

Air Emissions From Existing Hospital/Medical/Infectious Waste Incinerators (HMIWI)—Section 111(d)/129 Plan

§ 62.10200 Identification of plan—negative declaration.

Letter from South Carolina Department of Health and Environmental Control submitted on December 14, 2009, certifying that there are no Hospital/Medical/Infectious Waste Incinerator units subject to 40 CFR part 60, subpart Ce in its jurisdiction.

[FR Doc. 2011-9844 Filed 4-22-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 98

[EPA-HQ-OAR-2009-0923; FRL-9299-1]

Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Grant of reconsideration.

SUMMARY: On November 30, 2010 EPA promulgated Subpart W: Petroleum and Natural Gas Systems of the Greenhouse Gas Reporting Rule. As part of the provisions outlined in this rule, the EPA stated that the Agency would allow certain owners or operators to use best available monitoring methods (BAMM) in lieu of specified parameters outlined for calculating greenhouse gas emissions for the petroleum and natural gas systems source category of the greenhouse gas reporting rule. EPA is giving notice that the Agency has initiated the reconsideration process in response to requests for reconsideration of certain provisions in the regulations. First, EPA has been asked to reconsider the requirement to submit requests to use best available monitoring methods during the 2011 calendar year by April 30, 2011 and pursuant to its authority under CAA section 307(d)(7)(B) consequently is extending the deadline contained in those provisions until July 31, 2011. Second, EPA has also been asked to reconsider the time period during which owners and operators of certain specific sources could automatically use BAMM without having to request approval by the Administrator. As a result of this second request, pursuant to its authority under CAA section 307(d)(7)(B) EPA is also extending the date by which owners and operators of certain specific sources

would not be required to request approval by the Administrator for the use of BAMM from June 30, 2011 until September 30, 2011.

DATES: This rule is effective on April 30, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC-6207J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone number (202) 343-9236; fax (202) 343-2342; e-mail address: GHGReportingRule@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

The EPA published Subpart W: Petroleum and Natural Gas Systems of the Greenhouse Gas Reporting Rule on November 30, 2011, 40 CFR Part 98, Subpart W (75 FR 74458)(Subpart W). Included in the final rule were new provisions allowing owners or operators the option of using best available monitoring methods for specified parameters in 40 CFR 98.233. Subpart W provides that owners or operators wishing to use BAMM during 2011 for emissions sources listed in 40 CFR 98.234(f)(4) or 98.234(f)(5)(iv) must submit BAMM applications by April 30, 2011. In addition, subpart W provides that owners or operators with emissions sources listed in 40 CFR 98.234(f)(2) or 40 CFR 98.234(f)(3) have the option of using BAMM from January 1, 2011 to June 30, 2011 without submitting a request to the Administrator for approval to use BAMM; however to extend use of BAMM beyond June 30, 2011, those owners or operators must submit a request to the Administrator by April 30, 2011.

Following the publication of Subpart W in the **Federal Register**, several industry groups sought reconsideration of several provisions in the final rule, including the provisions requiring submittal of BAMM requests for use or extension of BAMM in calendar year 2011 by April 30, 2011, and the time period for which owners or operators of sources in 40 CFR 98.234(f)(2) or 40 CFR 98.234(f)(3) would not be required to submit a BAMM request to the Administrator for approval, i.e., January 1 through June 30, 2011.

By letter dated January 31, 2011, the American Petroleum Institute (API) stated that “[a]ggressive deadlines for BAMM are problematic for reporters who are attempting to monitor GHG emissions for the first time. In particular, the April 30, 2011 deadline for BAMM requests does not provide reporters sufficient time to identify the

sources for which BAMM should be requested and gather the data that EPA requires be submitted with a BAMM request.” API, along with the Gas Processors Association (GPA), Interstate Natural Gas Association of America (INGAA), Chesapeake Energy Corporation (CEC)/American Exploration & Production Council (AXPC), stated that they would not be able to complete an initial assessment of their facilities to determine whether they would need BAMM by the deadline of April 30, 2011. Further, a subset of these petitioners further noted that the time period for which owners and operators were granted the optional use of BAMM without being required to submit a request to the Administrator for approval was insufficient for them to make the necessary assessment of their facilities to determine compliance with the rule.

EPA believes that pursuant to CAA section 307(d)(7)(B) it is appropriate to extend the deadlines in 40 CFR 98.234(f)(5)(iii)(A), 98.234(f)(5)(iv)(A), 98.234(f)(6)(i), and 98.234(f)(7)(i) by three months, to allow owners and operators additional time to assess which of their facilities would need to take advantage of the BAMM provisions of Subpart W for calendar year 2011. EPA also believes that pursuant to CAA section 307(d)(7)(B) it is appropriate to extend the deadlines, by three months, by which owners and operators of emission sources listed in 40 CFR 98.234(f)(2) or 40 CFR 98.234(f)(3), would have the option to use BAMM without submitting a request for approval from the Administrator to allow additional time to assess applicability of the rule provisions to their facilities. EPA is taking no action at this time on other issues raised by petitioners in their respective Petitions for Reconsideration and reserves the right to further consider those issues at a later time.

Pursuant to Clean Air Act (CAA) section 307(d)(7)(B), EPA is extending the deadlines in 40 CFR 98.234(f)(5)(iii)(A), 98.234(f)(5)(iv)(A), 98.234(f)(6)(i), and 98.234(f)(7)(i) for three months, i.e., until July 31, 2011.

Further, pursuant to CAA section 307(d)(7)(B) EPA is also extending the deadlines contained in 40 CFR 98.234(f)(2), 40 CFR 98.234(f)(3), 40 CFR 98.234(f)(5)(i), 40 CFR 98.234(f)(5)(ii), 40 CFR 98.234(f)(6), 40 CFR 98.234(f)(6)(ii)(D), 40 CFR 98.234(f)(6)(iii), 40 CFR 98.234(f)(7), and 40 CFR 98.234(f)(7)(iii) for three months, i.e., until September 30, 2011.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good

cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment. We are acting pursuant to CAA section 307(d)(7)(B) to extend these deadlines in part because both the affected universe of facilities subject to the rule and the substantive requirements associated with the BAMB provisions in the rule could change as a result of this reconsideration process. In addition, we are extending these provisions to allow owners and operators of affected facilities additional time to appropriately assess their facilities to determine if it will be necessary for them to apply for BAMB during calendar year 2011. Because we cannot predict the resulting outcome of the reconsideration process with respect to BAMB, we think a limited extension during the duration of the administrative reconsideration process is appropriate so that owners and operators of affected facilities would not incur additional costs associated with applying for BAMB in advance of our final decision on this issue. It would be impracticable to go through notice and comment rulemaking to extend an imminent deadline and it is also unnecessary because section 307(d)(7)(B) does not require notice and comment for a three-month extension pending reconsideration. Thus, notice and public procedure are impracticable and unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

II. Statutory and Executive Order Reviews

A. General Requirements

This action is not a "significant regulatory action," under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). In addition, because the agency 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 (See Section I. *Background Information* of

this preamble) it is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not impose any enforceable duty or contain any unfunded mandates as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials, as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues, as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Further, because the agency has made a "good cause" (See Section I. *Background Information* of this preamble) 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.*). This action also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the November 30, 2010 **Federal Register** document.

B. Submission to Congress and the Comptroller General

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 CRA 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 therefore, and established an effective date of April 30, 2011. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

III. How Can I Get Copies of This Document and Other Related Information?

This **Federal Register** notice is available in the docket for the final rule titled "Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems," published on November 30, 2010 at 98 FR 74458, under Docket ID No. EPA-HQ-OAR-2009-0923.

All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA's Docket Center, Docket ID No. EPA-HQ-OAR-2009-0923, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, Northwest, 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 telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket Center is (202) 566-1741.

In addition to being available in the docket, an electronic copy of this **Federal Register** notice is also available on the World Wide Web at <http://www.epa.gov/climatechange/emissions/ghrulemaking.html>.

List of Subjects in 40 CFR Part 98

Environmental Protection, Administrative practice and procedures, Air pollution control, Monitoring, Reporting and recordkeeping.

Dated: April 20, 2011.

Lisa P. Jackson,
Administrator.

For the reasons discussed in the preamble, the EPA amends 40 CFR parts 98 as follows:

PART 98—[AMENDED]

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

■ 2. Section 98.234 is amended as follows:

- a. By revising paragraph (f)(2) introductory text.
 - b. By revising paragraph (f)(3) introductory text.
 - c. By revising paragraphs (f)(5)(i), (f)(5)(ii), (f)(5)(iii)(A), (f)(5)(iv)(A).
 - d. By revising paragraphs (f)(6) introductory text, (f)(6)(i), (f)(6)(ii)(D), (f)(6)(iii).
 - e. By revising paragraphs (f)(7) introductory text, (f)(7)(i), and (f)(7)(iii).
- The revisions read as follows:

§ 98.234 Monitoring and QA/QC Requirements.

* * * * *

(f) * * *

(2) *Best available monitoring methods for well-related emissions.* During January 1, 2011 through September 30, 2011, owners and operators may use best available monitoring methods for any well-related data that cannot reasonably be measured according to the monitoring and QA/QC requirements of this subpart, and only where required measurements cannot be duplicated due to technical limitations after September 30, 2011. These well-related sources are:

* * * * *

(3) *Best available monitoring methods for specified activity data.* During January 1, 2011 through September 30, 2011, owners or operators may use best

available monitoring methods for activity data as listed below that cannot reasonably be obtained according to the monitoring and QA/QC requirements of this subpart, specifically for events that generate data that can be collected only between January 1, 2011 and September 30, 2011 and cannot be duplicated after September 30, 2011. These sources are:

* * * * *

(5) * * *

(i) No request or approval by the Administrator is necessary to use best available monitoring methods between January 1, 2011 and September 30, 2011 for the sources specified in paragraph (f)(2) of this section.

(ii) No request or approval by the Administrator is necessary to use best available monitoring methods between January 1, 2011 and September 30, 2011 for sources specified in paragraph (f)(3) of this section.

(iii) * * *

(A) *Timing of Request.* The request to use best available monitoring methods for paragraph (f)(4) of this section must be submitted to EPA no later than July 31, 2011.

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(iv) * * *

(A) *Timing of Request.* The request to use best available monitoring methods for sources not listed in paragraph (f)(2), (f)(3), and (f)(4) of this section must be submitted to EPA no later than July 31, 2011.

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(6) *Requests for extension of the use of best available monitoring methods through December 31, 2011 for sources in paragraph (f)(2) of this section.* The owner or operator may submit a request to the Administrator to use one or more best available monitoring methods described in paragraph (f)(2) of this section beyond September 30, 2011.

(i) *Timing of Request.* The extension request must be submitted to EPA no later than July 31, 2011.

* * * * *

(ii) * * *

(D) If the reason for the extension is that the owner or operator cannot

collect data from a service provider or relevant organization in order for the owner or operator to meet requirements of this subpart for the 2011 calendar year, the owner or operator must demonstrate a good faith effort that it is not possible to obtain the necessary information, service or hardware which may include providing correspondence from specific service providers or other relevant entities to the owner or operator, whereby the service provider states that it is unable to provide the necessary data or services requested by the owner or operator that would enable the owner or operator to comply with subpart W reporting requirements by September 30, 2011.

* * * * *

(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that it is not reasonably feasible to obtain the data necessary to meet the requirements of this subpart for the sources specified in paragraph (f)(2) of this section by September 30, 2011.

(7) *Requests for extension of the use of best available monitoring methods through December 31, 2011 for sources in paragraph (f)(3) of this section.* The owner or operator may submit a request to the Administrator to use one or more best available monitoring methods described in paragraph (f)(3) of this section beyond September 30, 2011.

(i) *Timing of request.* The extension request must be submitted to EPA no later than July 31, 2011.

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(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that it is not reasonably feasible to implement the data collection for the sources described in paragraph (f)(3) of this section for the methods required in this subpart by September 30, 2011.

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[FR Doc. 2011–10026 Filed 4–22–11; 8:45 am]

BILLING CODE 6560–50–P