

DIVISION OF AIR QUALITY
Technical Services Section
October 27, 2020

MEMORANDUM

To: Mark Cuilla, Acting Chief, Permitting Section

From: Steve Hall, Chief, Technical Services Section



Subject: Legal Basis for Calculation & Reporting Frequencies of CEMS/COMS-affected Facilities

This memorandum supersedes my July 31, 2020 memorandum entitled, "Legal Basis of Reporting Frequency for CEMS-affected Facilities." On August 14, 2020, the Environmental Protection Agency (EPA) published, "Revisions to Appendix P of 40 CFR Part 51, Concerning Minimum Emission Reporting Requirements in SIPs" (85 FR 49596), with an effective date of September 14, 2020. Essentially, the final rule revised the minimum frequency for submitting reports of excess emissions from "each calendar quarter" to "twice per year at 6-month intervals." In light of this change, my July 31, 2020 memorandum, which provided the legal basis for quarterly reporting using quarterly calculations, will now be replaced by this memorandum that provides the legal basis for requiring quarterly calculations of all continuous emission monitoring system (CEMS) and continuous opacity monitoring system (COMS) data regardless of the reporting frequency.

For facilities required to install a CEMS or COMS pursuant to 40 CFR Part 60 New Source Performance Standards (NSPS), 40 CFR Part 51 State Implementation Plan (SIP) requirements, 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants (NESHAP) and 40 CFR Part 63 Maximum Achievable Control Technology (MACT) standards, the reporting frequency will be determined by the implementing rule or statute. However, the emissions and monitoring system performance results must be calculated on a quarterly basis for DAQ to accurately assess compliance. 40 CFR Part 60.7(c) and 60.11(d) reference the Administrator's authority under the NSPS regulations to require CEMS/COMS data to be submitted in such a way as to allow the Administrator to determine whether the facility's operation and maintenance (O&M) practices are acceptable or to accurately assess the compliance status of the source. For NESHAP and MACT affected sources, similar authority references can be found in 40 CFR Part 63.6(e) and 63.10(e)(3). After reviewing various CEMS/COMS data over a period of years, we (the Stationary Source Compliance Branch of the Technical Services Section) have determined that we need quarterly calculations of the emissions and monitoring system performance results from any facility with installed CEMS/COMS so that we can accurately assess the compliance status and determine whether the facility is following good O&M practices, even if the federal rules and the facility's air permit allow less frequent reporting.

We realize that some sources may wish to continue reporting on a quarterly basis to receive quicker feedback and to align their emission reporting frequency with their CEMS/COMS quality assurance calculation frequencies. We encourage increased reporting frequencies as a voluntary option for certain facilities. But if facilities choose to report on a semiannual basis, they will still need to conduct their calculations on a quarterly basis. As such, we are requesting that, at the next permit modification, any permits issued to CEMS/COMS sources include language requiring the Permittee to calculate their emissions and monitoring system performance results on a quarterly basis if they are allowed to report these results on a less frequent basis.

Finally, additional regulatory authority can be found in 15A NCAC 02Q .0309, 02Q .0508, 02Q .0519 and N.C.G.S. 143-215.107 that allows the DAQ Director to require permit modification or submittal of additional information as necessary to ensure compliance with the permit and/or applicable federal and state regulations.

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