

Supporting Statement – Part A

Continuous Emission Monitoring; Quality-Assurance Requirements During the COVID-19 National Emergency (OMB No. 2060-NEW; EPA ICR #: 2622.01)

A. Justification

EPA is requesting emergency clearance for the information collection associated with temporary amendments to 40 CFR part 75 that are being issued to take immediate effect in a rule entitled “Continuous Emission Monitoring; Quality-Assurance Requirements During the COVID-19 National Emergency.” The amendments are being issued as an interim final rule without prior notice and opportunity for comment and will expire in 180 days. EPA requests a decision on this request for emergency clearance within ten days.

A.1: Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

EPA has determined that existing provisions of the emissions monitoring, recordkeeping, and reporting provisions at 40 CFR part 75 are inconsistent with public health measures currently being implemented to address the novel coronavirus disease (COVID-19) national emergency. The part 75 regulations apply to almost all electricity generating units in the contiguous 48 states, as well as several hundred industrial units, pursuant to the Acid Rain Program, Cross-State Air Pollution Rule (CSAPR) trading programs, and the NO_x SIP Call. Affected units must monitor and report their mass emissions of SO₂ and/or NO_x for every operating hour and in most cases must surrender SO₂ and/or NO_x emission allowances equal to their reported emissions under one or more EPA trading programs.

The part 75 regulations require affected units to perform a variety of tests for certification of monitoring systems, ongoing quality assurance, and other purposes. In order to provide a self-enforcing incentive for units to perform required tests in a timely manner, the regulations provide that if a unit fails to complete a required test by the applicable deadline, the unit must report substitute emissions data higher than the unit’s actual monitored emissions data until the test has been completed. As the degree of lateness grows, the required substitute data become more conservative, eventually reaching the unit’s maximum potential emissions in every operating hour. Higher reported emissions data will cause the unit to surrender larger quantities of emission allowances under EPA trading programs, at increased cost to the unit’s owners.

As presently written, the part 75 provisions that automatically require an affected unit to report substitute data when a test deadline is missed do not take the unit’s reason for missing the test deadline into account. In the current COVID-19 emergency there is a widespread effort to limit social interactions for public health reasons. However, many part 75 tests are performed by outside contractors which would necessarily result in interactions between plant staff and outside personnel even during the current emergency. Accordingly, EPA believes there is an urgent need to revise these provisions to facilitate plant operation in light of the COVID-19 public health emergency.

The temporary amendments allow an affected unit to continue to report monitored emissions data as valid instead of requiring the unit to report higher-than-actual substitute data in instances where data

from a monitoring system would otherwise be considered invalid solely because of failure to complete a required test and where the unit's failure to complete the test is attributable to a national emergency. The amendments apply to all types of tests for which a missed deadline would otherwise automatically result in requirements to report substitute data, but only during an emergency period (as defined in the amendments). The amendments do not apply to tests where a deadline is missed for non-emergency reasons, do not alter any other emissions monitoring or reporting requirements, and do not alter any existing emissions limitations. Every unit is required to complete any deferred tests as soon as practicable after any emergency-related restrictions relevant to that unit are lifted. The amendments expire 180 days year after promulgation.

A.2: Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

In order to provide assurance to EPA and the public that the amended procedures are appropriately applied only for emergency-related reasons, the amendments include certain new recordkeeping and reporting provisions. These provisions require sources to maintain records demonstrating that any delays of required tests were caused by travel, plant access, or other safety restrictions related to the national emergency. Sources must also submit emailed notifications to EPA within five business days following delay or completion of a test subject to the amended procedures. Each notification of a delayed test must identify the affected unit, the test being delayed, the otherwise applicable deadline, and the emergency-related reasons why the test could be completed by the deadline. Each notification of completion of a delayed test must identify the affected unit, the completed test, the date as of which emergency-related restrictions that formerly impaired testing for that unit no longer applied, and the date of test completion. In addition, both notifications must include certifications that the unit meets the criteria for using the amended procedures. To provide transparency, EPA will prepare summaries of the submitted notifications identifying the units, the delayed tests and test deadlines, and the completed tests and completion dates, and will post the summaries on a publicly accessible website. (See Appendix A, 40 CFR 75.68(a)(7) for complete description of reporting requirements.)

The information included in this ICR is essential to EPA's mission. Under Clean Air Act (CAA) section 412, 42 U.S.C. 7651k, we are required to collect continuously monitored, quality-assured emissions data for all sources affected under the Acid Rain Program. Continuously monitored, quality-assured emissions data are similarly necessary to implement provisions of CSAPR and the NO_x SIP Call, which were issued to address states' obligations related to interstate transport of air pollution under CAA section 110(a)(2)(D)(i)(I), 42 U.S.C. 7410(a)(2)(D)(i)(I). Under CAA section 114(c), 42 U.S.C. 7414(c), all such quality-assured emissions data must be available to the public. Without an emergency clearance of the information collection provisions of our interim final rule, EPA and the public would be unable to collect information needed to ascertain whether the temporary exceptions to the otherwise applicable part 75 quality-assurance requirements are being appropriately applied only for emergency-related reasons.

As noted above, the amendments included in the interim final rule are urgently needed to facilitate plant operation in light of the COVID-19 public health emergency-related restrictions on social interactions that are being imposed to limit the spread of COVID-19. Because the amendments were drafted in response to the current emergency and will be effective immediately upon publication in the *Federal Register*, the unusually short time available for development of the amendments does not allow time for completion of the normal clearance procedures for the associated information collection requirements. Considering the required 60-day and 30-day notice periods together with the minimum time needed to prepare and publish *Federal Register* notices, use of the normal clearance procedures would prevent any information collection regarding use of the new procedures for at least four months,

well past the period when EPA expects greatest application of the amended procedures in the current COVID-19 emergency.

A.3: Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

EPA has designed the new information collection requirements to impose the minimum possible burden and costs on sources while obtaining the information needed to ensure that the amended procedures are being applied appropriately.

A. 4: Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

This data does not exist elsewhere. It is being specifically created and collected for the purposes described in A.2.

A. 5: If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

EPA has designed the new information collection requirements to impose the minimum possible burden and costs on sources while obtaining the information needed to ensure that the amended procedures are being applied appropriately.

A.6: Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The amendments included in the interim final rule are urgently needed to facilitate plant operation in light of the COVID-19 public health emergency-related restrictions on social interactions that are being imposed to limit the spread of COVID-19. Because the amendments were drafted in response to the current emergency and will be effective immediately upon publication in the *Federal Register*, the unusually short time available for development of the amendments does not allow time for completion of the normal clearance procedures for the associated information collection requirements. Considering the required 60-day and 30-day notice periods together with the minimum time needed to prepare and publish *Federal Register* notices, use of the normal clearance procedures would prevent any information collection regarding use of the new procedures for at least four months, well past the period when EPA expects greatest application of the amended procedures in the current COVID-19 emergency.

A.7: Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the general information guidelines in 5 CFR 1320.5.

EPA is requesting emergency processing of this ICR under the provisions in 5 CFR 1320.13.

A.8: Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

EPA is following the requirements and schedule for public comment described in the emergency processing provisions of 5 CFR 1320.13.

A.9: Explain any decision to provide any payment or gift to respondents.

There are no payments or gifts to respondents.

A.10: Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Respondents are not provided with any assurance of confidentiality.

A.11: Provide additional justification for any questions of a sensitive nature.

There are no questions of a sensitive nature.

A.12: Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

Based on communications from sources during the current national emergency, as confirmed by EPA's own professional judgment, EPA believes that relative accuracy test audits (RATAs) are the type of quality-assurance test most likely to be delayed during the current national emergency.

While the requested emergency clearance described in this document is intended to last for a period of 180 days, for purposes of this ICR, EPA estimates that the current national emergency, and therefore use of the special reporting provisions described by the interim final rule, will last only 3 months (one quarter).

Approximately 4,300 affected units at approximately 1,400 facilities are subject to part 75 requirements under the Acid Rain Program, the CSAPR trading programs, and the NOX SIP Call combined. In the second quarter of 2019, approximately 1,000 affected units reported performance of a total of 1,500 RATAs. EPA estimates that 50% of scheduled RATAs expected to occur during the national emergency period will be delayed for reasons related to the emergency, resulting in an estimated total of 750 response incidents. Each response incident will require the source to prepare and submit notifications following the delay and subsequent completion of each scheduled test.

A.13: Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information.

Based on the requirement of two notifications per response incident, an estimate of one hour of a technician's time and one hour of a manager's time for each notification, and hourly labor rates of \$72.96 and \$109.24 for technicians and managers respectively. These rates were derived using the most recent (May 2019) annual mean wage data for environmental engineering technicians and general/operations managers in the fossil fuel-fired electric power generation industry (NAICS 221112) from the U.S. Bureau of Labor Statistics National Industry-Specific Occupational Employment and Wage Estimates. EPA estimates respondents' burden and cost per response incident to be 4.0 hours and \$364.40, respectively. The Agency does not anticipate respondents will need to incur capital or operating and maintenance costs in associated with this information collection. The calculations are summarized in table 1 below.

Table 1: Total Respondent Burden and Cost

Activity	Hours per incident	Cost per incident	Total Incidents During Emergency ICR Period	Total Burden Hours During Emergency ICR Period	Total Costs During Emergency ICR Period
Creation of records and submission of two notifications per response incident:					
ARP affected units	4	\$364.40	678	2,712	\$247,063
CSAPR units (not also ARP)	4	\$364.40	17	68	\$6,195
NO _x SIP Call units (not also ARP)	4	\$364.40	55	220	\$20,042
Total for all units			750	3,000	\$273,300

A.14: Provide estimates of annualized cost to the Federal government; provide a description of the method used to estimate cost which should include quantification of hours, operational expenses, and any other expense that would not have been incurred without this collection of information.

EPA estimates that Agency processing of the submissions received and compiling them into an electronic database for posting will require five minutes of staff time per submission. Time for any required follow-up falls within the scope of existing approved ICRs.

The federal agency hourly labor rate is assumed to be \$83.99. This rate was derived using 2020 salary data from the U.S. Office of Personnel Management General Schedule. Based on the requirement of two notifications per response incident, an estimate of five minutes (0.0833 hours) to process each notification, EPA estimates the Agency's burden and cost per response incident to be 0.167 hours and \$14.00, respectively.

Based on the estimate of 750 response EPA estimates total annualized agency burden of 125 hours and total annualized agency cost of \$10,500. The calculations are summarized in table 2 below.

Table 2: Total Agency Burden and Cost

Activity	Hours per incident	Cost per incident	Total Incidents During Emergency ICR Period	Total Burden Hours During Emergency ICR Period	Total Costs During Emergency ICR Period
Processing of two notifications per response incident:					
ARP affected units	0.167	\$14.00	678	113	\$9,492
CSAPR units (not also ARP)	0.167	\$14.00	17	3	\$238
NO _x SIP Call units (not also ARP)	0.167	\$14.00	55	9	\$770
Total for all units			750	125	\$10,500

A.15: Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I (reasons for changes in burden).

This is a new collection.

Appendix A: 40 CFR 75.68(a)(7)

(7) The following recordkeeping and reporting requirements shall apply to any use of the procedures under paragraphs (a)(3) through (6) of this section:

(i) The owner or operator of an affected unit reporting data under paragraph (a)(3), (4), or (5) of this section shall maintain records documenting the reasons for failure to complete by the applicable deadline each test or analysis referenced in such paragraph and demonstrating that such failure is caused by travel, plant access, or other safety restrictions implemented to address the COVID-19 national emergency. The owner or operator shall also maintain records documenting when any such travel, plant access, or other safety restrictions impairing the ability to complete testing or analyses for that unit ceased to apply. The records shall be maintained on site at the source in a form suitable for inspection for a period of three years from the date of each record.

(ii) By five business days after the applicable deadline for a test or analysis referenced in paragraph (a)(3), (4), or (5) of this section, the designated representative shall submit to the Administrator, by email transmitted to camdpetitions@epa.gov, a notification containing the following information:

(A) Facility ID (ORIS);

(B) Facility name;

(C) Monitoring location ID and/or unit ID;

(D) Identification of the quality-assurance test, certification or recertification test, appendix D fuel analysis, or appendix E or LME NO_x emission rate test for which the notification is being submitted;

(E) Identification of the applicable deadline for the test or analysis under part 75 (not including any applicable grace period);

(F) A detailed explanation of the reason for failure to complete the test or analysis by the applicable deadline under part 75, including an explanation of how such failure is caused by travel, plant access, or other safety restrictions implemented to address the COVID-19 national emergency;

(G) The certification statements in § 72.21(b)(1) and (2) of this chapter.

(iii) By five business days after the completion in accordance with paragraph (a)(6)(i) or (ii) of this section of a delayed test or analysis referenced in paragraph (a)(3), (4), or (5) of this section, the designated representative shall submit to the Administrator, by email transmitted to camdpetitions@epa.gov, a notification containing the following information:

(A) Facility ID (ORIS);

(B) Facility name;

(C) Monitoring location ID and/or unit ID;

(D) Identification of the quality-assurance test, certification or recertification test, appendix D fuel analysis, or appendix E or LME NO_x emission rate test for which the notification is being submitted;

(E) Identification of the date as of which travel, plant access, or other safety restrictions previously impairing the ability to complete the delayed test or analysis for the unit no longer applied;

(F) Identification of the date as of which the test or analysis was completed in accordance with paragraph (a)(6)(i) or (ii) of this section; and

(G) The certification statements in § 72.21(b)(1) and (2) of this chapter.

(iv) With respect to any test or analysis of a type that is required to be performed more frequently than once per unit operating quarter, a series of such required tests or analyses may be treated as a single test or analysis for purposes of a notification submitted under paragraph (a)(7)(ii) or (iii) of this section, with the notification under paragraph (a)(7)(ii) to be submitted by five business days after the first failure to perform such a test or analysis by the applicable deadline and the notification under paragraph (a)(7)(iii) to be submitted by five business days after the first completion of such a test or analysis in accordance with paragraph (a)(6)(i) or (ii) of this section.

(v) A notification submitted under paragraph (a)(7)(ii) or (iii) of this section may include information for more than one required test for a given unit or monitoring location, provided that each item of information required to be included in such notification pursuant to paragraphs (a)(7)(ii)(D) through (F) of this section or paragraphs (a)(7)(iii)(D) through (F) of this section is provided separately for each required test included in the notification.

(vi) No claim of confidentiality may be asserted with respect to any information included in a notification submitted under paragraph (a)(7)(ii) or (iii) of this section.

(vii) Notwithstanding the deadlines for submission of notifications in paragraphs (a)(7)(ii), (iii), and (iv) of this section, no such notification from any owner or operator shall be due less than 30 days after the effective date of this section.