

The EPA agrees that under certain circumstances the FTIR methods, EPA Method 320 and ASTM D6348 (2020), may have interferences that prevent its use on certain sources. The EPA is finalizing, as proposed, to allow the use of EPA Methods 26 or 26A in addition to EPA Method 320 and ASTM D6348 (2020) for determination of acid gases (40 CFR 63.7322(d)(1)(ii)).⁸²

Therefore, for the measurement of acid gases on mobile hot cars, EPA approved an alternative method, but not for HCN. SunCoke raised this concern during a meeting with EPA on August 20, 2024, and EPA acknowledged that it had not approved an alternative test method for HCN but that SunCoke could propose an alternate test method:

EPA Method 26 and 26A is not listed as alternatives for Method 320 for HCN per 63.7322(e)(1). The allowed methods to determine the concentration of HCN in stack gas are: (1) Method 320 in appendix A; and (2) voluntary consensus standard ASTM D6348-12 (Reapproved 2020) (incorporated by reference). We did not specify any alternative method, but *an alternative may be requested through 63.7(f)*.⁸³

EPA's decision to provide an alternative test method for acid gases, acknowledges that an alternative test method is needed to measure HCN emissions from mobile hot cars. However, EPA did not provide one, leaving SunCoke with the obligation to test using a method (FTIR) that EPA has acknowledged is inappropriate or to develop its own method. The only other method of which SunCoke is aware is the zinc acetate method. EPA explained in its Summary of Coke Ovens Risk and Technology Review: Data Summary that "EPA abandoned the zinc acetate approach in mid-2017 due to its limited dynamic range of measurement, i.e., poor and inconsistent sample recovery."⁸⁴ It is not SunCoke's responsibility to step into the shoes of the regulators and develop a test method where none exists.

SunCoke is now in a position in which it is required to meet a certain HCN standard by January 5, 2026, without a prescribed method for doing so that would be technically feasible. Accordingly, EPA must reconsider this aspect of the rule and either waive testing (allow PM to be used as a surrogate for HCN) or develop a method for HCN testing.

SunCoke could not have anticipated that, despite EPA acknowledging in the Response to Comments that the FTIR methods cannot be used on certain sources, EPA still would not provide an alternative test method for HCN on pushing sources like mobile hot cars. It was, therefore, impracticable for SunCoke to raise this objection during the comment period. This objection is of "central relevance" to the outcome of the Final Rule, because it is arbitrary and capricious for EPA to establish a new MACT floor emission limit for HCN while requiring compliance testing that is not technically feasible.

⁸² Response to Comments, Response 11-9, p. 185 (emphasis added), Docket ID EPA-HQ-OAR-2002-0085-1603.

⁸³ Email from D. Jones, EPA, to K. Batten, SunCoke, et al. (Aug. 21, 2024) (emphasis added).

⁸⁴ EPA Memorandum, Coke Ovens Risk and Technology Review: Data Summary, at 30, Table 13 (May 1, 2023), Docket ID EPA-HQ-OAR-2003-0051-0778.