

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-HQ-OAR-2004-0022; FRL-8047-7]

RIN 2050-AG29

**NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Administrative stay.

**SUMMARY:** Pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA), EPA is issuing an administrative stay of one requirement of the national emissions standards for hazardous air pollutants (NESHAP) for hazardous waste combustors that were issued October 12, 2005, under section 112 of the CAA. EPA is staying the effective date of the standard for particulate matter for new cement kilns that burn hazardous waste while EPA reconsiders this provision. The length of the stay is three months, until June 23, 2006. During the period the stay is in effect, new cement kilns are subject to the particulate matter standard that was applicable prior to promulgation of the standard.

**DATES:** This final rule is effective on March 23, 2006. Section 63.1220(b)(7)(i) is stayed from March 23, 2006 until June 23, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0022. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the HQ EPA Docket Center, Docket ID No. EPA-HQ-OAR-2004-0022, EPA West Building, Room B-102, 1301 Constitution Ave., NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The HQ EPA Docket Center telephone number is (202) 566-1742. 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.

**FOR FURTHER INFORMATION CONTACT:** For more information on this rulemaking, contact Frank Behan at (703) 308-8476, or [behan.frank@epa.gov](mailto:behan.frank@epa.gov), Office of Solid Waste (MC: 5302W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:****I. Regulated Entities**

Entities potentially affected are those industrial facilities that manufacture Portland cement. Portland cement manufacturing is classified under Standard Industrial Classification (SIC) code 3241 and the North American Industry Classification System (NAICS) code is 327310. Other types of entities could also be affected. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should examine the applicability criteria in 40 CFR 63.1200. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**II. Administrative Stay**

As proposed elsewhere in today's **Federal Register**, EPA is granting the petition of Ash Grove Cement Company and the petition of the Cement Kiln Recycling Coalition, Continental Cement Company, and Giant Cement Holding, Inc. to reconsider the new source standard for particulate matter for cement kilns that burn hazardous waste. That standard is 0.0023 gr/dscf corrected to 7 percent oxygen. 40 CFR 63.1220(b)(7)(i) (70 FR at 59573 (October 12, 2005)).<sup>1</sup> As set out in that notice, EPA is proposing this action because it appears that the promulgated standard is overly stringent in that it does not fully reflect the variability of the best performing source over time. Additional performance data from the source whose performance was the basis for the standard supports this conclusion.

EPA also has decided to stay the effective date of the new source standard, pursuant to section 307(d)(7)(B) of the CAA. The duration of this stay is consequently three months ("the rule may be stayed during such reconsideration \* \* \* by the Administrator \* \* \* for a period not to exceed three months"). We believe this administrative stay is justified not only

<sup>1</sup> The new source standard also contains an opacity requirement. 40 CFR 63.1220(b)(7)(ii). EPA is not reconsidering or staying that provision.

because the petitions for reconsideration appear to have merit, but also because if the standard remains in place, new cement kilns (and there are several contemplated) could decide not to burn hazardous waste because they are unable to achieve the promulgated standard. The kilns would then be subject to the less stringent standard for particulate matter applicable to Portland cement kilns that do not burn hazardous waste. 40 CFR 63.1343(c)(1). There is, thus, a potential environmental detriment associated with the current standard.

Accordingly, the effective date of 40 CFR 63.1220(b)(7)(i) is stayed until June 23, 2006.<sup>2</sup> In this action we are revising 40 CFR 63.1220(b)(7)(i) to reflect the dates that the administrative stay will remain in effect. In addition, we are adding a new provision requiring that new cement kiln sources must instead comply with the particulate matter standard specified in 40 CFR 63.1204(b)(7) during the period of the administrative stay. See 40 CFR 63.1220(b)(7)(iii). We want to emphasize that all new sources will be subject to the particulate matter standard of 40 CFR 63.1220(b)(7), whether or not it is revised after EPA completes the reconsideration process for this standard.

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

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

Dated: March 15, 2006.

**Stephen L. Johnson,**  
Administrator.

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

**PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES**

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

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

■ 2. Section 63.1220 is amended by revising paragraph (b)(7) to read as follows:

**§ 63.1220 What are the replacement standards for hazardous waste burning cement kilns?**

\* \* \* \* \*

(b) \* \* \*

<sup>2</sup> The opacity standard specified in 40 CFR 63.1220(b)(7)(ii) is not affected by this stay and remains in effect as promulgated.

(7) For particulate matter:  
 (i) Except as provided by paragraph (b)(7)(iii) of this section, particulate matter emissions in excess of 0.0023 gr/dscf corrected to 7 percent oxygen.  
 (ii) Opacity greater than 20 percent, unless your source is equipped with a bag leak detection system under

§ 63.1206(c)(8) or a particulate matter detection system under § 63.1206(c)(9).  
 (iii) The particulate matter standard specified in paragraph (b)(7)(i) of this section is stayed from March 23, 2006 to June 23, 2006. During the period that this stay is in effect, you must not emit

particulate matter in excess of 0.15 kg/Mg dry feed, as determined according to the requirements under § 63.1204(b)(7)(i) through (iii).  
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