HWC MACT Amendments Final Rule: Comment Response Document

U.S. Environmental Protection Agency
Office of Solid Waste and Emergency Response
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Comment 1 – Arkema (EPA-HQ-OAR-2004-0022-0563)

Sunset Provision for the Interim Standards

Arkema supports EPA's proposal to sunset the Interim Standards on the Replacement Standards compliance date. Arkema appreciates EPA's adoption of item 1.h of Comment 249. Confirmatory Testing.

EPA Response

The Agency acknowledges the commenter's support.

Schedule for Comprehensive Performance Testing

Arkema appreciates EPA's attempt to clarify the schedules for confirmatory testing proposed in 40 CFR 63.1207(d). However, Arkema requests that EPA reconsider item 6 of Comment 249, where Arkema describes how regulatory delays in the permitting authority's review of a CPT test plan can place a facility in a situation where the facility must either complete the CPT without an approved test plan, or delay the CPT beyond the proposed 63.1207(d) proposed calendar. Arkema requests that EPA include provisions in proposed 63.1207(d) that provide affected sources regulatory certainty if delays beyond the control of the affected source compromise the CPT confirmatory testing schedule.

EPA Response

The commenter refers to 40 CFR 63.1207(d) which requires that comprehensive performance tests (CPT) be repeated within 61 months after the date of the previous test. The source is required to submit a CPT test plan at least one year prior to the planned test date. The permitting authority must either approve the plan or notify the source of its intent to deny the plan within 9 months after receipt. 40 CFR 63.1207(e)(3) allows the source to petition the permitting authority for up to two 6-month extensions if the authority has failed to act to approve or deny the CPT plan.

The time frames specified in 40 CFR 63.1207(d) have been in place since the HWC MACT rule was originally promulgated on September 30, 1999 (64 FR 52828 et seq.). EPA did not propose any changes to these timeframes in either the April 20, 2004 Phase I Final Replacement Standards and Phase II Rule (69 FR 21198) or the September 6, 2006 Reconsideration proposed rule (71 FR 52624).

The waiver provisions of 40 CFR 63.1207(e)(3) were promulgated on February 14, 2002 (67 FR 6990). Neither the Replacement Standards rule nor the Reconsideration proposed rule included any changes to the waiver provisions.

Consequently, this comment addresses provisions that were not open for comment in either the Replacement Standard or Reconsideration proposed rules. Nevertheless, the Agency notes that we are not aware of any instances in which the existing timeframes were inadequate. Furthermore, we believe that the firm regulatory deadlines provide an incentive for the facility and the regulatory agency to resolve testing issues in a timely manner. Any further delay of testing beyond the one year provided by section 63.1207(e) would be inconsistent with

the goals of the Clean Air Act to ensure timely compliance with the MACT standards.

Comment 2 – Shell Oil Products (EPA-HQ-OAR-2004-0022-0564)

Confirmatory Performance Testing Not Required for Sources That are Not Subject to a Numerical Dioxin/Furan Emission Standard

Shell supports the addition of §63.1207(b)(3)(vi) to clarify sources that are required to perform the one-time dioxin/furan test are not required to perform the confirmatory performance tests since dioxin/ furan testing is the only component of the confirmatory performance test.

EPA Response

The Agency acknowledges the commenter's support.

Performance Test Waiver for Sources Subject to Hazardous Waste Thermal Concentration Limits Amendment

Shell supports the amendment to 63.1207(m) to provide a performance test waiver for sources subject to the hazardous waste thermal concentration limits. For liquid fuel boilers that burn hazardous waste with a heating value of 10,000 Btu/lb or *greater*, EPA established the *emission* standard by limiting the feedrate of mercury, semivolatile metals (i.e., cadmium and lead), low volatile metals (i.e., chromium), and hydrogen chloride/chlorine gas in proportion to the heat input from the hazardous waste. These limits are referred to as hazardous waste thermal concentration emission limits. Thus, the emissions for these constituents can not exceed the stack emission limits if the concentrations of the constituents in the hazardous waste are less than the hazardous waste thermal concentration emission limits by definition. Sources subject to the hazardous waste thermal concentration emission limits must demonstrate compliance on a 12-hour rolling average basis using once a minute monitoring data. Thus, conducting a performance for these sources is redundant to the monitoring.

EPA Response

The Agency concurs with Shell's comment and acknowledges its support.

Calculating Rolling Averages for Averaging Periods in Excess of 12 Hours Amendment

Shell supports the amendment to calculating the rolling average for averaging periods in excess of 12 hours in order to simplify data management and reduce data storage.

EPA Response

The Agency acknowledges the commenter's support.

Calculating Rolling Averages
Shell opposes the amendment regarding calculating the rolling average for the chromium federate and chlorine thermal concentration limit in liquid fuel boilers burning hazardous waste with a heating value of 10,000 Btu/lb or greater and for the chromium federate in liquid fuel boilers burning hazardous waste with a heating value less than 10,000 Btu/ lb. Similar to calculating rolling averages for averaging periods in excess of 12 hours, updating the rolling averages every minute instead of hourly complicates data management and could require increased data storage.

EPA Response
EPA responds to this comment in Section II.B.1 of the preamble to the final rule.

Comment 3 – Coalition for Responsible Waste Incineration (CRWI) (EPA-HQ-OAR-2004-0022-0569)

Other proposed regulatory changes

1. CRWI supports the proposed language changes in §63.1203 that will clearly provide sunset provisions for the interim standards.

2. CRWI supports the proposed changes to §63.1206(c)(9) making it clear that bag houses may use PM detection systems.

3. CRWI supports the proposed language in §63.1207(b)(3)(vi)) that clarifies that sources that do not have a dioxin/furan standard but must perform the one-time test do not have to perform confirmatory tests.

4. CRWI supports the proposed language in §63.1207(d)(4) making it clear that facilities do not have to perform any additional tests under the interim standards.

5. CRWI supports the proposed language in §63.1207(m) that would allow facilities using thermal concentration limits to waive testing.

6. CRWI supports the proposed language in §63.1209(n)(2)(iii) that makes it clear that the operating parameter limits are based on the average of the test run averages.

7. CRWI supports the proposed language in §63.1209(n)(2)(v)(A)(2)(iv) that allows facilities to choose how they will comply with the rolling average requirement in the first year of compliance.

8. CRWI supports the proposed changes to the rolling averages for chromium feedrate for high Btu liquid fuel-fired boilers – §§63.1209(n)(2)(v)(B)(1)(i) and (ii), chromium feedrate for low Btu liquid

fuel-fired boilers – §63.1209(n)(2)(v)(B)(2), and the chlorine feedrate for low Btu liquid fuel-fired boilers – §63.1209(o)(1)(ii)(A)(3).

9. CRWI supports the proposed change in the timing for submitting the renewal for the health-based chlorine standard to match the time when you submit your subsequent CPT plan (§63.1215(h)(2)(i)).

EPA Response
The Agency acknowledges the commenter's support for the above-referenced nine amendments.

10. CRWI is concerned about the proposed change of the PM standards from English units (gr/dscf) to SI units (mg/dscm). Theoretically, a conversion from one set of units to another should not create a problem. However, in this case it does, simply because the rounding to two significant digits produces slightly different compliance values. 0.013 gr/dscf converts to 29.7 mg/dscm, which when rounded to 2 significant digits gives 30 mg/dscm. Even considering the 0.0133 gr/dscf that was set as the floor (OAR-2004-0022-0460, Technical Support Document, Volume 3, Appendix F, Table APCD-INC-PM) – this converts to 30.4 which also rounds to 30 (two significant digits). However, as a compliance point 0.013 gr/dscf is not the same as 30 mg/dscm. For example, if the average PM emissions from the three tests are 0.01349 gr/dscf, the facility would meet the 0.013 standard (rounded to two significant digits) but would not meet 30 mg/dscm since 0.01349 converts to 30.9 which rounds to 31 mg/dscm.

    This may seem like a theoretical exercise except that at least one facility is in exactly this situation. During their initial comprehensive performance test (CPT) to show compliance with the interim standards, Syngenta (St. Gabriel, LA) showed 0.0153, 0.0120, and 0.0130 gr/dscf for their three test runs. The average was 0.0134 gr/dscf. This meets the interim standard of 0.015 gr/dscf and would meet the replacement standard of 0.013. However, 0.0134 gr/dscf converts to 30.7 mg/dscm, which rounds to two significant digits to 31 mg/dscm. While this has no impact on compliance with the interim standards, it will have an impact on October 12, 2008, when Syngenta has to show compliance with the replacement standards. It should be noted that Syngenta realizes that they will need to reduce PM emissions prior to the next compliance test. The concern is that if EPA leaves the PM standard as 0.013 gr/dscf, Syngenta can use the results from their CPT showing compliance with the interim standards to show that they remain in compliance with the replacement standards. However, if EPA converts the standard to 30 mg/dscm, Syngenta can no longer use that data to show that they are in compliance. In fact, that data would show that they were out of compliance.

Again, Syngenta has no intention of trying to duplicate the 0.0134 gr/dscf average test runs made when showing compliance with the replacement standards. They plan to modify the system to achieve performance well below the 0.013 gr/dscf (or 30 mg/dscm) before the next comprehensive performance test. Since they are already meeting the current interim standard, the only time this matters is the time period between the compliance date for the replacement standards and when the Notice of Compliance for the replacement standards is submitted. The practical implications of the proposed conversion of the incinerator PM standard are if EPA does not convert to SI units, Syngenta can use the CPT results from the interim standards to show they currently meet the 0.013 gr/dscf replacement standard in their Documentation of Compliance (DOC). If EPA converts the standard to SI units, Syngenta will have to make a modification that, in their engineering judgment, would ensure that they meet the 30 mg/dscm permanent replacement PM standard. This would have to be documented in their DOC, it may change their Automatic Waste Feed Cut Off trip points, and it could modify their reporting requirements. This seems like a lot of effort simply because of a difference in rounding.

CRWI believes that the simplest solution is to leave the PM standards in English units. This is the units the original data were reported in and any round off errors will be contained within a standard expressed in English units. If the Agency believes that the PM standard should be converted to SI units, we believe that EPA should develop language that allows facilities to show compliance with either English or SI units, at least until the Notice of Compliance is submitted to show compliance with the permanent replacement standards.

EPA Response
EPA responds to this comment in Section II.B.2 of the preamble to the final rule.

11. CRWI is concerned that the proposed changes to § 63.1210(c) creates a situation where facilities only have one day in which to publish their notice of an informal public meeting for their Notice of Intent to Comply (NIC). The current language requires facilities to hold the NIC public meeting within 10 months after the effective date (§ 63.1210(c)(1)) and must provide notice of the meeting at least 30 days prior to the meeting (§ 63.1210(c)(3)). This implies that the notice of the meeting could be made more than 30 days in advance of the meeting.

The proposed § 63.1210(c)(1) language retains the 10 month deadline but also requires that the meeting must be held no later than 30 days following the notice. The 30 day advance notice language of § 63.1210(c)(3) was retained. This puts the facility in a position of having to issue the public notice precisely 30 days before the public meeting (i.e., facilities have two

30 day deadlines, one working backward from the meeting date and one working forward from the notice date).

While this is probably of little practical consequence for existing sources since most will have held their meetings before this rule is finalized, it will impact new sources. The problem was created by the proposed language that requires that "no later than...30 days following notice of the informal public meeting, you must hold at least one informal meeting..." This language changes the point of reference for the time line from the public meeting to the notice of that public meeting, removing the option of making the public notice earlier than 30 days ahead of the meeting. CRWI understands that EPA wants to make it clear that both existing and new sources have to follow the NIC process. We also understand the desire to make as few regulatory changes as needed to get the desired results. However, in this case, it may be more prudent to create two time lines in the regulatory language, one for existing sources (what already exists) and the other for new sources (new language). This was done in Figures 1 and 2 in the preamble (71 Fed. Reg. at 52,643-4) to make it clear that the timetables are different.

CRWI suggests that EPA not make the modification to §§ 63.1210(c)(1) and (c)(3) as proposed but designate the current paragraph in (c)(1) as "existing" and add a new paragraph that builds the timeline for new units that corresponds to the timelines shown in the preamble (71 Fed. Reg. at 52,644). This would make it clear what each has to do in the way of noticing and holding the informal public meetings.

EPA Response

We agree with the commenter that the proposed amendments to the language in §63.1210(c)(1) appear to create an unfavorable situation in which a source would be required to issue the public notice exactly 30 days before the public meeting. The language added to paragraph (c)(1) "…or 30 days following notice of the informal public meeting…", was intended to address new units because we realized that the current language "…and no later than 10 months after the effective date…" was only applicable to existing units. However, without sufficient explanation, it was not clear that the reference to the effective date was intended only for existing units and the proposed reference to 30 days following notice was intended only for new units. As a result, it gives the appearance that both references may be applicable to all units. Therefore, if one reads the 30 day reference in §63.1210(c)(1) to apply to existing units, along with the 30 day reference which was retained in §63.1210(c)(3), then it creates the situation which CRWI correctly identifies.

It was our intent to convey that the core NIC requirements are the same for new units as existing units, but that the timing of the deadlines is viewed differently depending upon whether you are a new or existing unit. As we explained in the

proposal for the revised timelines (see 71 FR 52642), existing units' NIC deadlines are based from the rule's effective date. On the other hand, new units' compliance deadlines (e.g., NIC activities) are based on when they begin operations, or their "compliance date", and thus, the effective date of the rule has no bearing on new units. The few words added to §63.1210(c)(1) do not clearly articulate our intent.

The commenter suggests that the requirements for new units and existing units be presented as two separate paragraphs to better represent the timelines for each. We agree and therefore, we are amending §63.1210(c)(1) by further subdividing the paragraphs to designate applicability in terms of "existing units" and "new units". In addition, we are making similar changes to §63.1210(b)(3) to reflect the different timing for existing and new units.

Comment 4 – Syngenta (EPA-HQ-OAR-2004-0022-0571)

Syngenta Crop Protection Inc: St Gabriel, LA Plant (Syngenta) (LAD053783445-RNOP-1) appreciates the opportunity to submit comments on *NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors (Reconsideration) (71* Fed. Reg. 52624, September 6, 2006). Syngenta Crop Protection Inc: St Gabriel, LA Plant (Syngenta) (LAD053783445-RN-OP-I), and its affiliates with global headquarters in Basel, Switzerland, and NAFTA Headquarters in Greensboro, NC is an agricultural chemical company producing and marketing a wide variety of agricultural products including seeds and an array of crop protection chemicals. Syngenta believes in managing as much of its wastes as possible within its own company with thermal destruction as the top of the waste management hierarchy. The Syngenta-St. Gabriel, LA Plant has a state-of-the-art waste management system that includes a multi-purpose rotary kiln incinerator permitted for hazardous and non-hazardous, on-site and off-site generated, Syngenta owned wastes.

Syngenta's October 2004 CPT demonstrated compliance with all interim and final MACT emission standards as currently promulgated.

Syngenta is concerned about the proposed change of the final PM standards from English units (gr/dscf) to SI units (mg/dscm). Typically, conversion from one set of units to another should not be an issue or cause concern. Unfortunately, in this particular case we have an issue of rounding error. The rounding to two significant digits produces slightly different compliance values in English units versus SI units. The compliance value of 0.013 gr/dscf mathematically converts to 29.7 mg/dscm, which when rounded to 2 significant digits gives 30 mg/dscm. A value of 0.0134 gr/dscf, even though when rounded to two significant digits in English units gives an in-compliance value of 0.013 will convert to 30.6 mg/dscm which when rounded to two significant digits gives 31 mg/dscm. Therefore, the 0.013 gr/dscf is not the same compliance point as 30 mg/dscm. For example, if the average of PM emissions from the three tests is 0.01349 gr/dscf, the facility would meet the 0.013

standard (rounded to two significant digits) but would not meet 30 mg/dscm since 0.01349 g/dscf converts to 30.9 mg/dscm, which rounds to 31 mg/dscm.

This may seem like a theoretical exercise without practical application except that this is exactly the situation at the Syngenta-St. Gabriel, LA site. During the initial CPT to show compliance with the interim standards, Syngenta (St. Gabriel, LA) showed 0.0153, 0.0120, and 0.0130 gr/dscf for their three test runs. The average was 0.0134 gr/dscf. As provided in 40CFR 63.1204 (t) rounding to two significant figures gives 0.013 gr/dscf. This meets the interim standard of 0.015 gr/dscf and meets the replacement standard of 0.013 gr/dscf. The replacement standard is currently promulgated in only English units with rounding to two significant figures. However, 0.0134 gr/dscf converts to 30.7 mg/dscm, which rounds to two significant digits to 31 mg/dscm. While this has no impact on compliance with the interim standards, it will have an impact on October 12, 2008, when Syngenta has to show compliance with the replacement standards. It should be noted that Syngenta realizes that they will need to reduce PM emissions prior to the next compliance test. The concern is that if EPA leaves the PM standard as 0.013 gr/dscf, Syngenta can use the results from their initial CPT (for the interim standards) to show that they remain in compliance with the replacement standards. However, if EPA converts the standard to 30 mg/dscm, Syngenta can no longer use that data to show that they are in compliance. In fact, that data would show that they were out of compliance.

Again, Syngenta has no intention of trying to duplicate the 0.0134 gr/dscf average test runs made when showing compliance with the replacement standards. They plan feed restrictions that will ensure compliance with the 0.013 gr/dscf (or an SI equivalent) before the next test is run. Since Syngenta already meets the current interim standard, the only time this matters is the time period between the compliance date and when the NOC from the initial CPT for the replacement standards is submitted. The practical implications of the proposed conversion of the incinerator PM standard are if EPA does not convert to SI units, Syngenta can use the CPT results from the interim standards CPT to show it currently meets the 0.013 gr/dscf replacement standard. If EPA converts the standard to SI units, Syngenta will have to make modifications that would ensure meeting the 30 mg/dscm permanent replacement PM standard, reduce its permitted incineration capability, or shutdown its incineration operations. Any modifications would have to be documented in the DOC, it may change the AWFCO trip points, and it could modify the reporting requirements. This seems like a lot of effort simply because of a difference in rounding.

Syngenta proposes that the simplest solution is to leave the PM standards in English units. This is the numerical system in which the original final standard was promulgated, the system in which the original data was reported, and any round-off errors will be contained within a standard expressed in English units. If the Agency believes that the PM standard must be converted to SI units, Syngenta proposes that EPA develop language that allows facilities to show compliance with either English or SI

units, or use 31 mg/dscm as the SI compliance point to compensate for rounding error.

EPA Response
EPA responds to this comment in Section II.B.2 of the preamble to the final rule.

Comment 5 – Oxychem (EPA-HQ-OAR-2004-0022-0573)

4) Other
Section C) Confirmatory Dioxin Testing
OCC supports EPA's clarification of the limited exemption from confirmatory dioxin/furan performance testing and the clarification indicating that sources subject to standards are only required to retest if a change is made that can increase dioxin/furan emissions.

EPA Response
The Agency acknowledges the commenter's support.

Section D) Periodic Performance Tests for Phase 1 sources
OCC supports amendments to Section 63.1207(d) to clarify that comprehensive performance tests and confirmatory performance tests are only required for sources operating under the final replacement standard (10/12/05).

EPA Response
The Agency acknowledges the commenter's support.

Section J) Expressing PM standard using international units
OCC supports the conversion of gr/dscf limits to mg/dscm units.

EPA Response
EPA responds to this comment in Section II.B.2 of the preamble to the final rule.

Section I) Facilities operating under RCRA Interim Status
OCC supports EPA's clarification that changes to APC monitoring and control equipment to comply with the rule does not require prior approval from EPA. This also includes notice that changes to industrial furnaces (BIF units) require an updated certification of compliance.

EPA Response
The Agency acknowledges the commenter's support.

5) Corrected Timeline
Finally, we thank EPA for correcting and clarifying the compliance timeline for existing sources.

EPA Response
The Agency acknowledges the commenter's support.