

corrections in this action restore the following provisions inadvertently deleted by the July 18, 2003, amendments:

- Reference in § 63.864(d) to the procedures in §§ 63.6(h) and 63.8 for installing, calibrating, maintaining, and operating a continuous opacity monitoring system;
- Requirement in § 63.864(e)(10) to determine and record the pressure drop across the scrubber and the scrubbing liquid flow rate at least once every successive 15-minute period;
- Requirement in § 63.864(e)(11) to determine and record the operating temperature of the regenerative thermal oxidizer at least once every successive 15-minute period; and,
- “Eq. 1” label for the equation in § 63.865(a)(1).

The technical corrections in this action also restore the particulate matter (PM) emission limit in English units in § 63.862(b)(1) for new kraft and soda recovery furnaces, which was inadvertently omitted from the January 12, 2001, final rule. This addition to the rule text does not alter the standard. It merely expresses it in English units, to go along with the metric units already in the rule.

The EPA is issuing today's technical corrections in final form because we are acting on the pending proposal on which there has been notice and opportunity for public comment. In addition, we gave actual notice of this action to the commenters to that proposed rule, alerted them to the possibility of this action, and considered their comments.

Section 553(d) of 5 U.S.C. allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's technical corrections restore regulatory language which was inadvertently deleted by previous amendments, do not add any requirements necessitating additional time for compliance, and otherwise do not substantively change the requirements of the final rule, we find good cause to make the technical corrections effective immediately.

#### Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51736, October 4, 1993), this action is not a “significant regulatory action” and is, therefore, not subject to review by the Office of Management and Budget. Because EPA has made a “good cause” finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C.

601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action 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 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA is not proposing/adopting any voluntary consensus standards in this action.

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing these technical corrections, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these technical corrections in accordance with the “Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. These technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of December 5, 2003. The EPA will submit a report containing the rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 63

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

Dated: November 10, 2003.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

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

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

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

■ 2. Section 63.862 is amended by revising paragraph (b)(1) to read as follows:

##### § 63.862 Standards.

\* \* \* \* \*

(b) *Standards for HAP metals: new sources.* (1) The owner or operator of any new kraft or soda recovery furnace must ensure that the concentration of PM in the exhaust gases discharged to the atmosphere is less than or equal to 0.034 g/dscm (0.015 gr/dscf) corrected to 8 percent oxygen.

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■ 3. Section 63.864 is amended by: