information required under paragraphs § 75.59(a)(15), (b)(6), and (d)(4), as applicable.

(d) While under no obligation to request the following information from an AETB, to review the information provided by the AETB in response to such a request, or to take any other action related to the response, it is recommended that the owner or operator request that the AETB produce the following:

(1) The AETB's quality manual;

(2) The results of any external or internal audits performed by the AETB during the prior 12 months;

(3) A written description of any corrective actions being implemented by the AETB during the prior 12 months; and

(4) Any AETB training records for the prior 12 months.

(e) All relative accuracy testing and stack testing in § 75.19 and Appendix E to this part shall be conducted or overseen on site by at least one Qualified Individual, as defined in § 72.2 of this chapter with respect to the methods employed in the test project. When a QI oversees a test, the QI shall actively observe the test for its duration. If a QI conducts a test, the QI shall actively conduct the test for its duration. However, allowance is made for normal activities of a QI who is overseeing or conducting a test, e.g., bathroom breaks, food breaks, and emergencies that may arise during a test. If the source owner or operator, or a state, local, or EPA observer, discovers during the test period, that the QI did not conduct or oversee the entire test (as qualified by this paragraph (d)), only those portions of the test that were conducted or overseen by the QI as described above may be used under this part.

(f) The certification described in paragraph (b) of this section, and compliance with paragraph (e) of this section, shall be sufficient proof of validity of test data that otherwise meet the requirements of this part.

(g) If the Administrator finds that the information submitted to an affected source by an AETB under this section or the information requested by an affected source under this section is either incomplete or inaccurate, the Administrator may post the name of the offending AETB on Agency Web sites, and provide the AETB a description of the failures to be remedied. The AETB name will be removed from the EPA Web sites once the failures are remedied.

(h) If the Administrator finds that the information submitted to an affected source by an AETB under this section or the information requested by an affected source under this section is either incomplete or inaccurate, the AETB shall, on demand of the Administrator, provide to the Administrator evidence within a reasonable time of the demand that any missing information has been provided to the affected source and/or that any inaccurate information has been corrected.

6.2 Linearity Check (General Procedures)

Check the linearity of each SO₂, NO_x, CO₂, and O₂ monitor while the unit, or group of units for a common stack, is combusting fuel at conditions of typical stack temperature and pressure; it is not necessary for the unit to be generating electricity during this test.

* * *
* * *
6.3 * * *

6.3.1 Gas Monitor 7-Day Calibration Error Test

The following monitors and ranges are exempted from the 7-day calibration error test requirements of this part: the SO₂, NO_x, CO₂ and O₂ monitors installed on peaking units (as defined in § 72.2 of this chapter); and any SO₂ or NO_x measurement range with a span value of 50 ppm or less. In all other cases, measure the calibration error of each SO₂ monitor, each NO_x monitor, and each CO₂ or O₂ monitor while the unit is combusting fuel (but not necessarily generating electricity) once each day for 7 consecutive operating days according to the following procedures. (In the event that unit outages occur after the commencement of the test, the 7 consecutive unit operating days need not be 7 consecutive calendar days). Units using dual span monitors must perform the calibration error test on both high- and low-scales of the pollutant concentration monitor. The calibration error test procedures in this section and in section 6.3.2 of this appendix shall also be used to perform the daily assessments and additional calibration error tests required under sections 2.1.1 and 2.1.3 of appendix B to this part. Do not make manual or automatic adjustments to the monitor settings until after taking measurements at both zero and high concentration levels for that day during the 7-day test. If automatic adjustments are made following both injections, conduct the calibration error test such that the magnitude of the adjustments can be determined and recorded. Record and report test results for each day using the unadjusted concentration measured in the calibration error test prior to making any manual or automatic adjustments (*i.e.*, resetting the calibration). The calibration error tests should be approximately 24 hours apart, (unless the 7-day test is performed over nonconsecutive days). Perform calibration error tests at both the zero-level concentration and high-level concentration, as specified in section 5.2 of this appendix. Alternatively, a mid-level concentration gas (50.0 to 60.0 percent of the span value) may be used in lieu of the high-level gas, provided that the mid-level gas is more representative of the actual stack gas

concentrations. In addition, repeat the procedure for SO₂ and NO_x pollutant concentration monitors using the low-scale for units equipped with emission controls or other units with dual span monitors. Use only calibration gas, as specified in section 5.1 of this appendix. Introduce the calibration gas at the gas injection port, as specified in section 2.2.1 of this appendix. Operate each monitor in its normal sampling mode. For extractive and dilution type monitors, pass the calibration gas through all filters, scrubbers, conditioners, and other monitor components used during normal sampling and through as much of the sampling probe as is practical. For in-situ type monitors, perform calibration, checking all active electronic and optical components, including the transmitter, receiver, and analyzer. Challenge the pollutant concentration monitors and CO₂ or O₂ monitors once with each calibration gas. Record the monitor response from the data acquisition and handling system. Using Equation A-5 of this appendix, determine the calibration error at each concentration once each day (at approximately 24-hour intervals) for 7 consecutive days according to the procedures given in this section. The results of a 7-day calibration error test are acceptable for monitor or monitoring system certification, recertification or diagnostic testing if none of these daily calibration error test results exceed the applicable performance specifications in section 3.1 of this appendix. The status of emission data from a gas monitor prior to and during a 7-day calibration error test period shall be determined as follows:

* * *
6.4 Cycle Time Test

Perform cycle time tests for each pollutant concentration monitor and continuous emission monitoring system while the unit is operating, according to the following procedures. Use a zero-level and a high-level calibration gas (as defined in section 5.2 of this appendix) alternately. To determine the downscale cycle time, measure the concentration of the flue gas emissions until the response stabilizes. Record the stable emissions value. Inject a zero-level concentration calibration gas into the probe tip (or injection port leading to the calibration cell, for in situ systems with no probe). Record the time of the zero gas injection, using the data acquisition and handling system (DAHS). Next, allow the monitor to measure the concentration of the zero gas until the response stabilizes. Record the stable ending calibration gas reading. Determine the downscale cycle time as the time it takes for 95.0 percent of the step change to be achieved between the stable stack emissions value and the stable ending zero gas reading. Then repeat the procedure, starting with stable stack emissions and injecting the high-level gas, to determine the upscale cycle time, which is the time it takes for 95.0 percent of the step change to be achieved between the stable stack emissions value and the stable ending high-level gas reading. Use the following criteria to assess when a stable reading of stack emissions or calibration gas concentration has been

attained. A stable value is equivalent to a reading with a change of less than 2.0 percent of the span value for 2 minutes, or a reading with a change of less than 6.0 percent from the measured average concentration over 6 minutes. Alternatively, the reading is considered stable if it changes by no more than 0.5 ppm or 0.2% CO₂ or O₂ (as applicable) for two minutes. (Owners or operators of systems which do not record data in 1-minute or 3-minute intervals may petition the Administrator under § 75.66 for alternative stabilization criteria). For monitors or monitoring systems that perform a series of operations (such as purge, sample, and analyze), time the injections of the calibration gases so they will produce the longest possible cycle time. Refer to Figures 6a and 6b in this appendix for example calculations of upscale and downscale cycle times. Report the slower of the two cycle times (upscale or downscale) as the cycle time for the analyzer. Prior to January 1, 2009 for the NO_x-diluent continuous emission monitoring system test, either record and report the longer cycle time of the two component analyzers as the system cycle time or record the cycle time for each component analyzer separately (as applicable). On and after January 1, 2009, record the cycle time for each component analyzer separately. For time-shared systems, perform the cycle time tests at each probe locations that will be polled within the same 15-minute period during monitoring system operations. To determine the cycle time for time-shared systems, at each monitoring location, report the sum of the cycle time observed at that monitoring location plus the sum of the time required for all purge cycles (as determined by the continuous emission monitoring system manufacturer) at each of the probe locations of the time-shared systems. For monitors with dual ranges, report the test results for each range separately. Cycle time test results are acceptable for monitor or monitoring system certification, recertification or diagnostic testing if none of the cycle times exceed 15 minutes. The status of emissions data from a monitor prior to and during a cycle time test period shall be determined as follows:

* * *
6.5 Relative Accuracy and Bias Tests

(General Procedures)

Perform the required relative accuracy test audits (RATAs) as follows for each CO₂ emissions concentration monitor (including O₂ monitors used to determine CO₂ emissions concentration), each SO₂ pollutant concentration monitor, each NO_x concentration monitoring system used to determine NO_x mass emissions, each flow monitor, each NO_x-diluent CEMS, each O₂ or CO₂ diluent monitor used to calculate heat input, and each moisture monitoring system. For NO_x concentration monitoring systems used to determine NO_x mass emissions, as defined in § 75.71(a)(2), use the same general RATA procedures as for SO₂ pollutant concentration monitors; however, use the reference methods for NO_x concentration specified in section 6.5.10 of this appendix:

* * *

(c) For monitoring systems with dual ranges, perform the relative accuracy test on the range normally used for measuring emissions. For units with add-on SO₂ or NO_x controls that operate continuously rather than seasonally, or for units that need a dual range to record high concentration "spikes" during startup conditions, the low range is considered normal. However, for some dual span units (e.g., for units that use fuel switching or for which the emission controls are operated seasonally), provided that both monitor ranges are connected to a common probe and sample interface, either of the two measurement ranges may be considered normal; in such cases, perform the RATA on the range that is in use at the time of the scheduled test. If the low and high measurement ranges are connected to separate sample probes and interfaces, RATA testing on both ranges is required.

* * * * *

(e) Complete each single-load relative accuracy test audit within a period of 168 consecutive unit operating hours, as defined in § 72.2 of this chapter (or, for CEMS installed on common stacks or bypass stacks, 168 consecutive stack operating hours, as defined in § 72.2 of this chapter). For 2-level and 3-level flow monitor RATAs, complete all of the RATAs at all levels, to the extent practicable, within a period of 168 consecutive unit (or stack) operating hours; however, if this is not possible, up to 720 consecutive unit (or stack) operating hours may be taken to complete a multiple-load flow RATA.

* * * * *

(g) For each SO₂ or CO₂ emissions concentration monitor, each flow monitor, each CO₂ or O₂ diluent monitor used to determine heat input, each NO_x concentration monitoring system used to determine NO_x mass emissions, as defined in § 75.71(a)(2), each moisture monitoring system, and each NO_x-diluent CEMS, calculate the relative accuracy, in accordance with section 7.3 or 7.4 of this appendix, as applicable. In addition (except for CO₂, O₂, or moisture monitors), test for bias and determine the appropriate bias adjustment factor, in accordance with sections 7.6.4 and 7.6.5 of this appendix, using the data from the relative accuracy test audits.

6.5.1 Gas Monitoring System RATAs (Special Considerations)

(a) Perform the required relative accuracy test audits for each SO₂ or CO₂ emissions concentration monitor, each CO₂ or O₂ diluent monitor used to determine heat input, each NO_x-diluent CEMS, and each NO_x concentration monitoring system used to determine NO_x mass emissions, as defined in § 75.71(a)(2), at the normal load level or normal operating level for the unit (or combined units, if common stack), as defined in section 6.5.2.1 of this appendix. If two load levels or operating levels have been designated as normal, the RATAs may be done at either load (or operating) level.

(b) For the initial certification of a gas monitoring system and for recertifications in which, in addition to a RATA, one or more other tests are required (i.e., a linearity test, cycle time test, or 7-day calibration error

test), EPA recommends that the RATA not be commenced until the other required tests of the CEMS have been passed.

* * * * *

6.5.7 Sampling Strategy

(a) Conduct the reference method tests so they will yield results representative of the pollutant concentration, emission rate, moisture, temperature, and flue gas flow rate from the unit and can be correlated with the pollutant concentration monitor, CO₂ or O₂ monitor, flow monitor, and SO₂ or NO_x CEMS measurements. The minimum acceptable time for a gas monitoring system RATA run or for a moisture monitoring system RATA run is 21 minutes. For each run of a gas monitoring system RATA, all necessary pollutant concentration measurements, diluent concentration measurements, and moisture measurements (if applicable) must, to the extent practicable, be made within a 60-minute period. For NO_x-diluent monitoring system RATAs, the pollutant and diluent concentration measurements must be made simultaneously. For flow monitor RATAs, the minimum time per run shall be 5 minutes. Flow rate reference method measurements may be made either sequentially from port-to-port or simultaneously at two or more sample ports. The velocity measurement probe may be moved from traverse point to traverse point either manually or automatically. If, during a flow RATA, significant pulsations in the reference method readings are observed, be sure to allow enough measurement time at each traverse point to obtain an accurate average reading when a manual readout method is used (e.g., a "sight-weighted" average from a manometer). Also, allow sufficient measurement time to ensure that stable temperature readings are obtained at each traverse point, particularly at the first measurement point at each sample port, when a probe is moved sequentially from port-to-port. A minimum of one set of auxiliary measurements for stack gas molecular weight determination (i.e., diluent gas data and moisture data) is required for every clock hour of a flow RATA or for every three test runs (whichever is less restrictive). Alternatively, moisture measurements for molecular weight determination may be performed before and after a series of flow RATA runs at a particular load level (low, mid, or high), provided that the time interval between the two moisture measurements does not exceed three hours. If this option is selected, the results of the two moisture determinations shall be averaged arithmetically and applied to all RATA runs in the series. Successive flow RATA runs may be performed without waiting in between runs. If an O₂ diluent monitor is used as a CO₂ continuous emission monitoring system, perform a CO₂ system RATA (i.e., measure CO₂, rather than O₂, with the reference method). For moisture monitoring systems, an appropriate coefficient, "K" factor or other suitable mathematical algorithm may be developed prior to the RATA, to adjust the monitoring system readings with respect to the reference method. If such a coefficient, K-factor or algorithm is developed, it shall be applied to

the CEMS readings during the RATA and (if the RATA is passed), to the subsequent CEMS data, by means of the automated data acquisition and handling system. The owner or operator shall keep records of the current coefficient, K factor or algorithm, as specified in § 75.59(a)(5)(vii). Whenever the coefficient, K factor or algorithm is changed, a RATA of the moisture monitoring system is required.

(b) To properly correlate individual SO₂ or NO_x CEMS data (in lb/mmBtu) and volumetric flow rate data with the reference method data, annotate the beginning and end of each reference method test run (including the exact time of day) on the individual chart recorder(s) or other permanent recording device(s).

* * * * *

6.5.10 Reference Methods

The following methods are from appendix A to part 60 of this chapter, and are the reference methods for performing relative accuracy test audits under this part: Method 1 or 1A in appendix A-1 to part 60 of this chapter for siting; Method 2 in appendix A-1 to part 60 of this chapter or its allowable alternatives in appendices A-1 and A-2 to part 60 of this chapter (except for Methods 2B and 2E in appendix A-3 to part 60 of this chapter) for stack gas velocity and volumetric flow rate; Methods 3, 3A or 3B in appendix A-2 to part 60 of this chapter for O₂ and CO₂; Method 4 in appendix A-3 to part 60 of this chapter for moisture; Methods 6, 6A or 6C in appendix A-4 to part 60 of this chapter for SO₂; and Methods 7, 7A, 7C, 7D or 7E in appendix A-4 to part 60 of this chapter for NO_x, excluding the exceptions to Method 7E identified in § 75.22(a)(5). When using Method 7E for measuring NO_x concentration, total NO_x, including both NO and NO₂, must be measured. When using EPA Protocol gas with Methods 3A, 6C, and 7E, the gas must be from an EPA Protocol gas production site that is participating in the EPA Protocol Gas Verification Program described in § 75.21(g). However, EPA Protocol gas cylinders purchased prior to [EFFECTIVE DATE OF FINAL RULE] from a production site that is not participating in the PGVP may be used for the purposes of this part until the earlier of the cylinder's expiration date or the date on which the cylinder gas pressure reaches 150 psig. In the event that an EPA Protocol gas production site is removed from the list of PGVP participants after such gases are procured, but before the gases have been consumed, the gas cylinders may continue to be used for the purposes of this part until the earlier of the cylinder's expiration date or the date on which the cylinder gas pressure reaches 150 psig.

* * * * *

7.3 Relative Accuracy for SO₂ and CO₂ Emissions Concentration Monitors, O₂ Monitors, NO_x Concentration Monitoring Systems, and Flow Monitors

Analyze the relative accuracy test audit data from the reference method tests for SO₂ and CO₂ emissions concentration monitors, CO₂ or O₂ monitors used for heat input rate determination, NO_x concentration monitoring systems used to determine NO_x

mass emissions under subpart H of this part, and flow monitors using the following procedures. Summarize the results on a data sheet. An example is shown in Figure 2. Calculate the mean of the monitor or monitoring system measurement values. Calculate the mean of the reference method values. Using data from the automated data acquisition and handling system, calculate the arithmetic differences between the reference method and monitor measurement data sets. Then calculate the arithmetic mean of the difference, the standard deviation, the confidence coefficient, and the monitor or monitoring system relative accuracy using the following procedures and equations.

7.3.1 Arithmetic Mean

Calculate the arithmetic mean of the differences of a data set as follows:

$$d_{avg} = \frac{1}{n} \sum_{i=1}^n d_i \quad (\text{Eq. A-7})$$

Where:

d_{avg} = Arithmetic mean of the differences
 n = Number of data points (test runs)

$\sum_{i=1}^n d_i$ = Algebraic sum of the individual differences d_i

d_i = The difference between a reference method value and the corresponding continuous emission monitoring system value ($RM_i - CEM_i$), for a given data point

7.6 Bias Test and Adjustment Factor

Test the following relative accuracy test audit data sets for bias: SO_2 pollutant concentration monitors; flow monitors; NO_x concentration monitoring systems used to determine NO_x mass emissions, as defined in 75.71(a)(2); and NO_x -diluent CEMS using the procedures outlined in sections 7.6.1 through 7.6.5 of this appendix. For multiple-load flow RATAs, perform a bias test at each load level designated as normal under section 6.5.2.1 of this appendix.

7.6.1 Arithmetic Mean

Calculate the arithmetic mean of the differences of the data set using Equation A-7 of this appendix. To calculate bias for an SO_2 or NO_x pollutant concentration monitor, " d_i " is, for each paired data point, the difference between the SO_2 or NO_x concentration value (in ppm) obtained from the reference method and the monitor. To calculate bias for a flow monitor, " d_i " is, for each paired data point, the difference between the flow rate values (in scfh) obtained from the reference method and the monitor. To calculate bias for a NO_x -diluent continuous emission monitoring system, " d_i " is, for each paired data point, the difference between the NO_x emission rate values (in lb/mmBtu) obtained from the reference method and the monitoring system.

7.6.5

(b) For single-load RATAs of SO_2 pollutant concentration monitors, NO_x concentration

monitoring systems, and NO_x -diluent monitoring systems, and for the single-load flow RATAs required or allowed under section 6.5.2 of this appendix and sections 2.3.1.3(b) and 2.3.1.3(c) of appendix B to this part, the appropriate BAF is determined directly from the RATA results at normal load, using Equation A-12. Notwithstanding, when a NO_x concentration CEMS or an SO_2 CEMS or a NO_x -diluent CEMS installed on a low-emitting affected unit (*i.e.*, average SO_2 or NO_x concentration during the RATA ≤ 250 ppm or average NO_x emission rate ≤ 0.200 lb/mmBtu) meets the normal 10.0 percent relative accuracy specification (as calculated using Equation A-10) or the alternate relative accuracy specification in section 3.3 of this appendix for low-emitters, but fails the bias test, the BAF may either be determined using Equation A-12, or a default BAF of 1.111 may be used.

(f) Use the bias-adjusted values in computing substitution values in the missing data procedure, as specified in subpart D of this part, and in reporting the concentration of SO_2 , the flow rate, the average NO_x emission rate, the unit heat input, and the calculated mass emissions of SO_2 and CO_2 during the quarter and calendar year, as specified in subpart G of this part. In addition, when using a NO_x concentration monitoring system and a flow monitor to calculate NO_x mass emissions under subpart H of this part, use bias-adjusted values for NO_x concentration and flow rate in the mass emission calculations and use bias-adjusted NO_x concentrations to compute the appropriate substitution values for NO_x concentration in the missing data routines under subpart D of this part.

30. Appendix B to Part 75 is amended by:

- a. Revising section 1.1.4;
- b. Removing sections 1.5 and 1.5.1 through 1.5.6;
- c. Revising paragraph (a) of section 2.1.4;
- d. Adding paragraph (c) to section 2.1.4;
- e. Revising section 2.2.1;
- f. Adding paragraph (i) to section 2.2.3;
- g. Revising paragraph (a) of section 2.3.1.1, paragraph (a) of section 2.3.1.3, and paragraphs (d) and (i) of section 2.3.2;
- h. Adding paragraph (k) to section 2.3.2;
- i. Revising section 2.3.4;
- j. Removing section 2.6;
- k. Revising Figures 1 and 2; and
- e. Adding Figure 3, to read as follows:

Appendix B to Part 75—Quality Assurance and Quality Control Procedures

1. Quality Assurance/Quality Control Program

1.1.4 The provisions in section 6.1.2 of appendix A to this part shall apply to the

annual RATAs described in § 75.74(c)(2)(ii) and to the semiannual and annual RATAs described in section 2.3 of this appendix.

2. Frequency of Testing

2.1.4 Data Validation

(a) An out-of-control period occurs when the calibration error of an SO_2 or NO_x pollutant concentration monitor exceeds 5.0 percent of the span value, when the calibration error of a CO_2 or O_2 monitor (including O_2 monitors used to measure CO_2 emissions or percent moisture) exceeds 1.0 percent O_2 or CO_2 , or when the calibration error of a flow monitor exceeds 6.0 percent of the span value, which is twice the applicable specification of appendix A to this part. Notwithstanding, a differential pressure-type flow monitor for which the calibration error exceeds 6.0 percent of the span value shall not be considered out-of-control if $|R - A|$, the absolute value of the difference between the monitor response and the reference value in Equation A-6 of appendix A to this part, is < 0.02 inches of water. In addition, an SO_2 or NO_x monitor for which the calibration error exceeds 5.0 percent of the span value shall not be considered out-of-control if $|R - A|$ in Equation A-6 does not exceed 5.0 ppm (for span values ≤ 50 ppm), or if $|R - A|$ does not exceed 10.0 ppm (for span values > 50 ppm, but ≤ 200 ppm). The out-of-control period begins upon failure of the calibration error test and ends upon completion of a successful calibration error test. Note, that if a failed calibration, corrective action, and successful calibration error test occur within the same hour, emission data for that hour recorded by the monitor after the successful calibration error test may be used for reporting purposes, provided that two or more valid readings are obtained as required by § 75.10. A NO_x -diluent CEMS is considered out-of-control if the calibration error of either component monitor exceeds twice the applicable performance specification in appendix A to this part. Emission data shall not be reported from an out-of-control monitor.

(c) The results of any certification, recertification, diagnostic, or quality assurance test required under this part may not be used to validate the emissions data required under this part, if the test is performed using EPA Protocol gas from a production site that is not participating in the PGVP, except as provided in § 75.21(g)(6) and (7) or if the cylinder(s) are analyzed by an independent laboratory and shown to meet the requirements of section 5.1.4(b) of appendix A to this part.

2.2.1 Linearity Check

Unless a particular monitor (or monitoring range) is exempted under this paragraph or under section 6.2 of appendix A to this part, perform a linearity check, in accordance with the procedures in section 6.2 of appendix A to this part, for each primary and redundant backup SO_2 , and NO_x pollutant concentration monitor and each primary and

redundant backup CO₂ or O₂ monitor (including O₂ monitors used to measure CO₂ emissions or to continuously monitor moisture) at least once during each QA operating quarter, as defined in § 72.2 of this chapter. For units using both a low and high span value, a linearity check is required only on the range(s) used to record and report emission data during the QA operating quarter. Conduct the linearity checks no less than 30 days apart, to the extent practicable. The data validation procedures in section 2.2.3(e) of this appendix shall be followed.

* * * * *

2.2.3 Data Validation

* * * * *

(i) The results of any certification, recertification, diagnostic, or quality assurance test required under this part may not be used to validate the emissions data required under this part, if the test is performed using EPA Protocol gas from a production site that is not participating in the PGVP, except as provided in § 75.21(g)(6) and (7) or if the cylinder(s) are analyzed by an independent laboratory and shown to meet the requirements of section 5.1.4(b) of appendix A to this part.

* * * * *

2.3.1.1 Standard RATA Frequencies

(a) Except as otherwise specified in § 75.21(a)(6) or (a)(7) or in section 2.3.1.2 of this appendix, perform relative accuracy test audits semiannually, *i.e.*, once every two successive QA operating quarters (as defined in § 72.2 of this chapter) for each primary and redundant backup SO₂ pollutant concentration monitor, flow monitor, CO₂ emissions concentration monitor (including O₂ monitors used to determine CO₂ emissions), CO₂ or O₂ diluent monitor used to determine heat input, moisture monitoring system, NO_x concentration monitoring system, or NO_x-diluent CEMS. A calendar quarter that does not qualify as a QA operating quarter shall be excluded in determining the deadline for the next RATA. No more than eight successive calendar quarters shall elapse after the quarter in which a RATA was last performed without

a subsequent RATA having been conducted. If a RATA has not been completed by the end of the eighth calendar quarter since the quarter of the last RATA, then the RATA must be completed within a 720 unit (or stack) operating hour grace period (as provided in section 2.3.3 of this appendix) following the end of the eighth successive elapsed calendar quarter, or data from the CEMS will become invalid.

* * * * *

2.3.1.3 RATA Load (or Operating) Levels and Additional RATA Requirements

(a) For SO₂ pollutant concentration monitors, CO₂ emissions concentration monitors (including O₂ monitors used to determine CO₂ emissions), CO₂ or O₂ diluent monitors used to determine heat input, NO_x concentration monitoring systems, and NO_x-diluent monitoring systems, the required semiannual or annual RATA tests shall be done at the load level (or operating level) designated as normal under section 6.5.2.1(d) of appendix A to this part. If two load levels (or operating levels) are designated as normal, the required RATA(s) may be done at either load level (or operating level).

* * * * *

2.3.2 Data Validation

* * * * *

(d) For single-load (or single-level) RATAs, if a daily calibration error test is failed during a RATA test period, prior to completing the test, the RATA must be repeated. Data from the monitor are invalidated prospectively from the hour of the failed calibration error test until the hour of completion of a subsequent successful calibration error test. The subsequent RATA shall not be commenced until the monitor has successfully passed a calibration error test in accordance with section 2.1.3 of this appendix. For multiple-load (or multiple-level) flow RATAs, each load level (or operating level) is treated as a separate RATA (*i.e.*, when a calibration error test is failed prior to completing the RATA at a particular load level (or operating level), only the RATA at that load level (or operating level) must be repeated; the results of any previously-passed

RATA(s) at the other load level(s) (or operating level(s)) are unaffected, unless the monitor's polynomial coefficients or K-factor(s) must be changed to correct the problem that caused the calibration failure, in which case a subsequent 3-load (or 3-level) RATA is required), except as otherwise provided in section 2.3.1.3 (c)(5) of this appendix.

* * * * *

(i) Each time that a hands-off RATA of an SO₂ pollutant concentration monitor, a NO_x-diluent monitoring system, a NO_x concentration monitoring system, or a flow monitor is passed, perform a bias test in accordance with section 7.6.4 of appendix A to this part. Apply the appropriate bias adjustment factor to the reported SO₂, NO_x, or flow rate data, in accordance with section 7.6.5 of appendix A to this part.

* * * * *

(k) The results of any certification, recertification, diagnostic, or quality assurance test required under this part may not be used to validate the emissions data required under this part, if the test is performed using EPA Protocol gas from a production site that is not participating in the PGVP, except as provided in § 75.21(g)(6) and (7) or if the cylinder(s) are analyzed by an independent laboratory and shown to meet the requirements of section 5.1.4(b) of appendix A to this part.

* * * * *

2.3.4 Bias Adjustment Factor

Except as otherwise specified in section 7.6.5 of appendix A to this part, if an SO₂ pollutant concentration monitor, a flow monitor, a NO_x-diluent CEMS, or a NO_x concentration monitoring system used to calculate NO_x mass emissions fails the bias test specified in section 7.6 of appendix A to this part, use the bias adjustment factor given in Equations A-11 and A-12 of appendix A to this part or the allowable alternative BAF specified in section 7.6.5(b) of appendix A of this part, to adjust the monitored data.

* * * * *

FIGURE 1 TO APPENDIX B OF PART 75—QUALITY ASSURANCE TEST REQUIREMENTS

Test	Basic QA test frequency requirements		
	Daily*	Quarterly*	Semiannual or annual
Calibration Error Test (2 pt.)	X	.....	.....
Interference Check (flow)	X	.....	.....
Flow-to-Load Ratio .....	.....	X	.....
Leak Check (DP flow monitors) .....	.....	X	.....
Linearity Check* (3 pt.) .....	.....	X	.....
RATA (SO ₂ , NO _x , CO ₂ , O ₂ , H ₂ O) ¹ .....	.....	.....	X
RATA (flow) ^{1, 2} .....	.....	.....	X

* "Daily" means operating days, only. "Quarterly" means once every QA operating quarter. "Semiannual" means once every two QA operating quarters. "Annual" means once every four QA operating quarters.

¹ Conduct RATA annually (*i.e.*, once every four QA operating quarters) rather than semiannually, if monitor meets accuracy requirements to qualify for less frequent testing.

²For flow monitors installed on peaking units, bypass stacks, or units that qualify for single-level RATA testing under section 6.5.2(e) of this part, conduct all RATAs at a single, normal load (or operating level). For other flow monitors, conduct annual RATAs at two load levels (or operating levels). Alternating single-load and 2-load (or single-level and 2-level) RATAs may be done if a monitor is on a semiannual frequency. A single-load (or single-level) RATA may be done in lieu of a 2-load (or 2-level) RATA if, since the last annual flow RATA, the unit has operated at one load level (or operating level) for ≥ 85.0 percent of the time. A 3-level RATA is required at least once every five years (20 calendar quarters) and whenever a flow monitor is re-characterized, except for flow monitors exempted from 3-level RATA testing under section 6.5.2(b) or 6.5.2(e) of appendix A to this part.

FIGURE 2 TO APPENDIX B OF PART 75—RELATIVE ACCURACY TEST FREQUENCY INCENTIVE SYSTEM

RATA	Semiannual ^W	Annual ^W
SO ₂ or NO _x ^Y	7.5% < RA ≤ 10.0% or ± 15.0 ppm ^X	RA ≤ 7.5% or ± 12.0 ppm ^X .
NO _x -diluent	7.5% < RA ≤ 10.0% or ± 0.020 lb/mmBtu ^X	RA ≤ 7.5% or ± 0.015 lb/mmBtu ^X .
Flow	7.5% < RA ≤ 10.0% or ± 2.0 fps ^X	RA ≤ 7.5% or ± 1.5 fps ^X .
CO ₂ or O ₂	7.5% < RA ≤ 10.0% or ± 1.0% CO ₂ /O ₂ ^X	RA ≤ 7.5% or ± 0.7% CO ₂ /O ₂ ^X .
Moisture	7.5% < RA ≤ 10.0% or ± 1.5% H ₂ O ^X	RA ≤ 7.5% or ± 1.0% H ₂ O ^X .

^w The deadline for the next RATA is the end of the second (if semiannual) or fourth (if annual) successive QA operating quarter following the quarter in which the CEMS was last tested. Exclude calendar quarters with fewer than 168 unit operating hours (or, for common stacks and bypass stacks, exclude quarters with fewer than 168 stack operating hours) in determining the RATA deadline. For SO₂ monitors, QA operating quarters in which only very low sulfur fuel as defined in § 72.2 of this chapter, is combusted may also be excluded. However, the exclusion of calendar quarters is limited as follows: the deadline for the next RATA shall be no more than 8 calendar quarters after the quarter in which a RATA was last performed. A 720 operating hour grace period is available if the RATA cannot be completed by the deadline.

^xThe difference between monitor and reference method mean values applies to moisture monitors, CO₂, and O₂ monitors, low emitters of SO₂, NO_x, and low flow, only.

^YA NO_x concentration monitoring system used to determine NO_x mass emissions under § 75.71.

FIGURE 3 TO APPENDIX B OF PART 75—SINGLE COMPONENT PLUS BALANCE GAS CYLINDERS EPA PROTOCOL GAS
VERIFICATION PROGRAM RESULTS EPA CYLINDER GAS ASSAYS PERFORMED BY NIST
[NIST to Insert: Month, Year]

Specialty gas company name	EPA protocol gas production site name	Vendor ID	Stamped cylinder ID	Gas Component, e.g., SO ₂							Supplied complete documentation (yes/no)
				Tag value (e.g., ppm SO ₂)	Audit Results				Vendor analytical method (e.g., FTIR)	Vendor ref std used (e.g., NTRM)	
					Orig tag value (pass/fail)	Orig tag (% diff)	Re-analyzed value (pass/fail)	Re-analysis (% diff)			

A gaseous component is said to fail only if all available analytical techniques used in the audit indicate greater than a 2.0% difference from the cylinder tag value. Any accuracy assessment is an instantaneous snapshot of the process being measured. These results should not be regarded as a final statement on the accuracy of EPA Protocol gases. They can be used as an indicator of the current status of the accuracy of EPA Protocol gases as a whole. However, individual results should not be taken as definitive indicators of the analytical capabilities of individual producers. EPA presents this information without assigning a rating to the gas vendors, for example, who is the best, who is approved, or is not approved.

$$\% \text{ diff} = 100 \times (\text{Tag Value} - \text{NIST Value}) / \text{NIST Value}$$

Note: For cylinders with more than one component plus balance gas, change the title appropriately, e.g., "FIGURE 3 TO APPENDIX B OF PART 75—BI-BLEND PLUS BALANCE GAS CYLINDERS * * *" and add appropriate columns to Figure 3 for the additional components following the same format used in the columns for SO₂ above.

31. In Appendix E to Part 75, Section 2.1 is amended by revising the last sentence to read as follows:

Appendix E to Part 75—Optional NO_x Emissions Estimation Protocol for Gas-Fired Peaking Units and Oil-Fired Peaking Units

* * * * *

2.1 Initial Performance Testing

* * * The requirements in section 6.1.2 of appendix A to this part shall apply to any stack testing performed to obtain O₂ and NO_x concentration measurements under this appendix, either for units using the excepted methodology in this appendix or for units using the low mass emissions excepted methodology in § 75.19.

* * * * *

Appendix F to Part 75 [Amended]

32. Appendix F to Part 75 is amended by removing and reserving section 9.

Appendix K to Part 75 [Removed]

33. Appendix K to Part 75 is removed.

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