

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 USC 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5, 49 CFR 1.46.

2. A temporary § 165.T01-63 is added to read as follows:

§ 165.T01-63 **Safety zone: Mount Hope Bay, RI.**

(a) *Location.*

(1) Tall ship safety zone: While transiting Mount Hope Bay, RI, a moving safety zone around the Fall River Celebrates America tall ships parade, extending a distance of two hundred (200) yards ahead of the lead vessel in the parade to one hundred (100) yards astern of the last vessel in the parade, and two hundred (200) yards abeam of each parading vessel. The zone of enforcement will be initiated at Mount Hope Bay Junction Lighted Gong Buoy MH (LL 18790), the start of the parade, and will end at the State Pier, Fall River, MA, after each parading vessel is safely moored.

(2) Fire works safety zone: The area within a three hundred (300) yard radius around the fireworks barge, anchored in approximate positions 41°42'42" N, 71°09'52" W, in the vicinity of Mount Hope Bay Channel Buoy 17.

(b) *Effective date.*

(1) Tall ship safety zone: This regulation is effective at 5:30 p.m. on August 13, 1993, and terminates at 6:30 p.m. on August 13, 1992, or when each parade vessel is safely moored.

(2) Fireworks safety zone: This regulation is effective while the Fall River Celebrates America fireworks are in progress, between the hours of 8:30 p.m. and 10 p.m. on August 14, 1993, unless terminated sooner by the Captain of the Port Providence.

(c) *Regulations.* The general regulations governing safety zones contained in 165.23 apply.

Dated: July 16, 1993.

H. D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 93-18245 Filed 7-29-93; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 2 and 14

RIN 2900-AG57

Delegations of Authority; Federal Tort Claims

AGENCY: Department of Veterans Affairs.

ACTION: Final Regulation.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations to delegate to the VA General Counsel and designees the authority to adjust, determine, compromise, and settle a claim under the Federal Tort Claims Act where the amount of settlement does not exceed \$200,000. This authority was granted to the Secretary pursuant to 38 U.S.C. 515, 28 U.S.C. 2672, and 28 CFR appendix to part 14. The previous authority was limited to \$25,000 by 28 U.S.C. 2672 and subsequently increased to \$100,000 by 28 CFR appendix to part 14. This amendment will facilitate processing of claims under the Federal Tort Claims Act in a more timely manner.

EFFECTIVE DATE: July 22, 1993.

FOR FURTHER INFORMATION CONTACT: E. Douglas Bradshaw, Jr., Deputy Assistant General Counsel (021B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC (202) 523-3207.

SUPPLEMENTARY INFORMATION: Section 203 of the Veterans Benefits and Services Act of 1988 (Pub. L. 100-322) added section 515 to title 38, United States Code, permitting the Secretary to settle tort claims not exceeding an amount to be delegated by the Attorney General, with the delegation not to exceed the maximum delegated to the United States Attorneys. A similar provision was added to 28 U.S.C. 2672 by the Administrative Dispute Resolution Act, Public Law 101-552. In 1988, the Attorney General delegated \$100,000 in settlement authority to the Secretary. The Attorney General has now delegated to the Secretary an increase in settlement authority to an amount not to exceed \$200,000.

This amendment to 38 CFR 2.6(e)(1) delegates to the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), or those authorized to act for them, authority to consider, ascertain, adjust, determine, compromise, and settle a claim arising under the Federal Tort Claims Act; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his designee. The

amendment also provides for the execution of a memorandum explaining the basis for settlement of a claim in excess of \$100,000 to be sent to the Department of Justice, as required by the Attorney General's delegation to the Secretary. Authority is also delegated to the District Counsels or those authorized to act for them and the Deputy Assistant General Counsel (Professional Staff Group I) to consider, ascertain, adjust, determine, compromise, and settle any claim under the Federal Tort Claims Act; provided that any award, compromise, or settlement does not exceed \$100,000; and provided, further, that whenever a settlement is effected in an amount in excess of \$50,000, a memorandum fully explaining the basis for the action taken shall be sent to the Assistant General Counsel (Professional Staff Group I).

Conforming amendments are made to 38 CFR 14.602(a), 14.602(a)(4), and 14.602(b)(2).

Under 38 CFR 1.12 and 5 U.S.C. 553(d)(3), prior publication of these delegations of authority for public comment is unnecessary since they concern only internal VA management. Because a prior notice of proposed rulemaking is not required and will not be published, these changes do not come within the term "rule" as defined in and made subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 602(2).

In any case, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in that Act. No regulatory or administrative burdens are imposed upon small entities. Also, since these amendments are related solely to internal agency management, they do not come within the term "rule" as defined in section 1(a)(3) of Executive Order 12291, entitled Federal Regulation; consequently, they are not subject to requirements of that order.

There are no Catalog of Federal Domestic Assistance numbers associated with these amendments.

List of Subjects in 38 CFR, Parts 2 and 14

Administrative practice and procedure, Claims, Government employees, Lawyers, Legal services, Organization and functions.

Approved: July 22, 1993.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 2 and 14 are amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501, unless otherwise noted.

2. In § 2.6, paragraph (e)(1) is revised to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

(e) *General Counsel.* (1) Under the Federal Tort Claims Act, pursuant to the provisions of 28 U.S.C. 2672; Pub. L. 100-322; 38 U.S.C. 515, and the delegation of authority from the Attorney General in 28 CFR appendix to part 14:

(i) Authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel, or those authorized to act for them, to consider, ascertain, adjust, determine, compromise, and settle any claim accruing on and after January 18, 1967, and asserted under the Federal Tort Claims Act, as amended by Pub. L. 89-506 (80 Stat. 306), and to execute an appropriate voucher and other necessary instruments in connection therewith; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his designee; provided, further, that whenever a settlement is effected in an amount in excess of \$100,000, a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

(ii) Authority is delegated to the District Counsels or those authorized to act for them and the Deputy Assistant General Counsel (Professional Staff Group I) to consider, ascertain, adjust, determine, compromise, and settle any claim under the Federal Tort Claims Act and to execute an appropriate voucher and other necessary instruments in connection therewith; provided that any award, compromise, or settlement does not exceed \$100,000; provided, further, that whenever a settlement is effected by a District Counsel in an amount in excess of \$50,000 a memorandum fully explaining the basis for the action taken shall be sent to the Assistant General Counsel (Professional Staff Group I).

PART 14—LEGAL SERVICES, GENERAL COUNSEL

3. The authority citation for part 14 continues to read as follows:

Authority: 38 U.S.C. 501(a), 5502, 5902-5905, unless otherwise noted.

4. In § 14.602, paragraph (a) introductory text, (a)(4), and (b)(2) are revised to read as follows:

§ 14.602 Scope and authority to consider claims.

(a) The Secretary and those delegated such authority in § 2.6(e) of this chapter are authorized to consider, ascertain, adjust, determine, compromise, and settle claims for money damages against the United States in accordance with regulations prescribed by the Attorney General (38 CFR 14.1 et seq.). Any award, compromise, or settlement exceeding \$200,000 shall be effected only with the prior written approval of the Attorney General or designee. In addition, a claim may be compromised or settled only after consultation with the Department of Justice when:

(Authority: 38 U.S.C. 515; 28 CFR appendix to part 14)

(4) For any reason, the compromise of a particular claim, as a practical matter, will, or may, control the disposition of a related claim in which the amount to be paid may exceed \$200,000; or

(Authority: 38 U.S.C. 515; 28 CFR appendix to part 14)

(b) (2) Where full development of a claim indicates that liability exists and the potential settlement value exceeds \$100,000, the District Counsel who received the claim will submit the case to the General Counsel for consideration. Whenever a settlement is effected in an amount in excess of \$50,000 a memorandum fully explaining the basis for the action taken shall be sent to the Assistant General Counsel (Professional Staff Group I).

(Authority: 38 U.S.C. 515; 28 CFR appendix to part 14)

[FR Doc. 93-18166 Filed 7-29-93; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72, 73, and 75

[FRL-4666-9]

Acid Rain Program: Permits, Allowance System, and Continuous Emission Monitoring; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Acid Rain Program was established under Title IV of the Clean Air Act, as amended on November 15, 1990. In order to implement this statutory mandate, EPA codified the Acid Rain Program in five (of seven total) regulations including: Permits, Allowance System, Continuous Emissions Monitoring, Excess Emissions Penalties, and Administrative Appeals. This action contains corrections to the Permits, Allowance System, and Continuous Emission Monitoring final regulations (FRL-4666-9) that were published on Monday, January 11, 1993 (58 FR 3590).

DATES: These corrections become effective on July 30, 1993. The revised incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register as of February 10, 1993.

FOR FURTHER INFORMATION CONTACT: Brian McLean, Director, Acid Rain Division (6204J) US Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, 202-233-9150.

SUPPLEMENTARY INFORMATION:

I. Background

The final regulations that are the subject of this action correct portions of 40 CFR Parts 72, 73, and 75 effective on July 30, 1993. 40 CFR parts 72, 73, and 75 were added to the CFR pursuant to Title IV of the Clean Air Act, 42 USC 7401, et seq., as amended by Public Law 101-549 (November 15, 1990).

II. Need For Correction

During the process of implementing the Acid Rain Program, many individuals and organizations requested clarification on various aspects of the Acid Rain Core Rules. Representatives from industry, state and local governments, environmental groups, and the general public requested clarification of typographical errors, unclear wording, incorrect citations, and conflicting requirements in different locations of the regulations. Today's action resolves these requests for clarification.

III. Correction of Publication

Accordingly, the publication on January 11, 1993, of the Final Regulations [FRL-4543-5], which were the subject of FR Doc. 93-1, is corrected as follows:

PART 72—[CORRECTED]

§ 72.2 [Corrected]

1. On page 3652, in the third column, § 72.2, paragraph (2) of the definition of

Calibration gas, "A NIST/EPA-approved certified reference material" is corrected to read "A NIST Traceable Reference Material (NTRM)".

§ 72.2 [Corrected]

2. On page 3653, in the first column, § 72.2, in the last line of paragraph (2) under the definition of *Coal fired*, "PRIMEFUEL" is corrected to read "PRIMFUEL".

§ 72.2 [Corrected]

3. On page 3656, in the first column, § 72.2, in the last line of the definition of *Maximum potential NO_x emission rate*, "part 77" is corrected to read "part 75".

§ 72.2 [Corrected]

4. On page 3657, in the third column, § 72.2, the last line of the definition of *Protocol 1 gas*, "of this chapter", is corrected to read "of this chapter) or such revised procedure as approved by the Administrator".

§ 72.8 [Corrected]

1. On page 3661, in the second column, § 72.8(c)(2)(ii), line 3, the word "proposed" is corrected to read "draft".

§ 72.41 [Corrected]

1. On page 3669, in the first column, § 72.41(e)(3)(iii), line 2, the reference "(e)(2)(ii)" is corrected to read "(e)(3)(ii)".

§ 72.41 [Corrected]

2. On page 3669, in the first column, § 72.41(e)(3)(iii), line 6, the reference "(e)(2)(ii)(B)" is corrected to read "(e)(3)(ii)(B)".

§ 72.41 [Corrected]

3. On page 3669, in the second column, § 72.41(e)(3)(iv), line 6, the reference "(e)(2)(ii)" is corrected to read "(e)(3)(ii)".

§ 72.74 [Corrected]

1. On page 3680, in the first column, § 72.74(b)(1)(iii), line 8, the phrase "governs a under" is corrected to read "governs a unit under".

§ 72.91 [Corrected]

1. On page 3682, in the first column, § 72.91(a) introductory text, line 3, "Adjusted utilization-baseline" is corrected to read "Adjusted utilization = baseline".

§ 72.91 [Corrected]

2. On page 3682, in the third column, § 72.91(a)(3)(iii), line 12, "Shift to sulfur-free generator-actual" is corrected to read "Shift to sulfur-free generator = actual".

§ 72.92 [Corrected]

1. On page 3685, in the second column, § 72.92(c)(2)(v)(C), line 2, "weighted average rate" is corrected to read "weighted average emissions rate".

PART 73—[CORRECTED]

§ 73.10 [Corrected]

1. On pages 3687 through 3691, the header for Table 1 of § 73.10 (a) is corrected to read "Table 1—Phase I Allowance Allocations".

§ 73.101 [Corrected]

2. On page 3688, in Table 1 of § 73.10 (a), under "Illinois" for "Kincaid" boiler 1, the value in Column A is corrected to read "34564".

§ 73.30 [Corrected]

1. On page 3691, in the third column, § 73.30(a), line 6 is corrected by replacing the word "reordered" with the word "recorded".

§ 73.31 [Corrected]

1. On page 3691, third column, § 73.31(c)(1) introductory text, in line 8, is corrected by removing the word "General".

§ 73.32 [Corrected]

1. On page 3692, second column, § 73.32(a)(1), line 3, the citation "§ 72.25(a)(3)" is corrected to read "§ 72.24(a)(3)".

§ 73.72 [Corrected]

1. On page 3695, third column, under "Subpart E—[Amended]," line 1, correct amendatory instruction 4 to read as follows: "4. Paragraph (c) of § 73.72 is revised to read as follows:

§ 73.80 [Corrected]

1. On page 3695, second column, § 73.80(b), line 6, the year is corrected to read "1992".

§ 73.81 [Corrected]

1. On page 3695, third column, § 73.81(b)(4), line 1, the language "Loan management" is corrected to read "Load management".

§ 73.82 [Corrected]

1. On page 3696, first column, the section heading for § 73.82 is corrected to read "Application for allowances from reserve program".

PART 75—[CORRECTED]

§ 75.1 [Corrected]

1. On page 3702, first column, § 75.1(b), the first subparagraph is designated as paragraph (b)(1) and the second subparagraph is designated as paragraph (b)(2). In paragraph (b)(2), last

line, the reference "appendix C" is corrected to read "appendix G".

§ 75.5 [Corrected]

1. On page 3703, first column, in § 75.5(b), line 5, the reference "appendices A through G" is corrected to read "appendices A through I".

§ 75.6 [Corrected]

1. On page 3703, second column, § 75.6(a)(4), line 3, is corrected by removing the words "incorporation by reference".

§ 75.7 [Corrected]

1. On page 3704, first column, § 75.7, line 4, is corrected by replacing the words "reference monitor variance" with the words "reference method variance".

§ 75.11 [Corrected]

1. On page 3705, second column, § 75.11(c), introductory text, line 7, is corrected by adding a comma between the words "unit" and "or", and by adding the word "where" between the words "or" and "installation".

§ 75.15 [Corrected]

1. On page 3706, third column, § 75.15(a), introductory text, lines 9 and 10, "SO_x-diluent continuous emission monitoring" is corrected to read "SO₂-diluent continuous emission monitoring system".

§ 75.15 [Corrected]

2. On page 3706, third column, § 75.15(a), introductory text, lines 13 and 14 from the bottom of the paragraph, "December 31, 1991" is corrected to read "December 31, 1999".

§ 75.15 [Corrected]

3. On page 3707, first column, § 75.15 (a)(2), line 8, is corrected by replacing the reference "appendix F to this part" with the reference "section 5.5.3 of appendix F of this part".

§ 75.15 [Corrected]

4. On page 3707, third column, § 75.15(b)(1), in Equations 5 and 7, the references "Appendix G, Section 2.5.4 of this part" is corrected to read "Appendix F, section 5.5.3, of this part".

§ 75.16 [Corrected]

1. On page 3709, first column, § 75.16(e), line 6 from the bottom of the paragraph, is corrected by replacing the word "or" with the word "and" between the phrases "SO₂ mass emissions" and "emissions".

§ 75.17 [Corrected]

1. On page 3709, second column, § 75.17, the paragraph designation

(a)(2)(iii)(a) is corrected to read
(a)(2)(iii)(A).

§ 75.17 [Corrected]

2. On page 3709, second column, § 75.17(a)(2)(iii)(B), line 9, is corrected by adding the words "the combined" before the phrase "NO_x emission rate".

§ 75.17 [Corrected]

3. On page 3709, second column, § 75.17(b)(2), line 9, is corrected by adding the words "the combined" before the phrase "NO_x emission rate".

§ 75.20 [Corrected]

1. On page 3711, second column, § 75.20(b)(3), line 9, is corrected by adding the words "except that" after the comma which immediately follows the word "section".

§ 75.20 [Corrected]

2. On page 3711, second column, § 75.20(c), introductory text, lines 9 and 22, are corrected by adding the word "thereof" after the word "components".

§ 75.20 [Corrected]

3. On page 3711, third column, § 75.20(c)(5), paragraph (c)(5)(iv) is correctly added after paragraph (c)(5)(iii) to read as follows:

* * * * *

(c) * * *

(5) * * *

(iv) A cycle time/response time test.

§ 75.20 [Corrected]

4. On page 3712, first column, § 75.20(c)(9)(i), introductory text, last line, is corrected by replacing the word "including" with the words "such that".

§ 75.20 [Corrected]

5. On page 3712, first column, § 75.20(c)(9)(i)(B), line 2, is corrected by adding the words "is available" between the word "tests" and the following comma.

§ 75.20 [Corrected]

6. On page 3712, first column, § 75.20(d), lines 10 and 11, the reference to "paragraphs (a) and (c) of this section" is corrected to read "paragraphs (a), (b) and (c) of this section".

§ 75.31 [Corrected]

1. On page 3714, second and third columns, § 75.31(b)(2), line 6, and § 75.31(c)(3), line 9, are corrected by adding the phrase "of this part" after the reference "appendix A".

§ 75.31 [Corrected]

2. On page 3714, second column, § 75.31(c)(2), lines 3 and 4, is corrected by replacing the phrase "owner and

operator" with the phrase "owner or operator".

§ 75.31 [Corrected]

3. On page 3714, third column, § 75.31(c)(3), line 3, is corrected by replacing the words "any load range," with the words "the corresponding load range, or any higher load range,".

§ 75.31 [Corrected]

4. On page 3714, third column, § 75.31(c)(3), line 8, the reference to "section 2.1 of" is corrected to read "§ 72.2 of this chapter and section 2.1 of".

§ 75.32 [Corrected]

1. On page 3714, second and third column, § 75.32(b) is corrected to read:

* * * * *

(b) The monitor data availability need not be recorded during the missing data period. The owner or operator shall record the percent monitor data availability at the end of each missing data period, (and thereafter continue to record monitor data availability hourly, pursuant to § 75.50).

§ 75.34 [Corrected]

1. On page 3716, third column, § 75.34(b)(1), lines 1 and 2 are corrected by replacing the phrase "monitoring data availability" with the phrase "monitor data availability".

§ 75.41 [Corrected]

1. On page 3717, third column, § 75.41(a)(9)(i), line 5, is corrected by adding the phrase "(or reference method)" after the words "continuous emission monitoring system".

§ 75.41 [Corrected]

2. On page 3717, in the third column, § 75.41(a)(9)(ii), lines 2 and 3 are corrected by replacing the phrase "continuous emissions monitoring system" with "continuous emission monitoring system (or reference method)".

§ 75.41 [Corrected]

3. On page 3718, first column, § 75.41(a)(9)(ii), line 6 from the top, and § 75.41(b)(1)(i), lines 3, 4, and 5, are corrected by adding the phrase "(or reference method)" after the phrases "certified continuous emission monitoring system or certified flow monitoring system".

§ 75.41 [Corrected]

4. On page 3718, in the first column, § 75.41(b)(1)(i), lines 5 and 17 respectively, are corrected by adding the captions "(Eq. 11)" after "using the following equation:" and "(Eq. 12)" after "lognormalized data values lp :".

§ 75.41 [Corrected]

5. On page 3718, second column, § 75.41(b)(2)(i), line 7, is corrected by moving the word "where," from directly before Equation 13 to directly after the caption "(Eq. 13)", and by adding the word "where," after each caption for Equations 14 through 18.

§ 75.41 [Corrected]

6. On page 3719, first column, § 75.41(b)(2)(iv)(A), lines 4 and 5, and § 75.41(c)(1)(i), lines 3 and 4, are corrected by adding the phrase "(or reference method)" after the phrases "or certified flow monitoring system" and "or certified flow monitor".

§ 75.41 [Corrected]

7. On page 3719, second column, § 75.41(b)(2)(iv)(C), line 5, and § 75.41(c)(1)(ii), line 5, are corrected by adding the phrase "(or reference method)" after the phrases "or certified flow monitoring system" and "or certified flow monitor".

§ 75.41 [Corrected]

8. On page 3719, third column, in § 75.41(b)(2)(v)(A), line 1 of the column, "original variance in the F-test Equation 23 of this section" is corrected to read "original variance, as calculated using Equation 23 of this section, in the F-test (Equation 24) of this section."

§ 75.41 [Corrected]

9. On page 3719, third column, § 75.41(b)(2)(v)(B), line 4, is corrected by adding the phrase "of this part" after the reference "Appendix A".

§ 75.41 [Corrected]

10. On page 3719, third column, § 75.41(c)(2)(i), line 11, is corrected by adding the phrase "(or reference method)" after the phrase "continuous emission monitoring system".

§ 75.48 [Corrected]

1. On page 3720, third column, and on page 3721, in the first column, § 75.48(a)(3), all references to equations from § 75.41(c) are corrected by using the next higher equation number, to read as follows:

a. In paragraph (a)(3)(iv), "Equation 24" is corrected to read "Equation 25", and "Equation 25" is corrected to read "Equation 26".

b. In paragraph (a)(3)(viii), "Equation 22" is corrected to read "Equation 23".

c. In paragraph (a)(3)(ix), "Equation 23" is corrected to read "Equation 24".

d. In paragraph (a)(3)(xi), "Equation 26" is corrected to read "Equation 27".

§ 75.48 [Corrected]

2. On page 3720, third column, § 75.48(a)(3)(iii), lines 2 and 3, and

§ 75.48(a)(3)(viii), line 4 and 5, are corrected by replacing the phrase "continuous emissions monitoring system" with the phrase "continuous emission monitoring system (or reference method)".

§ 75.50 [Corrected]

1. On page 3721, second column, § 75.50(b), introductory text, lines 8 and 9, and § 75.50(b)(6), line 1, "gas-fired units" is corrected to read "when units combust gas."

§ 75.50 [Corrected]

2. On page 3721, second column, § 75.50(c)(1)(iii), line 1, § 75.50(c)(1)(iv), line 1, and § 75.50(c)(1)(vi), line 2, are corrected by replacing the phrase "Average hourly SO₂ concentration" with the phrase "Hourly average SO₂ concentration".

§ 75.50 [Corrected]

3. On page 3721, third column, § 75.50(c)(2)(iii), line 1, § 75.50(c)(2)(iv), line 1, § 75.50(c)(2)(v), line 1, § 75.50(c)(2)(vii), line 2, § 75.50(c)(3)(ii), line 1, and § 75.50(c)(3)(iii), line 1 are corrected by replacing the words "Average hourly" with the words "Hourly average".

§ 75.50 [Corrected]

4. On page 3721, second and third columns, § 75.50(c)(1)(vi), line 3 and § 75.50(c)(2)(vii), lines 2 and 3, are corrected by replacing the reference "using Codes 1-12 in Table 3" with the reference "using Codes 1-13 in Table 3".

§ 75.50 [Corrected]

5. On page 3722, first and second columns, § 75.50(d)(8), line 3 and § 75.50(e)(1)(vii), line 3, are corrected by replacing the reference "using Codes 1-12 in Table 3" with the reference "using Codes 1-13 in Table 3".

§ 75.50 [Corrected]

6. On page 3721, third column, § 75.50 Table 3, Code 4, is corrected by adding a line to read "CO₂ or O₂: Method 3, 3A or 3B" below the last line "NO_x: method 7, 7A, 7C, 7D, or 7E".

§ 75.50 [Corrected]

7. On page 3722, first column, § 75.50(d), introductory text, line 7, is corrected by replacing the word "option" with the word "optional".

§ 75.50 [Corrected]

8. On page 3722, first column, § 75.50(d)(3), line 1, § 75.50(d)(4), line 1, § 75.50(d)(5), line 1, § 75.50(d)(6), line 1, § 75.50(d)(8), line 2, and § 75.50(d)(9), line 3, are corrected by replacing the words "Average hourly" with the words "Hourly average".

§ 75.50 [Corrected]

9. On page 3722, second column, § 75.50(e)(1)(iii), line 1, § 75.50(e)(1)(iv), line 1, § 75.50(e)(1)(v), line 1, § 75.50(e)(vii), line 2, and § 75.50(e)(1)(viii), line 2, are corrected by replacing the words "Average hourly" with the words "Hourly average".

§ 75.50 [Corrected]

10. On page 3722, second column, § 75.50(e)(2)(ii), line 1, § 75.50(e)(2)(iv), line 3, and § 75.50(e)(2)(v), line 3 are corrected by removing the word "average".

§ 75.51 [Corrected]

1. On page 3722, third column, § 75.51(a)(1)(iii), line 1, § 75.51(a)(1)(iv), line 1, § 75.51(a)(1)(v), line 1, and § 75.51(a)(1)(vi), line 1, are corrected by replacing the words "Average hourly" with the words "Hourly average".

§ 75.51 [Corrected]

2. On page 3722, third column, § 75.51(a)(1)(viii), lines 2 and 3 are corrected by replacing the phrase "average hourly SO₂ mass emissions" with the phrase "hourly average inlet and outlet SO₂ emission rates".

§ 75.51 [Corrected]

3. On page 3722, third column, § 75.51(a)(2)(i), lines 2 and 3 are corrected by replacing the phrase "SO₂ continuous emission monitoring system" with the phrase "SO₂-diluent continuous emission monitoring system".

§ 75.51 [Corrected]

4. On page 3723, first column, § 75.51(a)(2)(iii), line 1, is corrected by replacing the words "Average hourly" with the words "Hourly average".

§ 75.51 [Corrected]

5. On page 3723, first column, § 75.51(b), introductory text, line 5, is corrected by replacing the words "NO_x emission data" with the words "NO_x emissions data".

§ 75.51 [Corrected]

6. On page 3723, first column, § 75.51(b), introductory text, lines 12 and 13 are corrected by removing the phrase "then the owner or operator".

§ 75.51 [Corrected]

7. On page 3723, first column, § 75.51(b), the second paragraph referred to as "vii" is corrected to read "viii". This paragraph § 75.51(b)(1)(viii) is corrected by adding the words "For a unit with a dry flue gas desulfurization system," as the first line of the paragraph, directly before the

words "The slurry feed rate (gal/min) to the atomizer nozzle; and".

§ 75.51 [Corrected]

8. On page 3723, first column, § 75.51(b)(1)(ix), line 3, is corrected by replacing the words "Codes 1-12" with the words "Codes 1-13".

§ 75.51 [Corrected]

9. On page 3723, second column, § 75.51(c)(1)(ii), line 1 and § 75.51(c)(1)(vi), line 1, are corrected by replacing the words "Average hourly" with the word "Hourly".

§ 75.51 [Corrected]

10. On page 3723, third column, § 75.51(d)(1)(ii), line 1, is corrected by replacing the word "daily" with "hourly".

§ 75.51 [Corrected]

11. On page 3723, third column, § 75.51(d)(1)(ii), line 3 is corrected by replacing both occurrences of the word "day" with the word "hour".

§ 75.51 [Corrected]

12. On page 3723, third column, § 75.51(d)(1)(iv), line 1, is corrected by replacing the word "daily" with "hourly".

§ 75.52 [Corrected]

1. On page 3724, second column, § 75.52(a)(5)(iv)(G) and § 75.52(a)(5)(iv)(H) are corrected by redesignating the paragraphs as § 75.52(a)(5)(v) and § 75.52(a)(5)(vi) respectively.

§ 75.53 [Corrected]

1. On page 3724, second column, § 75.53(a), introductory text, lines 4 and 5, is corrected by replacing the reference to "paragraphs (c) and (d) of this section" with the reference "paragraph (d) of this section".

§ 75.53 [Corrected]

2. On page 3724, third column, § 75.53(c)(2) introductory text is corrected to read as follows:

* * * * *

(e) * * *
(2) Unit table. A table identifying ORISPL numbers developed by the Department of Energy and used in the National Allowance Database, for all affected units involved in the monitoring plan, with the following information for each unit:

* * * * *

§ 75.53 [Corrected]

3. On page 3725, first column, § 75.53(c)(4)(vi), line 3, is corrected by replacing the reference "§ 75.10(g)" with the reference "§ 75.10(e)".

§ 75.53 [Corrected]

4. On page 3725, second column, § 75.53(c)(8), lines 3 and 4 are corrected by replacing the phrase "dimensions, and also showing location" with the phrase "dimensions and location".

§ 75.53 [Corrected]

5. On page 3725, second column, § 75.53(c)(9), lines 1 and 2 are corrected by replacing the words "at flue exit," with the words "at flow monitor location."

§ 75.53 [Corrected]

6. On page 3725, second column, § 75.53(c)(10), § 75.53(c)(10)(i), § 75.53(c)(10)(ii), § 75.53(c)(10)(ii)(A), and § 75.53(c)(10)(ii)(B) are correctly redesignated as § 75.53(d), § 75.53(d)(1), § 75.53(d)(2), § 75.53(d)(2)(i), and § 75.53(d)(2)(ii) respectively.

PART 75, APPENDIX A [CORRECTED]**Appendix A, Section 1.1 [Corrected]**

1. On page 3727, second column, Appendix A, Section 1.1, line 16, is corrected by replacing the parenthetical statement "(see section 6)" with the parenthetical statement "(see section 6 of this Appendix)".

Appendix A, Section 1.2.2 [Corrected]

1. On page 3728, first column, Appendix A, Section 1.2.2, line 5 of the first full paragraph is corrected by changing the word "and" to the word "or".

Appendix A, Section 2.1.4 [Corrected]

1. On page 3729, at the bottom of the page, Appendix A, Section 1.2.2, the equation is corrected by adding the label "(Eq. A-3a)".

Appendix A, Section 5.1.2 [Corrected]

1. On page 3731, second column, Appendix A, Section 5.1.2, the heading, is corrected to read as follows: "NIST Traceable Reference Materials (NTRM)".

Appendix A, Section 6.2 [Corrected]

1. On page 3731, third column, Appendix A, Section 6.2, lines 5 and 6 are corrected by replacing the phrase "EPA-approved certified" with the word "Traceable".

Appendix A, Section 6.3.1 [Corrected]

1. On page 3732, first column, Appendix A, Section 6.3.1, third paragraph, the last sentence is corrected to read as follows: "Use only NIST Traceable Reference Material (NTRM), standard reference material, Protocol 1 calibration gases certified by the vendor to be within 2 percent of the label value, or where applicable, zero ambient air

material as defined in § 72.2 of this part."

Appendix A, Section 6.3.2 [Corrected]

1. On page 3732, second column, Appendix A, Section 6.3.2, fourth paragraph, lines 8-12, is corrected by replacing the parenthetical statement "(i.e., less than or equal to 3 percent error each day and does not require corrective maintenance, repair, replacement, or manual adjustment during the 7-day test period)" with the parenthetical statement: "(i.e., less than or equal to 3 percent error each day and requiring no corrective maintenance, repair, replacement or manual adjustment during the 7-day test period)".

Appendix A, Section 7.3.1 [Corrected]

1. On page 3734, first column, Appendix A, Section 7.3.1, Equation A-7, the variable definitions for Equation A-7 are corrected by placing "i=1" as a subscript under the sigma (summation sign).

Appendix A, Section 7.3.4 [Corrected]

1. On page 3734, second column, Appendix A, Section 7.3.4, Equation A-10, the definitions for the variables for Equation A-10 are corrected by revising "[d]" to read "[d]" and by revising "RM" to read "RM".

Appendix A, Section 7.6.5 [Corrected]

1. On page 3735, first and second columns, Appendix A, Section 7.6.5, Equation A-12, the definitions for the variables for Equation A-12 are corrected to read as follows: $[d]$ =Absolute value of the arithmetic mean of the difference obtained during the failed bias test using Equation A-7" and CEM=means of the data values provided by the monitor during the failed bias test.

Part 75, Appendix B [Corrected]**Appendix B, Section 2.3.1 [Corrected]**

1. On page 3739, second column, Appendix B, "Section 2.3.1" is corrected by replacing the current label of "section 2.3.1" and with the label "section 2.3.1".

Appendix B, Section 2.3.1 [Corrected]

2. On page 3739, second column, Appendix B, Section 2.3.1, first paragraph, lines 4 through 7, are corrected by replacing the word "for" with the word "or" between the phrases "NO_x continuous emission monitoring system" and "SO₂-diluent continuous emission monitoring system".

Appendix B, Section 2.3.1 [Corrected]

3. On page 3739, third column, Appendix B, Section 2.3.1, third paragraph, lines 13 through 21 from the top of the page, are corrected by revising phrase (5) to read as follows: (5) on low SO₂ emitting units (SO₂ concentration ≤250.0 ppm, or equivalent lb/mmBtu value for SO₂-diluent continuous emission monitoring systems), when the monitor or monitoring system mean is within ±8.0 ppm (or equivalent in lb/mmBtu for SO₂-diluent continuous emission monitoring systems) of the reference method mean or achieves a relative accuracy of 7.5 percent or less during the previous audit; or.

Appendix B, Section 2.3.2 [Corrected]

1. On page 3739, third column, Appendix B, Section 2.3.2, first paragraph, lines 15 through 19, is corrected by adding "(or ±0.03 lb/mmBtu for SO₂-diluent monitors from January 1, 1997 through December 31, 1999)" following the words "exceeds ±15.0 ppm" in statement (5).

Appendix B, Section 2.3.3 [Corrected]

1. On page 3740, first column, Appendix B, Section 2.3.3, is corrected by adding section 2.3.3 to read as follows:

2.3.3 Bias Adjustment Factor. If an SO₂ pollutant concentration monitor, flow monitor, or NO_x continuous emission monitoring system fails the bias test specified in Section 7.6 of Appendix A of this part, use the bias adjustment factor given in Equations A-11 and A-12 of Appendix A of this part to adjust the monitored data.

Appendix B, Figure 1 [Corrected]

1. On page 3740, second column, Appendix B, Figure 1 is corrected by deleting the check mark ("✓") from the quarterly column for the row labelled "Interference (flow)", and by adding a new row labelled "Leak (flow)" with a check mark ("✓") in the quarterly column.

Appendix B, Figure 2 [Corrected]

1. On page 3740, last column of Figure 2, Appendix B, is corrected by replacing the annual relative accuracy requirement for SO₂ of "RA ≤7.7% or ±8ppm" with "RA ≤7.5% or ±8ppm".

Part 75, Appendix C [Corrected]**Appendix C, Section 1.4 [Corrected]**

1. On page 3741, first column, Appendix C, Section 1.4.1, line 13, and Appendix C, Section 1.4.2, line 14, are

corrected by replacing the reference "section 1.2" in the definition of variable E with the reference "section 1.3".

Appendix C, Section 2.2.1 [Corrected]

1. On page 3741, second column, Appendix C, Section 2.2.1, lines 5 through 7, are corrected by moving the parenthetical statement "(that is, load resulting from all combustion of fuel, including internal usage and generation for sale)" after the phrase "gross load of the unit" and before the comma following that phrase.

Part 75, Appendix D [Corrected]

Appendix D, Section 1.3 [Corrected]

1. On page 3742, first column, Appendix D, Section 1.3, lines 4 through 6, is corrected by removing the phrase "for the certification of continuous emission monitoring system".

Appendix D, Section 2.1.1 [Corrected]

1. On page 3742, first column, Appendix D, Section 2.1.1, line 9, is corrected by deleting the words "for use".

Appendix D, Section 2.2.6 [Corrected]

1. On page 3742, third column, Appendix D, Section 2.2.6, line 4 is corrected by removing the "1" before the word "Reapproved".

2. On page 3742, third column, Appendix D, Section 2.2.6, line 7, is corrected by replacing the citation for "ASTM D1382-88" with the citation "ASTM D2382-88".

Appendix D, Section 3.1.1 [Corrected]

1. On page 3743, first column, Appendix D, Section 3.1.1, line 5, is corrected by replacing the caption "(Eq. D-1)" with the caption "(Eq. D-2)".

Appendix D, Section 3.2.3 [Corrected]

1. On page 3743, second column, Appendix D, Section 3.2.3, line 7, is corrected by replacing the caption "(Eq. D-2)" with the caption "(Eq. D-3)".

Part 75, Appendix E [Corrected]

Appendix E, Section 1.3.1 [Corrected]

1. On page 3743, second column, Appendix E, Section 1.3.1, line 3, is corrected by replacing the word "installation" with the word "certification".

Appendix E, Section 2.1.3.1 [Corrected]

1. On page 3744, first column, Appendix E, Section 2.1.3.1, line 16, is corrected by replacing "ASME MFC-

7N-1987" with "ASME MFC-7M-1987".

Appendix E, Section 3.4.3 [Corrected]

1. On page 3745, third column, Appendix E, Section 3.4.3, line 1, is corrected by replacing the phrase "quarterly average" with the phrase "annual average".

Part 75, Appendix F [Corrected]

Appendix F, Section 3.3.1 [Corrected]

1. On page 3746, third column, Appendix F, Section 3.3.1 is corrected to read " $K=1.194 \times 10^{-7}$ (lb/dscf)/ppm NO_x ".

Appendix F, Section 3.4 [Corrected]

1. On page 3747, second column, Appendix F, Section 3.4, Equations F-9 and F-10, are corrected by replacing both occurrences of " NO_x " with " NO_x ".

Appendix F, Section 4.3 [Corrected]

1. On page 3747, third column, Appendix F, Section 4.3, Equation F-12, is corrected by substituting " E_{CO2} " with " E_{CO2q} " in the definitions for the variables.

Appendix F, Section 4.4.1 [Corrected]

1. On page 3748, first column, Appendix F, Section 4.4.1, line 5 from the top of the page is corrected by removing "Q02".

Part 75, Appendix G [Corrected]

Appendix G, Section 2.1 [Corrected]

1. On page 3749, second column, Appendix G, Section 2.1, Equation G-1, is corrected by replacing " W_{O2} " with " MW_{O2} " in the definitions for the variables.

Appendix G, Section 2.2 [Corrected]

1. On page 3749, second column, Appendix G, Section 2.2, lines 5 and 6, is corrected by replacing "section 2.21-2.23 or Section 2.24 of the appendix." with the phrase "sections 2.2.1 through 2.2.3 or section 2.2.4 of this appendix."

Appendix G, Section 2.3 [Corrected]

1. On page 3749, third column, Appendix G, Section 2.3, Equation G-4, the variable definitions are corrected by replacing " W_{CO2} emitted" with " $W_{CO2} = CO_2$ emitted" and by adding " $MW_{CO2} =$ Molecular weight of carbon dioxide (44.0)." as the last variable for Equation G-4.

Appendix G, Section 3.1.2 [Corrected]

1. On page 3750, first column, Appendix G, Section 3.1.2, Equation G-6, the definition for the variables are corrected by replacing " SE " with " SE_{CO2} ".

Part 75, Appendix H [Corrected]

Appendix H, Table 7.1 [Corrected]

1. On page 3751, Appendix H, Table 7.1, the heading "Balance gas" is corrected to read "Balance gas".

Appendix H, Table 7.1 [Corrected]

2. On page 3751, Appendix H, Table 7.1, in the heading in the fourth column, "Al or SS" is corrected to read "Passivated Aluminum".

Appendix H, Table 7.1 [Corrected]

3. On page 3751, Appendix H, Table 7.1, in the row for Carbon monoxide, the third column is corrected by replacing "5" with "8" and in the fourth column replacing "18" with "36".

Appendix H, Table 7.1 [Corrected]

4. On page 3751, Appendix H, Table 7.1, in the row for Nitric oxide, the third column is corrected by replacing "10" with "5" and in the fourth column replacing "18" with "24".

Appendix H, Table 7.1 [Corrected]

5. On page 3751, Appendix H, Table 7.1, in the row for Sulfur dioxide, the second column is corrected by adding the words "or air" following " N_2 ", in the third column, replacing " ≥ 10 " with "50-499" and in the fourth column, replacing "18" with "24".

Appendix H, Table 7.1 [Corrected]

6. On page 3751, Appendix H, Table 7.1, immediately following the row for Sulfur dioxide, add two rows as follows: for the first row, in the first column, add "Sulfur dioxide", in the second column add " N_2 or air", in the third column add " ≥ 500 ppm", in the fourth column add "36" and in the fifth column, add "6"; for the second row, in the first column, add "Oxides of nitrogen", in the second column add "Air", in the third column add " ≥ 100 ppm", in the fourth column add "24" and in the fifth column, add "6".

Appendix H, Table 7.1 [Corrected]

7. On page 3751, Appendix H, Table 7.1, the row for Nitrogen dioxide is corrected in the second column by removing " N_2 or" so that the column reads "Air", in the third column, replacing "10" with "1000", and in the fourth column, replacing "6" with "24".

Appendix H, Table 7.1 [Corrected]

8. On page 3751, Appendix H, Table 7.1, the row for Carbon dioxide is corrected in the fourth column by replacing the number "18" with the number "36".

Appendix H, Table 7.1 [Corrected]

9. On page 3751, Appendix H, Table 7.1, is corrected by adding a row immediately following the row for Carbon dioxide as follows: in the first column, add "Carbon dioxide and oxygen, (i.e. blood gas)", in the second column, add "N₂", in the third column, add ">5% CO₂, >0% O₂", in the fourth column, add "36", and in the fifth column, add "6".

Appendix H, Table 7.1 [Corrected]

10. On page 3751, Appendix H, Table 7.1, is corrected in the row for Oxygen, in the fourth column by replacing the number "18" with the number "36".

Appendix H, Table 7.1 [Corrected]

11. On page 3751, Appendix H, Table 7.1, is corrected in the first column in the row for Sulfur dioxide and carbon dioxide, by revising the column to read "Carbon dioxide and nitrous oxide", in the second column, replacing "N₂" with "Air", in the third column, replacing ">200 ppm SO₂, 10 percent CO₂" with ">300 ppm CO₂, >300 ppb N₂O", and in the fourth column replacing "18" with "36".

Appendix H, Table 7.1 [Corrected]

12. On page 3751, Appendix H, Table 7.1, is corrected by removing the entire row beginning in the first column with "Propane".

Appendix H, Table 7.1 [Corrected]

13. On page 3751, Appendix H, Table 7.1, is corrected by adding 2 rows immediately following "Others not specifically listed", as follows: for the first row, in the first column, adding "Multicomponent mixtures", in the second column, adding "____", in the third column, adding "____", in the fourth column adding "See 2", and in the fifth column, adding "6"; for the second row, in the first column, adding "Mixtures with lower concentrations", in the second column, adding "____", in the third column, adding "____", in the fourth column, adding "See 3", and in the fifth column, adding "6".

Appendix H, Table 7.1 [Corrected]

14. On page 3751, Appendix H, Table 7.1, is corrected by adding footnotes 1, 2, and 3 as follows:

¹ When used as a balance gas, "air" is defined as a mixture of O₂ and N₂ where the minimum concentration of O₂ is 10% and the concentration of N₂ is greater than 60%.

² This protocol may be used to assay and certify individual components of multicomponent standards, provided that none of the components interferes with the analysis of other components and provided that individual components must not react

with each other or with the balance gas. A multicomponent standard can be certified for a period of time equal to that of its most briefly certifiable component. For example, a standard containing 250 ppm sulfur dioxide and 100 ppm carbon monoxide in nitrogen can be certified for 24 months because the shortest certification period is 24 months.

³ This protocol may be used for the certification of standards with concentrations that may be lower than those listed in Table 7.1. The initial certification period for such a lower concentration standard is 6 months. After this period, the standards may be recertified. If the recertification demonstrates that the standard is not unstable, the second certification period for this lower concentration standard is the same time period as indicated for the corresponding concentration standard listed in Table 7.1.

Dated: June 18, 1993.

Brian McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Medicare and State Health Care Programs: Fraud and Abuse; Amendments to OIG Exclusion and CMP Authorities Resulting From the Medicare and Medicaid Patient and Program Protection Act

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule.

SUMMARY: This document amends a technical error that appeared in the final rule, which amends the OIG exclusion and CMP authorities, published on January 29, 1992 designed to implement section 2 of the Medicare and Medicaid Patient and Program Protection Act, along with other conforming amendments. The final rule is designed to protect program beneficiaries from unfit health care practitioners, and otherwise improve the anti-fraud provisions of the Department's Medicare and State health care programs.

EFFECTIVE DATE: July 30, 1993.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619-0089.

SUPPLEMENTARY INFORMATION:

Background

On January 29, 1992, a final rule, Amendments to OIG Exclusion and CMP Authorities Resulting From Public

Law 100-93, was published in the **Federal Register** (57 FR 3298). Specifically, the final rule is designed to protect program beneficiaries from unfit health care practitioners, and otherwise to improve the anti-fraud provisions of the Department's health care programs under titles V, XVIII, XIX, and XX of the Social Security Act. In the final regulations, a new § 1001.1301—Failure to grant immediate access—was codified in 42 CFR part 1001 to permit, among other things, the exclusion of individuals or entities who fail to grant immediate access to the OIG or State Medicaid Fraud Control Units (MFCUs) for the purpose of reviewing documents to determine if a statutory or regulatory violation has occurred.

Technical Amendment to § 1001.1301

Section 1128(b)(12)(D) of the Social Security Act, the statutory authority upon which this regulatory provision is based, specifically allows for the exclusion of any individual or entity from Medicare and State health care program participation if that "individual or entity fails to grant immediate access, upon reasonable request, * * * to a State Medicaid Fraud Control Unit (as defined in section 1903(q)), for the purpose of conducting activities described in that section." The regulations at § 1001.1301(a)(3) went on to define the term "reasonable request" to mean " * * * a written request for documents, signed by the IG or a delegatee, and made by a properly identified agent of the OIG or a State Medicaid Fraud Control Unit during reasonable business hours * * * " (emphasis added). As currently drafted, however, this definition now inadvertently bars the State MFCU from directly carrying out one of its statutorily-allowed functions in the absence of a written request signed by an OIG official.

Since the IG cannot under this provision delegate to State MFCUs its authority to issue "reasonable request," the current definition for "reasonable request" in § 1001.1301(a)(3) unintentionally restricts the State MFCUs' authority to request access to documents by requiring the IG or a delegatee to sign such a request. To correct this definition of "reasonable request," we are modifying § 1001.1301(a)(3) to have it read consistent with the statutory language contained in section 1128(b)(12)(D) of the Act.