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**The Following Documents Are Included In This Electronic File:**

Appendix 40 CFR 60 Subpart A, NSPS General Provisions (version dated 2/5/2010).
Appendix 40 CFR 60 Subpart Cb, Emissions Guidelines (EG) and Compliance Times for Large Municipal Waste Combustors (version dated 03/24/2010).
Appendix 40 CFR 60 Subpart Eb, NSPS for Large Municipal Waste Combustors (version dated 04/21/2008).
Appendix 40 CFR 60 Subpart IIII "Generally Applicable Requirements," Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (version dated 07/11/2006).
Appendix 40 CFR 63 Subpart A, NESHAP General Provisions (version dated 01/29/2008).
Appendix 40 CFR 63 Subpart ZZZZ "Generally Applicable Requirements," National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (version dated 06/30/2010).

Appendix A, Glossary.
Appendix ATP, U.S. EPA Alternative Test Procedure Approval dated June 3, 2004.
Appendix BW, Biomedical Waste Definitions.
Appendix I, List of Insignificant Emissions Units and/or Activities.
Appendix RR, Facility-wide Reporting Requirements.
Appendix TR, Facility-wide Testing Requirements.
Appendix TV, Title V General Conditions.
Appendix U, List of Unregulated Emissions Units and/or Activities.

| E.U. ID No. | Brief Description |
|---|---|
| 001, 002 & 003 | Municipal Waste Combustor Units 1, 2 & 3 |
| 107 | Municipal Waste Combustor Unit 4 |
| 100 & 112 | Ash Building and Handling System (applies to the ash conveying systems) |
| 115 | Emergency Generator - No. 2 at Falkenburg Advanced WWTP |
| 116 | Emergency Generator - No. 3 at Falkenburg Advanced WWTP |
| 117 | Emergency Generator - No. 4 at Falkenburg Advanced WWTP |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: January 28, 2009*

*State Rule Effective Date: November 18, 2009*

*Standardized Conditions Revision Date: February 5, 2010*

**Subpart A—General Provisions**

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**§ 60.1 Applicability.**

(a) Except as provided in subparts B and C, the provisions of this part apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

(b) Any new or revised standard of performance promulgated pursuant to section 111(b) of the Act shall apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of such new or revised standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

(c) In addition to complying with the provisions of this part, the owner or operator of an affected facility may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see part 70 of this chapter.

(d) *Site-specific standard for Merck & Co., Inc.'s Stonewall Plant in Elkton, Virginia. {Not Applicable}*

[40 FR 53346, Nov. 17, 1975, as amended at 55 FR 51382, Dec. 13, 1990; 59 FR 12427, Mar. 16, 1994; 62 FR 52641, Oct. 8, 1997]

**§ 60.2 Definitions.**

The terms used in this part are defined in the Act or in this section as follows:

*Act* means the Clean Air Act (42 U.S.C. 7401 *et seq.* )

*Administrator* means the Administrator of the Environmental Protection Agency or his authorized representative.

*Affected facility* means, with reference to a stationary source, any apparatus to which a standard is applicable.

*Alternative method* means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Administrator's satisfaction to, in specific cases, produce results adequate for his determination of compliance.

*Approved permit program* means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to Title V of the Act (42 U.S.C. 7661).

*Capital expenditure* means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable “annual asset guideline repair allowance percentage” specified in the latest edition of Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any “excluded additions” as defined in IRS Publication 534, as would be done for tax purposes.

*Clean coal technology demonstration project* means a project using funds appropriated under the heading ‘Department of Energy-Clean Coal Technology’, up to a total amount of $2,500,000,000 for commercial demonstrations of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency.

*Commenced* means, with respect to the definition of *new source* in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

*Construction* means fabrication, erection, or installation of an affected facility.

*Continuous monitoring system* means the total equipment, required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

*Electric utility steam generating unit* means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

*Equivalent method* means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

*Excess Emissions and Monitoring Systems Performance Report* is a report that must be submitted periodically by a source in order to provide data on its compliance with stated emission limits and operating parameters, and on the performance of its monitoring systems.

*Existing facility* means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in this part, and the construction or modification of which was commenced before the date of proposal of that standard; or any apparatus which could be altered in such a way as to be of that type.

*Force majeure* means, for purposes of §60.8, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

*Isokinetic sampling* means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

*Issuance* of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a Title V permit occurs immediately after the EPA takes final action on the final permit.

*Malfunction* means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

*Modification* means any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted.

*Monitoring device* means the total equipment, required under the monitoring of operations sections in applicable subparts, used to measure and record (if applicable) process parameters.

*Nitrogen oxides* means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in this part.

*One-hour period* means any 60-minute period commencing on the hour.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

*Owner or operator* means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

*Part 70 permit* means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

*Particulate matter* means any finely divided solid or liquid material, other than uncombined water, as measured by the reference methods specified under each applicable subpart, or an equivalent or alternative method.

*Permit program* means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

*Permitting authority* means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

*Proportional sampling* means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

*Reactivation of a very clean coal-fired electric utility steam generating unit* means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of enactment;

(2) Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low-$NO_X$ burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Clean Air Act.

*Reference method* means any method of sampling and analyzing for an air pollutant as specified in the applicable subpart.

*Repowering* means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

*Run* means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

*Shutdown* means the cessation of operation of an affected facility for any purpose.

*Six-minute period* means any one of the 10 equal parts of a one-hour period.

*Standard* means a standard of performance proposed or promulgated under this part.

*Standard conditions* means a temperature of 293 K (68F) and a pressure of 101.3 kilopascals (29.92 in Hg).

*Startup* means the setting in operation of an affected facility for any purpose.

*State* means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement: (1) The provisions of this part; and/or (2) the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

*Stationary source* means any building, structure, facility, or installation which emits or may emit any air pollutant.

*Title V permit* means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

*Volatile Organic Compound* means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified under any subpart.

[44 FR 55173, Sept. 25, 1979, as amended at 45 FR 5617, Jan. 23, 1980; 45 FR 85415, Dec. 24, 1980; 54 FR 6662, Feb. 14, 1989; 55 FR 51382, Dec. 13, 1990; 57 FR 32338, July 21, 1992; 59 FR 12427, Mar. 16, 1994; 72 FR 27442, May 16, 2007]

**§ 60.3 Units and abbreviations.**

Used in this part are abbreviations and symbols of units of measure. These are defined as follows:

(a) System International (SI) units of measure:

A—ampere

g—gram

Hz—hertz

J—joule

K—degree Kelvin

kg—kilogram

m—meter

$m^3$ —cubic meter

mg—milligram—$10^{-3}$gram

mm—millimeter—$10^{-3}$meter

Mg—megagram—$10^6$ gram

mol—mole

N—newton

ng—nanogram—$10^{-9}$gram

nm—nanometer—$10^{-9}$meter

Pa—pascal

s—second

V—volt

W—watt

Ω—ohm

µg—microgram—$10^{-6}$gram

(b) Other units of measure:

Btu—British thermal unit

°C—degree Celsius (centigrade)

cal—calorie

cfm—cubic feet per minute

cu ft—cubic feet

dcf—dry cubic feet

dcm—dry cubic meter

dscf—dry cubic feet at standard conditions

dscm—dry cubic meter at standard conditions

eq—equivalent

°F—degree Fahrenheit

ft—feet

gal—gallon

gr—grain

g-eq—gram equivalent

hr—hour

in—inch

k—1,000

l—liter

lpm—liter per minute

lb—pound

meq—milliequivalent

min—minute

ml—milliliter

mol. wt.—molecular weight

ppb—parts per billion

ppm—parts per million

psia—pounds per square inch absolute

psig—pounds per square inch gage

°R—degree Rankine

scf—cubic feet at standard conditions

scfh—cubic feet per hour at standard conditions

scm—cubic meter at standard conditions

sec—second

sq ft—square feet

std—at standard conditions

(c) Chemical nomenclature:

CdS—cadmium sulfide

CO—carbon monoxide

$CO_2$—carbon dioxide

HCl—hydrochloric acid

Hg—mercury

$H_2O$—water

$H_2S$—hydrogen sulfide

$H_2SO_4$—sulfuric acid

$N_2$—nitrogen

NO—nitric oxide

$NO_2$—nitrogen dioxide

$NO_X$—nitrogen oxides

$O_2$—oxygen

$SO_2$—sulfur dioxide

$SO_3$—sulfur trioxide

$SO_X$—sulfur oxides

(d) Miscellaneous:

A.S.T.M.—American Society for Testing and Materials

[42 FR 37000, July 19, 1977; 42 FR 38178, July 27, 1977]

**§ 60.4 Address.**

**All addresses that pertain to Florida have been incorporated. To see the complete list of addresses please go to http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div6&view=text&node=40:6.0.1.1.1.1&idno=40.**

Link to an amendment published at 73 FR 18164, Apr. 3, 2008.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the appropriate Regional Office of the U.S. Environmental Protection Agency to the attention of the Director of the Division indicated in the following list of EPA Regional Offices.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

(b) Section 111(c) directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce standards of performance for new stationary sources located in such State. All information required to be submitted to EPA under paragraph (a) of this section, must also be submitted to the appropriate State Agency of any State to which this authority has been delegated (provided, that each specific delegation may except sources from a certain Federal or State reporting requirement). The appropriate mailing address for those States whose delegation request has been approved is as follows:

(K) Bureau of Air Quality Management, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32301.

[40 FR 18169, Apr. 25, 1975]

**Editorial Note:** For Federal Register citations affecting §60.4 see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 60.5 Determination of construction or modification.**

(a) When requested to do so by an owner or operator, the Administrator will make a determination of whether action taken or intended to be taken by such owner or operator constitutes construction (including reconstruction) or modification or the commencement thereof within the meaning of this part.

(b) The Administrator will respond to any request for a determination under paragraph (a) of this section within 30 days of receipt of such request.

[40 FR 58418, Dec. 16, 1975]

**§ 60.6 Review of plans.**

(a) When requested to do so by an owner or operator, the Administrator will review plans for construction or modification for the purpose of providing technical advice to the owner or operator.

(b)

(1) A separate request shall be submitted for each construction or modification project.

(2) Each request shall identify the location of such project, and be accompanied by technical information describing the proposed nature, size, design, and method of operation of each affected facility involved in such project, including information on any equipment to be used for measurement or control of emissions.

(c) Neither a request for plans review nor advice furnished by the Administrator in response to such request shall (1) relieve an owner or operator of legal responsibility for compliance with any provision of this part or of any applicable State or local requirement, or (2) prevent the Administrator from implementing or enforcing any provision of this part or taking any other action authorized by the Act.

[36 FR 24877, Dec. 23, 1971, as amended at 39 FR 9314, Mar. 8, 1974]

**§ 60.7 Notification and record keeping.**

(a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:

(1) A notification of the date construction (or reconstruction as defined under §60.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.

(2) [Reserved]

(3) A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.

(4) A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in §60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional relevant information subsequent to this notice.

(5) A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with §60.13(c). Notification shall be postmarked not less than 30 days prior to such date.

(6) A notification of the anticipated date for conducting the opacity observations required by §60.11(e)(1) of this part. The notification shall also include, if appropriate, a request for the Administrator to provide a visible emissions reader during a performance test. The notification shall be postmarked not less than 30 days prior to such date.

(7) A notification that continuous opacity monitoring system data results will be used to determine compliance with the applicable opacity standard during a performance test required by §60.8 in lieu of Method 9 observation data as allowed by §60.11(e)(5) of this part. This notification shall be postmarked not less than 30 days prior to the date of the performance test.

(b) Any owner or operator subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(c) Each owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and-or summary report form (see paragraph (d) of this section) to the Administrator semiannually, except when: more frequent reporting is specifically required by an applicable subpart; or the Administrator, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. All reports shall be postmarked by the 30th day following the end of each six-month period. Written reports of excess emissions shall include the following information:

(1) The magnitude of excess emissions computed in accordance with §60.13(h), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The process operating time during the reporting period.

(2) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.

(3) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(4) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.

(d) The summary report form shall contain the information and be in the format shown in figure 1 unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(1) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in §60.7(c) need not be submitted unless requested by the Administrator.

(2) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in §60.7(c) shall both be submitted.

Figure 1—Summary Report—Gaseous and Opacity Excess Emission and Monitoring System Performance

Pollutant (Circle One—$SO_2$/$NO_X$/TRS/$H_2S$/CO/Opacity)

Reporting period dates: From _____ to _____

Company:

Emission Limitation_____

Address:

Monitor Manufacturer and Model No._____
Date of Latest CMS Certification or Audit_____

Process Unit(s) Description:

Total source operating time in reporting period[1] _____

| **Emission data summary[1]** | | **CMS performance summary[1]** | |
|---|---|---|---|
| 1. Duration of excess emissions in reporting period due to: | | 1. CMS downtime in reporting period due to: | |
| a. Startup/shutdown | | a. Monitor equipment malfunctions | |
| b. Control equipment problems | | b. Non-Monitor equipment malfunctions | |
| c. Process problems | | c. Quality assurance calibration | |

| | | | |
|---|---|---|---|
| d. Other known causes | | d. Other known causes | |
| e. Unknown causes | | e. Unknown causes | |
| 2. Total duration of excess emission | | 2. Total CMS Downtime | |
| 3. Total duration of excess emissions × (100) / [Total source operating time] | %[2] | 3. [Total CMS Downtime] × (100) / [Total source operating time] | %[2] |

[1]For opacity, record all times in minutes. For gases, record all times in hours.

[2]For the reporting period: If the total duration of excess emissions is 1 percent or greater of the total operating time or the total CMS downtime is 5 percent or greater of the total operating time, both the summary report form and the excess emission report described in §60.7(c) shall be submitted.

On a separate page, describe any changes since last quarter in CMS, process or controls. I certify that the information contained in this report is true, accurate, and complete.

_____

Name

_____

Signature

_____

Title

_____

Date

(e)

(1) Notwithstanding the frequency of reporting requirements specified in paragraph (c) of this section, an owner or operator who is required by an applicable subpart to submit excess emissions and monitoring systems performance reports (and summary reports) on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(i) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected facility's excess emissions and monitoring systems reports submitted to comply with a standard under this part continually demonstrate that the facility is in compliance with the applicable standard;

(ii) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the applicable standard; and

(iii) The Administrator does not object to a reduced frequency of reporting for the affected facility, as provided in paragraph (e)(2) of this section.

(2) The frequency of reporting of excess emissions and monitoring systems performance (and summary) reports may be reduced only after the owner or operator notifies the Administrator in writing of his or her intention to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the required recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the grounds on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(3) As soon as monitoring data indicate that the affected facility is not in compliance with any emission limitation or operating parameter specified in the applicable standard, the frequency of reporting shall revert to the frequency specified in the applicable standard, and the owner or operator shall submit an excess emissions and monitoring systems performance report (and summary report, if required) at the next appropriate reporting period following the noncomplying event. After

demonstrating compliance with the applicable standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard as provided for in paragraphs (e)(1) and (e)(2) of this section.

(f) Any owner or operator subject to the provisions of this part shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

(1) This paragraph applies to owners or operators required to install a continuous emissions monitoring system (CEMS) where the CEMS installed is automated, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. An automated CEMS records and reduces the measured data to the form of the pollutant emission standard through the use of a computerized data acquisition system. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (f) of this section, the owner or operator shall retain the most recent consecutive three averaging periods of subhourly measurements and a file that contains a hard copy of the data acquisition system algorithm used to reduce the measured data into the reportable form of the standard.

(2) This paragraph applies to owners or operators required to install a CEMS where the measured data is manually reduced to obtain the reportable form of the standard, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (f) of this section, the owner or operator shall retain all subhourly measurements for the most recent reporting period. The subhourly measurements shall be retained for 120 days from the date of the most recent summary or excess emission report submitted to the Administrator.

(3) The Administrator or delegated authority, upon notification to the source, may require the owner or operator to maintain all measurements as required by paragraph (f) of this section, if the Administrator or the delegated authority determines these records are required to more accurately assess the compliance status of the affected source.

(g) If notification substantially similar to that in paragraph (a) of this section is required by any other State or local agency, sending the Administrator a copy of that notification will satisfy the requirements of paragraph (a) of this section.

(h) Individual subparts of this part may include specific provisions which clarify or make inapplicable the provisions set forth in this section.

[36 FR 24877, Dec. 28, 1971, as amended at 40 FR 46254, Oct. 6, 1975; 40 FR 58418, Dec. 16, 1975; 45 FR 5617, Jan. 23, 1980; 48 FR 48335, Oct. 18, 1983; 50 FR 53113, Dec. 27, 1985; 52 FR 9781, Mar. 26, 1987; 55 FR 51382, Dec. 13, 1990; 59 FR 12428, Mar. 16, 1994; 59 FR 47265, Sep. 15, 1994; 64 FR 7463, Feb. 12, 1999]

**§ 60.8 Performance tests.**

(a) Except as specified in paragraphs (a)(1),(a)(2), (a)(3), and (a)(4) of this section, within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, or at such other times specified by this part, and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

(1) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

(2) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(3) The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Administrator. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(4) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(1), (2), and (3) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

(b) Performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart unless the Administrator (1) specifies or approves, in specific cases, the use of a reference method with minor changes in methodology, (2) approves the use of an equivalent method, (3) approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance, (4) waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the affected facility is in compliance with the standard, or (5) approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

(d) The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Administrator (or delegated State or local agency) as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator (or delegated State or local agency) by mutual agreement.

(e) The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to such facility. This includes (i) constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures and (ii) providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.

(2) Safe sampling platform(s).

(3) Safe access to sampling platform(s).

(4) Utilities for sampling and testing equipment.

(f) Unless otherwise specified in the applicable subpart, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.

[36 FR 24877, Dec. 23, 1971, as amended at 39 FR 9314, Mar. 8, 1974; 42 FR 57126, Nov. 1, 1977; 44 FR 33612, June 11, 1979; 54 FR 6662, Feb. 14, 1989; 54 FR 21344, May 17, 1989; 64 FR 7463, Feb. 12, 1999; 72 FR 27442, May 16, 2007]

**§ 60.9 Availability of information.**

The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter. (Information submitted voluntarily to the Administrator for the purposes of §§60.5 and 60.6 is governed by §§2.201 through 2.213 of this chapter and not by §2.301 of this chapter.)

**§ 60.10 State authority.**

The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from:

(a) Adopting and enforcing any emission standard or limitation applicable to an affected facility, provided that such emission standard or limitation is not less stringent than the standard applicable to such facility.

(b) Requiring the owner or operator of an affected facility to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of such facility.

**§ 60.11 Compliance with standards and maintenance requirements.**

(a) Compliance with standards in this part, other than opacity standards, shall be determined in accordance with performance tests established by §60.8, unless otherwise specified in the applicable standard.

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Method 9 in appendix A of this part, any alternative method that is approved by the Administrator, or as provided in paragraph (e)(5) of this section. For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).

(c) The opacity standards set forth in this part shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.

(d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(e)

(1) For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test required in §60.8 unless one of the following conditions apply. If no performance test under §60.8 is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under §60.8, the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. In these cases, the 30-day prior notification to the Administrator required in §60.7(a)(6) shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under §60.8. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Method 9 of appendix B of this part. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner or operator of an affected facility shall make available, upon request by the Administrator, such records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. Except as provided in paragraph (e)(5) of this section, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in appendix B of this part, has been properly maintained and (at the time of the alleged violation) that the resulting data have not been altered in any way.

(2) Except as provided in paragraph (e)(3) of this section, the owner or operator of an affected facility to which an opacity standard in this part applies shall conduct opacity observations in accordance with paragraph (b) of this section, shall record the opacity of emissions, and shall report to the Administrator the opacity results along with the results of the initial performance test required under §60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

(3) The owner or operator of an affected facility to which an opacity standard in this part applies may request the Administrator to determine and to record the opacity of emissions from the affected facility during the initial performance test and at such times as may be required. The owner or operator of the affected facility shall report the opacity results. Any request to the Administrator to determine and to record the opacity of emissions from an affected facility shall be included in the notification required in §60.7(a)(6). If, for some reason, the Administrator cannot determine and record the opacity of

emissions from the affected facility during the performance test, then the provisions of paragraph (e)(1) of this section shall apply.

(4) An owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial performance test required by §60.8 and shall furnish the Administrator a written report of the monitoring results along with Method 9 and §60.8 performance test results.

(5) An owner or operator of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under §60.8 in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Administrator of that decision, in writing, at least 30 days before any performance test required under §60.8 is conducted. Once the owner or operator of an affected facility has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent tests required under §60.8 until the owner or operator notifies the Administrator, in writing, to the contrary. For the purpose of determining compliance with the opacity standard during a performance test required under §60.8 using COMS data, the minimum total time of COMS data collection shall be averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under §60.8. The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in §60.13(c) of this part, that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates noncompliance, the Method 9 data will be used to determine compliance with the opacity standard.

(6) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by §60.8, the opacity observation results and observer certification required by §60.11(e)(1), and the COMS results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COMS data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by §60.8. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with §60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

(7) The Administrator will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the Administrator; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

(8) The Administrator will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity standard in the Federal Register.

(f) Special provisions set forth under an applicable subpart shall supersede any conflicting provisions in paragraphs (a) through (e) of this section.

(g) For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, nothing in this part shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

[38 FR 28565, Oct. 15, 1973, as amended at 39 FR 39873, Nov. 12, 1974; 43 FR 8800, Mar. 3, 1978; 45 FR 23379, Apr. 4, 1980; 48 FR 48335, Oct. 18, 1983; 50 FR 53113, Dec. 27, 1985; 51 FR 1790, Jan. 15, 1986; 52 FR 9781, Mar. 26, 1987; 62 FR 8328, Feb. 24, 1997; 65 FR 61749, Oct. 17, 2000]

**§ 60.12 Circumvention.**

No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

[39 FR 9314, Mar. 8, 1974]

**§ 60.13 Monitoring requirements.**

(a) For the purposes of this section, all continuous monitoring systems required under applicable subparts shall be subject to the provisions of this section upon promulgation of performance specifications for continuous monitoring systems under appendix B to this part and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, appendix F to this part, unless otherwise specified in an applicable subpart or by the Administrator. Appendix F is applicable December 4, 1987.

(b) All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under §60.8. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

(c) If the owner or operator of an affected facility elects to submit continuous opacity monitoring system (COMS) data for compliance with the opacity standard as provided under §60.11(e)(5), he shall conduct a performance evaluation of the COMS as specified in Performance Specification 1, appendix B, of this part before the performance test required under §60.8 is conducted. Otherwise, the owner or operator of an affected facility shall conduct a performance evaluation of the COMS or continuous emission monitoring system (CEMS) during any performance test required under §60.8 or within 30 days thereafter in accordance with the applicable performance specification in appendix B of this part, The owner or operator of an affected facility shall conduct COMS or CEMS performance evaluations at such other times as may be required by the Administrator under section 114 of the Act.

(1) The owner or operator of an affected facility using a COMS to determine opacity compliance during any performance test required under §60.8 and as described in §60.11(e)(5) shall furnish the Administrator two or, upon request, more copies of a written report of the results of the COMS performance evaluation described in paragraph (c) of this section at least 10 days before the performance test required under §60.8 is conducted.

(2) Except as provided in paragraph (c)(1) of this section, the owner or operator of an affected facility shall furnish the Administrator within 60 days of completion two or, upon request, more copies of a written report of the results of the performance evaluation.

(d)

(1) Owners and operators of a CEMS installed in accordance with the provisions of this part, must check the zero (or low level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in accordance with a written procedure. The zero and span must, as a minimum, be adjusted whenever either the 24-hour zero drift or the 24-hour span drift exceeds two times the limit of the applicable performance specification in appendix B of this part. The system must allow the amount of the excess zero and span drift to be recorded and quantified whenever specified. Owners and operators of a COMS installed in accordance with the provisions of this part, must automatically, intrinsic to the opacity monitor, check the zero and upscale (span) calibration drifts at least once daily. For a particular COMS, the acceptable range of zero and upscale calibration materials is as defined in the applicable version of PS–1 in appendix B of this part. For a COMS, the optical surfaces, exposed to the effluent gases, must be cleaned before performing the zero and upscale drift adjustments, except for systems using automatic zero adjustments. The optical surfaces must be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity.

(2) Unless otherwise approved by the Administrator, the following procedures must be followed for a COMS. Minimum procedures must include an automated method for producing a simulated zero opacity condition and an upscale opacity condition using a certified neutral density filter or other related technique to produce a known obstruction of the light beam. Such procedures must provide a system check of all active analyzer internal optics with power or curvature, all active electronic circuitry including the light source and photodetector assembly, and electronic or electro-mechanical systems and hardware and or software used during normal measurement operation.

(e) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under paragraph (d) of this section, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(1) All continuous monitoring systems referenced by paragraph (c) of this section for measuring opacity of emissions shall complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(2) All continuous monitoring systems referenced by paragraph (c) of this section for measuring emissions, except opacity, shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(f) All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of appendix B of this part shall be used.

(g) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable continuous monitoring system on each separate effluent unless the installation of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

(h)

(1) Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to 6-minute averages and for continuous monitoring systems other than opacity to 1-hour averages for time periods as defined in §60.2. Six-minute opacity averages shall be calculated from 36 or more data points equally spaced over each 6-minute period.

(2) For continuous monitoring systems other than opacity, 1-hour averages shall be computed as follows, except that the provisions pertaining to the validation of partial operating hours are only applicable for affected facilities that are required by the applicable subpart to include partial hours in the emission calculations:

(i) Except as provided under paragraph (h)(2)(iii) of this section, for a full operating hour (any clock hour with 60 minutes of unit operation), at least four valid data points are required to calculate the hourly average, *i.e.* , one data point in each of the 15-minute quadrants of the hour.

(ii) Except as provided under paragraph (h)(2)(iii) of this section, for a partial operating hour (any clock hour with less than 60 minutes of unit operation), at least one valid data point in each 15-minute quadrant of the hour in which the unit operates is required to calculate the hourly average.

(iii) For any operating hour in which required maintenance or quality-assurance activities are performed:

(A) If the unit operates in two or more quadrants of the hour, a minimum of two valid data points, separated by at least 15 minutes, is required to calculate the hourly average; or

(B) If the unit operates in only one quadrant of the hour, at least one valid data point is required to calculate the hourly average.

(iv) If a daily calibration error check is failed during any operating hour, all data for that hour shall be invalidated, unless a subsequent calibration error test is passed in the same hour and the requirements of paragraph (h)(2)(iii) of this section are met, based solely on valid data recorded after the successful calibration.

(v) For each full or partial operating hour, all valid data points shall be used to calculate the hourly average.

(vi) Except as provided under paragraph (h)(2)(vii) of this section, data recorded during periods of continuous monitoring system breakdown, repair, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this paragraph.

(vii) Owners and operators complying with the requirements of §60.7(f)(1) or (2) must include any data recorded during periods of monitor breakdown or malfunction in the data averages.

(viii)When specified in an applicable subpart, hourly averages for certain partial operating hours shall not be computed or included in the emission averages ( *e.g.* hours with < 30 minutes of unit operation under §60.47b(d)).

(ix) Either arithmetic or integrated averaging of all data may be used to calculate the hourly averages. The data may be recorded in reduced or nonreduced form ( *e.g.* , ppm pollutant and percent $O_2$or ng/J of pollutant).

(3) All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in the applicable subpart. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in the applicable subpart to specify the emission limit.

(i) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring procedures or requirements of this part including, but not limited to the following:

(1) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by this part would not provide accurate measurements due to liquid water or other interferences caused by substances in the effluent gases.

(2) Alternative monitoring requirements when the affected facility is infrequently operated.

(3) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

(4) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

(5) Alternative methods of converting pollutant concentration measurements to units of the standards.

(6) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

(7) Alternatives to the A.S.T.M. test methods or sampling procedures specified by any subpart.

(8) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, appendix B, but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Administrator may require that such demonstration be performed for each affected facility.

(9) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities is released to the atmosphere through more than one point.

(j) An alternative to the relative accuracy (RA) test specified in Performance Specification 2 of appendix B may be requested as follows:

(1) An alternative to the reference method tests for determining RA is available for sources with emission rates demonstrated to be less than 50 percent of the applicable standard. A source owner or operator may petition the Administrator to waive the RA test in Section 8.4 of Performance Specification 2 and substitute the procedures in Section 16.0 if the results of a performance test conducted according to the requirements in §60.8 of this subpart or other tests performed following the criteria in §60.8 demonstrate that the emission rate of the pollutant of interest in the units of the applicable standard is less than 50 percent of the applicable standard. For sources subject to standards expressed as control efficiency levels, a source owner or operator may petition the Administrator to waive the RA test and substitute the procedures in Section 16.0 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the continuous emission monitoring system is used to determine compliance continuously with the applicable standard. The petition to waive the RA test shall include a detailed description of the procedures to be applied. Included shall be location and procedure for conducting the alternative, the concentration or response levels of the alternative RA materials, and the other equipment checks included in the alternative procedure. The Administrator will review the petition for completeness and applicability. The determination to grant a waiver will depend on the intended use of the CEMS data (e.g., data collection purposes other than NSPS) and may require specifications more stringent than in Performance Specification 2 (e.g., the applicable emission limit is more stringent than NSPS).

(2) The waiver of a CEMS RA test will be reviewed and may be rescinded at such time, following successful completion of the alternative RA procedure, that the CEMS data indicate that the source emissions are approaching the level. The criterion for reviewing the waiver is the collection of CEMS data showing that emissions have exceeded 70 percent of the applicable standard for seven, consecutive, averaging periods as specified by the applicable regulation(s). For sources subject to standards expressed as control efficiency levels, the criterion for reviewing the waiver is the collection of CEMS data showing that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for seven, consecutive, averaging periods as specified by the applicable regulation(s) [e.g., §60.45(g) (2) and (3), §60.73(e), and §60.84(e)]. It is the responsibility of the source operator to maintain records and determine the level of emissions relative to the criterion on the waiver of RA testing. If this criterion is exceeded, the owner or operator must notify the Administrator

within 10 days of such occurrence and include a description of the nature and cause of the increasing emissions. The Administrator will review the notification and may rescind the waiver and require the owner or operator to conduct a RA test of the CEMS as specified in Section 8.4 of Performance Specification 2.

[40 FR 46255, Oct. 6, 1975; 40 FR 59205, Dec. 22, 1975, as amended at 41 FR 35185, Aug. 20, 1976; 48 FR 13326, Mar. 30, 1983; 48 FR 23610, May 25, 1983; 48 FR 32986, July 20, 1983; 52 FR 9782, Mar. 26, 1987; 52 FR 17555, May 11, 1987; 52 FR 21007, June 4, 1987; 64 FR 7463, Feb. 12, 1999; 65 FR 48920, Aug. 10, 2000; 65 FR 61749, Oct. 17, 2000; 66 FR 44980, Aug. 27, 2001; 71 FR 31102, June 1, 2006; 72 FR 32714, June 13, 2007]

**Editorial Note:** At 65 FR 61749, Oct. 17, 2000, §60.13 was amended by revising the words "ng/J of pollutant" to read "ng of pollutant per J of heat input" in the sixth sentence of paragraph (h). However, the amendment could not be incorporated because the words "ng/J of pollutant" do not exist in the sixth sentence of paragraph (h).

**§ 60.14 Modification.**

(a) Except as provided under paragraphs (e) and (f) of this section, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

(b) Emission rate shall be expressed as kg/hr of any pollutant discharged into the atmosphere for which a standard is applicable. The Administrator shall use the following to determine emission rate:

(1) Emission factors as specified in the latest issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP–42, or other emission factors determined by the Administrator to be superior to AP–42 emission factors, in cases where utilization of emission factors demonstrates that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase.

(2) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission factors as referenced in paragraph (b)(1) of this section does not demonstrate to the Administrator's satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Administrator's satisfaction that there are reasonable grounds to dispute the result obtained by the Administrator utilizing emission factors as referenced in paragraph (b)(1) of this section. When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in appendix C of this part shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

(c) The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility shall not by itself bring within the applicability of this part any other facility within that source.

(d) [Reserved]

(e) The following shall not, by themselves, be considered modifications under this part:

(1) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category, subject to the provisions of paragraph (c) of this section and §60.15.

(2) An increase in production rate of an existing facility, if that increase can be accomplished without a capital expenditure on that facility.

(3) An increase in the hours of operation.

(4) Use of an alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to that source type, as provided by §60.1, the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change. Conversion to coal required for energy considerations, as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(5) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial.

(6) The relocation or change in ownership of an existing facility.

(f) Special provisions set forth under an applicable subpart of this part shall supersede any conflicting provisions of this section.

(g) Within 180 days of the completion of any physical or operational change subject to the control measures specified in paragraph (a) of this section, compliance with all applicable standards must be achieved.

(h) No physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for the purposes of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the 5 years prior to the change.

(i) Repowering projects that are awarded funding from the Department of Energy as permanent clean coal technology demonstration projects (or similar projects funded by EPA) are exempt from the requirements of this section provided that such change does not increase the maximum hourly emissions of any pollutant regulated under this section above the maximum hourly emissions achievable at that unit during the five years prior to the change.

(j)

(1) Repowering projects that qualify for an extension under section 409(b) of the Clean Air Act are exempt from the requirements of this section, provided that such change does not increase the actual hourly emissions of any pollutant regulated under this section above the actual hourly emissions achievable at that unit during the 5 years prior to the change.

(2) This exemption shall not apply to any new unit that:

(i) Is designated as a replacement for an existing unit;

(ii) Qualifies under section 409(b) of the Clean Air Act for an extension of an emission limitation compliance date under section 405 of the Clean Air Act; and

(iii) Is located at a different site than the existing unit.

(k) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project is exempt from the requirements of this section. A *temporary clean coal control technology demonstration project,* for the purposes of this section is a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(l) The reactivation of a very clean coal-fired electric utility steam generating unit is exempt from the requirements of this section.

[40 FR 58419, Dec. 16, 1975, as amended at 43 FR 34347, Aug. 3, 1978; 45 FR 5617, Jan. 23, 1980; 57 FR 32339, July 21, 1992; 65 FR 61750, Oct. 17, 2000]

**§ 60.15 Reconstruction.**

(a) An existing facility, upon reconstruction, becomes an affected facility, irrespective of any change in emission rate.

(b) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and

(2) It is technologically and economically feasible to meet the applicable standards set forth in this part.

(c) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(d) If an owner or operator of an existing facility proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the Administrator of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

(1) Name and address of the owner or operator.

(2) The location of the existing facility.

(3) A brief description of the existing facility and the components which are to be replaced.

(4) A description of the existing air pollution control equipment and the proposed air pollution control equipment.

(5) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility.

(6) The estimated life of the existing facility after the replacements.

(7) A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

(e) The Administrator will determine, within 30 days of the receipt of the notice required by paragraph (d) of this section and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

(f) The Administrator's determination under paragraph (e) shall be based on:

(1) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(2) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility;

(3) The extent to which the components being replaced cause or contribute to the emissions from the facility; and

(4) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(g) Individual subparts of this part may include specific provisions which refine and delimit the concept of reconstruction set forth in this section.

[40 FR 58420, Dec. 16, 1975]

**§ 60.16 Priority list.**

A list of prioritized major source categories may be found at the following EPA web site:
**http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div6&view=text&node=40:6.0.1.1.1.1&idno=40**

[47 FR 951, Jan. 8, 1982, as amended at 47 FR 31876, July 23, 1982; 51 FR 42796, Nov. 25, 1986; 52 FR 11428, Apr. 8, 1987; 61 FR 9919, Mar. 12, 1996]

**§ 60.17 Incorporations by reference.**

The materials listed below are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register on the date listed. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the Federal Register. The materials are available for purchase at the corresponding address noted below, and all are available for inspection at the Library (C267–01), U.S. EPA, Research Triangle Park, NC or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(a) The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106.

(1) ASTM A99–76, 82 (Reapproved 1987), Standard Specification for Ferromanganese, incorporation by reference (IBR) approved for §60.261.

(2) ASTM A100–69, 74, 93, Standard Specification for Ferrosilicon, IBR approved for §60.261.

(3) ASTM A101–73, 93, Standard Specification for Ferrochromium, IBR approved for §60.261.

(4) ASTM A482–76, 93, Standard Specification for Ferrochromesilicon, IBR approved for §60.261.

(5) ASTM A483–64, 74 (Reapproved 1988), Standard Specification for Silicomanganese, IBR approved for §60.261.

(6) ASTM A495–76, 94, Standard Specification for Calcium-Silicon and Calcium Manganese-Silicon, IBR approved for §60.261.

(7) ASTM D86–78, 82, 90, 93, 95, 96, Distillation of Petroleum Products, IBR approved for §§60.562–2(d), 60.593(d), 60.593a(d), and 60.633(h).

(8) ASTM D129–64, 78, 95, 00, Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), IBR approved for §§60.106(j)(2), 60.335(b)(10)(i), and Appendix A: Method 19, 12.5.2.2.3.

(9) ASTM D129–00 (Reapproved 2005), Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), IBR approved for §60.4415(a)(1)(i).

(10) ASTM D240–76, 92, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved for §§60.46(c), 60.296(b), and Appendix A: Method 19, Section 12.5.2.2.3.

(11) ASTM D270–65, 75, Standard Method of Sampling Petroleum and Petroleum Products, IBR approved for Appendix A: Method 19, Section 12.5.2.2.1.

(12) ASTM D323–82, 94, Test Method for Vapor Pressure of Petroleum Products (Reid Method), IBR approved for §§60.111(l), 60.111a(g), 60.111b(g), and 60.116b(f)(2)(ii).

(13) ASTM D388–77, 90, 91, 95, 98a, 99 (Reapproved 2004)$\varepsilon^1$ , Standard Specification for Classification of Coals by Rank, IBR approved for §§60.24(h)(8), 60.41 of subpart D of this part, 60.45(f)(4)(i), 60.45(f)(4)(ii), 60.45(f)(4)(vi), 60.41Da of subpart Da of this part, 60.41b of subpart Db of this part, 60.41c of subpart Dc of this part, and 60.4102.

(14) ASTM D388–77, 90, 91, 95, 98a, Standard Specification for Classification of Coals by Rank, IBR approved for §§60.251(b) and (c) of subpart Y of this part.

(15) ASTM D396–78, 89, 90, 92, 96, 98, Standard Specification for Fuel Oils, IBR approved for §§60.41b of subpart Db of this part, 60.41c of subpart Dc of this part, 60.111(b) of subpart K of this part, and 60.111a(b) of subpart Ka of this part.

(16) ASTM D975–78, 96, 98a, Standard Specification for Diesel Fuel Oils, IBR approved for §§60.111(b) of subpart K of this part and 60.111a(b) of subpart Ka of this part.

(17) ASTM D1072–80, 90 (Reapproved 1994), Standard Test Method for Total Sulfur in Fuel Gases, IBR approved for §60.335(b)(10)(ii).

(18) ASTM D1072–90 (Reapproved 1999), Standard Test Method for Total Sulfur in Fuel Gases, IBR approved for §60.4415(a)(1)(ii).

(19) ASTM D1137–53, 75, Standard Method for Analysis of Natural Gases and Related Types of Gaseous Mixtures by the Mass Spectrometer, IBR approved for §60.45(f)(5)(i).

(20) ASTM D1193–77, 91, Standard Specification for Reagent Water, IBR approved for Appendix A: Method 5, Section 7.1.3; Method 5E, Section 7.2.1; Method 5F, Section 7.2.1; Method 6, Section 7.1.1; Method 7, Section 7.1.1; Method 7C, Section 7.1.1; Method 7D, Section 7.1.1; Method 10A, Section 7.1.1; Method 11, Section 7.1.3; Method 12, Section 7.1.3; Method 13A, Section 7.1.2; Method 26, Section 7.1.2; Method 26A, Section 7.1.2; and Method 29, Section 7.2.2.

(21) ASTM D1266–87, 91, 98, Standard Test Method for Sulfur in Petroleum Products (Lamp Method), IBR approved for §§60.106(j)(2) and 60.335(b)(10)(i).

(22) ASTM D1266–98 (Reapproved 2003)e1, Standard Test Method for Sulfur in Petroleum Products (Lamp Method), IBR approved for §60.4415(a)(1)(i).

(23) ASTM D1475–60 (Reapproved 1980), 90, Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products, IBR approved for §60.435(d)(1), Appendix A: Method 24, Section 6.1; and Method 24A, Sections 6.5 and 7.1.

(24) ASTM D1552–83, 95, 01, Standard Test Method for Sulfur in Petroleum Products (High-Temperature Method), IBR approved for §§60.106(j)(2), 60.335(b)(10)(i), and Appendix A: Method 19, Section 12.5.2.2.3.

(25) ASTM D1552–03, Standard Test Method for Sulfur in Petroleum Products (High-Temperature Method), IBR approved for §60.4415(a)(1)(i).

(26) ASTM D1826–77, 94, Standard Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR approved for §§60.45(f)(5)(ii), 60.46(c)(2), 60.296(b)(3), and Appendix A: Method 19, Section 12.3.2.4.

(27) ASTM D1835–87, 91, 97, 03a, Standard Specification for Liquefied Petroleum (LP) Gases, IBR approved for §§60.41Da of subpart Da of this part, 60.41b of subpart Db of this part, and 60.41c of subpart Dc of this part.

(28) ASTM D1945–64, 76, 91, 96, Standard Method for Analysis of Natural Gas by Gas Chromatography, IBR approved for §60.45(f)(5)(i).

(29) ASTM D1946–77, 90 (Reapproved 1994), Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved for §§60.18(f)(3), 60.45(f)(5)(i), 60.564(f)(1), 60.614(e)(2)(ii), 60.614(e)(4), 60.664(e)(2)(ii), 60.664(e)(4), 60.704(d)(2)(ii), and 60.704(d)(4).

(30) ASTM D2013–72, 86, Standard Method of Preparing Coal Samples for Analysis, IBR approved for Appendix A: Method 19, Section 12.5.2.1.3.

(31) ASTM D2015–77 (Reapproved 1978), 96, Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, IBR approved for §60.45(f)(5)(ii), 60.46(c)(2), and Appendix A: Method 19, Section 12.5.2.1.3.

(32) ASTM D2016–74, 83, Standard Test Methods for Moisture Content of Wood, IBR approved for Appendix A: Method 28, Section 16.1.1.

(33) ASTM D2234–76, 96, 97b, 98, Standard Methods for Collection of a Gross Sample of Coal, IBR approved for Appendix A: Method 19, Section 12.5.2.1.1.

(34) ASTM D2369–81, 87, 90, 92, 93, 95, Standard Test Method for Volatile Content of Coatings, IBR approved for Appendix A: Method 24, Section 6.2.

(35) ASTM D2382–76, 88, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for §§60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(e)(4), 60.664(e)(4), and 60.704(d)(4).

(36) ASTM D2504–67, 77, 88 (Reapproved 1993), Noncondensible Gases in C3 and Lighter Hydrocarbon Products by Gas Chromatography, IBR approved for §§60.485(g)(5) and 60.485a(g)(5).

(37) ASTM D2584–68 (Reapproved 1985), 94, Standard Test Method for Ignition Loss of Cured Reinforced Resins, IBR approved for §60.685(c)(3)(i).

(38) ASTM D2597–94 (Reapproved 1999), Standard Test Method for Analysis of Demethanized Hydrocarbon Liquid Mixtures Containing Nitrogen and Carbon Dioxide by Gas Chromatography, IBR approved for §60.335(b)(9)(i).

(39) ASTM D2622–87, 94, 98, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry, IBR approved for §§60.106(j)(2) and 60.335(b)(10)(i).

(40) ASTM D2622–05, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry, IBR approved for §60.4415(a)(1)(i).

(41) ASTM D2879–83, 96, 97, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for §§60.111b(f)(3), 60.116b(e)(3)(ii), 60.116b(f)(2)(i), 60.485(e)(1), and 60.485a(e)(1).

(42) ASTM D2880–78, 96, Standard Specification for Gas Turbine Fuel Oils, IBR approved for §§60.111(b), 60.111a(b), and 60.335(d).

(43) ASTM D2908–74, 91, Standard Practice for Measuring Volatile Organic Matter in Water by Aqueous-Injection Gas Chromatography, IBR approved for §60.564(j).

(44) ASTM D2986–71, 78, 95a, Standard Method for Evaluation of Air, Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test, IBR approved for Appendix A: Method 5, Section 7.1.1; Method 12, Section 7.1.1; and Method 13A, Section 7.1.1.2.

(45) ASTM D3173–73, 87, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved for Appendix A: Method 19, Section 12.5.2.1.3.

(46) ASTM D3176–74, 89, Standard Method for Ultimate Analysis of Coal and Coke, IBR approved for §60.45(f)(5)(i) and Appendix A: Method 19, Section 12.3.2.3.

(47) ASTM D3177–75, 89, Standard Test Method for Total Sulfur in the Analysis Sample of Coal and Coke, IBR approved for Appendix A: Method 19, Section 12.5.2.1.3.

(48) ASTM D3178–73 (Reapproved 1979), 89, Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coal and Coke, IBR approved for §60.45(f)(5)(i).

(49) ASTM D3246–81, 92, 96, Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry, IBR approved for §60.335(b)(10)(ii).

(50) ASTM D3246–05, Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry, IBR approved for §60.4415(a)(1)(ii).

(51) ASTM D3270–73T, 80, 91, 95, Standard Test Methods for Analysis for Fluoride Content of the Atmosphere and Plant Tissues (Semiautomated Method), IBR approved for Appendix A: Method 13A, Section 16.1.

(52) ASTM D3286–85, 96, Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter, IBR approved for Appendix A: Method 19, Section 12.5.2.1.3.

(53) ASTM D3370–76, 95a, Standard Practices for Sampling Water, IBR approved for §60.564(j).

(54) ASTM D3792–79, 91, Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph, IBR approved for Appendix A: Method 24, Section 6.3.

(55) ASTM D4017–81, 90, 96a, Standard Test Method for Water in Paints and Paint Materials by the Karl Fischer Titration Method, IBR approved for Appendix A: Method 24, Section 6.4.

(56) ASTM D4057–81, 95, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, IBR approved for Appendix A: Method 19, Section 12.5.2.2.3.

(57) ASTM D4057–95 (Reapproved 2000), Standard Practice for Manual Sampling of Petroleum and Petroleum Products, IBR approved for §60.4415(a)(1).

(58) ASTM D4084–82, 94, Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method), IBR approved for §60.334(h)(1).

(59) ASTM D4084–05, Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method), IBR approved for §§60.4360 and 60.4415(a)(1)(ii).

(60) ASTM D4177–95, Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, IBR approved for Appendix A: Method 19, Section 12.5.2.2.1.

(61) ASTM D4177–95 (Reapproved 2000), Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, IBR approved for §60.4415(a)(1).

(62) ASTM D4239–85, 94, 97, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods, IBR approved for Appendix A: Method 19, Section 12.5.2.1.3.

(63) ASTM D4294–02, Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry, IBR approved for §60.335(b)(10)(i).

(64) ASTM D4294–03, Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry, IBR approved for §60.4415(a)(1)(i).

(65) ASTM D4442–84, 92, Standard Test Methods for Direct Moisture Content Measurement in Wood and Wood-base Materials, IBR approved for Appendix A: Method 28, Section 16.1.1.

(66) ASTM D4444–92, Standard Test Methods for Use and Calibration of Hand-Held Moisture Meters, IBR approved for Appendix A: Method 28, Section 16.1.1.

(67) ASTM D4457–85 (Reapproved 1991), Test Method for Determination of Dichloromethane and 1, 1, 1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph, IBR approved for Appendix A: Method 24, Section 6.5.

(68) ASTM D4468–85 (Reapproved 2000), Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry, IBR approved for §§60.335(b)(10)(ii) and 60.4415(a)(1)(ii).

(69) ASTM D4629–02, Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons by Syringe/Inlet Oxidative Combustion and Chemiluminescence Detection, IBR approved for §§60.49b(e) and 60.335(b)(9)(i).

(70) ASTM D4809–95, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for §§60.18(f)(3), 60.485(g)(6), 60.485a(g)(6), 60.564(f)(3), 60.614(d)(4), 60.664(e)(4), and 60.704(d)(4).

(71) ASTM D4810–88 (Reapproved 1999), Standard Test Method for Hydrogen Sulfide in Natural Gas Using Length of Stain Detector Tubes, IBR approved for §§60.4360 and 60.4415(a)(1)(ii).

(72) ASTM D5287–97 (Reapproved 2002), Standard Practice for Automatic Sampling of Gaseous Fuels, IBR approved for §60.4415(a)(1).

(73) ASTM D5403–93, Standard Test Methods for Volatile Content of Radiation Curable Materials, IBR approved for Appendix A: Method 24, Section 6.6.

(74) ASTM D5453–00, Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence, IBR approved for §60.335(b)(10)(i).

(75) ASTM D5453–05, Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence, IBR approved for §60.4415(a)(1)(i).

(76) ASTM D5504–01, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence, IBR approved for §§60.334(h)(1) and 60.4360.

(77) ASTM D5762–02, Standard Test Method for Nitrogen in Petroleum and Petroleum Products by Boat-Inlet Chemiluminescence, IBR approved for §60.335(b)(9)(i).

(78) ASTM D5865–98, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for §60.45(f)(5)(ii), 60.46(c)(2), and Appendix A: Method 19, Section 12.5.2.1.3.

(79) ASTM D6216–98, Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications, IBR approved for Appendix B, Performance Specification 1.

(80) ASTM D6228–98, Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection, IBR approved for §60.334(h)(1).

(81) ASTM D6228–98 (Reapproved 2003), Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection, IBR approved for §§60.4360 and 60.4415.

(82) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for table 7 of Subpart IIII of this part and table 2 of subpart JJJJ of this part.

(83) ASTM D6366–99, Standard Test Method for Total Trace Nitrogen and Its Derivatives in Liquid Aromatic Hydrocarbons by Oxidative Combustion and Electrochemical Detection, IBR approved for §60.335(b)(9)(i).

(84) ASTM D6420–99 (Reapproved 2004) Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for table 2 of subpart JJJJ of this part.

(85) ASTM D6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, IBR approved for §60.335(a).

(86) ASTM D6522–00 (Reapproved 2005), Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, IBR approved for table 2 of subpart JJJJ of this part.

(87) ASTM D6667–01, Standard Test Method for Determination of Total Volatile Sulfur in Gaseous Hydrocarbons and Liquefied Petroleum Gases by Ultraviolet Fluorescence, IBR approved for §60.335(b)(10)(ii).

(88) ASTM D6667–04, Standard Test Method for Determination of Total Volatile Sulfur in Gaseous Hydrocarbons and Liquefied Petroleum Gases by Ultraviolet Fluorescence, IBR approved for §60.4415(a)(1)(ii).

(89) ASTM D6784–02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), IBR approved for Appendix B to part 60, Performance Specification 12A, Section 8.6.2.

(90) ASTM E168–67, 77, 92, General Techniques of Infrared Quantitative Analysis, IBR approved for §§60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(91) ASTM E169–63, 77, 93, General Techniques of Ultraviolet Quantitative Analysis, IBR approved for §§60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(92) ASTM E260–73, 91, 96, General Gas Chromatography Procedures, IBR approved for §§60.485a(d)(1), 60.593(b)(2), 60.593a(b)(2), and 60.632(f).

(b) The following material is available for purchase from the Association of Official Analytical Chemists, 1111 North 19th Street, Suite 210, Arlington, VA 22209.

(1) AOAC Method 9, Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12, IBR approved January 27, 1983 for §§60.204(b)(3), 60.214(b)(3), 60.224(b)(3), 60.234(b)(3).

(c) The following material is available for purchase from the American Petroleum Institute, 1220 L Street NW., Washington, DC 20005.

(1) API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Second Edition, February 1980, IBR approved January 27, 1983, for §§60.111(i), 60.111a(f), 60.111a(f)(1) and 60.116b(e)(2)(i).

(d) The following material is available for purchase from the Technical Association of the Pulp and Paper Industry (TAPPI), Dunwoody Park, Atlanta, GA 30341.

(1) TAPPI Method T624 os–68, IBR approved January 27, 1983 for §60.285(d)(3).

(e) The following material is available for purchase from the Water Pollution Control Federation (WPCF), 2626 Pennsylvania Avenue NW., Washington, DC 20037.

(1) Method 209A, Total Residue Dried at 103–105 °C, in Standard Methods for the Examination of Water and Wastewater, 15th Edition, 1980, IBR approved February 25, 1985 for §60.683(b).

(f) The following material is available for purchase from the following address: Underwriter's Laboratories, Inc. (UL), 333 Pfingsten Road, Northbrook, IL 60062.

(1) UL 103, Sixth Edition revised as of September 3, 1986, Standard for Chimneys, Factory-built, Residential Type and Building Heating Appliance.

(g) The following material is available for purchase from the following address: West Coast Lumber Inspection Bureau, 6980 SW. Barnes Road, Portland, OR 97223.

(1) West Coast Lumber Standard Grading Rules No. 16, pages 5–21 and 90 and 91, September 3, 1970, revised 1984.

(h) The following material is available for purchase from the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.

(1) ASME QRO–1–1994, Standard for the Qualification and Certification of Resource Recovery Facility Operators, IBR approved for §§60.56a, 60.54b(a), 60.54b(b), 60.1185(a), 60.1185(c)(2), 60.1675(a), and 60.1675(c)(2).

(2) ASME PTC 4.1–1964 (Reaffirmed 1991), Power Test Codes: Test Code for Steam Generating Units (with 1968 and 1969 Addenda), IBR approved for §§60.46b of subpart Db of this part, 60.58a(h)(6)(ii), 60.58b(i)(6)(ii), 60.1320(a)(3) and 60.1810(a)(3).

(3) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th Edition (1971), IBR approved for §§60.58a(h)(6)(ii), 60.58b(i)(6)(ii), 60.1320(a)4), and 60.1810(a)(4).

(4) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], IBR approved for Tables 1 and 3 of subpart EEEE, Tables 2 and 4 of subpart FFFF, Table 2 of subpart JJJJ, and §§60.4415(a)(2) and 60.4415(a)(3) of subpart KKKK of this part.

(i) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August, 1993), IIB (January 1995), and III (December 1996). This document may be obtained from the U.S. EPA, Office of Solid Waste and Emergency Response, Waste Characterization Branch, Washington, DC 20460, and is incorporated by reference for appendix A to part 60, Method 29, Sections 7.5.34; 9.2.1; 9.2.3; 10.2; 10.3; 11.1.1; 11.1.3; 13.2.1; 13.2.2; 13.3.1; and Table 29–3.

(j) "Standard Methods for the Examination of Water and Wastewater," 16th edition, 1985. Method 303F: "Determination of Mercury by the Cold Vapor Technique." This document may be obtained from the American Public Health Association, 1015 18th Street, NW., Washington, DC 20036, and is incorporated by reference for appendix A to part 60, Method 29, Sections 9.2.3; 10.3; and 11.1.3.

(k) This material is available for purchase from the American Hospital Association (AHA) Service, Inc., Post Office Box 92683, Chicago, Illinois 60675–2683. You may inspect a copy at EPA's Air and Radiation Docket and Information Center (Docket A–91–61, Item IV–J–124), Room M–1500, 1200 Pennsylvania Ave., NW., Washington, DC.

(1) An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities. American Society for Health Care Environmental Services of the American Hospital Association. Chicago, Illinois. 1993. AHA Catalog No. 057007. ISBN 0–87258–673–5. IBR approved for §60.35e and §60.55c.

(l) This material is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 22161. You may inspect a copy at EPA's Air and Radiation Docket and Information Center (Docket A–91–61, Item IV–J–125), Room M–1500, 1200 Pennsylvania Ave., NW., Washington, DC.

(1) OMB Bulletin No. 93–17: Revised Statistical Definitions for Metropolitan Areas. Office of Management and Budget, June 30, 1993. NTIS No. PB 93–192–664. IBR approved for §60.31e.

(m) This material is available for purchase from at least one of the following addresses: The Gas Processors Association, 6526 East 60th Street, Tulsa, OK, 74145; or Information Handling Services, 15 Inverness Way East, PO Box 1154, Englewood, CO 80150–1154. You may inspect a copy at EPA's Air and Radiation Docket and Information Center, Room B108, 1301 Constitution Ave., NW., Washington, DC 20460.

(1) Gas Processors Association Method 2377–86, Test for Hydrogen Sulfide and Carbon Dioxide in Natural Gas Using Length of Stain Tubes, IBR approved for §§60.334(h)(1), 60.4360, and 60.4415(a)(1)(ii).

(2) [Reserved]

(n) This material is available for purchase from IHS Inc., 15 Inverness Way East, Englewood, CO 80112.

(1) International Organization for Standards 8178–4: 1996(E), Reciprocating Internal Combustion Engines—Exhaust Emission Measurement—Part 4: Test Cycles for Different Engine Applications, IBR approved for §60.4241(b).

(2) [Reserved]

[48 FR 3735, Jan. 27, 1983]

**Editorial Note:** For Federal Register citations affecting §60.17, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 60.18 General control device and work practice requirements.**

(a) *Introduction.*

(1) This section contains requirements for control devices used to comply with applicable subparts of 40 CFR parts 60 and 61. The requirements are placed here for administrative convenience and apply only to facilities covered by subparts referring to this section.

(2) This section also contains requirements for an alternative work practice used to identify leaking equipment. This alternative work practice is placed here for administrative convenience and is available to all subparts in 40 CFR parts 60, 61, 63, and 65 that require monitoring of equipment with a 40 CFR part 60, Appendix A–7, Method 21 monitor.

(b) *Flares.* Paragraphs (c) through (f) apply to flares.

(c)

(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(2) Flares shall be operated with a flame present at all times, as determined by the methods specified in paragraph (f).

(3) An owner/operator has the choice of adhering to either the heat content specifications in paragraph (c)(3)(ii) of this section and the maximum tip velocity specifications in paragraph (c)(4) of this section, or adhering to the requirements in paragraph (c)(3)(i) of this section.

(i)

(A) Flares shall be used that have a diameter of 3 inches or greater, are nonassisted, have a hydrogen content of 8.0 percent (by volume), or greater, and are designed for and operated with an exit velocity less than 37.2 m/sec (122 ft/sec) and less than the velocity, $V_{max}$, as determined by the following equation:

$$V_{max}=(X_{H2}-K_1)* K_2$$

Where:

$V_{max}$ = Maximum permitted velocity, m/sec.

$K_1$ = Constant, 6.0 volume-percent hydrogen.

$K_2$ = Constant, 3.9(m/sec)/volume-percent hydrogen.

$X_{H2}$ = The volume-percent of hydrogen, on a wet basis, as calculated by using the American Society for Testing and Materials (ASTM) Method D1946–77. (Incorporated by reference as specified in §60.17).

(B) The actual exit velocity of a flare shall be determined by the method specified in paragraph (f)(4) of this section.

(ii) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (f)(3) of this section.

(4)

(i) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4) of this section, less than 18.3 m/sec (60 ft/sec), except as provided in paragraphs (c)(4)(ii) and (iii) of this section.

(ii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4), equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec) are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

(iii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4), less than the velocity, $V_{max}$, as determined by the method specified in paragraph (f)(5), and less than 122 m/sec (400 ft/sec) are allowed.

(5) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, $V_{max}$, as determined by the method specified in paragraph (f)(6).

(6) Flares used to comply with this section shall be steam-assisted, air-assisted, or nonassisted.

(d) Owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.

(e) Flares used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

(f)

(1) Method 22 of appendix A to this part shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22.

(2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

(3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

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where:

$H_T$ = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C;

$$K = \text{Constant, } 1.740 \times 10^{-7} \left(\frac{1}{ppm}\right) \left(\frac{g\ mole}{scm}\right) \left(\frac{MJ}{kcal}\right)$$

where the standard temperature for $\left(\frac{g\ mole}{scm}\right)$ is 20°C;

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$C_i$ = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946–77 or 90 (Reapproved 1994) (Incorporated by reference as specified in §60.17); and

$H_i$ = Net heat of combustion of sample component i, kcal/g mole at 25 °C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382–76 or 88 or D4809–95 (incorporated by reference as specified in §60.17) if published values are not available or cannot be calculated.

(4) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(5) The maximum permitted velocity, $V_{max}$, for flares complying with paragraph (c)(4)(iii) shall be determined by the following equation.

$$Log_{10}(V_{max})=(H_T+28.8)/31.7$$

$V_{max}$ = Maximum permitted velocity, M/sec

28.8 = Constant

31.7 = Constant

$H_T$ = The net heating value as determined in paragraph (f)(3).

(6) The maximum permitted velocity, $V_{max}$, for air-assisted flares shall be determined by the following equation.

$$V_{max}=8.706+0.7084\ (H_T)$$

$V_{max}$ = Maximum permitted velocity, m/sec

8.706 = Constant

0.7084 = Constant

$H_T$ = The net heating value as determined in paragraph (f)(3).

(g) *Alternative work practice for monitoring equipment for leaks.* Paragraphs (g), (h), and (i) of this section apply to all equipment for which the applicable subpart requires monitoring with a 40 CFR part 60, Appendix A–7, Method 21 monitor, except for closed vent systems, equipment designated as leakless, and equipment identified in the applicable subpart as having no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background. An owner or operator may use an optical gas imaging instrument instead of a 40 CFR part 60, Appendix A–7, Method 21 monitor. Requirements in the existing subparts that are specific to the Method 21 instrument do not apply under this section. All other requirements in the applicable subpart that are not addressed in paragraphs (g), (h), and (i) of this section apply to this standard. For example, equipment specification requirements, and non-Method 21 instrument recordkeeping and reporting requirements in the applicable subpart continue to apply. The terms defined in paragraphs (g)(1) through (5) of this section have meanings that are specific to the alternative work practice standard in paragraphs (g), (h), and (i) of this section.

(1) *Applicable subpart* means the subpart in 40 CFR parts 60, 61, 63, or 65 that requires monitoring of equipment with a 40 CFR part 60, Appendix A–7, Method 21 monitor.

(2) *Equipment* means pumps, valves, pressure relief valves, compressors, open-ended lines, flanges, connectors, and other equipment covered by the applicable subpart that require monitoring with a 40 CFR part 60, Appendix A–7, Method 21 monitor.

(3) *Imaging* means making visible emissions that may otherwise be invisible to the naked eye.

(4) *Optical gas imaging instrument* means an instrument that makes visible emissions that may otherwise be invisible to the naked eye.

(5) *Repair* means that equipment is adjusted, or otherwise altered, in order to eliminate a leak.

(6) *Leak* means:

(i) Any emissions imaged by the optical gas instrument;

(ii) Indications of liquids dripping;

(iii) Indications by a sensor that a seal or barrier fluid system has failed; or

(iv) Screening results using a 40 CFR part 60, Appendix A–7, Method 21 monitor that exceed the leak definition in the applicable subpart to which the equipment is subject.

(h) The alternative work practice standard for monitoring equipment for leaks is available to all subparts in 40 CFR parts 60, 61, 63, and 65 that require monitoring of equipment with a 40 CFR part 60, Appendix A–7, Method 21 monitor.

(1) An owner or operator of an affected source subject to CFR parts 60, 61, 63, or 65 can choose to comply with the alternative work practice requirements in paragraph (i) of this section instead of using the 40 CFR part 60, Appendix A–7, Method 21 monitor to identify leaking equipment. The owner or operator must document the equipment, process units, and facilities for which the alternative work practice will be used to identify leaks.

(2) Any leak detected when following the leak survey procedure in paragraph (i)(3) of this section must be identified for repair as required in the applicable subpart.

(3) If the alternative work practice is used to identify leaks, re-screening after an attempted repair of leaking equipment must be conducted using either the alternative work practice or the 40 CFR part 60, Appendix A–7, Method 21 monitor at the leak definition required in the applicable subpart to which the equipment is subject.

(4) The schedule for repair is as required in the applicable subpart.

(5) When this alternative work practice is used for detecting leaking equipment, choose one of the monitoring frequencies listed in Table 1 to subpart A of this part in lieu of the monitoring frequency specified for regulated equipment in the applicable subpart. Reduced monitoring frequencies for good performance are not applicable when using the alternative work practice.

(6) When this alternative work practice is used for detecting leaking equipment the following are not applicable for the equipment being monitored:

(i) Skip period leak detection and repair;

(ii) Quality improvement plans; or

(iii) Complying with standards for allowable percentage of valves and pumps to leak.

(7) When the alternative work practice is used to detect leaking equipment, the regulated equipment in paragraph (h)(1)(i) of this section must also be monitored annually using a 40 CFR part 60, Appendix A–7, Method 21 monitor at the leak definition required in the applicable subpart. The owner or operator may choose the specific monitoring period (for example, first quarter) to conduct the annual monitoring. Subsequent monitoring must be conducted every 12 months from the initial period. Owners or operators must keep records of the annual Method 21 screening results, as specified in paragraph (i)(4)(vii) of this section.

(i) An owner or operator of an affected source who chooses to use the alternative work practice must comply with the requirements of paragraphs (i)(1) through (i)(5) of this section.

(1) Instrument Specifications. The optical gas imaging instrument must comply with the requirements in (i)(1)(i) and (i)(1)(ii) of this section.

(i) Provide the operator with an image of the potential leak points for each piece of equipment at both the detection sensitivity level and within the distance used in the daily instrument check described in paragraph (i)(2) of this section. The detection sensitivity level depends upon the frequency at which leak monitoring is to be performed.

(ii) Provide a date and time stamp for video records of every monitoring event.

(2) Daily Instrument Check. On a daily basis, and prior to beginning any leak monitoring work, test the optical gas imaging instrument at the mass flow rate determined in paragraph (i)(2)(i) of this section in accordance with the procedure specified in paragraphs (i)(2)(ii) through (i)(2)(iv) of this section for each camera configuration used during monitoring (for example, different lenses used), unless an alternative method to demonstrate daily instrument checks has been approved in accordance with paragraph (i)(2)(v) of this section.

(i) Calculate the mass flow rate to be used in the daily instrument check by following the procedures in paragraphs (i)(2)(i)(A) and (i)(2)(i)(B) of this section.

(A) For a specified population of equipment to be imaged by the instrument, determine the piece of equipment in contact with the lowest mass fraction of chemicals that are detectable, within the distance to be used in paragraph (i)(2)(iv)(B) of this section, at or below the standard detection sensitivity level.

(B) Multiply the standard detection sensitivity level, corresponding to the selected monitoring frequency in Table 1 of subpart A of this part, by the mass fraction of detectable chemicals from the stream identified in paragraph (i)(2)(i)(A) of this section to determine the mass flow rate to be used in the daily instrument check, using the following equation.

$$E_{dic} = (E_{sds}) \sum_{i=1}^{k} x_i$$

Where:

$E_{dic}$ = Mass flow rate for the daily instrument check, grams per hour

$x_i$ = Mass fraction of detectable chemical(s) i seen by the optical gas imaging instrument, within the distance to be used in paragraph (i)(2)(iv)(B) of this section, at or below the standard detection sensitivity level, $E_{sds}$.

$E_{sds}$ = Standard detection sensitivity level from Table 1 to subpart A, grams per hour

k = Total number of detectable chemicals emitted from the leaking equipment and seen by the optical gas imaging instrument.

(ii) Start the optical gas imaging instrument according to the manufacturer's instructions, ensuring that all appropriate settings conform to the manufacturer's instructions.

(iii) Use any gas chosen by the user that can be viewed by the optical gas imaging instrument and that has a purity of no less than 98 percent.

(iv) Establish a mass flow rate by using the following procedures:

(A) Provide a source of gas where it will be in the field of view of the optical gas imaging instrument.

(B) Set up the optical gas imaging instrument at a recorded distance from the outlet or leak orifice of the flow meter that will not be exceeded in the actual performance of the leak survey. Do not exceed the operating parameters of the flow meter.

(C) Open the valve on the flow meter to set a flow rate that will create a mass emission rate equal to the mass rate specified in paragraph (i)(2)(i) of this section while observing the gas flow through the optical gas imaging instrument viewfinder. When an image of the gas emission is seen through the viewfinder at the required emission rate, make a record of the reading on the flow meter.

(v) Repeat the procedures specified in paragraphs (i)(2)(ii) through (i)(2)(iv) of this section for each configuration of the optical gas imaging instrument used during the leak survey.

(vi) To use an alternative method to demonstrate daily instrument checks, apply to the Administrator for approval of the alternative under §60.13(i).

(3) Leak Survey Procedure. Operate the optical gas imaging instrument to image every regulated piece of equipment selected for this work practice in accordance with the instrument manufacturer's operating parameters. All emissions imaged by the optical gas imaging instrument are considered to be leaks and are subject to repair. All emissions visible to the naked eye are also considered to be leaks and are subject to repair.

(4) Recordkeeping. You must keep the records described in paragraphs (i)(4)(i) through (i)(4)(vii) of this section:

(i) The equipment, processes, and facilities for which the owner or operator chooses to use the alternative work practice.

(ii) The detection sensitivity level selected from Table 1 to subpart A of this part for the optical gas imaging instrument.

(iii) The analysis to determine the piece of equipment in contact with the lowest mass fraction of chemicals that are detectable, as specified in paragraph (i)(2)(i)(A) of this section.

(iv) The technical basis for the mass fraction of detectable chemicals used in the equation in paragraph (i)(2)(i)(B) of this section.

(v) The daily instrument check. Record the distance, per paragraph (i)(2)(iv)(B) of this section, and the flow meter reading, per paragraph (i)(2)(iv)(C) of this section, at which the leak was imaged. Keep a video record of the daily instrument check for each configuration of the optical gas imaging instrument used during the leak survey (for example, the daily instrument check must be conducted for each lens used). The video record must include a time and date stamp for each daily instrument check. The video record must be kept for 5 years.

(vi) Recordkeeping requirements in the applicable subpart. A video record must be used to document the leak survey results. The video record must include a time and date stamp for each monitoring event. A video record can be used to meet the recordkeeping requirements of the applicable subparts if each piece of regulated equipment selected for this work practice can be identified in the video record. The video record must be kept for 5 years.

(vii) The results of the annual Method 21 screening required in paragraph (h)(7) of this section. Records must be kept for all regulated equipment specified in paragraph (h)(1) of this section. Records must identify the equipment screened, the screening value measured by Method 21, the time and date of the screening, and calibration information required in the existing applicable subpart.

(5) Reporting. Submit the reports required in the applicable subpart. Submit the records of the annual Method 21 screening required in paragraph (h)(7) of this section to the Administrator via e-mail to *CCG-AWP@EPA.GOV*.

[51 FR 2701, Jan. 21, 1986, as amended at 63 FR 24444, May 4, 1998; 65 FR 61752, Oct. 17, 2000; 73 FR 78209, Dec. 22, 2008]

**§ 60.19 General notification and reporting requirements.**

(a) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(b) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery, including the use of electronic media, agreed to by the permitting authority, is acceptable.

(c) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(e) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 61, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this part, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR part 61 or part 63 of this chapter standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)

(1)

(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

[59 FR 12428, Mar. 16, 1994, as amended at 64 FR 7463, Feb. 12, 1998]

**Table 1 to Subpart A to Part 60–Detection Sensitivity Levels (grams per hour)**

| Monitoring frequency per subpart[a] | Detection sensitivity level |
|---|---|
| Bi-Monthly | 60 |
| Semi-Quarterly | 85 |
| Monthly | 100 |

[a]When this alternative work practice is used to identify leaking equipment, the owner or operator must choose one of the monitoring frequencies listed in this table in lieu of the monitoring frequency specified in the applicable subpart. Bi-monthly means every other month. Semi-quarterly means twice per quarter. Monthly means once per month.

[73 FR 78211, Dec. 22, 2008]

| E.U. ID No. | Brief Description |
|---|---|
| 001, 002 & 003 | Municipal Waste Combustor Units 1, 2 & 3 |
| 100 & 112 | Ash Building and Handling System (applies to the ash conveying systems) |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: May 10, 2006*

*State Rule Effective Date: May 31, 2007*

*Standardized Conditions Revision Date: March 24, 2010*

**40 CFR Part 60, Subpart Cb - Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994**

**Source:** 60 FR 65415, Dec. 19, 1995, unless otherwise noted.

**Index**

**40 CFR 60.30b Scope and delegation of authority.**
**40 CFR 60.31b Definitions.**
**40 CFR 60.32b Designated facilities.**
**40 CFR 60.33b Emission guidelines for municipal waste combustor metals, acid gases, organics, and nitrogen oxides.**
**40 CFR 60.34b Emission guidelines for municipal waste combustor operating practices.**
**40 CFR 60.35b Emission guidelines for municipal waste combustor operator training and certification.**
**40 CFR 60.36b Emission guidelines for municipal waste combustor fugitive ash emissions.**
**40 CFR 60.37b Emission guidelines for air curtain incinerators.**
**40 CFR 60.38b Compliance and performance testing.**
**40 CFR 60.39b Reporting and recordkeeping guidelines and compliance schedules.**

**End of Index**

**§ 60.30b Scope and delegation of authority.**

(a) This subpart contains emission guidelines and compliance schedules for the control of certain designated pollutants from certain municipal waste combustors in accordance with section 111(d) and section 129 of the Clean Air Act and subpart B of this part. The provisions in these emission guidelines apply instead of the provisions of §60.24(f) of subpart B of this part.

(b) The following authorities are retained by EPA:

(1) Approval of exemption claims in §60.32b(b)(1), (d), (e), (f)(1), (i)(1);

(2) Approval of a nitrogen oxides trading program under §60.33b(d)(2);

(3) Approval of major alternatives to test methods;

(4) Approval of major alternatives to monitoring;

(5) Waiver of recordkeeping; and

(6) Performance test and data reduction waivers under §608(b).

[71 FR 27332, May 10, 2006]

**§ 60.31b Definitions.**

Terms used but not defined in this subpart have the meaning given them in the Clean Air Act and subparts A, B, and Eb of this part.

*EPA* means the Administrator of the U.S. EPA or employee of the U.S. EPA who is delegated to perform the specified task.

*Municipal waste combustor plant* means one or more designated facilities (as defined in §60.32b) at the same location.

*Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion* means a combustion unit that was converted from a wet refuse-derived fuel process to a dry refuse-derived fuel process, and because of constraints in the design of the system, includes a low furnace height (less than 60 feet between the grate and the roof) and a high waste capacity-to-undergrate air zone ratio (greater than 300 tons of waste per day (tpd) fuel per each undergrate air zone).

*Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable* means a spreader stoker type combustor with a fixed floor grate design that typically fires 100 percent refuse-derived fuel but is equipped to burn 100 percent coal instead of refuse-derived fuel to fulfill 100 percent steam or energy demand.

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45119, 45125, Aug. 25, 1997; 71 FR 27332, May 10, 2006]

**§ 60.32b Designated facilities.**

(a) The designated facility to which these guidelines apply is each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994.

(b) Any municipal waste combustion unit that is capable of combusting more than 250 tons per day of municipal solid waste and is subject to a federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this subpart if the owner or operator:

(1) Notifies EPA of an exemption claim,

(2) Provides a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day, and

(3) Keeps records of the amount of municipal solid waste fired on a daily basis.

(c) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with emission guidelines under this subpart are not considered in determining whether the unit is a modified or reconstructed facility under subpart Ea or subpart Eb of this part.

(d) A qualifying small power production facility, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to this subpart if the owner or operator of the facility notifies EPA of this exemption and provides data documenting that the facility qualifies for this exemption.

(e) A qualifying cogeneration facility, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy and steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes, is not subject to this subpart if the owner or operator of the facility notifies EPA of this exemption and provides data documenting that the facility qualifies for this exemption.

(f) Any unit combusting a single-item waste stream of tires is not subject to this subpart if the owner or operator of the unit:

(1) Notifies EPA of an exemption claim, and

(2) Provides data documenting that the unit qualifies for this exemption.

(g) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act is not subject to this subpart.

(h) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this subpart.

(i) Any co-fired combustor, as defined under §60.51b of subpart Eb of this part, that meets the capacity specifications in paragraph (a) of this section is not subject to this subpart if the owner or operator of the co-fired combustor:

(1) Notifies EPA of an exemption claim,

(2) Provides a copy of the federally enforceable permit (specified in the definition of co-fired combustor in this section), and

(3) Keeps a record on a calendar quarter basis of the weight of municipal solid waste combusted at the co-fired combustor and the weight of all other fuels combusted at the co-fired combustor.

(j) Air curtain incinerators, as defined under §60.51b of subpart Eb of this part, that meet the capacity specifications in paragraph (a) of this section, and that combust a fuel stream composed of 100 percent yard waste are exempt from all provisions of this subpart except the opacity standard under §60.37b, the testing procedures under §60.38b, and the reporting and recordkeeping provisions under §60.39b.

(k) Air curtain incinerators that meet the capacity specifications in paragraph (a) of this section and that combust municipal solid waste other than yard waste are subject to all provisions of this subpart.

(l) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit (as defined in §60.51b) are not subject to this subpart if the owner or operator of the plastics/rubber recycling unit keeps records of the weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis; the weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis; and the name and address of the purchaser of the feedstocks. The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this subpart.

(m) Cement kilns firing municipal solid waste are not subject to this subpart.

(n) Any affected facility meeting the applicability requirements under this section is not subject to subpart E of this part.

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45119, 45125, Aug. 25, 1997; 71 FR 27332, May 10, 2006]

**§ 60.33b Emission guidelines for municipal waste combustor metals, acid gases, organics, and nitrogen oxides.**

(a) The emission limits for municipal waste combustor metals are specified in paragraphs (a)(1) through (a)(3) of this section.

(1) For approval, a State plan shall include emission limits for particulate matter and opacity at least as protective as the emission limits for particulate matter and opacity specified in paragraphs (a)(1)(i) through (a)(1)(iii) of this section.

(i) Before April 28, 2009, the emission limit for particulate matter contained in the gases discharged to the atmosphere from a designated facility is 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen. On and after April 28, 2009, the emission limit for particulate matter contained in the gases discharged to the atmosphere from a designated facility is 25 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(ii) [Reserved]

(iii) The emission limit for opacity exhibited by the gases discharged to the atmosphere from a designated facility is 10 percent (6-minute average).

(2) For approval, a State plan shall include emission limits for cadmium at least as protective as the emission limits for cadmium specified in paragraphs (a)(2)(i) through (a)(2)(iv) of this section.

(i) Before April 28, 2009, the emission limit for cadmium contained in the gases discharged to the atmosphere from a designated facility is 40 micrograms per dry standard cubic meter, corrected to 7 percent oxygen. On and after April 28, 2009, the emission limit for cadmium contained in the gases discharged to the atmosphere from a designated facility is 35 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(ii) [Reserved]

(3) For approval, a State plan shall include emission limits for mercury at least as protective as the emission limits specified in this paragraph. Before April 28, 2009, the emission limit for mercury contained in the gases discharged to the atmosphere from a designated facility is 80 micrograms per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent. On and after April 28, 2009, the emission limit for mercury contained in the gases discharged to the atmosphere from a designated facility is 50 micrograms per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(4) For approval, a State plan shall include an emission limit for lead at least as protective as the emission limit for lead specified in this paragraph. Before April 28, 2009, the emission limit for lead contained in the gases discharged to the atmosphere from a designated facility is 440 micrograms per dry standard cubic meter, corrected to 7 percent

oxygen. On and after April 28, 2009, the emission limit for lead contained in the gases discharged to the atmosphere from a designated facility is 400 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(b) The emission limits for municipal waste combustor acid gases, expressed as sulfur dioxide and hydrogen chloride, are specified in paragraphs (b)(1) and (b)(2) of this section.

(1) For approval, a State plan shall include emission limits for sulfur dioxide at least as protective as the emission limits for sulfur dioxide specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.

(i) The emission limit for sulfur dioxide contained in the gases discharged to the atmosphere from a designated facility is 31 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(ii) [Reserved]

(2) For approval, a State plan shall include emission limits for hydrogen chloride at least as protective as the emission limits for hydrogen chloride specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(i) The emission limit for hydrogen chloride contained in the gases discharged to the atmosphere from a designated facility is 31 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(ii) [Reserved]

(3) For approval, a State plan shall be submitted by August 25, 1998 and shall include emission limits for sulfur dioxide and hydrogen chloride at least as protective as the emission limits specified in paragraphs (b)(3)(i) and (b)(3)(ii) of this section.

(i) The emission limit for sulfur dioxide contained in the gases discharged to the atmosphere from a designated facility is 29 parts per million by volume or 25 percent of the potential sulfur dioxide emission concentration (75-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

(ii) The emission limit for hydrogen chloride contained in the gases discharged to the atmosphere from a designated facility is 29 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(c) The emission limits for municipal waste combustor organics, expressed as total mass dioxin/furan, are specified in paragraphs (c)(1) and (c)(2) of this section.

(1) For approval, a State plan shall include an emission limit for dioxin/furan contained in the gases discharged to the atmosphere from a designated facility at least as protective as the emission limit for dioxin/furan specified in paragraphs (c)(1)(i), (c)(1)(ii), and (c)(1)(iii) of this section, as applicable.

(i) Before April 28, 2009, the emission limit for designated facilities that employ an electrostatic precipitator-based emission control system is 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(ii) On and after April 28, 2009, the emission limit for designated facilities that employ an electrostatic precipitator-based emission control system is 35 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(iii) The emission limit for designated facilities that do not employ an electrostatic precipitator-based emission control system is 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(d) For approval, a State plan shall include emission limits for nitrogen oxides at least as protective as the emission limits listed in table 1 of this subpart for designated facilities. Table 1 provides emission limits for the nitrogen oxides concentration level for each type of designated facility.

(1) A State plan may allow nitrogen oxides emissions averaging as specified in paragraphs (d)(1)(i) through (d)(1)(v) of this section.

(i) The owner or operator of a municipal waste combustor plant may elect to implement a nitrogen oxides emissions averaging plan for the designated facilities that are located at that plant and that are subject to subpart Cb, except as specified in paragraphs (d)(1)(i)(A) and (d)(1)(i)(B) of this section.

(A) Municipal waste combustor units subject to subpart Ea or Eb cannot be included in the emissions averaging plan.

(B) Mass burn refractory municipal waste combustor units and other municipal waste combustor technologies not listed in paragraph (d)(1)(iii) of this section may not be included in the emissions averaging plan.

(ii) The designated facilities included in the nitrogen oxides emissions averaging plan must be identified in the initial compliance report specified in §60.59b(f) or in the annual report specified in §60.59b(g), as applicable, prior to implementing the averaging plan. The designated facilities being included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with State approval.

(iii) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level for gases discharged from the designated facilities being included in the emissions averaging plan must be no greater than the levels specified in table 2 of this subpart. Table 2 provides emission limits for the nitrogen oxides concentration level for each type of designated facility.

(iv) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (d)(1)(iii) of this section shall be calculated using equation (1). Designated facilities that are offline shall not be included in calculating the average daily nitrogen oxides emission level.

$$NO_{X_{24-hr}} = \frac{\sum_{i=1}^{k}\left(NO_{X_i}\right)\left(S_i\right)}{\sum_{i=1}^{k}\left(S_i\right)} \qquad (1)$$

where:

NOX24-hr = 24-hr daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7 percent oxygen).

NOXi-hr = 24-hr daily average nitrogen oxides emission concentration level for designated facility i (parts per million by volume, corrected to 7 percent oxygen), calculated according to the procedures in §60.58b(h) of this subpart.

$S_i$ = maximum demonstrated municipal waste combustor unit load for designated facility i (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

h = total number of designated facilities being included in the daily emissions average.

(v) For any day in which any designated facility included in the emissions averaging plan is offline, the owner or operator of the municipal waste combustor plant must demonstrate compliance according to either paragraph (d)(1)(v)(A) of this section or both paragraphs (d)(1)(v)(B) and (d)(1)(v)(C) of this section.

(A) Compliance with the applicable limits specified in table 2 of this subpart shall be demonstrated using the averaging procedure specified in paragraph (d)(1)(iv) of this section for the designated facilities that are online.

(B) For each of the designated facilities included in the emissions averaging plan, the nitrogen oxides emissions on a daily average basis shall be calculated and shall be equal to or less than the maximum daily nitrogen oxides emission level achieved by that designated facility on any of the days during which the emissions averaging plan was achieved with all designated facilities online during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (d)(1)(v)(C)( *2* ) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (d)(1)(v)(C)( *1* ) of this section.

( *1* ) For all days during which the emissions averaging plan was implemented and achieved and during which all designated facilities were online, the average nitrogen oxides emissions shall be calculated. The average nitrogen oxides emissions (kilograms per day) shall be calculated on a calendar year basis according to paragraphs (d)(1)(v)(C)( *1* )( *i* ) through (d)(1)(v)(C)( *1* )( *iii* ) of this section.

( *i* ) For each designated facility included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under §60.38b(a) and specified under §60.58b(h)(5) of subpart Eb of this part, the flue gas flow rate determined using table 19–1 of EPA Reference Method 19 or a State-approved method, and the hourly average steam or feedwater flow rate.

( *ii* ) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each designated facility calculated under paragraph (d)(1)(v)(C)( *1* )( *i* ) of this section.

( *iii* ) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (d)(1)(v)(C)( *1* )( *ii* ) of this section divided by the number of calendar days for which a daily total was calculated.

( *2* ) For all days during which one or more of the designated facilities under the emissions averaging plan was offline, the average nitrogen oxides emissions shall be calculated. The average nitrogen oxides emissions (kilograms per day) shall be calculated on a calendar year basis according to paragraphs (d)(1)(v)(C)( *2* )( *i* ) through (d)(1)(v)(C)( *2* )( *iii* ) of this section.

( *i* ) For each designated facility included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under §60.38b(a) and specified under §60.58b(h)(5) of subpart Eb of this part, the flue gas flow rate determined using table 19–1 of EPA Reference Method 19 or a State-approved method, and the hourly average steam or feedwater flow rate.

( *ii* ) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each designated facility calculated under paragraph (d)(1)(v)(C)( *2* )( *i* ) of this section.

( *iii* ) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (d)(1)(v)(C)( *2* )( *ii* ) of this section divided by the number of calendar days for which a daily total was calculated.

(2) A State plan may establish a program to allow owners or operators of municipal waste combustor plants to engage in trading of nitrogen oxides emission credits. A trading program must be approved by EPA before implementation.

(3) For approval, a State plan shall include emission limits for nitrogen oxides from fluidized bed combustors at least as protective as the emission limits listed in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

(i) The emission limit for nitrogen oxides contained in the gases discharged to the atmosphere from a designated facility that is a fluidized bed combustor is 180 parts per million by volume, corrected to 7 percent oxygen.

(ii) If a State plan allows nitrogen oxides emissions averaging as specified in paragraphs (d)(1)(i) through (d)(1)(v) of this section, the emission limit for nitrogen oxides contained in the gases discharged to the atmosphere from a designated facility that is a fluidized bed combustor is 165 parts per million by volume, corrected to 7 percent oxygen.

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45119, 45125, Aug. 25, 1997; 71 FR 27333, May 10, 2006]

**§ 60.34b Emission guidelines for municipal waste combustor operating practices.**

(a) For approval, a State plan shall include emission limits for carbon monoxide at least as protective as the emission limits for carbon monoxide listed in table 3 of this subpart. Table 3 provides emission limits for the carbon monoxide concentration level for each type of designated facility.

(b) For approval, a State plan shall include requirements for municipal waste combustor operating practices at least as protective as those requirements listed in §60.53b(b) and (c) of subpart Eb of this part.

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45120, 45125, Aug. 25, 1997; 69 FR 42121, July 14, 2004; 71 FR 27333, May 10, 2006]

**§ 60.35b Emission guidelines for municipal waste combustor operator training and certification.**

For approval, a State plan shall include requirements for designated facilities for municipal waste combustor operator training and certification at least as protective as those requirements listed in §60.54b of subpart Eb of this part. The State plan shall require compliance with these requirements according to the schedule specified in §60.39b(c)(4).

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45120, Aug. 25, 1997]

**§ 60.36b Emission guidelines for municipal waste combustor fugitive ash emissions.**

For approval, a State plan shall include requirements for municipal waste combustor fugitive ash emissions at least as protective as those requirements listed in §60.55b of subpart Eb of this part.

**§ 60.37b Emission guidelines for air curtain incinerators.**

For approval, a State plan shall include emission limits for opacity for air curtain incinerators at least as protective as those listed in §60.56b of subpart Eb of this part.

**§ 60.38b Compliance and performance testing.**

(a) For approval, a State plan shall include the performance testing methods listed in §60.58b of subpart Eb of this part, as applicable, except as provided for under §60.24(b)(2) of subpart B of this part and paragraphs (b) and (c) of this section.

(b) For approval, a State plan shall include for designated facilities the alternative performance testing schedule for dioxins/furans specified in §60.58b(g)(5)(iii) of subpart Eb of this part, as applicable, for those designated facilities that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen.

(c) [Reserved]

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45120, Aug. 25, 1997]

**§ 60.39b Reporting and recordkeeping guidelines and compliance schedules.**

(a) For approval, a State plan shall include the reporting and recordkeeping provisions listed in §60.59b of subpart Eb of this part, as applicable, except for the siting requirements under §60.59b(a), (b)(5), and (d)(11) of subpart Eb of this part.

(b) Except as provided in paragraph (e) of this section, not later than December 19, 1996, each State in which a designated facility is located shall submit to EPA a plan to implement and enforce all provisions of this subpart except the revised April 28, 2009 emission limits in §60.33b(a), (c), and (d). Not later than April 28, 2007, each State in which a designated facility is located shall submit to EPA a plan to implement and enforce all provisions of this subpart, as amended on May 10, 2006. The submittal schedule specified in this paragraph is in accordance with section 129(b)(2) of the Clean Air Act and applies instead of the schedule provided in §60.23(a)(1) of subpart B of this part.

(c) For approval, a State plan that is submitted prior to May 10, 2006 shall include the compliance schedules specified in paragraphs (c)(1) through (c)(5) of this section.

(1) A State plan shall allow designated facilities to comply with all requirements of a State plan (or close) within 1 year after approval of the State plan, except as provided by paragraph (c)(1)(i) and (c)(1)(ii) of this section.

(i) A State plan that allows designated facilities more than 1 year but less than 3 years following the date of issuance of a revised construction or operation permit, if a permit modification is required, or more than 1 year but less than 3 years following approval of the State plan, if a permit modification is not required, shall include measurable and enforceable incremental steps of progress toward compliance. Suggested measurable and enforceable activities are specified in paragraphs (c)(1)(i)(A) through (c)(1)(i)(J) of this section.

(A) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);

(B) Date for obtaining design drawings of the air pollution control device(s);

(C) Date for submittal of permit modifications, if necessary;

(D) Date for submittal of the final control plan to the Administrator. [§60.21 (h)(1) of subpart B of this part.];

(E) Date for ordering the air pollution control device(s);

(F) Date for obtaining the major components of the air pollution control device(s);

(G) Date for initiation of site preparation for installation of the air pollution control device(s);

(H) Date for initiation of installation of the air pollution control device(s);

(I) Date for initial startup of the air pollution control device(s); and

(J) Date for initial performance test(s) of the air pollution control device(s).

(ii) A State plan that allows designated facilities more than 1 year but up to 3 years after State plan approval to close shall require a closure agreement. The closure agreement must include the date of plant closure.

(2) If the State plan requirements for a designated facility include a compliance schedule longer than 1 year after approval of the State plan in accordance with paragraph (c)(1)(i) or (c)(1)(ii) of this section, the State plan submittal (for approval) shall include performance test results for dioxin/furan emissions for each designated facility that has a compliance schedule longer than 1 year following the approval of the State plan, and the performance test results shall have been conducted during or after 1990. The performance test shall be conducted according to the procedures in §60.38b.

(3) [Reserved]

(4) A State plan shall require compliance with the municipal waste combustor operator training and certification requirements under §60.35b according to the schedule specified in paragraphs (c)(4)(i) through (c)(4)(iii) of this section.

(i) [Reserved]

(ii) For designated facilities, the State plan shall require compliance with the municipal waste combustor operator training and certification requirements specified under §60.54b (a) through (c) of subpart Eb of this part by the date 6 months after the date of startup or 12 months after State plan approval, whichever is later.

(iii) For designated facilities, the State plan shall require compliance with the requirements specified in §60.54b (d), (f), and (g) of subpart Eb of this part no later than 6 months after startup or 12 months after State plan approval, whichever is later.

(A) The requirement specified in §60.54b(d) of subpart Eb of this part does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(B) The owner or operator of a designated facility may request that the Administrator waive the requirement specified in §60.54b(d) of subpart Eb of this part for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the initial date of State plan approval.

(C) The initial training requirements specified in §60.54b(f)(1) of subpart Eb of this part shall be completed no later than the date specified in paragraph (c)(4)(iii)(C)( *1* ), (c)(4)(iii)(C)( *2* ), or (c)(4)(iii)(C)( *3* ), of this section whichever is later.

( *1* ) The date 6 months after the date of startup of the affected facility;

( *2* ) Twelve months after State plan approval; or

( *3* ) The date prior to the day when the person assumes responsibilities affecting municipal waste combustor unit operation.

(5) A State plan shall require all designated facilities for which construction, modification, or reconstruction is commenced after June 26, 1987 to comply with the emission limit for mercury specified in §60.33b(a)(3) and the emission limit for dioxins/furans specified in §60.33b(c)(1) within 1 year following issuance of a revised

construction or operation permit, if a permit modification is required, or within 1 year following approval of the State plan, whichever is later.

(d) In the event no plan for implementing the emission guidelines is approved by EPA, all designated facilities meeting the applicability requirements under §60.32b shall be in compliance with all of the guidelines, except those specified under §60.33b (a)(4), (b)(3), and (d)(3), no later than December 19, 2000.

(e) Not later than August 25, 1998, each State in which a designated facility is operating shall submit to EPA a plan to implement and enforce all provisions of this subpart specified in §60.33b(b)(3) and (d)(3) and the emission limit in paragraph (a)(4) that applies before April 28, 2009.

(f) In the event no plan for implementing the emission guidelines is approved by EPA, all designated facilities meeting the applicability requirements under §60.32b shall be in compliance with all of the guidelines, including those specified under §60.33b (a)(4), (b)(3), and (d)(3), no later than August 26, 2002.

(g) For approval, a revised State plan submitted not later than April 28, 2007 in accordance with paragraph (b) of this section, shall include compliance schedules for meeting the revised April 28, 2009 emission limits in §60.33b(a), (c), and (d) and the revised testing provisions in §60.38b(b).

(1) Compliance with the revised April 28, 2009 emission limits is required as expeditiously as practicable, but no later than April 28, 2009, except as provided in paragraph (g)(2) of this section.

(2) The owner or operator of an affected facility who is planning an extensive emission control system upgrade may petition the Administrator for a longer compliance schedule and must demonstrate to the satisfaction of the Administrator the need for the additional time. If approved, the schedule may exceed the schedule in paragraph (g)(1) of this section, but cannot exceed May 10, 2011.

(h) In the event no plan for implementing the emission guidelines is approved by EPA, all designated facilities meeting the applicability requirements under §60.32b shall be in compliance with all of the guidelines, including the revised April 28, 2009 emission limits in §60.33b(a), (b), (c), (d), and §60.34b(a), and the revised testing provisions in §60.38b(b), no later than May 10, 2011.

[60 FR 65415, Dec. 19, 1995, as amended at 62 FR 45120, 45125, Aug. 25, 1997; 71 FR 27333, May 10, 2006]

**Table 1 to Subpart Cb of Part 60—Nitrogen Oxides Guidelines for Designated Facilities**

| Municipal waste combustor technology | Before April 28, 2009, nitrogen oxides emission limit (parts per million by volume)[a] | On and after April 28, 2009, nitrogen oxides emission limit (parts per million by volume)[a] |
|---|---|---|
| Mass burn waterwall | 205 | 205. |
| Mass burn rotary waterwall | 250 | 210. |
| Refuse-derived fuel combustor | 250 | 250. |
| Fluidized bed combustor | 180 | 180. |
| Mass burn refractory combustors | No limit | No limit. |

[a]Corrected to 7 percent oxygen, dry basis.

[71 FR 27334, May 10, 2006]

**Table 2 to Subpart Cb of Part 60—Nitrogen Oxides Limits for Existing Designated Facilities Included in an Emissions Averaging Plan at a Municipal Waste Combustor Plant[b]**

| Municipal waste combustor technology | Before April 28, 2009, nitrogen oxides emission limit (parts per million by volume)[b] | On and after April 28, 2009, nitrogen oxides emission limit (parts per million by volume)[a] |
|---|---|---|
| Mass burn waterwall | 185 | 185 |
| Mass burn rotary waterwall | 220 | 190 |
| Refuse-derived fuel combustor | 230 | 230 |
| Fluidized bed combustor | 165 | 165 |

[a]Mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

[b]Corrected to 7 percent oxygen, dry basis.

[71 FR 27334, May 10, 2006]

**Table 3 to Subpart Cb of Part 60—Municipal Waste Combustor Operating Guidelines**

| Municipal waste combustor technology | Carbon monoxide emissions levels (parts per million by volume)[a] | Averaging time (hrs)[b] |
|---|---|---|
| Mass burn waterwall | 100 | 4 |
| Mass burn refractory | 100 | 4 |
| Mass burn rotary refractory | 100 | 24 |
| Mass burn rotary waterwall | 250 | 24 |
| Modular starved air | 50 | 4 |
| Modular excess air | 50 | 4 |
| Refuse-derived fuel stoker | 200 | 24 |
| Fluidized bed, mixed fuel (wood/refuse-derived fuel) | 200 | [c]24 |
| Bubbling fluidized bed combustor | 100 | 4 |
| Circulating fluidized bed combustor | 100 | 4 |
| Pulverized coal/refuse-derived fuel mixed fuel-fired combustor | 150 | 4 |
| Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor | 200 | 24 |
| Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion | 250 | [c]24 |
| Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable | 250 | [c]24 |

[a]Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

[b]Averaging times are 4-hour or 24-hour block averages.

[c]24-hour block average, geometric mean.

[71 FR 27334, May 10, 2006]

| E.U. ID No. | Brief Description |
|---|---|
| 107 | Municipal Waste Combustor Unit 4 |
| 100 & 112 | Ash Building and Handling System (applies to the ash conveying systems) |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: May 10, 2006*

*Rule Effective Date: May 31, 2007*

*Standardized Conditions Revision Date: April 21, 2008*

**40 CFR Part 60, Subpart Eb - Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996**

**Source:** 60 FR 65419, Dec. 19, 1995, unless otherwise noted.

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**40 CFR 60.51b Definitions.**
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**40 CFR 60.55b Standards for municipal waste combustor fugitive ash emissions.**
**40 CFR 60.56b Standards for air curtain incinerators.**
**40 CFR 60.57b Siting requirements.**
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**40 CFR 60.59b Reporting and recordkeeping requirements.**
**40 CFR 60.19 General notification and reporting requirements.**

**End of Index**

**§ 60.50b Applicability and delegation of authority.**

(a) The affected facility to which this subpart applies is each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction, modification, or reconstruction is commenced after September 20, 1994.

(b) Any waste combustion unit that is capable of combusting more than 250 tons per day of municipal solid waste and is subject to a federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this subpart if the owner or operator:

(1) Notifies EPA of an exemption claim;

(2) Provides a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day; and

(3) Keeps records of the amount of municipal solid waste fired on a daily basis.

(c) An affected facility to which this subpart applies is not subject to subpart E or Ea of this part.

(d) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with emission guidelines under subpart Cb are not considered a modification or reconstruction and do not result in an existing municipal waste combustor unit becoming subject to this subpart.

(e) A qualifying small power production facility, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to this subpart if the owner or operator of the facility notifies EPA of this exemption and provides data documenting that the facility qualifies for this exemption.

(f) A qualifying cogeneration facility, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy and steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes, is not subject to this subpart if the owner or operator of the facility notifies EPA of this exemption and provides data documenting that the facility qualifies for this exemption.

(g) Any unit combusting a single-item waste stream of tires is not subject to this subpart if the owner or operator of the unit:

(1) Notifies EPA of an exemption claim; and

(2) [Reserved]

(3) Provides data documenting that the unit qualifies for this exemption.

(h) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act is not subject to this subpart.

(i) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this subpart.

(j) Any cofired combustor, as defined under §60.51b, that meets the capacity specifications in paragraph (a) of this section is not subject to this subpart if the owner or operator of the cofired combustor:

(1) Notifies EPA of an exemption claim;

(2) Provides a copy of the federally enforceable permit (specified in the definition of cofired combustor in this section); and

(3) Keeps a record on a calendar quarter basis of the weight of municipal solid waste combusted at the cofired combustor and the weight of all other fuels combusted at the cofired combustor.

(k) Air curtain incinerators, as defined under §60.51b, located at a plant that meet the capacity specifications in paragraph (a) of this section and that combust a fuel stream composed of 100 percent yard waste are exempt from all provisions of this subpart except the opacity limit under §60.56b, the testing procedures under §60.58b(l), and the reporting and recordkeeping provisions under §60.59b (e) and (i).

(l) Air curtain incinerators located at plants that meet the capacity specifications in paragraph (a) of this section combusting municipal solid waste other than yard waste are subject to all provisions of this subpart.

(m) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit (as defined in §60.51b) are not subject to this subpart if the owner or operator of the plastics/rubber recycling unit keeps records of the weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis; the weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis; and the name and address of the purchaser of the feedstocks. The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this subpart.

(n) The following authorities are retained by the Administrator of the U.S. EPA and are not transferred to a State:

(1) Approval of exemption claims in paragraphs (b), (e), (f), (g) and (j) of this section;

(2) Enforceability under Federal law of all Federally enforceable, as defined in §60.51b, limitations and conditions;

(3) Determination of compliance with the siting requirements as specified in §60.57b(a);

(4) Acceptance of relationship between carbon monoxide and oxygen as part of initial and annual performance tests as specified in §60.58b(b)(7);

(5) Approval of other monitoring systems used to obtain emissions data when data is not obtained by CEMS as specified in §60.58b(e)(14), (h)(12), (i)(11), and (n)(14), and (p)(11);

(6) Approval of a site-specific monitoring plan for the continuous emission monitoring system specified in "60.58b(n)(13) and (o) of this section or the continuous automated sampling system specified in §60.58b(p)(10) and (q) of this section;

(7) Approval of major alternatives to test methods;

(8) Approval of major alternatives to monitoring;

(9) Waiver of recordkeeping; and

(10) Performance test and data reduction waivers under "608(b).

(o) This subpart shall become effective June 19, 1996.

(p) Cement kilns firing municipal solid waste are not subject to this subpart.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45120, 45125, Aug. 25, 1997; 71 FR 27335, May 10, 2006]

**§ 60.51b Definitions.**

*Administrator means:*

(1) For approved and effective State Section 111(d)/129 plans, the Director of the State air pollution control agency, or employee of the State air pollution control agency that is delegated the authority to perform the specified task;

(2) For Federal Section 111(d)/129 plans, the Administrator of the EPA, an employee of the EPA, the Director of the State air pollution control agency, or employee of the State air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task; and

(3) For NSPS, the Administrator of the EPA, an employee of the EPA, the Director of the State air pollution control agency, or employee of the State air pollution control agency to whom the authority has been delegated by the Administrator of the EPA to perform the specified task.

*Air curtain incinerator* means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

*Batch municipal waste combustor* means a municipal waste combustor unit designed so that it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed while combustion is occurring.

*Bubbling fluidized bed combustor* means a fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

*Calendar quarter* means a consecutive 3-month period (nonoverlapping) beginning on January 1, April 1, July 1, and October 1.

*Calendar year* means the period including 365 days starting January 1 and ending on December 31.

*Chief facility operator* means the person in direct charge and control of the operation of a municipal waste combustor and who is responsible for daily onsite supervision, technical direction, management, and overall performance of the facility.

*Circulating fluidized bed combustor* means a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

*Clean wood* means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this section, or construction, renovation, and demolition wastes (including but not limited to railroad ties and telephone poles), which are exempt from the definition of municipal solid waste in this section.

*Cofired combustor* means a unit combusting municipal solid waste with nonmunicipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit limiting the unit to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste as measured on a calendar quarter basis.

*Continuous automated sampling system* means the total equipment and procedures for automated sample collection and sample recovery/analysis to determine a pollutant concentration or emission rate by collecting a single or multiple integrated sample(s) of the pollutant (or diluent gas) for subsequent on-or off-site analysis; integrated sample(s) collected are representative of the emissions for the sample time as specified by the applicable requirement.

*Continuous emission monitoring system* means a monitoring system for continuously measuring the emissions of a pollutant from an affected facility.

*Dioxin/furan* means tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans.

*EPA* means the Administrator of the U.S. EPA or employee of the U.S. EPA who is delegated to perform the specified task.

*Federally enforceable* means all limitations and conditions that are enforceable by EPA including the requirements of 40 CFR part 60, 40 CFR part 61, and 40 CFR part 63, requirements within any applicable State implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

*First calendar half* means the period starting on January 1 and ending on June 30 in any year.

*Four-hour block average* or *4-hour block average* means the average of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over 4-hour periods of time from 12:00 midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to 12:00 noon, 12:00 noon to 4 p.m., 4 p.m. to 8 p.m., and 8 p.m. to 12:00 midnight.

*Mass burn refractory municipal waste combustor* means a field-erected combustor that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes combustors with a cylindrical rotary refractory wall furnace.

*Mass burn rotary waterwall municipal waste combustor* means a field-erected combustor that combusts municipal solid waste in a cylindrical rotary waterwall furnace or on a tumbling-tile grate.

*Mass burn waterwall municipal waste combustor* means a field-erected combustor that combusts municipal solid waste in a waterwall furnace.

*Materials separation plan* means a plan that identifies both a goal and an approach to separate certain components of municipal solid waste for a given service area in order to make the separated materials available for recycling. A materials separation plan may include elements such as dropoff facilities, buy-back or deposit-return incentives, curbside pickup programs, or centralized mechanical separation systems. A materials separation plan may include different goals or approaches for different subareas in the service area, and may include no materials separation activities for certain subareas or, if warranted, an entire service area.

*Maximum demonstrated municipal waste combustor unit load* means the highest 4-hour arithmetic average municipal waste combustor unit load achieved during four consecutive hours during the most recent dioxin/furan performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under §60.52b(c).

*Maximum demonstrated particulate matter control device temperature* means the highest 4-hour arithmetic average flue gas temperature measured at the particulate matter control device inlet during four consecutive hours during the most recent dioxin/furan performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under §60.52b(c).

*Modification* or *modified municipal waste combustor unit* means a municipal waste combustor unit to which changes have been made after June 19, 1996 if the cumulative cost of the changes, over the life of the unit, exceed 50 percent of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or any physical change in the municipal waste combustor unit or change in the method of operation of the municipal waste combustor unit increases the amount of any air pollutant emitted by the unit for which standards have been established under section 129 or section 111. Increases in the amount of any air pollutant emitted by the municipal waste combustor unit are determined at 100-percent physical load capability and downstream of all air pollution control devices, with no consideration given for load restrictions based on permits or other nonphysical operational restrictions.

*Modular excess-air municipal waste combustor* means a combustor that combusts municipal solid waste and that is not field-erected and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

*Modular starved-air municipal waste combustor* means a combustor that combusts municipal solid waste and that is not field-erected and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

*Municipal solid waste* or *municipal-type solid waste* or *MSW* means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff). Household, commercial/retail, and institutional wastes include:

(1) Yard waste;

(2) Refuse-derived fuel; and

(3) Motor vehicle maintenance materials limited to vehicle batteries and tires except as specified in §60.50b(g).

*Municipal waste combustor, MWC,* or *municipal waste combustor unit:*

(1) Means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (i.e., steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at a plastics/rubber recycling unit (as specified in §60.50b(m)). Municipal waste combustors do not include cement kilns firing municipal solid waste (as specified in §60.50b(p)). Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal solid waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

(i) The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber,

(ii) The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfer the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and

(iii) The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

(3) The municipal waste combustor unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

*Municipal waste combustor acid gases* means all acid gases emitted in the exhaust gases from municipal waste combustor units including, but not limited to, sulfur dioxide and hydrogen chloride gases.

*Municipal waste combustor metals* means metals and metal compounds emitted in the exhaust gases from municipal waste combustor units.

*Municipal waste combustor organics* means organic compounds emitted in the exhaust gases from municipal waste combustor units and includes tetra-through octa- chlorinated dibenzo-p-dioxins and dibenzofurans.

*Municipal waste combustor plant* means one or more affected facilities (as defined in §60.50b) at the same location.

*Municipal waste combustor unit capacity* means the maximum charging rate of a municipal waste combustor unit expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under §60.58b(j). Section 60.58b(j) includes procedures for determining municipal waste combustor unit capacity for continuous and batch feed municipal waste combustors.

*Municipal waste combustor unit load* means the steam load of the municipal waste combustor unit measured as specified in §60.58b(i)(6).

*Particulate matter* means total particulate matter emitted from municipal waste combustor units as measured by EPA Reference Method 5 (see §60.58b(c)).

*Plastics/rubber recycling unit* means an integrated processing unit where plastics, rubber, and/or rubber tires are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock, where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, and/or rubber tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste, and may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (e.g., paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).

*Potential hydrogen chloride emission concentration* means the hydrogen chloride emission concentration that would occur from combustion of municipal solid waste in the absence of any emission controls for municipal waste combustor acid gases.

*Potential mercury emission concentration* means the mercury emission concentration that would occur from combustion of municipal solid waste in the absence of any mercury emissions control.

*Potential sulfur dioxide emissions* means the sulfur dioxide emission concentration that would occur from combustion of municipal solid waste in the absence of any emission controls for municipal waste combustor acid gases.

*Pulverized coal/refuse-derived fuel mixed fuel-fired combustor* means a combustor that fires coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is fired in suspension. This includes both conventional pulverized coal and micropulverized coal.

*Pyrolysis/combustion unit* means a unit that produces gases, liquids, or solids through the heating of municipal solid waste, and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere.

*Reconstruction* means rebuilding a municipal waste combustor unit for which the reconstruction commenced after June 19, 1996, and the cumulative costs of the construction over the life of the unit exceed 50 percent of the original cost of construction and installation of the unit (not including any cost of land purchased in connection with such construction or installation) updated to current costs (current dollars).

*Refractory unit* or *refractory wall furnace* means a combustion unit having no energy recovery (e.g., via a waterwall) in the furnace (i.e., radiant heat transfer section) of the combustor.

*Refuse-derived fuel* means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived fuel and pelletized refuse-derived fuel.

*Refuse-derived fuel stoker* means a steam generating unit that combusts refuse-derived fuel in a semisuspension firing mode using air-fed distributors.

*Same location* means the same or contiguous property that is under common ownership or control including properties that are separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof including any municipality or other governmental unit, or any quasi-governmental authority (e.g., a public utility district or regional waste disposal authority).

*Second calendar half* means the period starting July 1 and ending on December 31 in any year.

*Shift supervisor* means the person who is in direct charge and control of the operation of a municipal waste combustor and who is responsible for onsite supervision, technical direction, management, and overall performance of the facility during an assigned shift.

*Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor* means a combustor that fires coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

*Standard conditions* means a temperature of 20 °C and a pressure of 101.3 kilopascals.

*Total mass dioxin/furan* or *total mass* means the total mass of tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans, as determined using EPA Reference Method 23 and the procedures specified under §60.58b(g).

*Tumbling-tile* means a grate tile hinged at one end and attached to a ram at the other end. When the ram extends, the grate tile rotates around the hinged end.

*Twenty-four hour daily average* or *24-hour daily average* means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over a 24-hour period between 12:00 midnight and the following midnight.

*Untreated lumber* means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or "pressure-treated." Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

*Waterwall furnace* means a combustion unit having energy (heat) recovery in the furnace (i.e., radiant heat transfer section) of the combustor.

*Yard waste* means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and/or industrial sources as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of municipal solid waste in this section. Yard waste does not include clean wood, which is exempt from the definition of municipal solid waste in this section.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45121, 45126, Aug. 25, 1997; 66 FR 36476, July 12, 2001; 71 FR 27335, May 10, 2006]

**§ 60.52b Standards for municipal waste combustor metals, acid gases, organics, and nitrogen oxides.**

(a) The limits for municipal waste combustor metals are specified in paragraphs (a)(1) through (a)(5) of this section.

(1) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain particulate matter in excess of the limits specified in paragraph (a)(1)(i) or (a)(1)(ii) of this section.

(i) For affected facilities that commenced construction, modification, or reconstruction after September 20, 1994, and on or before December 19, 2005, the emission limit is 24 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(ii) For affected facilities that commenced construction, modification, or reconstruction after December 19, 2005, the emission limit is 20 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(2) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that exhibit greater than 10 percent opacity (6-minute average).

(3) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain cadmium in excess of the limits specified in paragraph (a)(3)(i) or (a)(3)(ii) of this section.

(i) For affected facilities that commenced construction, modification, or reconstruction after September 20, 1994, and on or before December 19, 2005, the emission limit is 20 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(ii) For affected facilities that commenced construction, modification, or reconstruction after December 19, 2005, the emission limit is 10 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(4) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from the affected facility any gases that contain lead in excess of the limits specified in paragraph (a)(4)(i) or (a)(4)(ii) of this section.

(i) For affected facilities that commenced construction, modification, or reconstruction after September 20, 1994, and on or before December 19, 2005, the emission limit is 200 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(ii) For affected facilities that commenced construction, modification, or reconstruction after December 19, 2005, the emission limit is 140 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(5) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from the affected facility any gases that contain mercury in excess of the limits specified in paragraph (a)(5)(i) or (a)(5)(ii) of this section.

(i) For affected facilities that commenced construction, modification, or reconstruction after September 20, 1994 and on or before December 19, 2005, the emission limit is 80 micrograms per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(ii) For affected facilities that commenced construction, modification, or reconstruction after December 19, 2005, the emission limit is 50 micrograms per dry standard cubic meter, or 15 percent of the potential mercury emission concentration (85-percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(b) The limits for municipal waste combustor acid gases are specified in paragraphs (b)(1) and (b)(2) of this section.

(1) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain sulfur dioxide in excess of 30 parts per million by volume or 20 percent of the potential sulfur dioxide emission concentration (80-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent. The averaging time is specified under §60.58b(e).

(2) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain hydrogen chloride in excess of 25 parts per million by volume or 5 percent of the potential hydrogen chloride emission concentration (95-percent reduction by weight or volume), corrected to 7 percent oxygen (dry basis), whichever is less stringent.

(c) The limits for municipal waste combustor organics are specified in paragraphs (c)(1) and (c)(2) of this section.

(1) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility for which construction, modification or reconstruction commences on or before November 20, 1997 shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxin/furan emissions that exceed 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen, for the first 3 years following the date of initial startup. After the first 3 years following the date of initial startup, no owner or operator shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxin/furan total mass emissions that exceed 13 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility for which construction, modification, or reconstruction commences after November 20, 1997 shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxin/furan total mass emissions that exceed 13 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(d) The limits for nitrogen oxides are specified in paragraphs (d)(1) and (d)(2) of this section.

(1) During the first year of operation after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of 180 parts per million by volume, corrected to 7 percent oxygen (dry basis). The averaging time is specified under §60.58b(h).

(2) After the first year of operation following the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of 150 parts per million by volume, corrected to 7 percent oxygen (dry basis). The averaging time is specified under §60.58b(h).

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45121, 45126, Aug. 25, 1997; 71 FR 27336, May 10, 2006]

**§ 60.53b Standards for municipal waste combustor operating practices.**

(a) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain carbon monoxide in excess of the emission limits specified in table 1 of this subpart.

**Table 1—Municipal Waste Combustor Operating Standards**

| Municipal waste combustor technology | Carbon monoxide emission limit (parts per million by volume)[a] | Averaging time (hours)[b] |
|---|---|---|
| Mass burn waterwall | 100 | 4 |
| Mass burn refractory | 100 | 4 |
| Mass burn rotary waterwall | 100 | 24 |
| Modular starved air | 50 | 4 |
| Modular excess air | 50 | 4 |
| Refuse-derived fuel stoker | 150 | 24 |
| Bubbling fluidized bed combustor | 100 | 4 |
| Circulating fluidized bed combustor | 100 | 4 |
| Pulverized coal/refuse-derived fuel mixed fuel-fired combustor | 150 | 4 |
| Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor | 150 | 24 |

[a]Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen (dry basis). The averaging times are specified in greater detail in §60.58b(i).

[b]Averaging times are 4-hour or 24-hour block averages.

(b) No owner or operator of an affected facility shall cause such facility to operate at a load level greater than 110 percent of the maximum demonstrated municipal waste combustor unit load as defined in §60.51b, except as specified in paragraphs (b)(1) and (b)(2) of this section. The averaging time is specified under §60.58b(i).

(1) During the annual dioxin/furan or mercury performance test and the 2 weeks preceding the annual dioxin/furan or mercury performance test, no municipal waste combustor unit load limit is applicable if the provisions of paragraph (b)(2) of this section are met.

(2) The municipal waste combustor unit load limit may be waived in writing by the Administrator for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The municipal waste combustor unit load limit continues to apply, and remains enforceable, until and unless the Administrator grants the waiver.

(c) No owner or operator of an affected facility shall cause such facility to operate at a temperature, measured at the particulate matter control device inlet, exceeding 17 °C above the maximum demonstrated particulate matter control device temperature as defined in §60.51b, except as specified in paragraphs (c)(1) and (c)(2) of this section. The averaging time is specified under §60.58b(i). The requirements specified in this paragraph apply to each particulate matter control device utilized at the affected facility.

(1) During the annual dioxin/furan or mercury performance test and the 2 weeks preceding the annual dioxin/furan or mercury performance test, no particulate matter control device temperature limitations are applicable if the provisions of paragraph (b)(2) of this section are met.

(2) The particulate matter control device temperature limits may be waived in writing by the Administrator for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related

activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions. The temperature limits continue to apply, and remain enforceable, until and unless the Administrator grants the waiver.

(d) Paragraph (m)(2) of §60.58b addresses treatment of activated carbon injection rate during dioxin/furan or mercury testing.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997; 71 FR 27336, May 10, 2006]

**§ 60.54b Standards for municipal waste combustor operator training and certification.**

(a) No later than the date 6 months after the date of startup of an affected facility or on December 19, 1996, whichever is later, each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers [QRO–1–1994 (incorporated by reference—see §60.17 of subpart A of this part)] or a State certification program.

(b) Not later than the date 6 months after the date of startup of an affected facility or on December 19, 1996, whichever is later, each chief facility operator and shift supervisor shall have completed full certification or shall have scheduled a full certification exam with either the American Society of Mechanical Engineers [QRO–1–1994 (incorporated by reference—see §60.17 of subpart A of this part)] or a State certification program.

(c) No owner or operator of an affected facility shall allow the facility to be operated at any time unless one of the following persons is on duty and at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam according to the schedule specified in paragraph (b) of this section.

(1) The requirement specified in paragraph (c) of this section shall take effect 6 months after the date of startup of the affected facility or on December 19, 1996, whichever is later.

(2) If both the certified chief facility operator and certified shift supervisor are unavailable, a provisionally certified control room operator on site at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, the owner or operator of the affected facility must meet one of three criteria:

(i) When the certified chief facility operator and certified shift supervisor are both off site for 12 hours or less, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor.

(ii) When the certified chief facility operator and certified shift supervisor are off site for more than 12 hours, but for two weeks or less, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Administrator. However, the owner or operator of the affected facility must record the period when the certified chief facility operator and certified shift supervisor are off site and include that information in the annual report as specified under §60.59b(g)(5).

(iii) When the certified chief facility operator and certified shift supervisor are off site for more than two weeks, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor without approval by the Administrator. However, the owner or operator of the affected facility must take two actions:

(A) Notify the Administrator in writing. In the notice, state what caused the absence and what actions are being taken by the owner or operator of the facility to ensure that a certified chief facility operator or certified shift supervisor is on site as expeditiously as practicable.

(B) Submit a status report and corrective action summary to the Administrator every four weeks following the initial notification. If the Administrator provides notice that the status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Administrator withdraws the disapproval, municipal waste combustion unit operation may continue.

(3) A provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position at the municipal waste combustion unit may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Administrator for up to six months before taking the ASME QRO certification exam.

(d) All chief facility operators, shift supervisors, and control room operators at affected facilities must complete the EPA or State municipal waste combustor operator training course no later than the date 6 months after the date of startup of the affected facility or by December 19, 1996, whichever is later.

(e) The owner or operator of an affected facility shall develop and update on a yearly basis a site-specific operating manual that shall, at a minimum, address the elements of municipal waste combustor unit operation specified in paragraphs (e)(1) through (e)(11) of this section.

(1) A summary of the applicable standards under this subpart;

(2) A description of basic combustion theory applicable to a municipal waste combustor unit;

(3) Procedures for receiving, handling, and feeding municipal solid waste;

(4) Municipal waste combustor unit startup, shutdown, and malfunction procedures;

(5) Procedures for maintaining proper combustion air supply levels;

(6) Procedures for operating the municipal waste combustor unit within the standards established under this subpart;

(7) Procedures for responding to periodic upset or off-specification conditions;

(8) Procedures for minimizing particulate matter carryover;

(9) Procedures for handling ash;

(10) Procedures for monitoring municipal waste combustor unit emissions; and

(11) Reporting and recordkeeping procedures.

(f) The owner or operator of an affected facility shall establish a training program to review the operating manual according to the schedule specified in paragraphs (f)(1) and (f)(2) of this section with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (f) of this section shall undergo initial training no later than the date specified in paragraph (f)(1)(i), (f)(1)(ii), or (f)(1)(iii) of this section whichever is later.

(i) The date 6 months after the date of startup of the affected facility;

(ii) The date prior to the day the person assumes responsibilities affecting municipal waste combustor unit operation; or

(iii) December 19, 1996.

(2) Annually, following the initial review required by paragraph (f)(1) of this section.

(g) The operating manual required by paragraph (e) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (f) of this section. The operating manual and records of training shall be available for inspection by the EPA or its delegated enforcement agency upon request.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997; 71 FR 27337, May 10, 2006]

**§ 60.55b Standards for municipal waste combustor fugitive ash emissions.**

(a) On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, no owner or operator of an affected facility shall cause to be discharged to the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by EPA Reference Method 22 observations as specified in §60.58b(k), except as provided in paragraphs (b) and (c) of this section.

(b) The emission limit specified in paragraph (a) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit specified in paragraph (a) of this section does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(c) The provisions specified in paragraph (a) of this section do not apply during maintenance and repair of ash conveying systems.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997]

**§ 60.56b Standards for air curtain incinerators.**

On and after the date on which the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, the owner or operator of an air curtain incinerator with the capacity to combust greater than 250 tons per day of municipal solid waste and that combusts a fuel feed stream composed of 100 percent yard waste and no other municipal solid waste materials shall at no time cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10-percent opacity (6-minute average), except that an opacity level of up to 35 percent (6-minute average) is permitted during startup periods during the first 30 minutes of operation of the unit.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997]

**§ 60.57b Siting requirements.**

(a) The owner or operator of an affected facility shall prepare a materials separation plan, as defined in §60.51b, for the affected facility and its service area, and shall comply with the requirements specified in paragraphs (a)(1) through (a)(10) of this section. The initial application is defined as representing a good faith submittal as determined by EPA.

(1) The owner or operator shall prepare a preliminary draft materials separation plan and shall make the plan available to the public as specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(i) The owner or operator shall distribute the preliminary draft materials separation plan to the principal public libraries in the area where the affected facility is to be constructed.

(ii) The owner or operator shall publish a notification of a public meeting in the principal newspaper(s) serving the area where the affected facility is to be constructed and where the waste treated by the affected facility will primarily be collected. As a minimum, the notification shall include the information specified in paragraphs (a)(1)(ii)(A) through (a)(1)(ii)(D) of this section.

(A) The date, time, and location of the public meeting.

(B) The location of the public libraries where the preliminary draft materials separation plan may be found, including normal business hours of the libraries.

(C) An agenda of the issues to be discussed at the public meeting.

(D) The dates that the public comment period on the preliminary draft materials separation plan begins and ends.

(2) The owner or operator shall conduct a public meeting, accept comments on the preliminary draft materials separation plan, and comply with the requirements specified in paragraphs (a)(2)(i) through (a)(2)(iv) of this section.

(i) The public meeting shall be conducted in the county where the affected facility is to be located.

(ii) The public meeting shall be scheduled to occur 30 days or more after making the preliminary draft materials separation plan available to the public as specified under paragraph (a)(1) of this section.

(iii) Suggested issues to be addressed at the public meeting are listed in paragraphs (a)(2)(iii)(A) through (a)(2)(iii)(H) of this section.

(A) The expected size of the service area for the affected facility.

(B) The amount of waste generation anticipated for the service area.

(C) The types and estimated amounts of materials proposed for separation.

(D) The methods proposed for materials separation.

(E) The amount of residual waste to be disposed.

(F) Alternate disposal methods for handling the residual waste.

(G) Identification of the location(s) where responses to public comment on the preliminary draft materials separation plan will be available for inspection, as specified in paragraphs (a)(3) and (a)(4) of this section.

(H) Identification of the locations where the final draft materials separation plan will be available for inspection, as specified in paragraph (a)(7).

(iv) Nothing in this section shall preclude an owner or operator from combining this public meeting with any other public meeting required as part of any other Federal, State, or local permit review process except the public meeting required under paragraph (b)(4) of this section.

(3) Following the public meeting required by paragraph (a)(2) of this section, the owner or operator shall prepare responses to the comments received at the public meeting.

(4) The owner or operator shall make the document summarizing responses to public comments available to the public (including distribution to the principal public libraries used to announce the meeting) in the service area where the affected facility is to be located.

(5) The owner or operator shall prepare a final draft materials separation plan for the affected facility considering the public comments received at the public meeting.

(6) As required under §60.59b(a), the owner or operator shall submit to EPA a copy of the notification of the public meeting, a transcript of the public meeting, the document summarizing responses to public comments, and copies of both the preliminary and final draft materials separation plans on or before the time the facility's application for a construction permit is submitted under 40 CFR part 51, subpart I, or part 52, as applicable.

(7) As part of the distribution of the siting analysis required under paragraph (b)(3) of this section, the owner or operator shall make the final draft materials separation plan required under paragraph (a)(5) of this section available to the public, as specified in paragraph (b)(3) of this section.

(8) As part of the public meeting for review of the siting analysis required under paragraph (b)(4) of this section, the owner or operator shall address questions concerning the final draft materials separation plan required by paragraph (a)(5) of this section including discussion of how the final draft materials separation plan has changed from the preliminary draft materials separation plan that was discussed at the first public meeting required by paragraph (a)(2) of this section.

(9) If the owner or operator receives any comments on the final draft materials separation plan during the public meeting required in paragraph (b)(4) of this section, the owner or operator shall respond to those comments in the document prepared in accordance with paragraph (b)(5) of this section.

(10) The owner or operator shall prepare a final materials separation plan and shall submit, as required under §60.59b(b)(5)(ii), the final materials separation plan as part of the initial notification of construction.

(b) The owner or operator of an affected facility for which the initial application for a construction permit under 40 CFR part 51, subpart I, or part 52, as applicable, is submitted after December 19, 1995 shall prepare a siting analysis in accordance with paragraphs (b)(1) and (b)(2) of this section and shall comply with the requirements specified in paragraphs (b)(3) through (b)(7) of this section.

(1) The siting analysis shall be an analysis of the impact of the affected facility on ambient air quality, visibility, soils, and vegetation.

(2) The analysis shall consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to the public health or the environment.

(3) The owner or operator shall make the siting analysis and final draft materials separation plan required by paragraph (a)(5) of this section available to the public as specified in paragraphs (b)(3)(i) and (b)(3)(ii) of this section.

(i) The owner or operator shall distribute the siting analysis and final draft materials separation plan to the principal public libraries in the area where the affected facility is to be constructed.

(ii) The owner or operator shall publish a notification of a public meeting in the principal newspaper(s) serving the area where the affected facility is to be constructed and where the waste treated by the affected facility will primarily be collected. As a minimum, the notification shall include the information specified in paragraphs (b)(3)(ii)(A) through (b)(3)(ii)(D) of this section.

(A) The date, time, and location of the public meeting.

(B) The location of the public libraries where the siting analyses and final draft materials separation plan may be found, including normal business hours.

(C) An agenda of the issues to be discussed at the public meeting.

(D) The dates that the public comment period on the siting analyses and final draft materials separation plan begins and ends.

(4) The owner or operator shall conduct a public meeting and accept comments on the siting analysis and the final draft materials separation plan required under paragraph (a)(5) of this section. The public meeting shall be conducted in the county where the affected facility is to be located and shall be scheduled to occur 30 days or more after making the siting analysis available to the public as specified under paragraph (b)(3) of this section.

(5) The owner or operator shall prepare responses to the comments on the siting analysis and the final draft materials separation plan that are received at the public meeting.

(6) The owner or operator shall make the document summarizing responses to public comments available to the public (including distribution to all public libraries) in the service area where the affected facility is to be located.

(7) As required under §60.59b(b)(5), the owner or operator shall submit a copy of the notification of the public meeting, a transcript of the public meeting, the document summarizing responses to public comments, and the siting analysis as part of the initial notification of construction.

(c) The owner or operator of an affected facility for which construction is commenced after September 20, 1994 shall prepare a siting analysis in accordance with 40 CFR part 51, Subpart I, or part 52, as applicable, and shall submit the siting analysis as part of the initial notification of construction. Affected facilities subject to paragraphs (a) and (b) of this section are not subject to this paragraph.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997; 71 FR 27337, May 10, 2006]

**§ 60.58b Compliance and performance testing.**

(a) The provisions for startup, shutdown, and malfunction are provided in paragraphs (a)(1) and (a)(2) of this section.

(1) Except as provided by §60.56b, the standards under this subpart apply at all times except during periods of startup, shutdown, and malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence, except as provided in paragraph (a)(1)(iii) of this section. During periods of startup, shutdown, or malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of 40 CFR 60.59b(d)(7).

(i) The startup period commences when the affected facility begins the continuous burning of municipal solid waste and does not include any warmup period when the affected facility is combusting fossil fuel or other nonmunicipal solid waste fuel, and no municipal solid waste is being fed to the combustor.

(ii) Continuous burning is the continuous, semicontinuous, or batch feeding of municipal solid waste for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of municipal solid waste solely to provide thermal protection of the grate or hearth during the startup period when municipal solid waste is not being fed to the grate is not considered to be continuous burning.

(iii) For the purpose of compliance with the carbon monoxide emission limits in §60.53b(a), if a loss of boiler water level control ( *e.g.*, boiler waterwall tube failure) or a loss of combustion air control ( *e.g.*, loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction, the duration of the malfunction period is limited to 15 hours per occurrence. During such periods of malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of §60.59b(d)(7).

(2) The opacity limits for air curtain incinerators specified in §60.56b apply at all times as specified under §60.56b except during periods of malfunction. Duration of malfunction periods are limited to 3 hours per occurrence.

(b) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring the oxygen or carbon dioxide content of the flue gas at each location where carbon monoxide, sulfur dioxide, nitrogen oxides emissions, or particulate matter (if the owner or operator elects to continuously monitor emissions under paragraph (n) of this section) are monitored and record the output of the system and shall comply with the test procedures and test methods specified in paragraphs (b)(1) through (b)(8) of this section.

(1) The span value of the oxygen (or 20 percent carbon dioxide) monitor shall be 25 percent oxygen (or 20 percent carbon dioxide).

(2) The monitor shall be installed, evaluated, and operated in accordance with §60.13 of subpart A of this part.

(3) The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the affected facility, as specified under §60.8 of subpart A of this part.

(4) The monitor shall conform to Performance Specification 3 in appendix B of this part except for section 2.3 (relative accuracy requirement).

(5) The quality assurance procedures of appendix F of this part except for section 5.1.1 (relative accuracy test audit) shall apply to the monitor.

(6) If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels shall be established during the initial performance test according to the procedures and methods specified in paragraphs (b)(6)(i) through (b)(6)(iv) of this section. This relationship may be reestablished during performance compliance tests.

(i) The fuel factor equation in Method 3B shall be used to determine the relationship between oxygen and carbon dioxide at a sampling location. Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

(ii) Samples shall be taken for at least 30 minutes in each hour.

(iii) Each sample shall represent a 1-hour average.

(iv) A minimum of three runs shall be performed.

(7) The relationship between carbon dioxide and oxygen concentrations that is established in accordance with paragraph (b)(6) of this section shall be submitted to EPA as part of the initial performance test report and, if applicable, as part of the annual test report if the relationship is reestablished during the annual performance test.

(8) During a loss of boiler water level control or loss of combustion air control malfunction period as specified in paragraph (a)(1)(iii) of this section, a diluent cap of 14 percent for oxygen or 5 percent for carbon dioxide may be used in the emissions calculations for sulfur dioxide and nitrogen oxides.

(c) Except as provided in paragraph (c)(10) of this section, the procedures and test methods specified in paragraphs (c)(1) through (c)(11) of this section shall be used to determine compliance with the emission limits for particulate matter and opacity under §60.52b(a)(1) and (a)(2).

(1) The EPA Reference Method 1 shall be used to select sampling site and number of traverse points.

(2) The EPA Reference Method 3, 3A or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used for gas analysis.

(3) EPA Reference Method 5 shall be used for determining compliance with the particulate matter emission limit. The minimum sample volume shall be 1.7 cubic meters. The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no greater than 160 °C. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 5 run.

(4) The owner or operator of an affected facility may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(5) As specified under §60.8 of subpart A of this part, all performance tests shall consist of three test runs. The average of the particulate matter emission concentrations from the three test runs is used to determine compliance.

(6) In accordance with paragraphs (c)(7) and (c)(11) of this section, EPA Reference Method 9 shall be used for determining compliance with the opacity limit except as provided under §60.11(e) of subpart A of this part.

(7) The owner or operator of an affected facility shall conduct an initial performance test for particulate matter emissions and opacity as required under §60.8 of subpart A of this part.

(8) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous opacity monitoring system for measuring opacity and shall follow the methods and procedures specified in paragraphs (c)(8)(i) through (c)(8)(iv) of this section.

(i) The output of the continuous opacity monitoring system shall be recorded on a 6-minute average basis.

(ii) The continuous opacity monitoring system shall be installed, evaluated, and operated in accordance with §60.13 of subpart A of this part.

(iii) The continuous opacity monitoring system shall conform to Performance Specification 1 in appendix B of this part.

(iv) The initial performance evaluation shall be completed no later than 180 days after the date of the initial startup of the municipal waste combustor unit, as specified under §60.8 of subpart A of this part.

(9) Following the date that the initial performance test for particulate matter is completed or is required to be completed under §60.8 of subpart A of this part for an affected facility, the owner or operator shall conduct a performance test for particulate matter on a calendar year basis (no less than 9 calendar months and no more than 15 calendar months following the previous performance test; and must complete five performance tests in each 5-year calendar period).

(10) In place of particulate matter testing with EPA Reference Method 5, an owner or operator may elect to install, calibrate, maintain, and operate a continuous emission monitoring system for monitoring particulate matter emissions discharged to the atmosphere and record the output of the system. The owner or operator of an affected facility who elects to continuously monitor particulate matter emissions instead of conducting performance testing using EPA Method 5 shall install, calibrate, maintain, and operate a continuous emission monitoring system and shall comply with the requirements specified in paragraphs (c)(10)(i) through (c)(10)(xiv) of this section. The owner or operator who elects to continuously monitor particulate matter emissions instead of conducting performance testing using EPA Method 5 is not required to complete performance testing for particulate matter as specified in paragraph (c)(9) of this section and is not required to continuously monitor opacity as specified in paragraph (c)(8) of this section.

(i) Notify the Administrator one month before starting use of the system.

(ii) Notify the Administrator one month before stopping use of the system.

(iii) The monitor shall be installed, evaluated, and operated in accordance with §60.13 of subpart A of this part.

(iv) The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the affected facility, as specified under §60.8 of subpart A of this part or within 180 days of notification to the Administrator of use of the continuous monitoring system if the owner or operator was previously determining compliance by Method 5 performance tests, whichever is later.

(v) The owner or operator of an affected facility may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(vi) The owner or operator of an affected facility shall conduct an initial performance test for particulate matter emissions as required under §60.8 of subpart A of this part. Compliance with the particulate matter emission limit shall be determined by using the continuous emission monitoring system specified in paragraph (c)(10) of this section to measure particulate matter and calculating a 24-hour block arithmetic average emission concentration using EPA Reference Method 19, section 12.4.1.

(vii) Compliance with the particulate matter emission limit shall be determined based on the 24-hour daily (block) average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data.

(viii) After April 28, 2008, at a minimum, valid continuous monitoring system hourly averages shall be obtained as specified in paragraphs (c)(10)(viii)(A) and (c)(10)(viii)(B) for at least 90 percent of the operating hours per calendar quarter and 95 percent of the operating hours per calendar year that the affected facility is combusting municipal solid waste.

(A) At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

(B) Each particulate matter 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(ix) The 1-hour arithmetic averages required under paragraph (c)(10)(vii) of this section shall be expressed in milligrams per dry standard cubic meter corrected to 7 percent oxygen (dry basis) and shall be used to calculate the 24-hour daily arithmetic average emission concentrations. The 1-hour arithmetic averages shall be calculated using the data points required under §60.13(e)(2) of subpart A of this part.

(x) All valid continuous emission monitoring system data shall be used in calculating average emission concentrations even if the minimum continuous emission monitoring system data requirements of paragraph (c)(10)(viii) of this section are not met.

(xi) The continuous emission monitoring system shall be operated according to Performance Specification 11 in appendix B of this part.

(xii) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 11 in appendix B of this part, particulate matter and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in paragraphs (c)(10)(xii)(A) and (c)(10)(xii)(B) of this section.

(A) For particulate matter, EPA Reference Method 5 shall be used.

(B) For oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B, as applicable shall be used.

(xiii) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 2 in appendix F of this part.

(xiv) When particulate matter emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by the Administrator or EPA Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 90 percent of the hours per calendar quarter and 95 percent of the hours per calendar year that the affected facility is operated and combusting municipal solid waste.

(11) Following the date that the initial performance test for opacity is completed or is required to be completed under §60.8 of subpart A of this part for an affected facility, the owner or operator shall conduct a performance test for opacity on an annual basis (no less than 9 calendar months and no more than 15 calendar months following the previous performance test; and must complete five performance tests in each 5-year calendar period) using the test method specified in paragraph (c)(6) of this section.

(d) The procedures and test methods specified in paragraphs (d)(1) and (d)(2) of this section shall be used to determine compliance with the emission limits for cadmium, lead, and mercury under §60.52b(a).

(1) The procedures and test methods specified in paragraphs (d)(1)(i) through (d)(1)(ix) of this section shall be used to determine compliance with the emission limits for cadmium and lead under §60.52b(a) (3) and (4).

(i) The EPA Reference Method 1 shall be used for determining the location and number of sampling points.

(ii) The EPA Reference Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used for flue gas analysis.

(iii) The EPA Reference Method 29 shall be used for determining compliance with the cadmium and lead emission limits.

(iv) An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 29 test run for cadmium and lead required under paragraph (d)(1)(iii) of this section.

(v) The owner or operator of an affected facility may request that compliance with the cadmium or lead emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(vi) All performance tests shall consist of a minimum of three test runs conducted under representative full load operating conditions. The average of the cadmium or lead emission concentrations from three test runs or more shall be used to determine compliance.

(vii) Following the date of the initial performance test or the date on which the initial performance test is required to be completed under §60.8 of subpart A of this part, the owner or operator of an affected facility shall conduct a performance test for compliance with the emission limits for cadmium and lead on a calendar year basis (no less than 9 calendar months and no more than 15 calendar months following the previous performance test; and must complete five performance tests in each 5-year calendar period).

(viii)–(ix) [Reserved]

(2) The procedures and test methods specified in paragraphs (d)(2)(i) through (d)(2)(xi) of this section shall be used to determine compliance with the mercury emission limit under §60.52b(a)(5).

(i) The EPA Reference Method 1 shall be used for determining the location and number of sampling points.

(ii) The EPA Reference Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used for flue gas analysis.

(iii) The EPA Reference Method 29 or as an alternative ASTM D6784–02 shall be used to determine the mercury emission concentration. The minimum sample volume when using Method 29 as an alternative ASTM D6784–02 for mercury shall be 1.7 cubic meters.

(iv) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 29 or as an alternative ASTM D6784–02 test run for mercury required under paragraph (d)(2)(iii) of this section.

(v) The percent reduction in the potential mercury emissions (%PHg) is computed using equation 1:

$$\left(\%P_{Hg}\right) = \left(\frac{E_i - E_o}{E_i}\right) \times 100 \qquad (1)$$

where:

$\%P_{Hg}$ = percent reduction of the potential mercury emissions achieved.

$E_i$ = potential mercury emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis).

$E_o$ = controlled mercury emission concentration measured at the mercury control device outlet, corrected to 7 percent oxygen (dry basis).

(vi) All performance tests shall consist of a minimum of three test runs conducted under representative full load operating conditions. The average of the mercury emission concentrations or percent reductions from three test runs or more is used to determine compliance.

(vii) The owner or operator of an affected facility may request that compliance with the mercury emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(viii) The owner or operator of an affected facility shall conduct an initial performance test for mercury emissions as required under §60.8 of subpart A of this part.

(ix) Following the date that the initial performance test for mercury is completed or is required to be completed under §60.8 of subpart A of this part, the owner or operator of an affected facility shall conduct a performance test for mercury emissions on a calendar year basis (no less than 9 calendar months and no more than 15 calendar months from the previous performance test; and must complete five performance tests in each 5-year calendar period).

(x) [Reserved]

(xi) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit shall follow the procedures specified in paragraph (m) of this section for measuring and calculating carbon usage.

(3) In place of cadmium and lead testing with EPA Reference Method 29 as an alternative ASTM D6784–02, an owner or operator may elect to install, calibrate, maintain, and operate a continuous emission monitoring system for monitoring cadmium and lead emissions discharged to the atmosphere and record the output of the system according to the provisions of paragraphs (n) and (o) of this section.

(4) In place of mercury testing with EPA Reference Method 29 or as an alternative ASTM D6784–02, an owner or operator may elect to install, calibrate, maintain, and operate a continuous emission monitoring system or a continuous automated sampling system for monitoring mercury emissions discharged to the atmosphere and record the output of the system according to the provisions of paragraphs (n) and (o) of this section, or paragraphs (p) and (q) of this section, as appropriate. The owner or operator who elects to continuously monitor mercury in place of mercury testing with EPA Reference Method 29 or as an alternative ASTM D6784–02 is not required to complete performance testing for mercury as specified in paragraph (d)(2)(ix) of this section.

(e) The procedures and test methods specified in paragraphs (e)(1) through (e)(14) of this section shall be used for determining compliance with the sulfur dioxide emission limit under §60.52b(b)(1).

(1) The EPA Reference Method 19, section 4.3, shall be used to calculate the daily geometric average sulfur dioxide emission concentration.

(2) The EPA Reference Method 19, section 5.4, shall be used to determine the daily geometric average percent reduction in the potential sulfur dioxide emission concentration.

(3) The owner or operator of an affected facility may request that compliance with the sulfur dioxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(4) The owner or operator of an affected facility shall conduct an initial performance test for sulfur dioxide emissions as required under §60.8 of subpart A of this part. Compliance with the sulfur dioxide emission limit (concentration or percent reduction) shall be determined by using the continuous emission monitoring system specified in paragraph (e)(5) of this section to measure sulfur dioxide and calculating a 24-hour daily geometric average emission concentration or a 24-hour daily geometric average percent reduction using EPA Reference Method 19, sections 4.3 and 5.4, as applicable.

(5) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system.

(6) Following the date that the initial performance test for sulfur dioxide is completed or is required to be completed under §60.8 of subpart A of this part, compliance with the sulfur dioxide emission limit shall be determined based on the 24-hour daily geometric average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data if compliance is based on an emission concentration, or continuous emission monitoring system inlet and outlet data if compliance is based on a percent reduction.

(7) At a minimum, valid continuous monitoring system hourly averages shall be obtained as specified in paragraphs (e)(7)(i) and (e)(7)(ii) for 90 percent of the operating hours per calendar quarter and 95 percent of the operating days per calendar year that the affected facility is combusting municipal solid waste.

(i) At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

(ii) Each sulfur dioxide 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(8) The 1-hour arithmetic averages required under paragraph (e)(6) of this section shall be expressed in parts per million corrected to 7 percent oxygen (dry basis) and used to calculate the 24-hour daily geometric average emission concentrations and daily geometric average emission percent reductions. The 1-hour arithmetic averages shall be calculated using the data points required under §60.13(e)(2) of subpart A of this part.

(9) All valid continuous emission monitoring system data shall be used in calculating average emission concentrations and percent reductions even if the minimum continuous emission monitoring system data requirements of paragraph (e)(7) of this section are not met.

(10) The procedures under §60.13 of subpart A of this part shall be followed for installation, evaluation, and operation of the continuous emission monitoring system.

(11) The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the municipal waste combustor as specified under §60.8 of subpart A of this part.

(12) The continuous emission monitoring system shall be operated according to Performance Specification 2 in appendix B of this part. For sources that have actual inlet emissions less than 100 parts per million dry volume, the relative accuracy criterion for inlet sulfur dioxide continuous emission monitoring systems should be no greater than 20 percent of the mean value of the reference method test data in terms of the units of the emission standard, or 5 parts per million dry volume absolute value of the mean difference between the reference method and the continuous emission monitoring systems, whichever is greater.

(i) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 in appendix B of this part, sulfur dioxide and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in paragraphs (e)(12)(i)(A) and (e)(12)(i)(B) of this section.

(A) For sulfur dioxide, EPA Reference Method 6, 6A, or 6C, or as an alternative ASME PTC–19–10–1981—Part 10, shall be used.

(B) For oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used.

(ii) The span value of the continuous emissions monitoring system at the inlet to the sulfur dioxide control device shall be 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit. The span value of the continuous emission monitoring system at the outlet of the sulfur dioxide control device shall be 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit.

(13) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 1 in appendix F of this part.

(14) When sulfur dioxide emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and/or zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by EPA or EPA Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 90 percent of the hours per calendar quarter and 95 percent of the hours per calendar year that the affected facility is operated and combusting municipal solid waste.

(f) The procedures and test methods specified in paragraphs (f)(1) through (f)(8) of this section shall be used for determining compliance with the hydrogen chloride emission limit under §60.52b(b)(2).

(1) The EPA Reference Method 26 or 26A, as applicable, shall be used to determine the hydrogen chloride emission concentration. The minimum sampling time shall be 1 hour.

(2) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each test run for hydrogen chloride required by paragraph (f)(1) of this section.

(3) The percent reduction in potential hydrogen chloride emissions (% $P_{HCl}$) is computed using equation 2:

$$(\%P_{HCl}) = \left(\frac{E_i - E_o}{E_i}\right) \times 100 \qquad (2)$$

where:

$\%P_{HCl}$ = percent reduction of the potential hydrogen chloride emissions achieved.

$E_i$ = potential hydrogen chloride emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis).

$E_o$ = controlled hydrogen chloride emission concentration measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

(4) The owner or operator of an affected facility may request that compliance with the hydrogen chloride emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(5) As specified under §60.8 of subpart A of this part, all performance tests shall consist of three test runs. The average of the hydrogen chloride emission concentrations or percent reductions from the three test runs is used to determine compliance.

(6) The owner or operator of an affected facility shall conduct an initial performance test for hydrogen chloride as required under §60.8 of subpart A of this part.

(7) Following the date that the initial performance test for hydrogen chloride is completed or is required to be completed under §60.8 of subpart A of this part, the owner or operator of an affected facility shall conduct a performance test for hydrogen chloride emissions on an annual basis (no more than 12 calendar months following the previous performance test).

(8) In place of hydrogen chloride testing with EPA Reference Method 26 or 26A, an owner or operator may elect to install, calibrate, maintain, and operate a continuous emission monitoring system for monitoring hydrogen chloride emissions discharged to the atmosphere and record the output of the system according to the provisions of paragraphs (n) and (o) of this section.

(g) The procedures and test methods specified in paragraphs (g)(1) through (g)(9) of this section shall be used to determine compliance with the limits for dioxin/furan emissions under §60.52b(c).

(1) The EPA Reference Method 1 shall be used for determining the location and number of sampling points.

(2) The EPA Reference Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used for flue gas analysis.

(3) The EPA Reference Method 23 shall be used for determining the dioxin/furan emission concentration.

(i) The minimum sample time shall be 4 hours per test run.

(ii) An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Method 23 test run for dioxins/furans.

(4) The owner or operator of an affected facility shall conduct an initial performance test for dioxin/furan emissions in accordance with paragraph (g)(3) of this section, as required under §60.8 of subpart A of this part.

(5) Following the date that the initial performance test for dioxins/furans is completed or is required to be completed under §60.8 of subpart A of this part, the owner or operator of an affected facility shall conduct performance tests for dioxin/furan emissions in accordance with paragraph (g)(3) of this section, according to one of the schedules specified in paragraphs (g)(5)(i) through (g)(5)(iii) of this section.

(i) For affected facilities, performance tests shall be conducted on a calendar year basis (no less than 9 calendar months and no more than 15 calendar months following the previous performance test; and must complete five performance tests in each 5-year calendar period).

(ii) For the purpose of evaluating system performance to establish new operating parameter levels, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions, the owner or operator of an affected facility that qualifies for the performance testing schedule specified in paragraph (g)(5)(iii) of this section, may test one unit for dioxin/furan and apply the dioxin/furan operating parameters to similarly designed and equipped units on site by meeting the requirements specified in paragraphs (g)(5)(ii)(A) through (g)(5)(ii)(D) of this section.

(A) Follow the testing schedule established in paragraph (g)(5)(iii) of this section. For example, each year a different affected facility at the municipal waste combustor plant shall be tested, and the affected facilities at the plant shall be tested in sequence ( *e.g.* , unit 1, unit 2, unit 3, as applicable).

(B) Upon meeting the requirements in paragraph (g)(5)(iii) of this section for one affected facility, the owner or operator may elect to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels for dioxin/furan as established in paragraph (m) of this section to similarly designed and equipped units on site.

(C) Upon testing each subsequent unit in accordance with the testing schedule established in paragraph (g)(5)(iii) of this section, the dioxin/furan and mercury emissions of the subsequent unit shall not exceed the dioxin/furan and mercury emissions measured in the most recent test of that unit prior to the revised operating parameter levels.

(D) The owner or operator of an affected facility that selects to follow the performance testing schedule specified in paragraph (g)(5)(iii) of this section and apply the carbon injection system operating parameters to similarly designed and equipped units on site shall follow the procedures specified in §60.59b(g)(4) for reporting.

(iii) Where all performance tests over a 2-year period indicate that dioxin/furan emissions are less than or equal to 7 nanograms per dry standard cubic meter (total mass) for all affected facilities located within a municipal waste combustor plant, the owner or operator of the municipal waste combustor plant may elect to conduct annual performance tests for one affected facility (i.e., unit) per year at the municipal waste combustor plant. At a minimum, a performance test for dioxin/furan emissions shall be conducted on a calendar year basis (no less than 9 calendar months and no more than 15 months following the previous performance test; and must complete five performance tests in each 5-year calendar period) for one affected facility at the municipal waste combustor plant. Each year a different affected facility at the municipal waste combustor plant shall be tested, and the affected facilities at the plant shall be tested in sequence ( *e.g.* , unit 1, unit 2, unit 3, as applicable). If each annual performance test continues to indicate a dioxin/furan emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass), the owner or operator may continue conducting a performance test on only one affected facility per calendar year. If any annual performance test indicates either a dioxin/furan emission level greater than 7 nanograms per dry standard cubic meter (total mass), performance tests shall thereafter be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a 2-year period indicate a dioxin/furan emission level less than or equal to 7 nanograms per dry standard cubic meter (total mass).

(6) The owner or operator of an affected facility that selects to follow the performance testing schedule specified in paragraph (g)(5)(iii) of this section shall follow the procedures specified in §60.59b(g)(4) for reporting the selection of this schedule.

(7) The owner or operator of an affected facility where activated carbon is used shall follow the procedures specified in paragraph (m) of this section for measuring and calculating the carbon usage rate.

(8) The owner or operator of an affected facility may request that compliance with the dioxin/furan emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(9) As specified under §60.8 of subpart A of this part, all performance tests shall consist of three test runs. The average of the dioxin/furan emission concentrations from the three test runs is used to determine compliance.

(10) In place of dioxin/furan sampling and testing with EPA Reference Method 23, an owner or operator may elect to sample dioxin/furan by installing, calibrating, maintaining, and operating a continuous automated sampling system for monitoring dioxin/furan emissions discharged to the atmosphere, recording the output of the system, and analyzing the sample using EPA Method 23. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to dioxin/furan from monitors is published in the Federal Register or the date of approval of a site-specific monitoring plan. The owner or operator of an affected facility who elects to continuously sample dioxin/furan emissions instead of sampling and testing using EPA Method 23 shall install, calibrate, maintain, and operate a continuous automated sampling system and shall comply with the requirements specified in paragraphs (p) and (q) of this section.

(h) The procedures and test methods specified in paragraphs (h)(1) through (h)(12) of this section shall be used to determine compliance with the nitrogen oxides emission limit for affected facilities under §60.52b(d).

(1) The EPA Reference Method 19, section 4.1, shall be used for determining the daily arithmetic average nitrogen oxides emission concentration.

(2) The owner or operator of an affected facility may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(3) The owner or operator of an affected facility subject to the nitrogen oxides limit under §60.52b(d) shall conduct an initial performance test for nitrogen oxides as required under §60.8 of subpart A of this part. Compliance with the nitrogen oxides emission limit shall be determined by using the continuous emission monitoring system specified in paragraph (h)(4) of this section for measuring nitrogen oxides and calculating a 24-hour daily arithmetic average emission concentration using EPA Reference Method 19, section 4.1.

(4) The owner or operator of an affected facility subject to the nitrogen oxides emission limit under §60.52b(d) shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring nitrogen oxides discharged to the atmosphere, and record the output of the system.

(5) Following the date that the initial performance test for nitrogen oxides is completed or is required to be completed under §60.8 of subpart A of this part, compliance with the emission limit for nitrogen oxides required under §60.52b(d) shall be determined based on the 24-hour daily arithmetic average of the hourly emission concentrations using continuous emission monitoring system outlet data.

(6) At a minimum, valid continuous emission monitoring system hourly averages shall be obtained as specified in paragraphs (h)(6)(i) and (h)(6)(ii) of this section for 90 percent of the operating hours per calendar quarter and for 95 percent of the operating hours per calendar year that the affected facility is combusting municipal solid waste.

(i) At least 2 data points per hour shall be used to calculate each 1-hour arithmetic average.

(ii) Each nitrogen oxides 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(7) The 1-hour arithmetic averages required by paragraph (h)(5) of this section shall be expressed in parts per million by volume (dry basis) and used to calculate the 24-hour daily arithmetic average concentrations. The 1-hour arithmetic averages shall be calculated using the data points required under §60.13(e)(2) of subpart A of this part.

(8) All valid continuous emission monitoring system data must be used in calculating emission averages even if the minimum continuous emission monitoring system data requirements of paragraph (h)(6) of this section are not met.

(9) The procedures under §60.13 of subpart A of this part shall be followed for installation, evaluation, and operation of the continuous emission monitoring system. The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the municipal waste combustor unit, as specified under §60.8 of subpart A of this part.

(10) The owner or operator of an affected facility shall operate the continuous emission monitoring system according to Performance Specification 2 in appendix B of this part and shall follow the procedures and methods specified in paragraphs (h)(10)(i) and (h)(10)(ii) of this section.

(i) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 of appendix B of this part, nitrogen oxides and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in paragraphs (h)(10)(i)(A) and (h)(10)(i)(B) of this section.

(A) For nitrogen oxides, EPA Reference Method 7, 7A, 7C, 7D, or 7E shall be used.

(B) For oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B, or as an alternative ASME PTC–19–10–1981—Part 10, as applicable, shall be used.

(ii) The span value of the continuous emission monitoring system shall be 125 percent of the maximum estimated hourly potential nitrogen oxide emissions of the municipal waste combustor unit.

(11) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 1 in appendix F of this part.

(12) When nitrogen oxides continuous emission data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by EPA or EPA Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 90 percent of the hours per calendar quarter and 95 percent of the hours per calendar year the unit is operated and combusting municipal solid waste.

(i) The procedures specified in paragraphs (i)(1) through (i)(12) of this section shall be used for determining compliance with the operating requirements under §60.53b.

(1) Compliance with the carbon monoxide emission limits in §60.53b(a) shall be determined using a 4-hour block arithmetic average for all types of affected facilities except mass burn rotary waterwall municipal waste combustors and refuse-derived fuel stokers.

(2) For affected mass burn rotary waterwall municipal waste combustors and refuse-derived fuel stokers, compliance with the carbon monoxide emission limits in §60.53b(a) shall be determined using a 24-hour daily arithmetic average.

(3) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring carbon monoxide at the combustor outlet and record the output of the system and shall follow the procedures and methods specified in paragraphs (i)(3)(i) through (i)(3)(iii) of this section.

(i) The continuous emission monitoring system shall be operated according to Performance Specification 4A in appendix B of this part.

(ii) During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 4A in appendix B of this part, carbon monoxide and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in paragraphs (i)(3)(ii)(A) and (i)(3)(ii)(B) of this section. For affected facilities subject to the 100 parts per million dry volume carbon monoxide standard, the relative accuracy criterion of 5 parts per million dry volume is calculated as the absolute value of the mean difference between the reference method and continuous emission monitoring systems.

(A) For carbon monoxide, EPA Reference Method 10, 10A, or 10B shall be used.

(B) For oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B, or ASME PTC–19–10–1981—Part 10 (incorporated by reference, see §60.17 of subpart A of this part), as applicable, shall be used.

(iii) The span value of the continuous emission monitoring system shall be 125 percent of the maximum estimated hourly potential carbon monoxide emissions of the municipal waste combustor unit.

(4) The 4-hour block and 24-hour daily arithmetic averages specified in paragraphs (i)(1) and (i)(2) of this section shall be calculated from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7 percent oxygen (dry basis). The 1-hour arithmetic averages shall be calculated using the data points generated by the continuous emission monitoring system. At least two data points shall be used to calculate each 1-hour arithmetic average.

(5) The owner or operator of an affected facility may request that compliance with the carbon monoxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(6) The procedures specified in paragraphs (i)(6)(i) through (i)(6)(v) of this section shall be used to determine compliance with load level requirements under §60.53b(b).

(i) The owner or operator of an affected facility with steam generation capability shall install, calibrate, maintain, and operate a steam flow meter or a feedwater flow meter; measure steam (or feedwater) flow in kilograms per hour (or pounds per hour) on a continuous basis; and record the output of the monitor. Steam (or feedwater) flow shall be calculated in 4-hour block arithmetic averages.

(ii) The method included in the "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1—1964 (R1991)" section 4 (incorporated by reference, see §60.17 of subpart A of this part) shall be used for calculating the steam (or feedwater) flow required under paragraph (i)(6)(i) of this section. The recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)," chapter 4 (incorporated by reference—see §60.17 of subpart A of

this part) shall be followed for design, construction, installation, calibration, and use of nozzles and orifices except as specified in (i)(6)(iii) of this section.

(iii) Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

(iv) All signal conversion elements associated with steam (or feedwater flow) measurements must be calibrated according to the manufacturer's instructions before each dioxin/furan performance test, and at least once per year.

(7) To determine compliance with the maximum particulate matter control device temperature requirements under §60.53b(c), the owner or operator of an affected facility shall install, calibrate, maintain, and operate a device for measuring on a continuous basis the temperature of the flue gas stream at the inlet to each particulate matter control device utilized by the affected facility. Temperature shall be calculated in 4-hour block arithmetic averages.

(8) The maximum demonstrated municipal waste combustor unit load shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit specified in §60.52b(c) is achieved. The maximum demonstrated municipal waste combustor unit load shall be the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test during which compliance with the dioxin/furan emission limit was achieved. If a subsequent dioxin/furan performance test is being performed on only one affected facility at the MWC plant, as provided in paragraph (g)(5)(iii) of this section, the owner or operator may elect to apply the same maximum municipal waste combustor unit load from the tested facility for all the similarly designed and operated affected facilities at the MWC plant.

(9) For each particulate matter control device employed at the affected facility, the maximum demonstrated particulate matter control device temperature shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit specified in §60.52b(c) is achieved. The maximum demonstrated particulate matter control device temperature shall be the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecutive hours during the most recent test during which compliance with the dioxin/furan limit was achieved. If a subsequent dioxin/furan performance test is being performed on only one affected facility at the MWC plant, as provided in paragraph (g)(5)(iii) of this section, the owner or operator may elect to apply the same maximum particulate matter control device temperature from the tested facility for all the similarly designed and operated affected facilities at the MWC plant.

(10) At a minimum, valid continuous emission monitoring system hourly averages shall be obtained as specified in paragraphs (i)(10)(i) and (i)(10)(ii) of this section for at least 90 percent of the operating hours per calendar quarter and 95 percent of the operating hours per calendar year that the affected facility is combusting municipal solid waste.

(i) At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

(ii) At a minimum, each carbon monoxide 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(11) All valid continuous emission monitoring system data must be used in calculating the parameters specified under paragraph (i) of this section even if the minimum data requirements of paragraph (i)(10) of this section are not met. When carbon monoxide continuous emission data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by EPA or EPA Reference Method 10 to provide, as necessary, the minimum valid emission data.

(12) Quarterly accuracy determinations and daily calibration drift tests for the carbon monoxide continuous emission monitoring system shall be performed in accordance with procedure 1 in appendix F of this part.

(j) The procedures specified in paragraphs (j)(1) and (j)(2) of this section shall be used for calculating municipal waste combustor unit capacity as defined under §60.51b.

(1) For municipal waste combustor units capable of combusting municipal solid waste continuously for a 24-hour period, municipal waste combustor unit capacity shall be calculated based on 24 hours of operation at the maximum charging rate. The maximum charging rate shall be determined as specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this section as applicable.

(i) For combustors that are designed based on heat capacity, the maximum charging rate shall be calculated based on the maximum design heat input capacity of the unit and a heating value of 12,800 kilojoules per kilogram for combustors

firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

(ii) For combustors that are not designed based on heat capacity, the maximum charging rate shall be the maximum design charging rate.

(2) For batch feed municipal waste combustor units, municipal waste combustor unit capacity shall be calculated as the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period. The maximum number of batches that could be processed in a 24-hour period is calculated as 24 hours divided by the design number of hours required to process one batch of municipal solid waste, and may include fractional batches (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period). For batch combustors that are designed based on heat capacity, the design heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel shall be used in calculating the municipal waste combustor unit capacity in megagrams per day of municipal solid waste.

(k) The procedures specified in paragraphs (k)(1) through (k)(4) of this section shall be used for determining compliance with the fugitive ash emission limit under §60.55b.

(1) The EPA Reference Method 22 shall be used for determining compliance with the fugitive ash emission limit under §60.55b. The minimum observation time shall be a series of three 1-hour observations. The observation period shall include times when the facility is transferring ash from the municipal waste combustor unit to the area where ash is stored or loaded into containers or trucks.

(2) The average duration of visible emissions per hour shall be calculated from the three 1-hour observations. The average shall be used to determine compliance with §60.55b.

(3) The owner or operator of an affected facility shall conduct an initial performance test for fugitive ash emissions as required under §60.8 of subpart A of this part.

(4) Following the date that the initial performance test for fugitive ash emissions is completed or is required to be completed under §60.8 of subpart A of this part for an affected facility, the owner or operator shall conduct a performance test for fugitive ash emissions on an annual basis (no more than 12 calendar months following the previous performance test).

(l) The procedures specified in paragraphs (l)(1) through (l)(3) of this section shall be used to determine compliance with the opacity limit for air curtain incinerators under §60.56b.

(1) The EPA Reference Method 9 shall be used for determining compliance with the opacity limit.

(2) The owner or operator of the air curtain incinerator shall conduct an initial performance test for opacity as required under §60.8 of subpart A of this part.

(3) Following the date that the initial performance test is completed or is required to be completed under §60.8 of subpart A of this part, the owner or operator of the air curtain incinerator shall conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test).

(m) The owner or operator of an affected facility where activated carbon injection is used to comply with the mercury emission limit under §60.52b(a)(5), and/or the dioxin/furan emission limits under §60.52(b)(c), or the dioxin/furan emission level specified in paragraph (g)(5)(iii) of this section shall follow the procedures specified in paragraphs (m)(1) through (m)(4) of this section.

(1) During the performance tests for dioxins/furans and mercury, as applicable, the owner or operator shall estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill frequency, or other parameters appropriate to the feed system being employed, as specified in paragraphs (m)(1)(i) and (m)(1)(ii) of this section.

(i) An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance test for mercury emissions and each subsequent performance test for mercury emissions.

(ii) An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance test for dioxin/furan emissions and each subsequent performance test for dioxin/furan emissions. If a subsequent

dioxin/furan performance test is being performed on only one affected facility at the MWC plant, as provided in paragraph (g)(5)(iii) of this section, the owner or operator may elect to apply the same estimated average carbon mass feed rate from the tested facility for all the similarly designed and operated affected facilities at the MWC plant.

(2) During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate ( *e.g.* , screw feeder setting) shall be averaged over a block 8-hour period, and the 8-hour block average must equal or exceed the level(s) documented during the performance tests specified under paragraphs (m)(1)(i) and (m)(1)(ii) of this section, except as specified in paragraphs (m)(2)(i) and (m)(2)(ii) of this section.

(i) During the annual dioxin/furan or mercury performance test and the 2 weeks preceding the annual dioxin/furan or mercury performance test, no limit is applicable for average mass carbon feed rate if the provisions of paragraph (m)(2)(ii) of this section are met.

(ii) The limit for average mass carbon feed rate may be waived in accordance with permission granted by the Administrator for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

(3) The owner or operator of an affected facility shall estimate the total carbon usage of the plant (kilograms or pounds) for each calendar quarter by two independent methods, according to the procedures in paragraphs (m)(3)(i) and (m)(3)(ii) of this section.

(i) The weight of carbon delivered to the plant.

(ii) Estimate the average carbon mass feed rate in kilograms per hour or pounds per hour for each hour of operation for each affected facility based on the parameters specified under paragraph (m)(1) of this section, and sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter.

(4) Pneumatic injection pressure or other carbon injection system operational indicator shall be used to provide additional verification of proper carbon injection system operation. The operational indicator shall provide an instantaneous visual and/or audible alarm to alert the operator of a potential interruption in the carbon feed that would not normally be indicated by direct monitoring of carbon mass feed rate ( *e.g.* , continuous weight loss feeder) or monitoring of the carbon system operating parameter(s) that are the indicator(s) of carbon mass feed rate ( *e.g.* , screw feeder speed). The carbon injection system operational indicator used to provide additional verification of carbon injection system operation, including basis for selecting the indicator and operator response to the indicator alarm, shall be included in section (e)(6) of the site-specific operating manual required under §60.54b(e) of this subpart.

(n) In place of periodic manual testing of mercury, cadmium, lead, or hydrogen chloride with EPA Reference Method 26, 26A, 29, or as an alternative ASTM D6784–02 (as applicable), the owner or operator of an affected facility may elect to install, calibrate, maintain, and operate a continuous emission monitoring system for monitoring emissions discharged to the atmosphere and record the output of the system. The option to use a continuous emission monitoring system for mercury takes effect on the date of approval of the site-specific monitoring plan required in paragraph (n)(13) and (o) of this section. The option to use a continuous emission monitoring system for cadmium, lead, or hydrogen chloride takes effect on the date a final performance specification applicable to cadmium, lead, or hydrogen chloride monitor is published in the Federal Register or the date of approval of the site-specific monitoring plan required in paragraphs (n)(13) and (o) of this section. The owner or operator of an affected facility who elects to continuously monitor emissions instead of conducting manual performance testing shall install, calibrate, maintain, and operate a continuous emission monitoring system and shall comply with the requirements specified in paragraphs (n)(1) through (n)(13) of this section.

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(3) The monitor shall be installed, evaluated, and operated in accordance with §60.13 of subpart A of this part.

(4) The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the affected facility, as specified under §60.8 of subpart A of this part or within 180 days of notification to the Administrator of use of the continuous monitoring system if the owner or operator was previously determining compliance by Method 26, 26A, 29, or as an alternative ASTM D6784–02 (as applicable) performance tests, whichever is later.

(5) The owner or operator may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(6) The owner or operator shall conduct an initial performance test for emissions as required under §60.8 of subpart A of this part. Compliance with the emission limits shall be determined by using the continuous emission monitoring system specified in paragraph (n) of this section to measure emissions and calculating a 24-hour block arithmetic average emission concentration using EPA Reference Method 19, section 12.4.1.

(7) Compliance with the emission limits shall be determined based on the 24-hour daily (block) average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data.

(8) Beginning on April 28, 2008 for mercury and on the date two years after final performance specifications for cadmium, lead or hydrogen chloride monitors are published in the Federal Register or the date two years after approval of a site-specific monitoring plan, valid continuous monitoring system hourly averages shall be obtained as specified in paragraphs (n)(8)(i) and (n)(8)(ii) of this section for at least 90 percent of the operating hours per calendar quarter and 95 percent of the operating hours per calendar year that the affected facility is combusting municipal solid waste.

(i) At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

(ii) Each 1-hour arithmetic average shall be corrected to 7 percent oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

(9) The 1-hour arithmetic averages required under paragraph (n)(7) of this section shall be expressed in micrograms per dry standard cubic meter for mercury, cadmium, lead and parts per million dry volume for hydrogen chloride corrected to 7 percent oxygen (dry basis) and shall be used to calculate the 24-hour daily arithmetic (block) average emission concentrations. The 1-hour arithmetic averages shall be calculated using the data points required under §60.13(e)(2) of subpart A of this part.

(10) All valid continuous emission monitoring system data shall be used in calculating average emission concentrations even if the minimum continuous emission monitoring system data requirements of paragraph (n)(8) of this section are not met.

(11) The continuous emission monitoring system shall be operated according to the performance specifications in paragraphs (n)(11)(i) through (n)(11)(iii) of this section or the approved site-specific monitoring plan.

(i) For mercury, Performance Specification 12A in appendix B of this part.

(ii) [Reserved]

(iii) [Reserved]

(12) During each relative accuracy test run of the continuous emission monitoring system required by the performance specifications in paragraph (n)(11) of this section, mercury, cadmium, lead, hydrogen chloride, and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in paragraphs (n)(12)(i) through (n)(12)(iii) of this section.

(i) For mercury, cadmium, and lead, EPA Reference Method 29 or as an alternative ASTM D6784–02 shall be used.

(ii) For hydrogen chloride, EPA Reference Method 26 or 26A shall be used.

(iii) For oxygen (or carbon dioxide), EPA Reference Method 3, 3A, or 3B, as applicable shall be used.

(13) The owner or operator who elects to install, calibrate, maintain, and operate a continuous emission monitoring system for mercury, cadmium, lead, or hydrogen chloride must develop and implement a site-specific monitoring plan as specified in paragraph (o) of this section. The owner or operator who relies on a performance specification may refer to that document in addressing applicable procedures and criteria.

(14) When emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, parametric monitoring data shall be obtained by using other monitoring systems as approved by EPA.

(o) The owner or operator who elects to install, calibrate, maintain, and operate a continuous emission monitoring system for mercury, cadmium, lead, or hydrogen chloride must develop and submit for approval by EPA, a site-specific mercury, cadmium, lead, or hydrogen chloride monitoring plan that addresses the elements and requirements in paragraphs (o)(1) through (o)(7) of this section.

(1) Installation of the continuous emission monitoring system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions ( *e.g.* , on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria ( *e.g.* , calibrations).

(4) Provisions for periods when the continuous emission monitoring system is out of control as described in paragraphs (o)(4)(i) through (o)(4)(iii) of this section.

(i) A continuous emission monitoring system is out of control if either of the conditions in paragraphs (o)(4)(i)(A) or (o)(4)(ii)(B) of this section are met.

(A) The zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard; or

(B) The continuous emission monitoring system fails a performance test audit ( *e.g.* , cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit.

(ii) When the continuous emission monitoring system is out of control as defined in paragraph (o)(4)(i) of this section, the owner or operator of the affected source shall take the necessary corrective action and shall repeat all necessary tests that indicate that the system is out of control. The owner or operator shall take corrective action and conduct retesting until the performance requirements are below the applicable limits. The beginning of the out-of-control period is the hour the owner or operator conducts a performance check ( *e.g.* , calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and successful demonstration that the system is within the allowable limits. During the period the continuous emission monitoring system is out of control, recorded data shall not be used in data averages and calculations or to meet any data availability requirements in paragraph (n)(8) of this section.

(iii) The owner or operator of a continuous emission monitoring system that is out of control as defined in paragraph (o)(4) of this section shall submit all information concerning out-of-control periods, including start and end dates and hours and descriptions of corrective actions taken in the annual or semiannual compliance reports required in §60.59b(g) or (h).

(5) Ongoing data quality assurance procedures for continuous emission monitoring systems as described in paragraphs (o)(5)(i) and (o)(5)(ii) of this section.

(i) Develop and implement a continuous emission monitoring system quality control program. As part of the quality control program, the owner or operator shall develop and submit to EPA for approval, upon request, a site-specific performance evaluation test plan for the continuous emission monitoring system performance evaluation required in paragraph (o)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (o)(7)(i)(A) through (o)(7)(i)(F) of this section.

(A) Initial and any subsequent calibration of the continuous emission monitoring system;

(B) Determination and adjustment of the calibration drift of the continuous emission monitoring system;

(C) Preventive maintenance of the continuous emission monitoring system, including spare parts inventory;

(D) Data recording, calculations, and reporting;

(E) Accuracy audit procedures, including sampling and analysis methods; and

(F) Program of corrective action for a malfunctioning continuous emission monitoring system.

(ii) The performance evaluation test plan shall include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance

program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data. The internal quality assurance program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous emission monitoring system performance, for example, plans for relative accuracy testing using the appropriate reference method in §60.58b(n)(12) of this section. The external quality assurance program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) Conduct a performance evaluation of each continuous emission monitoring system in accordance with the site-specific monitoring plan.

(7) Operate and maintain the continuous emission monitoring system in continuous operation according to the site-specific monitoring plan.

(p) In place of periodic manual testing of dioxin/furan or mercury with EPA Reference Method 23, 29, or as an alternative ASTM D6784–02 (as applicable), the owner or operator of an affected facility may elect to install, calibrate, maintain, and operate a continuous automated sampling system for determining emissions discharged to the atmosphere. This option takes effect on the date a final performance specification applicable to such continuous automated sampling systems is published in the Federal Register or the date of approval of a site-specific monitoring plan required in paragraphs (p)(10) and (q) of this section. The owner or operator of an affected facility who elects to use a continuous automated sampling system to determine emissions instead of conducting manual performance testing shall install, calibrate, maintain, and operate the sampling system and conduct analyses in compliance with the requirements specified in paragraphs (p)(1) through (p)(12) of this section.

(1) Notify the Administrator one month before starting use of the system.

(2) Notify the Administrator one month before stopping use of the system.

(3) The initial performance evaluation shall be completed no later than 180 days after the date of initial startup of the affected facility, as specified under §60.8 of subpart A of this part or within 180 days of notification to the Administrator of use of the continuous monitoring system if the owner or operator was previously determining compliance by manual performance testing using Method 23, 29, or as an alternative ASTM D6784–02 (as applicable), whichever is later.

(4) The owner or operator may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in paragraph (b)(6) of this section.

(5) The owner or operator shall conduct an initial performance test for emissions as required under §60.8 of subpart A of this part. Compliance with the emission limits shall be determined by using the continuous automated sampling system specified in paragraph (p) of this section to collect integrated samples and analyze emissions for the time period specified in paragraphs (p)(5)(i) and (ii) of this section.

(i) For dioxin/furan, the continuous automated sampling system shall collect an integrated sample over each 2-week period. The collected sample shall be analyzed using Method 23.

(ii) For mercury, the continuous automated sampling system shall collect an integrated sample over each 24-hour daily period and the sample shall be analyzed according to the applicable final performance specification or the approved site-specific monitoring plan required by paragraph (q) of this section.

(6) Compliance with the emission limits shall be determined based on 2-week emission concentrations for dioxin/furan and on the 24-hour daily emission concentrations for mercury using samples collected at the system outlet. The emission concentrations shall be expressed in nanograms per dry standard cubic meter (total mass) for dioxin/furan and micrograms per dry standard cubic meter for mercury, corrected to 7 percent oxygen (dry basis).

(7) Beginning on the date two years after the respective final performance specification for continuous automated sampling systems for dioxin/furan or mercury is published in the Federal Register or two years after approval of a site-specific monitoring plan, the continuous automated sampling system must be operated and collect emissions for at least 90 percent of the operating hours per calendar quarter and 95 percent of the operating hours per calendar year that the affected facility is combusting municipal solid waste.

(8) All valid data shall be used in calculating emission concentrations.

(9) The continuous automated sampling system shall be operated according to the final performance specification in paragraphs (p)(9)(i) or (p)(9)(ii) of this section or the approved site-specific monitoring plan.

(i) [Reserved]

(ii) [Reserved]

(10) The owner or operator who elects to install, calibrate, maintain, and operate a continuous automated sampling system for dioxin/furan or mercury must develop and implement a site-specific monitoring plan as specified in paragraph (q) of this section. The owner or operator who relies on a performance specification may refer to that document in addressing applicable procedures and criteria.

(11) When emissions data are not obtained because of continuous automated sampling system breakdowns, repairs, quality assurance checks, or adjustments, parametric monitoring data shall be obtained by using other monitoring systems as approved by EPA.

(q) The owner or operator who elects to install, calibrate, maintain, and operate a continuous automated sampling system for dioxin/furan or mercury must develop and submit for approval by EPA, a site-specific monitoring plan that has sufficient detail to assure the validity of the continuous automated sampling system data and that addresses the elements and requirements in paragraphs (q)(1) through (q)(7) of this section.

(1) Installation of the continuous automated sampling system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions ( *e.g.* , on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration analytical method, and the data collection system.

(3) Performance evaluation procedures and acceptance criteria.

(4) Provisions for periods when the continuous automated sampling system is malfunctioning or is out of control as described in paragraphs (q)(4)(i) through (q)(4)(iii) of this section.

(i) The site-specific monitoring plan shall identify criteria for determining that the continuous automated sampling system is out of control. This shall include periods when the sampling system is not collecting a representative sample or is malfunctioning, or when the analytical method does not meet site-specific quality criteria established in paragraph (q)(5) of this section.

(ii) When the continuous automated sampling system is out of control as defined in paragraph (q)(4)(i) of this section, the owner or operator shall take the necessary corrective action and shall repeat all necessary tests that indicate that the system is out of control. The owner or operator shall take corrective action and conduct retesting until the performance requirements are within the applicable limits. The out-of-control period includes all hours that the sampling system was not collecting a representative sample or was malfunctioning, or hours represented by a sample for which the analysis did not meet the relevant quality criteria. Emissions data obtained during an out-of-control period shall not be used in determining compliance with the emission limits or to meet any data availability requirements in paragraph (p)(8) of this section.

(iii) The owner or operator of a continuous automated sampling system that is out of control as defined in paragraph (q)(4) of this section shall submit all information concerning out-of-control periods, including start and end dates and hours and descriptions of corrective actions taken in the annual or semiannual compliance reports required in §60.59b(g) or (h).

(5) Ongoing data quality assurance procedures for continuous automated sampling systems as described in paragraphs (q)(5)(i) and (q)(5)(ii) of this section.

(i) Develop and implement a continuous automated sampling system and analysis quality control program. As part of the quality control program, the owner or operator shall develop and submit to EPA for approval, upon request, a site-specific performance evaluation test plan for the continuous automated sampling system performance evaluation required in paragraph (q)(5)(ii) of this section. In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the operations described in paragraphs (q)(7)(i)(A) through (q)(7)(i)(F) of this section.

(A) Correct placement, installation of the continuous automated sampling system such that the system is collecting a representative sample of gas;

(B) Initial and subsequent calibration of flow such that the sample collection rate of the continuous automated sampling system is known and verifiable;

(C) Procedures to assure representative ( *e.g.* , proportional or isokinetic) sampling;

(D) Preventive maintenance of the continuous automated sampling system, including spare parts inventory and procedures for cleaning equipment, replacing sample collection media, or other servicing at the end of each sample collection period;

(E) Data recording and reporting, including an automated indicator and recording device to show when the continuous automated monitoring system is operating and collecting data and when it is not collecting data;

(F) Accuracy audit procedures for analytical methods; and

(G) Program of corrective action for a malfunctioning continuous automated sampling system.

(ii) The performance evaluation test plan shall include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external quality assurance program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data. The internal quality assurance program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of continuous automated sampling system performance, for example, plans for relative accuracy testing using the appropriate reference method in 60.58b(p)(3), and an assessment of quality of analysis results. The external quality assurance program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(6) Conduct a performance evaluation of each continuous automated sampling system in accordance with the site-specific monitoring plan.

(7) Operate and maintain the continuous automated sampling system in continuous operation according to the site-specific monitoring plan.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997; 65 FR 61753, Oct. 17, 2000; 66 FR 57827, Nov. 16, 2001; 71 FR 27337, May 10, 2006]

**§ 60.59b Reporting and recordkeeping requirements.**

(a) The owner or operator of an affected facility with a capacity to combust greater than 250 tons per day shall submit, on or before the date the application for a construction permit is submitted under 40 CFR part 51, subpart I, or part 52, as applicable, the items specified in paragraphs (a)(1) through (a)(4) of this section.

(1) The preliminary and final draft materials separation plans required by §60.57b(a)(1) and (a)(5).

(2) A copy of the notification of the public meeting required by §60.57b(a)(1)(ii).

(3) A transcript of the public meeting required by §60.57b(a)(2).

(4) A copy of the document summarizing responses to public comments required by §60.57b(a)(3).

(b) The owner or operator of an affected facility with a capacity to combust greater than 250 tons per day shall submit a notification of construction, which includes the information specified in paragraphs (b)(1) through (b)(5) of this section.

(1) Intent to construct.

(2) Planned initial startup date.

(3) The types of fuels that the owner or operator plans to combust in the affected facility.

(4) The municipal waste combustor unit capacity, and supporting capacity calculations prepared in accordance with §60.58b(j).

(5) Documents associated with the siting requirements under §60.57b (a) and (b), as specified in paragraphs (b)(5)(i) through (b)(5)(v) of this section.

(i) The siting analysis required by §60.57b (b)(1) and (b)(2).

(ii) The final materials separation plan for the affected facility required by §60.57b(a)(10).

(iii) A copy of the notification of the public meeting required by §60.57b(b)(3)(ii).

(iv) A transcript of the public meeting required by §60.57b(b)(4).

(v) A copy of the document summarizing responses to public comments required by §60.57b (a)(9) and (b)(5).

(c) The owner or operator of an air curtain incinerator subject to the opacity limit under §60.56b shall provide a notification of construction that includes the information specified in paragraphs (b)(1) through (b)(4) of this section.

(d) The owner or operator of an affected facility subject to the standards under §§60.52b, 60.53b, 60.54b, 60.55b, and 60.57b shall maintain records of the information specified in paragraphs (d)(1) through (d)(15) of this section, as applicable, for each affected facility for a period of at least 5 years.

(1) The calendar date of each record.

(2) The emission concentrations and parameters measured using continuous monitoring systems as specified under paragraphs (d)(2)(i) and (d)(2)(ii) of this section.

(i) The measurements specified in paragraphs (d)(2)(i)(A) through (d)(2)(i)(F) of this section shall be recorded and be available for submittal to the Administrator or review on site by an EPA or State inspector.

(A) All 6-minute average opacity levels as specified under §60.58b(c).

(B) All 1-hour average sulfur dioxide emission concentrations as specified under §60.58b(e).

(C) All 1-hour average nitrogen oxides emission concentrations as specified under §60.58b(h).

(D) All 1-hour average carbon monoxide emission concentrations, municipal waste combustor unit load measurements, and particulate matter control device inlet temperatures as specified under §60.58b(i).

(E) For owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing using EPA manual test methods, all 1-hour average particulate matter, cadmium, lead, mercury, or hydrogen chloride emission concentrations as specified under §60.58b(n).

(ii) The average concentrations and percent reductions, as applicable, specified in paragraphs (d)(2)(ii)(A) through (d)(2)(ii)(F) of this section shall be computed and recorded, and shall be available for submittal to the Administrator or review on-site by an EPA or State inspector.

(A) All 24-hour daily geometric average sulfur dioxide emission concentrations and all 24-hour daily geometric average percent reductions in sulfur dioxide emissions as specified under §60.58b(e).

(B) All 24-hour daily arithmetic average nitrogen oxides emission concentrations as specified under §60.58b(h).

(C) All 4-hour block or 24-hour daily arithmetic average carbon monoxide emission concentrations, as applicable, as specified under §60.58b(i).

(D) All 4-hour block arithmetic average municipal waste combustor unit load levels and particulate matter control device inlet temperatures as specified under §60.58b(i).

(E) For owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing using EPA manual test methods, all 24-hour daily arithmetic average particulate matter, cadmium, lead, mercury, or hydrogen chloride emission concentrations as specified under §60.58b(n).

(F) For owners and operators who elect to use a continuous automated sampling system to monitor mercury or dioxin/furan instead of conducting performance testing using EPA manual test methods, all integrated 24-hour mercury concentrations or all integrated 2-week dioxin/furan concentrations as specified under §60.586(p).

(3) Identification of the calendar dates when any of the average emission concentrations, percent reductions, or operating parameters recorded under paragraphs (d)(2)(ii)(A) through (d)(2)(ii)(F) of this section, or the opacity levels recorded under paragraph (d)(2)(i)(A) of this section are above the applicable limits, with reasons for such exceedances and a description of corrective actions taken.

(4) For affected facilities that apply activated carbon for mercury or dioxin/furan control, the records specified in paragraphs (d)(4)(i) through (d)(4)(v) of this section.

(i) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required under §60.58b(m)(1)(i) of this section during the initial mercury performance test and all subsequent annual performance tests, with supporting calculations.

(ii) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required under §60.58b(m)(1)(ii) of this section during the initial dioxin/furan performance test and all subsequent annual performance tests, with supporting calculations.

(iii) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation as required under §60.58b(m)(3)(ii) of this section, with supporting calculations.

(iv) The total carbon usage for each calendar quarter estimated as specified by paragraph 60.58b(m)(3) of this section, with supporting calculations.

(v) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).

(5) [Reserved]

(6) Identification of the calendar dates and times (hours) for which valid hourly data specified in paragraphs (d)(6)(i) through (d)(6)(vi) of this section have not been obtained, or continuous automated sampling systems were not operated as specified in paragraph (d)(6)(vii) of this section, including reasons for not obtaining the data and a description of corrective actions taken.

(i) Sulfur dioxide emissions data;

(ii) Nitrogen oxides emissions data;

(iii) Carbon monoxide emissions data;

(iv) Municipal waste combustor unit load data;

(v) Particulate matter control device temperature data; and

(vi) For owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of performance testing by EPA manual test methods, particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions data.

(vii) For owners and operators who elect to use continuous automated sampling systems for dioxins/furans or mercury as allowed under “60.58b(p) and (q), dates and times when the sampling systems were not operating or were not collecting a valid sample.

(7) Identification of each occurrence that sulfur dioxide emissions data, nitrogen oxides emissions data, particulate matter emissions data, cadmium emissions data, lead emissions data, mercury emissions data, hydrogen chloride emissions data, or dioxin/furan emissions data (for owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, or who elect to use continuous automated sampling systems for dioxin/furan or mercury emissions, instead of conducting performance testing using EPA manual test methods) or operational data ( *i.e.* , carbon monoxide emissions, unit load, and particulate matter control device temperature) have been excluded from the calculation of average emission concentrations or parameters, and the reasons for excluding the data.

(8) The results of daily drift tests and quarterly accuracy determinations for sulfur dioxide, nitrogen oxides, and carbon monoxide continuous emission monitoring systems, as required under appendix F of this part, procedure 1.

(9) The test reports documenting the results of the initial performance test and all annual performance tests listed in paragraphs (d)(9)(i) and (d)(9)(ii) of this section shall be recorded along with supporting calculations.

(i) The results of the initial performance test and all annual performance tests conducted to determine compliance with the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission limits.

(ii) For the initial dioxin/furan performance test and all subsequent dioxin/furan performance tests recorded under paragraph (d)(9)(i) of this section, the maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device).

(10) An owner or operator who elects to continuously monitor emissions instead of performance testing by EPA manual methods must maintain records specified in paragraphs (10)(i) through (iii) of this section.

(i) For owners and operators who elect to continuously monitor particulate matter instead of conducting performance testing using EPA manual test methods), as required under appendix F of this part, procedure 2, the results of daily drift tests and quarterly accuracy determinations for particulate matter.

(ii) For owners and operators who elect to continuously monitor cadmium, lead, mercury, or hydrogen chloride instead of conducting EPA manual test methods, the results of all quality evaluations, such as daily drift tests and periodic accuracy determinations, specified in the approved site-specific performance evaluation test plan required by §60.58b(o)(5).

(iii) For owners and operators who elect to use continuous automated sampling systems for dioxin/furan or mercury, the results of all quality evaluations specified in the approved site-specific performance evaluation test plan required by §60.58b(q)(5).

(11) For each affected facility subject to the siting provisions under §60.57b, the siting analysis, the final materials separation plan, a record of the location and date of the public meetings, and the documentation of the responses to public comments received at the public meetings.

(12) The records specified in paragraphs (d)(12)(i) through (d)(12)(iv) of this section.

(i) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program as required by §60.54b(a) including the dates of initial and renewal certifications and documentation of current certification.

(ii) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program as required by §60.54b(b) including the dates of initial and renewal certifications and documentation of current certification.

(iii) Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have completed the EPA municipal waste combustor operator training course or a State-approved equivalent course as required by §60.54b(d) including documentation of training completion.

(iv) Records of when a certified operator is temporarily off site. Include two main items:

(A) If the certified chief facility operator and certified shift supervisor are off site for more than 12 hours, but for 2 weeks or less, and no other certified operator is on site, record the dates that the certified chief facility operator and certified shift supervisor were off site.

(B) When all certified chief facility operators and certified shift supervisors are off site for more than 2 weeks and no other certified operator is on site, keep records of four items:

( *1* ) Time of day that all certified persons are off site.

( *2* ) The conditions that cause those people to be off site.

( *3* ) The corrective actions taken by the owner or operator of the affected facility to ensure a certified chief facility operator or certified shift supervisor is on site as soon as practicable.

( *4* ) Copies of the written reports submitted every 4 weeks that summarize the actions taken by the owner or operator of the affected facility to ensure that a certified chief facility operator or certified shift supervisor will be on site as soon as practicable.

(13) Records showing the names of persons who have completed a review of the operating manual as required by §60.54b(f) including the date of the initial review and subsequent annual reviews.

(14) For affected facilities that apply activated carbon, identification of the calendar dates when the average carbon mass feed rates recorded under paragraph (d)(4)(iii) of this section were less than either of the hourly carbon feed rates estimated during performance tests for mercury emissions and recorded under paragraphs (d)(4)(i) and (d)(4)(ii) of this section, respectively, with reasons for such feed rates and a description of corrective actions taken. For affected facilities that apply activated carbon, identification of the calendar dates when the average carbon mass feed rates recorded under paragraph (d)(4)(iii) of this section were less than either of the hourly carbon feed rates estimated during performance tests for dioxin/furan emissions and recorded under paragraphs (d)(4)(i) and (d)(4)(ii) of this section, respectively, with reasons for such feed rates and a description of corrective actions taken.

(15) For affected facilities that apply activated carbon for mercury or dioxin/furan control, identification of the calendar dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) recorded under paragraph (d)(4)(v) of this section are below the level(s) estimated during the performance tests as specified in §60.58b(m)(1)(i) and §60.58b(m)(1)(ii) of this section, with reasons for such occurrences and a description of corrective actions taken.

(e) The owner or operator of an air curtain incinerator subject to the opacity limit under §60.56b shall maintain records of results of the initial opacity performance test and subsequent performance tests required by §60.58b(l) for a period of at least 5 years.

(f) The owner or operator of an affected facility shall submit the information specified in paragraphs (f)(1) through (f)(6) of this section in the initial performance test report.

(1) The initial performance test data as recorded under paragraphs (d)(2)(ii)(A) through (d)(2)(ii)(D) of this section for the initial performance test for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, and particulate matter control device inlet temperature.

(2) The test report documenting the initial performance test recorded under paragraph (d)(9) of this section for particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emissions.

(3) The performance evaluation of the continuous emission monitoring system using the applicable performance specifications in appendix B of this part.

(4) The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device inlet temperature(s) established during the initial dioxin/furan performance test as recorded under paragraph (d)(9) of this section.

(5) For affected facilities that apply activated carbon injection for mercury control, the owner or operator shall submit the average carbon mass feed rate recorded under paragraph (d)(4)(i) of this section.

(6) For those affected facilities that apply activated carbon injection for dioxin/furan control, the owner or operator shall submit the average carbon mass feed rate recorded under paragraph (d)(4)(ii) of this section.

(g) Following the first year of municipal waste combustor operation, the owner or operator of an affected facility shall submit an annual report that includes the information specified in paragraphs (g)(1) through (g)(5) of this section, as applicable, no later than February 1 of each year following the calendar year in which the data were collected (once the unit is subject to permitting requirements under title V of the Act, the owner or operator of an affected facility must submit these reports semiannually).

(1) A summary of data collected for all pollutants and parameters regulated under this subpart, which includes the information specified in paragraphs (g)(1)(i) through (g)(1)(v) of this section.

(i) A list of the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels achieved during the performance tests recorded under paragraph (d)(9) of this section.

(ii) A list of the highest emission level recorded for sulfur dioxide, nitrogen oxides, carbon monoxide, particulate matter, cadmium, lead, mercury, hydrogen chloride, and dioxin/furan (for owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, hydrogen chloride, and dioxin/furan emissions instead of conducting performance testing using EPA manual test methods), municipal waste combustor unit load level, and particulate matter control device inlet temperature based on the data recorded under paragraphs (d)(2)(ii)(A) through (d)(2)(ii)(E) of this section.

(iii) List the highest opacity level measured, based on the data recorded under paragraph (d)(2)(i)(A) of this section.

(iv) Periods when valid data were not obtained as described in paragraphs (g)(1)(iv)(A) through (g)(1)(iv)(C) of this section.

(A) The total number of hours per calendar quarter and hours per calendar year that valid data for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, or particulate matter control device temperature data were not obtained based on the data recorded under paragraph (d)(6) of this section.

(B) For owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, and hydrogen chloride emissions instead of conducting performance testing using EPA manual test methods, the total number of hours per calendar quarter and hours per calendar year that valid data for particulate matter, cadmium, lead, mercury, and hydrogen chloride were not obtained based on the data recorded under paragraph (d)(6) of this section. For each continuously monitored pollutant or parameter, the hours of valid emissions data per calendar quarter and per calendar year expressed as a percent of the hours per calendar quarter or year that the affected facility was operating and combusting municipal solid waste.

(C) For owners and operators who elect to use continuous automated sampling systems for dioxin/furan or mercury, the total number of hours per calendar quarter and hours per calendar year that the sampling systems were not operating or were not collecting a valid sample based on the data recorded under paragraph (d)(6)(vii) of this section. Also, the number of hours during which the continuous automated sampling system was operating and collecting a valid sample as a percent of hours per calendar quarter or year that the affected facility was operating and combusting municipal solid waste.

(v) Periods when valid data were excluded from the calculation of average emission concentrations or parameters as described in paragraphs (g)(1)(v)(A) through (g)(1)(v)(C) of this section.

(A) The total number of hours that data for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature were excluded from the calculation of average emission concentrations or parameters based on the data recorded under paragraph (d)(7) of this section.

(B) For owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride emissions instead of conducting performance testing using EPA manual test methods, the total number of hours that data for particulate matter, cadmium, lead, mercury, or hydrogen chloride were excluded from the calculation of average emission concentrations or parameters based on the data recorded under paragraph (d)(7) of this section.

(C) For owners and operators who elect to use continuous automated sampling systems for dioxin/furan or mercury, the total number of hours that data for mercury and dioxin/furan were excluded from the calculation of average emission concentrations or parameters based on the data recorded under paragraph (d)(7) of this section.

(2) The summary of data reported under paragraph (g)(1) of this section shall also provide the types of data specified in paragraphs (g)(1)(i) through (g)(1)(vi) of this section for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period.

(3) The summary of data including the information specified in paragraphs (g)(1) and (g)(2) of this section shall highlight any emission or parameter levels that did not achieve the emission or parameter limits specified under this subpart.

(4) A notification of intent to begin the reduced dioxin/furan performance testing schedule specified in §60.58b(g)(5)(iii) of this section during the following calendar year and notification of intent to apply the average carbon mass feed rate and associated carbon injection system operating parameter levels as established in §60.58b(m) to similarly designed and equipped units on site.

(5) Documentation of periods when all certified chief facility operators and certified shift supervisors are off site for more than 12 hours.

(h) The owner or operator of an affected facility shall submit a semiannual report that includes the information specified in paragraphs (h)(1) through (h)(5) of this section for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit specified under this subpart, according to the schedule specified under paragraph (h)(6) of this section.

(1) The semiannual report shall include information recorded under paragraph (d)(3) of this section for sulfur dioxide, nitrogen oxides, carbon monoxide, particulate matter, cadmium, lead, mercury, hydrogen chloride, dioxin/furan (for owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, or who

elect to use continuous automated sampling systems for dioxin/furan or mercury emissions, instead of conducting performance testing using EPA manual test methods) municipal waste combustor unit load level, particulate matter control device inlet temperature, and opacity.

(2) For each date recorded as required by paragraph (d)(3) of this section and reported as required by paragraph (h)(1) of this section, the semiannual report shall include the sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, or opacity data, as applicable, recorded under paragraphs (d)(2)(ii)(A) through (d)(2)(ii)(D) and (d)(2)(i)(A) of this section, as applicable.

(3) If the test reports recorded under paragraph (d)(9) of this section document any particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels that were above the applicable pollutant limits, the semiannual report shall include a copy of the test report documenting the emission levels and the corrective actions taken.

(4) The semiannual report shall include the information recorded under paragraph (d)(15) of this section for the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate.

(5) For each operating date reported as required by paragraph (h)(4) of this section, the semiannual report shall include the carbon feed rate data recorded under paragraph (d)(4)(iii) of this section.

(6) Semiannual reports required by paragraph (h) of this section shall be submitted according to the schedule specified in paragraphs (h)(6)(i) and (h)(6)(ii) of this section.

(i) If the data reported in accordance with paragraphs (h)(1) through (h)(5) of this section were collected during the first calendar half, then the report shall be submitted by August 1 following the first calendar half.

(ii) If the data reported in accordance with paragraphs (h)(1) through (h)(5) of this section were collected during the second calendar half, then the report shall be submitted by February 1 following the second calendar half.

(i) The owner or operator of an air curtain incinerator subject to the opacity limit under §60.56b shall submit the results of the initial opacity performance test and all subsequent annual performance tests recorded under paragraph (e) of this section. Annual performance tests shall be submitted by February 1 of the year following the year of the performance test.

(j) All reports specified under paragraphs (a), (b), (c), (f), (g), (h), and (i) of this section shall be submitted as a paper copy, postmarked on or before the submittal dates specified under these paragraphs, and maintained onsite as a paper copy for a period of 5 years.

(k) All records specified under paragraphs (d) and (e) of this section shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Administrator.

(l) If the owner or operator of an affected facility would prefer a different annual or semiannual date for submitting the periodic reports required by paragraphs (g), (h) and (i) of this section, then the dates may be changed by mutual agreement between the owner or operator and the Administrator according to the procedures specified in §60.19(c) of subpart A of this part.

(m) Owners and operators who elect to continuously monitor particulate matter, cadmium, lead, mercury, or hydrogen chloride, or who elect to use continuous automated sampling systems for dioxin/furan or mercury emissions, instead of conducting performance testing using EPA manual test methods must notify the Administrator one month prior to starting or stopping use of the particulate matter, cadmium, lead, mercury, hydrogen chloride, and dioxin/furan continuous emission monitoring systems or continuous automated sampling systems.

(n) *Additional recordkeeping and reporting requirements for affected facilities with continuous cadmium, lead, mercury, or hydrogen chloride monitoring systems.* In addition to complying with the requirements specified in paragraphs (a) through (m) of this section, the owner or operator of an affected source who elects to install a continuous emission monitoring system for cadmium, lead, mercury, or hydrogen chloride as specified in §60.58b(n), shall maintain the records in paragraphs (n)(1) through (n)(10) of this section and report the information in paragraphs (n)(11) through (n)(12) of this section, relevant to the continuous emission monitoring system:

(1) All required continuous emission monitoring measurements (including monitoring data recorded during unavoidable continuous emission monitoring system breakdowns and out-of-control periods);

(2) The date and time identifying each period during which the continuous emission monitoring system was inoperative except for zero (low-level) and high-level checks;

(3) The date and time identifying each period during which the continuous emission monitoring system was out of control, as defined in §60.58b(o)(4);

(4) The specific identification ( *i.e.* , the date and time of commencement and completion) of each period of excess emissions and parameter monitoring exceedances, as defined in the standard, that occurs during startups, shutdowns, and malfunctions of the affected source;

(5) The specific identification ( *i.e.* , the date and time of commencement and completion) of each time period of excess emissions and parameter monitoring exceedances, as defined in the standard, that occurs during periods other than startups, shutdowns, and malfunctions of the affected source;

(6) The nature and cause of any malfunction (if known);

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions;

(8) The nature of the repairs or adjustments to the continuous emission monitoring system that was inoperative or out of control;

(9) All procedures that are part of a quality control program developed and implemented for the continuous emission monitoring system under §60.58b(o);

(10) When more than one continuous emission monitoring system is used to measure the emissions from one affected source ( *e.g.* , multiple breechings, multiple outlets), the owner or operator shall report the results as required for each continuous emission monitoring system.

(11) Submit to EPA for approval, the site-specific monitoring plan required by §60.58b(n)(13) and §60.58b(o), including the site-specific performance evaluation test plan for the continuous emission monitoring system required by §60.58(b)(o)(5). The owner or operator shall maintain copies of the site-specific monitoring plan on record for the life of the affected source to be made available for inspection, upon request, by the Administrator. If the site-specific monitoring plan is revised and approved, the owner or operator shall keep previous ( *i.e.* , superseded) versions of the plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

(12) Submit information concerning all out-of-control periods for each continuous emission monitoring system, including start and end dates and hours and descriptions of corrective actions taken, in the annual or semiannual reports required in paragraphs (g) or (h) of this section.

(o) *Additional recordkeeping and reporting requirements for affected facilities with continuous automated sampling systems for dioxin/furan or mercury monitoring.* In addition to complying with the requirements specified in paragraphs (a) through (m) of this section, the owner or operator of an affected source who elects to install a continuous automated sampling system for dioxin/furan or mercury, as specified in §60.58b(p), shall maintain the records in paragraphs (o)(1) through (o)(10) of this section and report the information in (o)(11) and (o)(12) of this section, relevant to the continuous automated sampling system:

(1) All required 24-hour integrated mercury concentration or 2-week integrated dioxin/furan concentration data (including any data obtained during unavoidable system breakdowns and out-of-control periods);

(2) The date and time identifying each period during which the continuous automated sampling system was inoperative;

(3) The date and time identifying each period during which the continuous automated sampling system was out of control, as defined in §60.58b(q)(4);

(4) The specific identification ( *i.e.* , the date and time of commencement and completion) of each period of excess emissions and parameter monitoring exceedances, as defined in the standard, that occurs during startups, shutdowns, and malfunctions of the affected source;

(5) The specific identification ( *i.e.* , the date and time of commencement and completion) of each time period of excess emissions and parameter monitoring exceedances, as defined in the standard, that occurs during periods other than startups, shutdowns, and malfunctions of the affected source;

(6) The nature and cause of any malfunction (if known);

(7) The corrective action taken to correct any malfunction or preventive measures adopted to prevent further malfunctions;

(8) The nature of the repairs or adjustments to the continuous automated sampling system that was inoperative or out of control;

(9) All procedures that are part of a quality control program developed and implemented for the continuous automated sampling system under §60.58b(q);

(10) When more than one continuous automated sampling system is used to measure the emissions from one affected source ( *e.g.* , multiple breechings, multiple outlets), the owner or operator shall report the results as required for each system.

(11) Submit to EPA for approval, the site-specific monitoring plan required by §60.58b(p)(11) and §60.58b(q) including the site-specific performance evaluation test plan for the continuous emission monitoring system required by §60.58(b)(q)(5). The owner or operator shall maintain copies of the site-specific monitoring plan on record for the life of the affected source to be made available for inspection, upon request, by the Administrator. If the site-specific monitoring plan is revised and approved, the owner or operator shall keep previous ( *i.e.* , superseded) versions of the plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan.

(12) Submit information concerning all out-of-control periods for each continuous automated sampling system, including start and end dates and hours and descriptions of corrective actions taken in the annual or semiannual reports required in paragraphs (g) or (h) of this section.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45121, 45127, Aug. 25, 1997; 71 FR 27345, May 10, 2006]

# NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES

(version dated 07/11/2006)

| E.U. ID No. | Brief Description |
|---|---|
| 115 | Emergency Generator - No. 2 at Falkenburg Advanced WWTP |
| 116 | Emergency Generator - No. 3 at Falkenburg Advanced WWTP |
| 117 | Emergency Generator - No. 4 at Falkenburg Advanced WWTP |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: July 11, 2006*

*Rule Effective Date: January 8, 2007*

*Standardized Conditions Revision Date: August 4, 2009*

**40 CFR Part 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines**

**Source:** 71 FR 39172, July 11, 2006, unless otherwise noted.

**[These conditions apply in general to all 40 CFR 60, Subpart IIII engines.]**

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**What This Subpart Covers**
**§ 60.4200 Am I subject to this subpart?**

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**What This Subpart Covers**

**§ 60.4200 Am I subject to this subpart?**

(a) The provisions of this subpart are applicable to manufacturers, owners, and operators of stationary compression ignition (CI) internal combustion engines (ICE) as specified in paragraphs (a)(1) through (3) of this section. For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

(1) Manufacturers of stationary CI ICE with a displacement of less than 30 liters per cylinder where the model year is:

(i) 2007 or later, for engines that are not fire pump engines,

(ii) The model year listed in table 3 to this subpart or later model year, for fire pump engines.

(2) Owners and operators of stationary CI ICE that commence construction after July 11, 2005 where the stationary CI ICE are:

(i) Manufactured after April 1, 2006 and are not fire pump engines, or

(ii) Manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006.

(3) Owners and operators of stationary CI ICE that modify or reconstruct their stationary CI ICE after July 11, 2005.

(b) The provisions of this subpart are not applicable to stationary CI ICE being tested at a stationary CI ICE test cell/stand.

(c) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

(d) Stationary CI ICE may be eligible for exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C (or the exemptions described in 40 CFR part 89, subpart J and 40 CFR part 94, subpart J, for engines that

would need to be certified to standards in those parts), except that owners and operators, as well as manufacturers, may be eligible to request an exemption for national security.

**GENERAL PROVISIONS**

**§ 60.4218 What parts of the General Provisions apply to me?**

Table 8 to this subpart shows which parts of the General Provisions in §§60.1 through 60.19 apply to you.

Definitions

**§ 60.4219 What definitions apply to this subpart?**

As used in this subpart, all terms not defined herein shall have the meaning given them in the CAA and in subpart A of this part.

*Combustion turbine* means all equipment, including but not limited to the turbine, the fuel, air, lubrication and exhaust gas systems, control systems (except emissions control equipment), and any ancillary components and sub-components comprising any simple cycle combustion turbine, any regenerative/recuperative cycle combustion turbine, the combustion turbine portion of any cogeneration cycle combustion system, or the combustion turbine portion of any combined cycle steam/electric generating system.

*Compression ignition* means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

*Diesel fuel* means any liquid obtained from the distillation of petroleum with a boiling point of approximately 150 to 360 degrees Celsius. One commonly used form is number 2 distillate oil.

*Diesel particulate filter* means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate and periodically removes the collected particles by either physical action or by oxidizing (burning off) the particles in a process called regeneration.

*Emergency stationary internal combustion engine* means any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

*Engine manufacturer* means the manufacturer of the engine. See the definition of "manufacturer" in this section.

*Fire pump engine* means an emergency stationary internal combustion engine certified to NFPA requirements that is used to provide power to pump water for fire suppression or protection.

*Manufacturer* has the meaning given in section 216(1) of the Act. In general, this term includes any person who manufactures a stationary engine for sale in the United States or otherwise introduces a new stationary engine into commerce in the United States. This includes importers who import stationary engines for sale or resale.

*Maximum engine power* means maximum engine power as defined in 40 CFR 1039.801.

*Model year* means either:

(1) The calendar year in which the engine was originally produced, or

(2) The annual new model production period of the engine manufacturer if it is different than the calendar year. This must include January 1 of the calendar year for which the model year is named. It may not begin before January 2 of the previous calendar year and it must end by December 31 of the named calendar year. For an engine that is converted to a stationary engine after being placed into service as a nonroad or other non-stationary engine, model year means the calendar year or new model production period in which the engine was originally produced.

*Other internal combustion engine* means any internal combustion engine, except combustion turbines, which is not a reciprocating internal combustion engine or rotary internal combustion engine.

*Reciprocating internal combustion engine* means any internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work.

*Rotary internal combustion engine* means any internal combustion engine which uses rotary motion to convert heat energy into mechanical work.

*Spark ignition* means relating to a gasoline, natural gas, or liquefied petroleum gas fueled engine or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for CI and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

*Stationary internal combustion engine* means any internal combustion engine, except combustion turbines, that converts heat energy into mechanical work and is not mobile. Stationary ICE differ from mobile ICE in that a stationary internal combustion engine is not a nonroad engine as defined at 40 CFR 1068.30 (excluding paragraph (2)(ii) of that definition), and is not used to propel a motor vehicle or a vehicle used solely for competition. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines.

*Subpart* means 40 CFR part 60, subpart IIII.

*Useful life* means the period during which the engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as a number of hours of operation or calendar years, whichever comes first. The values for useful life for stationary CI ICE with a displacement of less than 10 liters per cylinder are given in 40 CFR 1039.101(g). The values for useful life for stationary CI ICE with a displacement of greater than or equal to 10 liters per cylinder and less than 30 liters per cylinder are given in 40 CFR 94.9(a).

**Table 8 to Subpart IIII of Part 60—Applicability of General Provisions to Subpart IIII**

[As stated in §60.4218, you must comply with the following applicable General Provisions:]

| General Provisions citation | Subject of citation | Applies to subpart | Explanation |
|---|---|---|---|
| §60.1 | General applicability of the General Provisions | Yes | |
| §60.2 | Definitions | Yes | Additional terms defined in §60.4219. |
| §60.3 | Units and abbreviations | Yes | |
| §60.4 | Address | Yes | |
| §60.5 | Determination of construction or modification | Yes | |
| §60.6 | Review of plans | Yes | |
| §60.7 | Notification and Recordkeeping | Yes | Except that §60.7 only applies as specified in §60.4214(a). |
| §60.8 | Performance tests | Yes | Except that §60.8 only applies to stationary CI ICE with a displacement of (≥30 liters per cylinder and engines that are not certified. |
| §60.9 | Availability of information | Yes | |
| §60.10 | State Authority | Yes | |
| §60.11 | Compliance with standards and maintenance requirements | No | Requirements are specified in subpart IIII. |
| §60.12 | Circumvention | Yes | |
| §60.13 | Monitoring requirements | Yes | Except that §60.13 only applies to stationary CI ICE with a displacement of (≥30 liters per cylinder. |
| §60.14 | Modification | Yes | |
| §60.15 | Reconstruction | Yes | |
| §60.16 | Priority list | Yes | |
| §60.17 | Incorporations by reference | Yes | |
| §60.18 | General control device requirements | No | |
| §60.19 | General notification and reporting requirements | Yes | |

| E.U. ID No. | Brief Description |
|---|---|
| | Engine(s) |
| 113 | Fire Pump (Diesel) - 235 HP |
| 114 | Emergency Generator - No. 1 at Falkenburg Advanced WWTP |
| 115 | Emergency Generator - No. 2 at Falkenburg Advanced WWTP |
| 116 | Emergency Generator - No. 3 at Falkenburg Advanced WWTP |
| 117 | Emergency Generator - No. 4 at Falkenburg Advanced WWTP |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: May 16, 2007*

*State Rule Effective Date: October 1, 2007*

*Standardized Conditions Revision Date: January 29, 2008*

**40 CFR Part 63, Subpart A - General Provisions**

**Source:** 59 FR 12430, Mar. 16, 1994, unless otherwise noted.

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**40 CFR 63.1 Applicability.**
**40 CFR 63.2 Definitions.**
**40 CFR 63.3 Units and abbreviations.**
**40 CFR 63.4 Prohibited activities and circumvention.**
**40 CFR 63.5 Preconstruction review and notification requirements.**
**40 CFR 63.6 Compliance with standards and maintenance requirements.**
**40 CFR 63.7 Performance testing requirements.**
**40 CFR 63.8 Monitoring requirements.**
**40 CFR 63.9 Notification requirements.**
**40 CFR 63.10 Recordkeeping and reporting requirements.**
**40 CFR 63.11 Control device requirements.**
**40 CFR 63.12 State authority and delegations.**
**40 CFR 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.**
**40 CFR 63.14 Incorporations by reference.**
**40 CFR 63.15 Availability of information and confidentiality.**
**40 CFR 63.16 Performance Track Provisions.**

**End of Index**

**§ 63.1 Applicability.**

(a) *General.*

(1) Terms used throughout this part are defined in §63.2 or in the Clean Air Act (Act) as amended in 1990, except that individual subparts of this part may include specific definitions in addition to or that supersede definitions in §63.2.

(2) This part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the Act as amended November 15, 1990. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more hazardous air pollutants listed in this part pursuant to section 112(b) of the Act. This section explains the applicability of such standards to sources affected by them. The standards in this part are independent of NESHAP contained in 40 CFR part 61. The NESHAP in part 61 promulgated by signature of the Administrator before November 15, 1990 (i.e., the date of enactment of the Clean Air Act Amendments of 1990) remain in effect until they are amended, if appropriate, and added to this part.

(3) No emission standard or other requirement established under this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established by the Administrator pursuant to other authority of the Act (section 111, part C or D or any other authority of this Act), or a

standard issued under State authority. The Administrator may specify in a specific standard under this part that facilities subject to other provisions under the Act need only comply with the provisions of that standard.

(4)

(i) Each relevant standard in this part 63 must identify explicitly whether each provision in this subpart A is or is not included in such relevant standard.

(ii) If a relevant part 63 standard incorporates the requirements of 40 CFR part 60, part 61 or other part 63 standards, the relevant part 63 standard must identify explicitly the applicability of each corresponding part 60, part 61, or other part 63 subpart A (General) provision.

(iii) The General Provisions in this subpart A do not apply to regulations developed pursuant to section 112(r) of the amended Act, unless otherwise specified in those regulations.

(5) [Reserved]

(6) To obtain the most current list of categories of sources to be regulated under section 112 of the Act, or to obtain the most recent regulation promulgation schedule established pursuant to section 112(e) of the Act, contact the Office of the Director, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA (MD–13), Research Triangle Park, North Carolina 27711.

(7)–(9) [Reserved]

(10) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(11) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, test plan, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(12) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in §63.9(i).

(b) *Initial applicability determination for this part.*

(1) The provisions of this part apply to the owner or operator of any stationary source that—

(i) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act; and

(ii) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to this part.

(2) [Reserved]

(3) An owner or operator of a stationary source who is in the relevant source category and who determines that the source is not subject to a relevant standard or other requirement established under this part must keep a record as specified in §63.10(b)(3).

(c) *Applicability of this part after a relevant standard has been set under this part.*

(1) If a relevant standard has been established under this part, the owner or operator of an affected source must comply with the provisions of that standard and of this subpart as provided in paragraph (a)(4) of this section.

(2) Except as provided in §63.10(b)(3), if a relevant standard has been established under this part, the owner or operator of an affected source may be required to obtain a title V permit from a permitting authority in the State in which the source is

located. Emission standards promulgated in this part for area sources pursuant to section 112(c)(3) of the Act will specify whether—

(i) States will have the option to exclude area sources affected by that standard from the requirement to obtain a title V permit (i.e., the standard will exempt the category of area sources altogether from the permitting requirement);

(ii) States will have the option to defer permitting of area sources in that category until the Administrator takes rulemaking action to determine applicability of the permitting requirements; or

(iii) If a standard fails to specify what the permitting requirements will be for area sources affected by such a standard, then area sources that are subject to the standard will be subject to the requirement to obtain a title V permit without any deferral.

(3)–(4) [Reserved]

(5) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source that is subject to the emission standard or other requirement, such source also shall be subject to the notification requirements of this subpart.

(d) [Reserved]

(e) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to a source subject to an emission limitation by permit established under section 112(j) of the Act, and the requirements under the section 112(j) emission limitation are substantially as effective as the promulgated emission standard, the owner or operator may request the permitting authority to revise the source's title V permit to reflect that the emission limitation in the permit satisfies the requirements of the promulgated emission standard. The process by which the permitting authority determines whether the section 112(j) emission limitation is substantially as effective as the promulgated emission standard must include, consistent with part 70 or 71 of this chapter, the opportunity for full public, EPA, and affected State review (including the opportunity for EPA's objection) prior to the permit revision being finalized. A negative determination by the permitting authority constitutes final action for purposes of review and appeal under the applicable title V operating permit program.

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16595, Apr. 5, 2002]

**§ 63.2 Definitions.**

The terms used in this part are defined in the Act or in this section as follows:

*Act* means the Clean Air Act (42 U.S.C. 7401 *et seq* ., as amended by Pub. L. 101–549, 104 Stat. 2399).

*Actual emissions* is defined in subpart D of this part for the purpose of granting a compliance extension for an early reduction of hazardous air pollutants.

*Administrator* means the Administrator of the United States Environmental Protection Agency or his or her authorized representative (e.g., a State that has been delegated the authority to implement the provisions of this part).

*Affected source,* for the purposes of this part, means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act. Each relevant standard will define the "affected source," as defined in this paragraph unless a different definition is warranted based on a published justification as to why this definition would result in significant administrative, practical, or implementation problems and why the different definition would resolve those problems. The term "affected source," as used in this part, is separate and distinct from any other use of that term in EPA regulations such as those implementing title IV of the Act. Affected source may be defined differently for part 63 than affected facility and stationary source in parts 60 and 61, respectively. This definition of "affected source," and the procedures for adopting an alternative definition of "affected source," shall apply to each section 112(d) standard for which the initial proposed rule is signed by the Administrator after June 30, 2002.

*Alternative emission limitation* means conditions established pursuant to sections 112(i)(5) or 112(i)(6) of the Act by the Administrator or by a State with an approved permit program.

*Alternative emission standard* means an alternative means of emission limitation that, after notice and opportunity for public comment, has been demonstrated by an owner or operator to the Administrator's satisfaction to achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such pollutant achieved under a relevant

design, equipment, work practice, or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act.

*Alternative test method* means any method of sampling and analyzing for an air pollutant that is not a test method in this chapter and that has been demonstrated to the Administrator's satisfaction, using Method 301 in Appendix A of this part, to produce results adequate for the Administrator's determination that it may be used in place of a test method specified in this part.

*Approved permit program* means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

*Area source* means any stationary source of hazardous air pollutants that is not a major source as defined in this part.

*Commenced* means, with respect to construction or reconstruction of an affected source, that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

*Compliance date* means the date by which an affected source is required to be in compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established by the Administrator (or a State with an approved permit program) pursuant to section 112 of the Act.

*Compliance schedule* means:

(1) In the case of an affected source that is in compliance with all applicable requirements established under this part, a statement that the source will continue to comply with such requirements; or

(2) In the case of an affected source that is required to comply with applicable requirements by a future date, a statement that the source will meet such requirements on a timely basis and, if required by an applicable requirement, a detailed schedule of the dates by which each step toward compliance will be reached; or

(3) In the case of an affected source not in compliance with all applicable requirements established under this part, a schedule of remedial measures, including an enforceable sequence of actions or operations with milestones and a schedule for the submission of certified progress reports, where applicable, leading to compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established pursuant to section 112 of the Act for which the affected source is not in compliance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

*Construction* means the on-site fabrication, erection, or installation of an affected source. Construction does not include the removal of all equipment comprising an affected source from an existing location and reinstallation of such equipment at a new location. The owner or operator of an existing affected source that is relocated may elect not to reinstall minor ancillary equipment including, but not limited to, piping, ductwork, and valves. However, removal and reinstallation of an affected source will be construed as reconstruction if it satisfies the criteria for reconstruction as defined in this section. The costs of replacing minor ancillary equipment must be considered in determining whether the existing affected source is reconstructed.

*Continuous emission monitoring system* (CEMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of emissions.

*Continuous monitoring system* (CMS) is a comprehensive term that may include, but is not limited to, continuous emission monitoring systems, continuous opacity monitoring systems, continuous parameter monitoring systems, or other manual or automatic monitoring that is used for demonstrating compliance with an applicable regulation on a continuous basis as defined by the regulation.

*Continuous opacity monitoring system* (COMS) means a continuous monitoring system that measures the opacity of emissions.

*Continuous parameter monitoring system* means the total equipment that may be required to meet the data acquisition and availability requirements of this part, used to sample, condition (if applicable), analyze, and provide a record of process or control system parameters.

*Effective date* means:

(1) With regard to an emission standard established under this part, the date of promulgation in the Federal Register of such standard; or

(2) With regard to an alternative emission limitation or equivalent emission limitation determined by the Administrator (or a State with an approved permit program), the date that the alternative emission limitation or equivalent emission limitation becomes effective according to the provisions of this part.

*Emission standard* means a national standard, limitation, prohibition, or other regulation promulgated in a subpart of this part pursuant to sections 112(d), 112(h), or 112(f) of the Act.

*Emissions averaging* is a way to comply with the emission limitations specified in a relevant standard, whereby an affected source, if allowed under a subpart of this part, may create emission credits by reducing emissions from specific points to a level below that required by the relevant standard, and those credits are used to offset emissions from points that are not controlled to the level required by the relevant standard.

*EPA* means the United States Environmental Protection Agency.

*Equivalent emission limitation* means any maximum achievable control technology emission limitation or requirements which are applicable to a major source of hazardous air pollutants and are adopted by the Administrator (or a State with an approved permit program) on a case-by-case basis, pursuant to section 112(g) or (j) of the Act.

*Excess emissions and continuous monitoring system performance report* is a report that must be submitted periodically by an affected source in order to provide data on its compliance with relevant emission limits, operating parameters, and the performance of its continuous parameter monitoring systems.

*Existing source* means any affected source that is not a new source.

*Federally enforceable* means all limitations and conditions that are enforceable by the Administrator and citizens under the Act or that are enforceable under other statutes administered by the Administrator. Examples of federally enforceable limitations and conditions include, but are not limited to:

(1) Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to section 112 of the Act as amended in 1990;

(2) New source performance standards established pursuant to section 111 of the Act, and emission standards established pursuant to section 112 of the Act before it was amended in 1990;

(3) All terms and conditions in a title V permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable;

(4) Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP);

(5) Limitations and conditions that are part of a Federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR part 51;

(6) Limitations and conditions that are part of an operating permit where the permit and the permitting program pursuant to which it was issued meet all of the following criteria:

(i) The operating permit program has been submitted to and approved by EPA into a State implementation plan (SIP) under section 110 of the CAA;

(ii) The SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not “federally enforceable” by EPA;

(iii) The operating permit program requires that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise “federally enforceable”;

(iv) The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter; and

(v) The permit in question was issued only after adequate and timely notice and opportunity for comment for EPA and the public.

(7) Limitations and conditions in a State rule or program that has been approved by the EPA under subpart E of this part for the purposes of implementing and enforcing section 112; and

(8) Individual consent agreements that the EPA has legal authority to create.

*Fixed capital cost* means the capital needed to provide all the depreciable components of an existing source.

*Force majeure* means, for purposes of §63.7, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

*Fugitive emissions* means those emissions from a stationary source that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Under section 112 of the Act, all fugitive emissions are to be considered in determining whether a stationary source is a major source.

*Hazardous air pollutant* means any air pollutant listed in or pursuant to section 112(b) of the Act.

*Issuance* of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

*Major source* means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence.

*Malfunction* means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

*Monitoring* means the collection and use of measurement data or other information to control the operation of a process or pollution control device or to verify a work practice standard relative to assuring compliance with applicable requirements. Monitoring is composed of four elements:

(1) Indicator(s) of performance—the parameter or parameters you measure or observe for demonstrating proper operation of the pollution control measures or compliance with the applicable emissions limitation or standard. Indicators of performance may include direct or predicted emissions measurements (including opacity), operational parametric values that correspond to process or control device (and capture system) efficiencies or emissions rates, and recorded findings of inspection of work practice activities, materials tracking, or design characteristics. Indicators may be expressed as a single maximum or minimum value, a function of process variables (for example, within a range of pressure drops), a particular operational or work practice status (for example, a damper position, completion of a waste recovery task, materials tracking), or an interdependency between two or among more than two variables.

(2) Measurement techniques—the means by which you gather and record information of or about the indicators of performance. The components of the measurement technique include the detector type, location and installation specifications, inspection procedures, and quality assurance and quality control measures. Examples of measurement techniques include continuous emission monitoring systems, continuous opacity monitoring systems, continuous parametric monitoring systems, and manual inspections that include making records of process conditions or work practices.

(3) Monitoring frequency—the number of times you obtain and record monitoring data over a specified time interval. Examples of monitoring frequencies include at least four points equally spaced for each hour for continuous emissions or parametric monitoring systems, at least every 10 seconds for continuous opacity monitoring systems, and at least once per operating day (or week, month, etc.) for work practice or design inspections.

(4) Averaging time—the period over which you average and use data to verify proper operation of the pollution control approach or compliance with the emissions limitation or standard. Examples of averaging time include a 3-hour average in

units of the emissions limitation, a 30-day rolling average emissions value, a daily average of a control device operational parametric range, and an instantaneous alarm.

*New affected source* means the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory that is subject to a section 112(d) or other relevant standard for new sources. This definition of "new affected source," and the criteria to be utilized in implementing it, shall apply to each section 112(d) standard for which the initial proposed rule is signed by the Administrator after June 30, 2002. Each relevant standard will define the term "new affected source," which will be the same as the "affected source" unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (e.g., product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

*New source* means any affected source the construction or reconstruction of which is commenced after the Administrator first proposes a relevant emission standard under this part establishing an emission standard applicable to such source.

*One-hour period*, unless otherwise defined in an applicable subpart, means any 60-minute period commencing on the hour.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background. For continuous opacity monitoring systems, opacity means the fraction of incident light that is attenuated by an optical medium.

*Owner or operator* means any person who owns, leases, operates, controls, or supervises a stationary source.

*Performance audit* means a procedure to analyze blind samples, the content of which is known by the Administrator, simultaneously with the analysis of performance test samples in order to provide a measure of test data quality.

*Performance evaluation* means the conduct of relative accuracy testing, calibration error testing, and other measurements used in validating the continuous monitoring system data.

*Performance test* means the collection of data resulting from the execution of a test method (usually three emission test runs) used to demonstrate compliance with a relevant emission standard as specified in the performance test section of the relevant standard.

*Permit modification* means a change to a title V permit as defined in regulations codified in this chapter to implement title V of the Act (42 U.S.C. 7661).

*Permit program* means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations, or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

*Permit revision* means any permit modification or administrative permit amendment to a title V permit as defined in regulations codified in this chapter to implement title V of the Act (42 U.S.C. 7661).

*Permitting authority* means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

*Pollution Prevention* means *source reduction* as defined under the Pollution Prevention Act (42 U.S.C. 13101–13109). The definition is as follows:

(1) *Source reduction* is any practice that:

(i) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

(2) The term *source reduction* includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(3) The term *source reduction* does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

*Potential to emit* means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable.

*Reconstruction*, unless otherwise defined in a relevant standard, means the replacement of components of an affected or a previously nonaffected source to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established by the Administrator (or a State) pursuant to section 112 of the Act. Upon reconstruction, an affected source, or a stationary source that becomes an affected source, is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

*Regulation promulgation schedule* means the schedule for the promulgation of emission standards under this part, established by the Administrator pursuant to section 112(e) of the Act and published in the Federal Register.

*Relevant standard* means:

(1) An emission standard;

(2) An alternative emission standard;

(3) An alternative emission limitation; or

(4) An equivalent emission limitation established pursuant to section 112 of the Act that applies to the collection of equipment, activities, or both regulated by such standard or limitation. A relevant standard may include or consist of a design, equipment, work practice, or operational requirement, or other measure, process, method, system, or technique (including prohibition of emissions) that the Administrator (or a State) establishes for new or existing sources to which such standard or limitation applies. Every relevant standard established pursuant to section 112 of the Act includes subpart A of this part, as provided by §63.1(a)(4), and all applicable appendices of this part or of other parts of this chapter that are referenced in that standard.

*Responsible official* means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representative is approved in advance by the Administrator.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA).

(4) For affected sources (as defined in this part) applying for or subject to a title V permit: "responsible official" shall have the same meaning as defined in part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever is applicable.

*Run* means one of a series of emission or other measurements needed to determine emissions for a representative operating period or cycle as specified in this part.

*Shutdown* means the cessation of operation of an affected source or portion of an affected source for any purpose.

*Six-minute period* means, with respect to opacity determinations, any one of the 10 equal parts of a 1-hour period.

*Source at a Performance Track member facility* means a major or area source located at a facility which has been accepted by EPA for membership in the Performance Track Program (as described at *www.epa.gov/PerformanceTrack* ) and is still a member of the Program. The Performance Track Program is a voluntary program that encourages continuous environmental improvement through the use of environmental management systems, local community outreach, and measurable results.

*Standard conditions* means a temperature of 293 K (68 °F) and a pressure of 101.3 kilopascals (29.92 in. Hg).

*Startup* means the setting in operation of an affected source or portion of an affected source for any purpose.

*State* means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement: (1) The provisions of this part and/or (2) the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

*Stationary source* means any building, structure, facility, or installation which emits or may emit any air pollutant.

*Test method* means the validated procedure for sampling, preparing, and analyzing for an air pollutant specified in a relevant standard as the performance test procedure. The test method may include methods described in an appendix of this chapter, test methods incorporated by reference in this part, or methods validated for an application through procedures in Method 301 of appendix A of this part.

*Title V permit* means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by a State permitting authority is called a part 70 permit in this part.

*Visible emission* means the observation of an emission of opacity or optical density above the threshold of vision.

*Working day* means any day on which Federal Government offices (or State government offices for a State that has obtained delegation under section 112(l)) are open for normal business. Saturdays, Sundays, and official Federal (or where delegated, State) holidays are not working days.

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16596, Apr. 5, 2002; 68 FR 32600, May 30, 2003; 69 FR 21752, Apr. 22, 2004; 72 FR 27443, May 16, 2007]

**§ 63.3 Units and abbreviations.**

Used in this part are abbreviations and symbols of units of measure. These are defined as follows:

(a) *System International (SI) units of measure:*

A = ampere

g = gram

Hz = hertz

J = joule

°K = degree Kelvin

kg = kilogram

l = liter

m = meter

$m^3$ = cubic meter

mg = milligram = $10^{-3}$gram

ml = milliliter = $10^{-3}$liter

mm = millimeter = $10^{-3}$meter

Mg = megagram = $10^6$ gram = metric ton

MJ = megajoule

mol = mole

N = newton

ng = nanogram = $10^{-9}$gram

nm = nanometer = $10^{-9}$meter

Pa = pascal

s = second

V = volt

W = watt

Ω = ohm

µg = microgram = $10^{-6}$gram

µl = microliter = $10^{-6}$liter

(b) *Other units of measure:*

Btu = British thermal unit

°C = degree Celsius (centigrade)

cal = calorie

cfm = cubic feet per minute

cc = cubic centimeter

cu ft = cubic feet

d = day

dcf = dry cubic feet

dcm = dry cubic meter

dscf = dry cubic feet at standard conditions

dscm = dry cubic meter at standard conditions

eq = equivalent

°F degree Fahrenheit

ft = feet

$ft^2$ = square feet

$ft^3$ = cubic feet

gal = gallon

gr = grain

g-eq = gram equivalent

g-mole = gram mole

hr = hour

in. = inch

in. $H_2O$ = inches of water

K = 1,000

kcal = kilocalorie

lb = pound

lpm = liter per minute

meq = milliequivalent

min = minute

MW = molecular weight

oz = ounces

ppb = parts per billion

ppbw = parts per billion by weight

ppbv = parts per billion by volume

ppm = parts per million

ppmw = parts per million by weight

ppmv = parts per million by volume

psia = pounds per square inch absolute

psig = pounds per square inch gage

°R = degree Rankine

scf = cubic feet at standard conditions

scfh = cubic feet at standard conditions per hour

scm = cubic meter at standard conditions

scmm = cubic meter at standard conditions per minute

sec = second

sq ft = square feet

std = at standard conditions

v/v = volume per volume

$yd^2$ = square yards

yr = year

(c) *Miscellaneous:*

act = actual

avg = average

I.D. = inside diameter

M = molar

N = normal

O.D. = outside diameter

% = percent

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16598, Apr. 5, 2002]

**§ 63.4 Prohibited activities and circumvention.**

(a) *Prohibited activities.*

(1) No owner or operator subject to the provisions of this part must operate any affected source in violation of the requirements of this part. Affected sources subject to and in compliance with either an extension of compliance or an exemption from compliance are not in violation of the requirements of this part. An extension of compliance can be granted by the Administrator under this part; by a State with an approved permit program; or by the President under section 112(i)(4) of the Act.

(2) No owner or operator subject to the provisions of this part shall fail to keep records, notify, report, or revise reports as required under this part.

(3)–(5) [Reserved]

(b) *Circumvention.* No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard. Such concealment includes, but is not limited to—

(1) The use of diluents to achieve compliance with a relevant standard based on the concentration of a pollutant in the effluent discharged to the atmosphere;

(2) The use of gaseous diluents to achieve compliance with a relevant standard for visible emissions; and

(c) *Fragmentation.* Fragmentation after November 15, 1990 which divides ownership of an operation, within the same facility among various owners where there is no real change in control, will not affect applicability. The owner and operator must not use fragmentation or phasing of reconstruction activities (i.e., intentionally dividing reconstruction into multiple parts for purposes of avoiding new source requirements) to avoid becoming subject to new source requirements.

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16598, Apr. 5, 2002]

**§ 63.5 Preconstruction review and notification requirements.**

(a) *Applicability.*

(1) This section implements the preconstruction review requirements of section 112(i)(1). After the effective date of a relevant standard, promulgated pursuant to section 112(d), (f), or (h) of the Act, under this part, the preconstruction review requirements in this section apply to the owner or operator of new affected sources and reconstructed affected sources that are major-emitting as specified in this section. New and reconstructed affected sources that commence construction or reconstruction before the effective date of a relevant standard are not subject to the preconstruction review requirements specified in paragraphs (b)(3), (d), and (e) of this section.

(2) This section includes notification requirements for new affected sources and reconstructed affected sources that are not major-emitting affected sources and that are or become subject to a relevant promulgated emission standard after the effective date of a relevant standard promulgated under this part.

(b) *Requirements for existing, newly constructed, and reconstructed sources.*

(1) A new affected source for which construction commences after proposal of a relevant standard is subject to relevant standards for new affected sources, including compliance dates. An affected source for which reconstruction commences after proposal of a relevant standard is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

(2) [Reserved]

(3) After the effective date of any relevant standard promulgated by the Administrator under this part, no person may, without obtaining written approval in advance from the Administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section, do any of the following:

(i) Construct a new affected source that is major-emitting and subject to such standard;

(ii) Reconstruct an affected source that is major-emitting and subject to such standard; or

(iii) Reconstruct a major source such that the source becomes an affected source that is major-emitting and subject to the standard.

(4) After the effective date of any relevant standard promulgated by the Administrator under this part, an owner or operator who constructs a new affected source that is not major-emitting or reconstructs an affected source that is not major-emitting that is subject to such standard, or reconstructs a source such that the source becomes an affected source subject to the standard, must notify the Administrator of the intended construction or reconstruction. The notification must be submitted in accordance with the procedures in §63.9(b).

(5) [Reserved]

(6) After the effective date of any relevant standard promulgated by the Administrator under this part, equipment added (or a process change) to an affected source that is within the scope of the definition of affected source under the relevant standard must be considered part of the affected source and subject to all provisions of the relevant standard established for that affected source.

(c) [Reserved]

(d) *Application for approval of construction or reconstruction.* The provisions of this paragraph implement section 112(i)(1) of the Act.

(1) *General application requirements.*

(i) An owner or operator who is subject to the requirements of paragraph (b)(3) of this section must submit to the Administrator an application for approval of the construction or reconstruction. The application must be submitted as soon as practicable before actual construction or reconstruction begins. The application for approval of construction or reconstruction may be used to fulfill the initial notification requirements of §63.9(b)(5). The owner or operator may submit the application for approval well in advance of the date actual construction or reconstruction begins in order to ensure a timely review by the Administrator and that the planned date to begin will not be delayed.

(ii) A separate application shall be submitted for each construction or reconstruction. Each application for approval of construction or reconstruction shall include at a minimum:

(A) The applicant's name and address;

(B) A notification of intention to construct a new major affected source or make any physical or operational change to a major affected source that may meet or has been determined to meet the criteria for a reconstruction, as defined in §63.2 or in the relevant standard;

(C) The address (i.e., physical location) or proposed address of the source;

(D) An identification of the relevant standard that is the basis of the application;

(E) The expected date of the beginning of actual construction or reconstruction;

(F) The expected completion date of the construction or reconstruction;

(G) [Reserved]

(H) The type and quantity of hazardous air pollutants emitted by the source, reported in units and averaging times and in accordance with the test methods specified in the relevant standard, or if actual emissions data are not yet available, an estimate of the type and quantity of hazardous air pollutants expected to be emitted by the source reported in units and averaging times specified in the relevant standard. The owner or operator may submit percent reduction information if a relevant standard is established in terms of percent reduction. However, operating parameters, such as flow rate, shall be included in the submission to the extent that they demonstrate performance and compliance; and

(I) [Reserved]

(J) Other information as specified in paragraphs (d)(2) and (d)(3) of this section.

(iii) An owner or operator who submits estimates or preliminary information in place of the actual emissions data and analysis required in paragraphs (d)(1)(ii)(H) and (d)(2) of this section shall submit the actual, measured emissions data and

other correct information as soon as available but no later than with the notification of compliance status required in §63.9(h) (see §63.9(h)(5)).

(2) *Application for approval of construction.* Each application for approval of construction must include, in addition to the information required in paragraph (d)(1)(ii) of this section, technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including an identification of each type of emission point for each type of hazardous air pollutant that is emitted (or could reasonably be anticipated to be emitted) and a description of the planned air pollution control system (equipment or method) for each emission point. The description of the equipment to be used for the control of emissions must include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions must include an estimated control efficiency (percent) for that method. Such technical information must include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations.

(3) *Application for approval of reconstruction.* Each application for approval of reconstruction shall include, in addition to the information required in paragraph (d)(1)(ii) of this section—

(i) A brief description of the affected source and the components that are to be replaced;

(ii) A description of present and proposed emission control systems (i.e., equipment or methods). The description of the equipment to be used for the control of emissions shall include each control device for each hazardous air pollutant and the estimated control efficiency (percent) for each control device. The description of the method to be used for the control of emissions shall include an estimated control efficiency (percent) for that method. Such technical information shall include calculations of emission estimates in sufficient detail to permit assessment of the validity of the calculations;

(iii) An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new source;

(iv) The estimated life of the affected source after the replacements; and

(v) A discussion of any economic or technical limitations the source may have in complying with relevant standards or other requirements after the proposed replacements. The discussion shall be sufficiently detailed to demonstrate to the Administrator's satisfaction that the technical or economic limitations affect the source's ability to comply with the relevant standard and how they do so.

(vi) If in the application for approval of reconstruction the owner or operator designates the affected source as a reconstructed source and declares that there are no economic or technical limitations to prevent the source from complying with all relevant standards or other requirements, the owner or operator need not submit the information required in paragraphs (d)(3)(iii) through (d)(3)(v) of this section.

(4) *Additional information.* The Administrator may request additional relevant information after the submittal of an application for approval of construction or reconstruction.

(e) *Approval of construction or reconstruction.*

(1)

(i) If the Administrator determines that, if properly constructed, or reconstructed, and operated, a new or existing source for which an application under paragraph (d) of this section was submitted will not cause emissions in violation of the relevant standard(s) and any other federally enforceable requirements, the Administrator will approve the construction or reconstruction.

(ii) In addition, in the case of reconstruction, the Administrator's determination under this paragraph will be based on:

(A) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new source;

(B) The estimated life of the source after the replacements compared to the life of a comparable entirely new source;

(C) The extent to which the components being replaced cause or contribute to the emissions from the source; and

(D) Any economic or technical limitations on compliance with relevant standards that are inherent in the proposed replacements.

(2)

(i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 60 calendar days after receipt of sufficient information to evaluate an application submitted under paragraph (d) of this section. The 60-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(3) Before denying any application for approval of construction or reconstruction, the Administrator will notify the applicant of the Administrator's intention to issue the denial together with—

(i) Notice of the information and findings on which the intended denial is based; and

(ii) Notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator to enable further action on the application.

(4) A final determination to deny any application for approval will be in writing and will specify the grounds on which the denial is based. The final determination will be made within 60 calendar days of presentation of additional information or arguments (if the application is complete), or within 60 calendar days after the final date specified for presentation if no presentation is made.

(5) Neither the submission of an application for approval nor the Administrator's approval of construction or reconstruction shall—

(i) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(ii) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(f) *Approval of construction or reconstruction based on prior State preconstruction review.*

(1) Preconstruction review procedures that a State utilizes for other purposes may also be utilized for purposes of this section if the procedures are substantially equivalent to those specified in this section. The Administrator will approve an application for construction or reconstruction specified in paragraphs (b)(3) and (d) of this section if the owner or operator of a new affected source or reconstructed affected source, who is subject to such requirement meets the following conditions:

(i) The owner or operator of the new affected source or reconstructed affected source has undergone a preconstruction review and approval process in the State in which the source is (or would be) located and has received a federally enforceable construction permit that contains a finding that the source will meet the relevant promulgated emission standard, if the source is properly built and operated.

(ii) Provide a statement from the State or other evidence (such as State regulations) that it considered the factors specified in paragraph (e)(1) of this section.

(2) The owner or operator must submit to the Administrator the request for approval of construction or reconstruction under this paragraph (f)(2) no later than the application deadline specified in paragraph (d)(1) of this section (see also §63.9(b)(2)). The owner or operator must include in the request information sufficient for the Administrator's determination. The Administrator will evaluate the owner or operator's request in accordance with the procedures specified in paragraph (e) of this section. The Administrator may request additional relevant information after the submittal of a request for approval of construction or reconstruction under this paragraph (f)(2).

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16598, Apr. 5, 2002]

**§ 63.6 Compliance with standards and maintenance requirements.**

(a) *Applicability.*

(1) The requirements in this section apply to the owner or operator of affected sources for which any relevant standard has been established pursuant to section 112 of the Act and the applicability of such requirements is set out in accordance with §63.1(a)(4) unless—

(i) The Administrator (or a State with an approved permit program) has granted an extension of compliance consistent with paragraph (i) of this section; or

(ii) The President has granted an exemption from compliance with any relevant standard in accordance with section 112(i)(4) of the Act.

(2) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source, such source shall be subject to the relevant emission standard or other requirement.

(b) *Compliance dates for new and reconstructed sources.*

(1) Except as specified in paragraphs (b)(3) and (4) of this section, the owner or operator of a new or reconstructed affected source for which construction or reconstruction commences after proposal of a relevant standard that has an initial startup before the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act must comply with such standard not later than the standard's effective date.

(2) Except as specified in paragraphs (b)(3) and (4) of this section, the owner or operator of a new or reconstructed affected source that has an initial startup after the effective date of a relevant standard established under this part pursuant to section 112(d), (f), or (h) of the Act must comply with such standard upon startup of the source.

(3) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established under this part pursuant to section 112(d), 112(f), or 112(h) of the Act but before the effective date (that is, promulgation) of such standard shall comply with the relevant emission standard not later than the date 3 years after the effective date if:

(i) The promulgated standard (that is, the relevant standard) is more stringent than the proposed standard; for purposes of this paragraph, a finding that controls or compliance methods are “more stringent” must include control technologies or performance criteria and compliance or compliance assurance methods that are different but are substantially equivalent to those required by the promulgated rule, as determined by the Administrator (or his or her authorized representative); and

(ii) The owner or operator complies with the standard as proposed during the 3-year period immediately after the effective date.

(4) The owner or operator of an affected source for which construction or reconstruction is commenced after the proposal date of a relevant standard established pursuant to section 112(d) of the Act but before the proposal date of a relevant standard established pursuant to section 112(f) shall not be required to comply with the section 112(f) emission standard until the date 10 years after the date construction or reconstruction is commenced, except that, if the section 112(f) standard is promulgated more than 10 years after construction or reconstruction is commenced, the owner or operator must comply with the standard as provided in paragraphs (b)(1) and (2) of this section.

(5) The owner or operator of a new source that is subject to the compliance requirements of paragraph (b)(3) or (4) of this section must notify the Administrator in accordance with §63.9(d)

(6) [Reserved]

(7) When an area source becomes a major source by the addition of equipment or operations that meet the definition of new affected source in the relevant standard, the portion of the existing facility that is a new affected source must comply with all requirements of that standard applicable to new sources. The source owner or operator must comply with the relevant standard upon startup.

(c) *Compliance dates for existing sources.*

(1) After the effective date of a relevant standard established under this part pursuant to section 112(d) or 112(h) of the Act, the owner or operator of an existing source shall comply with such standard by the compliance date established by the Administrator in the applicable subpart(s) of this part. Except as otherwise provided for in section 112 of the Act, in no case will the compliance date established for an existing source in an applicable subpart of this part exceed 3 years after the effective date of such standard.

(2) If an existing source is subject to a standard established under this part pursuant to section 112(f) of the Act, the owner or operator must comply with the standard by the date 90 days after the standard's effective date, or by the date specified in an extension granted to the source by the Administrator under paragraph (i)(4)(ii) of this section, whichever is later.

(3)–(4) [Reserved]

(5) Except as provided in paragraph (b)(7) of this section, the owner or operator of an area source that increases its emissions of (or its potential to emit) hazardous air pollutants such that the source becomes a major source shall be subject to relevant standards for existing sources. Such sources must comply by the date specified in the standards for existing area sources that become major sources. If no such compliance date is specified in the standards, the source shall have a period of time to comply with the relevant emission standard that is equivalent to the compliance period specified in the relevant standard for existing sources in existence at the time the standard becomes effective.

(d) [Reserved]

(e) *Operation and maintenance requirements.*

(1)

(i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in paragraph (e)(3) of this section), review of operation and maintenance records, and inspection of the source.

(ii) Malfunctions must be corrected as soon as practicable after their occurrence. To the extent that an unexpected event arises during a startup, shutdown, or malfunction, an owner or operator must comply by minimizing emissions during such a startup, shutdown, and malfunction event consistent with safety and good air pollution control practices.

(iii) Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable independent of emissions limitations or other requirements in relevant standards.

(2) [Reserved]

(3) *Startup, shutdown, and malfunction plan.*

(i) The owner or operator of an affected source must develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction; and a program of corrective action for malfunctioning process, air pollution control, and monitoring equipment used to comply with the relevant standard. The startup, shutdown, and malfunction plan does not need to address any scenario that would not cause the source to exceed an applicable emission limitation in the relevant standard. This plan must be developed by the owner or operator by the source's compliance date for that relevant standard. The purpose of the startup, shutdown, and malfunction plan is to—

(A) Ensure that, at all times, the owner or operator operates and maintains each affected source, including associated air pollution control and monitoring equipment, in a manner which satisfies the general duty to minimize emissions established by paragraph (e)(1)(i) of this section;

(B) Ensure that owners or operators are prepared to correct malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of hazardous air pollutants; and

(C) Reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

(ii) [Reserved]

(iii) When actions taken by the owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator must keep records for that event which demonstrate that the procedures specified in the plan were followed. These records may take the form of a "checklist," or other effective form of recordkeeping that confirms conformance with the startup, shutdown, and malfunction plan and describes the actions taken for that event. In addition, the owner or operator must keep records of these events as specified in paragraph 63.10(b), including records of the occurrence and duration of each startup or shutdown (if the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of operation and each malfunction of the air pollution control and monitoring equipment. Furthermore, the owner or operator shall confirm that actions taken during the relevant reporting period during periods of startup, shutdown, and malfunction were consistent with the affected source's startup, shutdown and malfunction plan in the semiannual (or more frequent) startup, shutdown, and malfunction report required in §63.10(d)(5).

(iv) If an action taken by the owner or operator during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, then the owner or operator must record the actions taken for that event and must report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with §63.10(d)(5) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator).

(v) The owner or operator must maintain at the affected source a current startup, shutdown, and malfunction plan and must make the plan available upon request for inspection and copying by the Administrator. In addition, if the startup, shutdown, and malfunction plan is subsequently revised as provided in paragraph (e)(3)(viii) of this section, the owner or operator must maintain at the affected source each previous (i.e., superseded) version of the startup, shutdown, and malfunction plan, and must make each such previous version available for inspection and copying by the Administrator for a period of 5 years after revision of the plan. If at any time after adoption of a startup, shutdown, and malfunction plan the affected source ceases operation or is otherwise no longer subject to the provisions of this part, the owner or operator must retain a copy of the most recent plan for 5 years from the date the source ceases operation or is no longer subject to this part and must make the plan available upon request for inspection and copying by the Administrator. The Administrator may at any time request in writing that the owner or operator submit a copy of any startup, shutdown, and malfunction plan (or a portion thereof) which is maintained at the affected source or in the possession of the owner or operator. Upon receipt of such a request, the owner or operator must promptly submit a copy of the requested plan (or a portion thereof) to the Administrator. The owner or operator may elect to submit the required copy of any startup, shutdown, and malfunction plan to the Administrator in an electronic format. If the owner or operator claims that any portion of such a startup, shutdown, and malfunction plan is confidential business information entitled to protection from disclosure under section 114(c) of the Act or 40 CFR 2.301, the material which is claimed as confidential must be clearly designated in the submission.

(vi) To satisfy the requirements of this section to develop a startup, shutdown, and malfunction plan, the owner or operator may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements of this section and are made available for inspection or submitted when requested by the Administrator.

(vii) Based on the results of a determination made under paragraph (e)(1)(i) of this section, the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator must require appropriate revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan:

(A) Does not address a startup, shutdown, or malfunction event that has occurred;

(B) Fails to provide for the operation of the source (including associated air pollution control and monitoring equipment) during a startup, shutdown, or malfunction event in a manner consistent with the general duty to minimize emissions established by paragraph (e)(1)(i) of this section;

(C) Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control and monitoring equipment as quickly as practicable; or

(D) Includes an event that does not meet the definition of startup, shutdown, or malfunction listed in §63.2.

(viii) The owner or operator may periodically revise the startup, shutdown, and malfunction plan for the affected source as necessary to satisfy the requirements of this part or to reflect changes in equipment or procedures at the affected source. Unless the permitting authority provides otherwise, the owner or operator may make such revisions to the startup, shutdown, and malfunction plan without prior approval by the Administrator or the permitting authority. However, each such revision to a startup, shutdown, and malfunction plan must be reported in the semiannual report required by §63.10(d)(5). If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator must revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment. In the event that the owner or operator makes any revision to the startup, shutdown, and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown, or malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established under this part, the revised plan shall not take effect until after the owner or operator has provided a written notice describing the revision to the permitting authority.

(ix) The title V permit for an affected source must require that the owner or operator develop a startup, shutdown, and malfunction plan which conforms to the provisions of this part, but may do so by citing to the relevant subpart or subparagraphs of paragraph (e) of this section. However, any revisions made to the startup, shutdown, and malfunction plan in accordance with the procedures established by this part shall not be deemed to constitute permit revisions under part 70 or part 71 of this chapter and the elements of the startup, shutdown, and malfunction plan shall not be considered an applicable requirement as defined in §70.2 and §71.2 of this chapter. Moreover, none of the procedures specified by the startup, shutdown, and malfunction plan for an affected source shall be deemed to fall within the permit shield provision in section 504(f) of the Act.

(f) *Compliance with nonopacity emission standards —*

(1) *Applicability.* The non-opacity emission standards set forth in this part shall apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the non-opacity emission standards set forth in this part, then that emission point must still be required to comply with the non-opacity emission standards and other applicable requirements.

(2) *Methods for determining compliance.*

(i) The Administrator will determine compliance with nonopacity emission standards in this part based on the results of performance tests conducted according to the procedures in §63.7, unless otherwise specified in an applicable subpart of this part.

(ii) The Administrator will determine compliance with nonopacity emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, including the evaluation of monitoring data, as specified in §63.6(e) and applicable subparts of this part.

(iii) If an affected source conducts performance testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if—

(A) The performance test was conducted within a reasonable amount of time before an initial performance test is required to be conducted under the relevant standard;

(B) The performance test was conducted under representative operating conditions for the source;

(C) The performance test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in §63.7(e) of this subpart; and

(D) The performance test was appropriately quality-assured, as specified in §63.7(c).

(iv) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by review of records, inspection of the source, and other procedures specified in applicable subparts of this part.

(v) The Administrator will determine compliance with design, equipment, work practice, or operational emission standards in this part by evaluation of an owner or operator's conformance with operation and maintenance requirements, as specified in paragraph (e) of this section and applicable subparts of this part.

(3) *Finding of compliance.* The Administrator will make a finding concerning an affected source's compliance with a non-opacity emission standard, as specified in paragraphs (f)(1) and (2) of this section, upon obtaining all the compliance information required by the relevant standard (including the written reports of performance test results, monitoring results, and other information, if applicable), and information available to the Administrator pursuant to paragraph (e)(1)(i) of this section.

(g) *Use of an alternative nonopacity emission standard.*

(1) If, in the Administrator's judgment, an owner or operator of an affected source has established that an alternative means of emission limitation will achieve a reduction in emissions of a hazardous air pollutant from an affected source at least equivalent to the reduction in emissions of that pollutant from that source achieved under any design, equipment, work practice, or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act, the Administrator will publish in the Federal Register a notice permitting the use of the alternative emission standard for purposes of compliance with the promulgated standard. Any Federal Register notice under this paragraph shall be published only after the public is notified and given the opportunity to comment. Such notice will restrict the permission to the stationary source(s) or category(ies) of sources from which the alternative emission standard will achieve equivalent emission reductions. The Administrator will condition permission in such notice on requirements to assure the proper operation and maintenance of equipment and practices required for compliance with the alternative emission standard and other requirements, including appropriate quality assurance and quality control requirements, that are deemed necessary.

(2) An owner or operator requesting permission under this paragraph shall, unless otherwise specified in an applicable subpart, submit a proposed test plan or the results of testing and monitoring in accordance with §63.7 and §63.8, a description of the procedures followed in testing or monitoring, and a description of pertinent conditions during testing or monitoring. Any testing or monitoring conducted to request permission to use an alternative nonopacity emission standard shall be appropriately quality assured and quality controlled, as specified in §63.7 and §63.8.

(3) The Administrator may establish general procedures in an applicable subpart that accomplish the requirements of paragraphs (g)(1) and (g)(2) of this section.

(h) *Compliance with opacity and visible emission standards —*

(1) *Applicability.* The opacity and visible emission standards set forth in this part must apply at all times except during periods of startup, shutdown, and malfunction, and as otherwise specified in an applicable subpart. If a startup, shutdown, or malfunction of one portion of an affected source does not affect the ability of particular emission points within other portions of the affected source to comply with the opacity and visible emission standards set forth in this part, then that emission point shall still be required to comply with the opacity and visible emission standards and other applicable requirements.

(2) *Methods for determining compliance.*

(i) The Administrator will determine compliance with opacity and visible emission standards in this part based on the results of the test method specified in an applicable subpart. Whenever a continuous opacity monitoring system (COMS) is required to be installed to determine compliance with numerical opacity emission standards in this part, compliance with opacity emission standards in this part shall be determined by using the results from the COMS. Whenever an opacity emission test method is not specified, compliance with opacity emission standards in this part shall be determined by conducting observations in accordance with Test Method 9 in appendix A of part 60 of this chapter or the method specified in paragraph (h)(7)(ii) of this section. Whenever a visible emission test method is not specified, compliance with visible emission standards in this part shall be determined by conducting observations in accordance with Test Method 22 in appendix A of part 60 of this chapter.

(ii) [Reserved]

(iii) If an affected source undergoes opacity or visible emission testing at startup to obtain an operating permit in the State in which the source is located, the results of such testing may be used to demonstrate compliance with a relevant standard if—

(A) The opacity or visible emission test was conducted within a reasonable amount of time before a performance test is required to be conducted under the relevant standard;

(B) The opacity or visible emission test was conducted under representative operating conditions for the source;

(C) The opacity or visible emission test was conducted and the resulting data were reduced using EPA-approved test methods and procedures, as specified in §63.7(e); and

(D) The opacity or visible emission test was appropriately quality-assured, as specified in §63.7(c) of this section.

(3) [Reserved]

(4) *Notification of opacity or visible emission observations.* The owner or operator of an affected source shall notify the Administrator in writing of the anticipated date for conducting opacity or visible emission observations in accordance with §63.9(f), if such observations are required for the source by a relevant standard.

(5) *Conduct of opacity or visible emission observations.* When a relevant standard under this part includes an opacity or visible emission standard, the owner or operator of an affected source shall comply with the following:

(i) For the purpose of demonstrating initial compliance, opacity or visible emission observations shall be conducted concurrently with the initial performance test required in §63.7 unless one of the following conditions applies:

(A) If no performance test under §63.7 is required, opacity or visible emission observations shall be conducted within 60 days after achieving the maximum production rate at which a new or reconstructed source will be operated, but not later than 120 days after initial startup of the source, or within 120 days after the effective date of the relevant standard in the case of new sources that start up before the standard's effective date. If no performance test under §63.7 is required, opacity or visible emission observations shall be conducted within 120 days after the compliance date for an existing or modified source; or

(B) If visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under §63.7, or within the time period specified in paragraph (h)(5)(i)(A) of this section, the source's owner or operator shall reschedule the opacity or visible emission observations as soon after the initial performance test, or time period, as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. The rescheduled opacity or visible emission observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under §63.7. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity or visible emission observations from being made concurrently with the initial performance test in accordance with procedures contained in Test Method 9 or Test Method 22 in appendix A of part 60 of this chapter.

(ii) For the purpose of demonstrating initial compliance, the minimum total time of opacity observations shall be 3 hours (30 6-minute averages) for the performance test or other required set of observations (e.g., for fugitive-type emission sources subject only to an opacity emission standard).

(iii) The owner or operator of an affected source to which an opacity or visible emission standard in this part applies shall conduct opacity or visible emission observations in accordance with the provisions of this section, record the results of the evaluation of emissions, and report to the Administrator the opacity or visible emission results in accordance with the provisions of §63.10(d).

(iv) [Reserved]

(v) Opacity readings of portions of plumes that contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity emission standards.

(6) *Availability of records.* The owner or operator of an affected source shall make available, upon request by the Administrator, such records that the Administrator deems necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification.

(7) *Use of a continuous opacity monitoring system.*

(i) The owner or operator of an affected source required to use a continuous opacity monitoring system (COMS) shall record the monitoring data produced during a performance test required under §63.7 and shall furnish the Administrator a written report of the monitoring results in accordance with the provisions of §63.10(e)(4).

(ii) Whenever an opacity emission test method has not been specified in an applicable subpart, or an owner or operator of an affected source is required to conduct Test Method 9 observations (see appendix A of part 60 of this chapter), the owner or operator may submit, for compliance purposes, COMS data results produced during any performance test required under §63.7 in lieu of Method 9 data. If the owner or operator elects to submit COMS data for compliance with the opacity emission standard, he or she shall notify the Administrator of that decision, in writing, simultaneously with the notification

under §63.7(b) of the date the performance test is scheduled to begin. Once the owner or operator of an affected source has notified the Administrator to that effect, the COMS data results will be used to determine opacity compliance during subsequent performance tests required under §63.7, unless the owner or operator notifies the Administrator in writing to the contrary not later than with the notification under §63.7(b) of the date the subsequent performance test is scheduled to begin.

(iii) For the purposes of determining compliance with the opacity emission standard during a performance test required under §63.7 using COMS data, the COMS data shall be reduced to 6-minute averages over the duration of the mass emission performance test.

(iv) The owner or operator of an affected source using a COMS for compliance purposes is responsible for demonstrating that he/she has complied with the performance evaluation requirements of §63.8(e), that the COMS has been properly maintained, operated, and data quality-assured, as specified in §63.8(c) and §63.8(d), and that the resulting data have not been altered in any way.

(v) Except as provided in paragraph (h)(7)(ii) of this section, the results of continuous monitoring by a COMS that indicate that the opacity at the time visual observations were made was not in excess of the emission standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the affected source proves that, at the time of the alleged violation, the instrument used was properly maintained, as specified in §63.8(c), and met Performance Specification 1 in appendix B of part 60 of this chapter, and that the resulting data have not been altered in any way.

(8) *Finding of compliance.* The Administrator will make a finding concerning an affected source's compliance with an opacity or visible emission standard upon obtaining all the compliance information required by the relevant standard (including the written reports of the results of the performance tests required by §63.7, the results of Test Method 9 or another required opacity or visible emission test method, the observer certification required by paragraph (h)(6) of this section, and the continuous opacity monitoring system results, whichever is/are applicable) and any information available to the Administrator needed to determine whether proper operation and maintenance practices are being used.

(9) *Adjustment to an opacity emission standard.*

(i) If the Administrator finds under paragraph (h)(8) of this section that an affected source is in compliance with all relevant standards for which initial performance tests were conducted under §63.7, but during the time such performance tests were conducted fails to meet any relevant opacity emission standard, the owner or operator of such source may petition the Administrator to make appropriate adjustment to the opacity emission standard for the affected source. Until the Administrator notifies the owner or operator of the appropriate adjustment, the relevant opacity emission standard remains applicable.

(ii) The Administrator may grant such a petition upon a demonstration by the owner or operator that—

(A) The affected source and its associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance tests;

(B) The performance tests were performed under the conditions established by the Administrator; and

(C) The affected source and its associated air pollution control equipment were incapable of being adjusted or operated to meet the relevant opacity emission standard.

(iii) The Administrator will establish an adjusted opacity emission standard for the affected source meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity emission standard at all times during which the source is meeting the mass or concentration emission standard. The Administrator will promulgate the new opacity emission standard in the Federal Register.

(iv) After the Administrator promulgates an adjusted opacity emission standard for an affected source, the owner or operator of such source shall be subject to the new opacity emission standard, and the new opacity emission standard shall apply to such source during any subsequent performance tests.

(i) *Extension of compliance with emission standards.*

(1) Until an extension of compliance has been granted by the Administrator (or a State with an approved permit program) under this paragraph, the owner or operator of an affected source subject to the requirements of this section shall comply with all applicable requirements of this part.

(2) *Extension of compliance for early reductions and other reductions —*

(i) *Early reductions.* Pursuant to section 112(i)(5) of the Act, if the owner or operator of an existing source demonstrates that the source has achieved a reduction in emissions of hazardous air pollutants in accordance with the provisions of subpart D of this part, the Administrator (or the State with an approved permit program) will grant the owner or operator an extension of compliance with specific requirements of this part, as specified in subpart D.

(ii) *Other reductions.* Pursuant to section 112(i)(6) of the Act, if the owner or operator of an existing source has installed best available control technology (BACT) (as defined in section 169(3) of the Act) or technology required to meet a lowest achievable emission rate (LAER) (as defined in section 171 of the Act) prior to the promulgation of an emission standard in this part applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to the BACT or LAER installation, the Administrator will grant the owner or operator an extension of compliance with such emission standard that will apply until the date 5 years after the date on which such installation was achieved, as determined by the Administrator.

(3) *Request for extension of compliance.* Paragraphs (i)(4) through (i)(7) of this section concern requests for an extension of compliance with a relevant standard under this part (except requests for an extension of compliance under paragraph (i)(2)(i) of this section will be handled through procedures specified in subpart D of this part).

(4)

(i)

(A) The owner or operator of an existing source who is unable to comply with a relevant standard established under this part pursuant to section 112(d) of the Act may request that the Administrator (or a State, when the State has an approved part 70 permit program and the source is required to obtain a part 70 permit under that program, or a State, when the State has been delegated the authority to implement and enforce the emission standard for that source) grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 1-year extension of compliance is insufficient to dry and cover mining waste in order to reduce emissions of any hazardous air pollutant. The owner or operator of an affected source who has requested an extension of compliance under this paragraph and who is otherwise required to obtain a title V permit shall apply for such permit or apply to have the source's title V permit revised to incorporate the conditions of the extension of compliance. The conditions of an extension of compliance granted under this paragraph will be incorporated into the affected source's title V permit according to the provisions of part 70 or Federal title V regulations in this chapter (42 U.S.C. 7661), whichever are applicable.

(B) Any request under this paragraph for an extension of compliance with a relevant standard must be submitted in writing to the appropriate authority no later than 120 days prior to the affected source's compliance date (as specified in paragraphs (b) and (c) of this section), except as provided for in paragraph (i)(4)(i)(C) of this section. Nonfrivolous requests submitted under this paragraph will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the date of denial. Emission standards established under this part may specify alternative dates for the submittal of requests for an extension of compliance if alternatives are appropriate for the source categories affected by those standards.

(C) An owner or operator may submit a compliance extension request after the date specified in paragraph (i)(4)(i)(B) of this section provided the need for the compliance extension arose after that date, and before the otherwise applicable compliance date and the need arose due to circumstances beyond reasonable control of the owner or operator. This request must include, in addition to the information required in paragraph (i)(6)(i) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problems. Nonfrivolous requests submitted under this paragraph will stay the applicability of the rule as to the emission points in question until such time as the request is granted or denied. A denial will be effective as of the original compliance date.

(ii) The owner or operator of an existing source unable to comply with a relevant standard established under this part pursuant to section 112(f) of the Act may request that the Administrator grant an extension allowing the source up to 2 years after the standard's effective date to comply with the standard. The Administrator may grant such an extension if he/she finds that such additional period is necessary for the installation of controls and that steps will be taken during the period of the extension to assure that the health of persons will be protected from imminent endangerment. Any request for an extension of compliance with a relevant standard under this paragraph must be submitted in writing to the Administrator not later than 90 calendar days after the effective date of the relevant standard.

(5) The owner or operator of an existing source that has installed BACT or technology required to meet LAER [as specified in paragraph (i)(2)(ii) of this section] prior to the promulgation of a relevant emission standard in this part may request that the Administrator grant an extension allowing the source 5 years from the date on which such installation was

achieved, as determined by the Administrator, to comply with the standard. Any request for an extension of compliance with a relevant standard under this paragraph shall be submitted in writing to the Administrator not later than 120 days after the promulgation date of the standard. The Administrator may grant such an extension if he or she finds that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(6)

(i) The request for a compliance extension under paragraph (i)(4) of this section shall include the following information:

(A) A description of the controls to be installed to comply with the standard;

(B) A compliance schedule, including the date by which each step toward compliance will be reached. At a minimum, the list of dates shall include:

( *1* ) The date by which on-site construction, installation of emission control equipment, or a process change is planned to be initiated; and

( *2* ) The date by which final compliance is to be achieved.

( *3* ) The date by which on-site construction, installation of emission control equipment, or a process change is to be completed; and

( *4* ) The date by which final compliance is to be achieved;

(C)—(D)

(ii) The request for a compliance extension under paragraph (i)(5) of this section shall include all information needed to demonstrate to the Administrator's satisfaction that the installation of BACT or technology to meet LAER controls the same pollutant (or stream of pollutants) that would be controlled at that source by the relevant emission standard.

(7) Advice on requesting an extension of compliance may be obtained from the Administrator (or the State with an approved permit program).

(8) *Approval of request for extension of compliance.* Paragraphs (i)(9) through (i)(14) of this section concern approval of an extension of compliance requested under paragraphs (i)(4) through (i)(6) of this section.

(9) Based on the information provided in any request made under paragraphs (i)(4) through (i)(6) of this section, or other information, the Administrator (or the State with an approved permit program) may grant an extension of compliance with an emission standard, as specified in paragraphs (i)(4) and (i)(5) of this section.

(10) The extension will be in writing and will—

(i) Identify each affected source covered by the extension;

(ii) Specify the termination date of the extension;

(iii) Specify the dates by which steps toward compliance are to be taken, if appropriate;

(iv) Specify other applicable requirements to which the compliance extension applies (e.g., performance tests); and

(v)

(A) Under paragraph (i)(4), specify any additional conditions that the Administrator (or the State) deems necessary to assure installation of the necessary controls and protection of the health of persons during the extension period; or

(B) Under paragraph (i)(5), specify any additional conditions that the Administrator deems necessary to assure the proper operation and maintenance of the installed controls during the extension period.

(11) The owner or operator of an existing source that has been granted an extension of compliance under paragraph (i)(10) of this section may be required to submit to the Administrator (or the State with an approved permit program) progress reports indicating whether the steps toward compliance outlined in the compliance schedule have been reached. The contents of the progress reports and the dates by which they shall be submitted will be specified in the written extension of compliance granted under paragraph (i)(10) of this section.

(12)

(i) The Administrator (or the State with an approved permit program) will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (i)(4)(i) or (i)(5) of this section. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator (or the State with an approved permit program) will notify the owner or operator in writing of the Administrator's (or the State's) intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator (or the State) before further action on the request.

(iv) The Administrator's final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(13)

(i) The Administrator will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 30 calendar days after receipt of sufficient information to evaluate a request submitted under paragraph (i)(4)(ii) of this section. The 30-day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The Administrator (or the State) will notify the owner or operator in writing of the status of his/her application, that is, whether the application contains sufficient information to make a determination, within 15 calendar days after receipt of the original application and within 15 calendar days after receipt of any supplementary information that is submitted.

(ii) When notifying the owner or operator that his/her application is not complete, the Administrator will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 15 calendar days after he/she is notified of the incomplete application, additional information or arguments to the Administrator to enable further action on the application.

(iii) Before denying any request for an extension of compliance, the Administrator will notify the owner or operator in writing of the Administrator's intention to issue the denial, together with—

(A) Notice of the information and findings on which the intended denial is based; and

(B) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the intended denial, additional information or arguments to the Administrator before further action on the request.

(iv) A final determination to deny any request for an extension will be in writing and will set forth the specific grounds on which the denial is based. The final determination will be made within 30 calendar days after presentation of additional information or argument (if the application is complete), or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(14) The Administrator (or the State with an approved permit program) may terminate an extension of compliance at an earlier date than specified if any specification under paragraph (i)(10)(iii) or (iv) of this section is not met. Upon a determination to terminate, the Administrator will notify, in writing, the owner or operator of the Administrator's determination to terminate, together with:

(i) Notice of the reason for termination; and

(ii) Notice of opportunity for the owner or operator to present in writing, within 15 calendar days after he/she is notified of the determination to terminate, additional information or arguments to the Administrator before further action on the termination.

(iii) A final determination to terminate an extension of compliance will be in writing and will set forth the specific grounds on which the termination is based. The final determination will be made within 30 calendar days after presentation of additional information or arguments, or within 30 calendar days after the final date specified for the presentation if no presentation is made.

(15) [Reserved]

(16) The granting of an extension under this section shall not abrogate the Administrator's authority under section 114 of the Act.

(j) *Exemption from compliance with emission standards.* The President may exempt any stationary source from compliance with any relevant standard established pursuant to section 112 of the Act for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years.

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16599, Apr. 5, 2002; 68 FR 32600, May 30, 2003; 71 FR 20454, Apr. 20, 2006]

**§ 63.7 Performance testing requirements.**

(a) *Applicability and performance test dates.*

(1) The applicability of this section is set out in §63.1(a)(4).

(2) Except as provided in paragraph (a)(4) of this section, if required to do performance testing by a relevant standard, and unless a waiver of performance testing is obtained under this section or the conditions of paragraph (c)(3)(ii)(B) of this section apply, the owner or operator of the affected source must perform such tests within 180 days of the compliance date for such source.

(i)–(viii) [Reserved]

(ix) Except as provided in paragraph (a)(4) of this section, when an emission standard promulgated under this part is more stringent than the standard proposed (see §63.6(b)(3)), the owner or operator of a new or reconstructed source subject to that standard for which construction or reconstruction is commenced between the proposal and promulgation dates of the standard shall comply with performance testing requirements within 180 days after the standard's effective date, or within 180 days after startup of the source, whichever is later. If the promulgated standard is more stringent than the proposed standard, the owner or operator may choose to demonstrate compliance with either the proposed or the promulgated standard. If the owner or operator chooses to comply with the proposed standard initially, the owner or operator shall conduct a second performance test within 3 years and 180 days after the effective date of the standard, or after startup of the source, whichever is later, to demonstrate compliance with the promulgated standard.

(3) The Administrator may require an owner or operator to conduct performance tests at the affected source at any other time when the action is authorized by section 114 of the Act.

(4) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure:

(i) The owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline specified in paragraph (a)(2) or (a)(3) of this section, or elsewhere in this part, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

(ii) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(iii) The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Administrator. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(iv) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(4)(i), (a)(4)(ii), and (a)(4)(iii) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

(b) *Notification of performance test.*

(1) The owner or operator of an affected source must notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is initially scheduled to begin to allow the Administrator, upon request, to review an approve the site-specific test plan required under paragraph (c) of this section and to have an observer present during the test.

(2) In the event the owner or operator is unable to conduct the performance test on the date specified in the notification requirement specified in paragraph (b)(1) of this section due to unforeseeable circumstances beyond his or her control, the owner or operator must notify the Administrator as soon as practicable and without delay prior to the scheduled performance test date and specify the date when the performance test is rescheduled. This notification of delay in conducting the performance test shall not relieve the owner or operator of legal responsibility for compliance with any other applicable provisions of this part or with any other applicable Federal, State, or local requirement, nor will it prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(c) *Quality assurance program.*

(1) The results of the quality assurance program required in this paragraph will be considered by the Administrator when he/she determines the validity of a performance test.

(2)

(i) *Submission of site-specific test plan.* Before conducting a required performance test, the owner or operator of an affected source shall develop and, if requested by the Administrator, shall submit a site-specific test plan to the Administrator for approval. The test plan shall include a test program summary, the test schedule, data quality objectives, and both an internal and external quality assurance (QA) program. Data quality objectives are the pretest expectations of precision, accuracy, and completeness of data.

(ii) The internal QA program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of test data precision; an example of internal QA is the sampling and analysis of replicate samples.

(iii) The external QA program shall include, at a minimum, application of plans for a test method performance audit (PA) during the performance test. The PA's consist of blind audit samples provided by the Administrator and analyzed during the performance test in order to provide a measure of test data bias. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(iv) The owner or operator of an affected source shall submit the site-specific test plan to the Administrator upon the Administrator's request at least 60 calendar days before the performance test is scheduled to take place, that is, simultaneously with the notification of intention to conduct a performance test required under paragraph (b) of this section, or on a mutually agreed upon date.

(v) The Administrator may request additional relevant information after the submittal of a site-specific test plan.

(3) *Approval of site-specific test plan.*

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the site-specific test plan (if review of the site-specific test plan is requested) within 30 calendar days after receipt of the original plan and within 30 calendar days after receipt of any supplementary information that is submitted under paragraph (c)(3)(i)(B) of this section. Before disapproving any site-specific test plan, the Administrator will notify the applicant of the Administrator's intention to disapprove the plan together with—

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present, within 30 calendar days after he/she is notified of the intended disapproval, additional information to the Administrator before final action on the plan.

(ii) In the event that the Administrator fails to approve or disapprove the site-specific test plan within the time period specified in paragraph (c)(3)(i) of this section, the following conditions shall apply:

(A) If the owner or operator intends to demonstrate compliance using the test method(s) specified in the relevant standard or with only minor changes to those tests methods (see paragraph (e)(2)(i) of this section), the owner or operator must conduct the performance test within the time specified in this section using the specified method(s);

(B) If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator is authorized to conduct the performance test using an alternative test method after the Administrator approves the use of the alternative method when the Administrator approves the site-specific test plan (if review of the site-specific test plan is requested) or after the alternative method is approved (see paragraph (f) of this section). However, the owner or operator is authorized to conduct the performance test using an alternative method in the absence of notification of approval 45 days after submission of the site-specific test plan or request to use an alternative method. The owner or operator is authorized to conduct the performance test within 60 calendar days after he/she is authorized to demonstrate compliance using an alternative test method. Notwithstanding the requirements in the preceding three sentences, the owner or operator may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

(iii) Neither the submission of a site-specific test plan for approval, nor the Administrator's approval or disapproval of a plan, nor the Administrator's failure to approve or disapprove a plan in a timely manner shall—

(A) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(B) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(4)

(i) *Performance test method audit program.* The owner or operator must analyze performance audit (PA) samples during each performance test. The owner or operator must request performance audit materials 30 days prior to the test date. Audit materials including cylinder audit gases may be obtained by contacting the appropriate EPA Regional Office or the responsible enforcement authority.

(ii) The Administrator will have sole discretion to require any subsequent remedial actions of the owner or operator based on the PA results.

(iii) If the Administrator fails to provide required PA materials to an owner or operator of an affected source in time to analyze the PA samples during a performance test, the requirement to conduct a PA under this paragraph shall be waived for such source for that performance test. Waiver under this paragraph of the requirement to conduct a PA for a particular performance test does not constitute a waiver of the requirement to conduct a PA for future required performance tests.

(d) *Performance testing facilities.* If required to do performance testing, the owner or operator of each new source and, at the request of the Administrator, the owner or operator of each existing source, shall provide performance testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to such source. This includes:

(i) Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and

(ii) Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures;

(2) Safe sampling platform(s);

(3) Safe access to sampling platform(s);

(4) Utilities for sampling and testing equipment; and

(5) Any other facilities that the Administrator deems necessary for safe and adequate testing of a source.

(e) *Conduct of performance tests.*

(1) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance (i.e., performance based on normal operating conditions) of the affected source. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test, nor shall emissions in excess of the level of the relevant standard during periods of startup, shutdown, and malfunction be considered a violation of the relevant standard unless otherwise specified in the relevant standard or a determination of noncompliance is made under §63.6(e). Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(2) Performance tests shall be conducted and data shall be reduced in accordance with the test methods and procedures set forth in this section, in each relevant standard, and, if required, in applicable appendices of parts 51, 60, 61, and 63 of this chapter unless the Administrator—

(i) Specifies or approves, in specific cases, the use of a test method with minor changes in methodology (see definition in §63.90(a)). Such changes may be approved in conjunction with approval of the site-specific test plan (see paragraph (c) of this section); or

(ii) Approves the use of an intermediate or major change or alternative to a test method (see definitions in §63.90(a)), the results of which the Administrator has determined to be adequate for indicating whether a specific affected source is in compliance; or

(iii) Approves shorter sampling times or smaller sample volumes when necessitated by process variables or other factors; or

(iv) Waives the requirement for performance tests because the owner or operator of an affected source has demonstrated by other means to the Administrator's satisfaction that the affected source is in compliance with the relevant standard.

(3) Unless otherwise specified in a relevant standard or test method, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the relevant standard. For the purpose of determining compliance with a relevant standard, the arithmetic mean of the results of the three runs shall apply. Upon receiving approval from the Administrator, results of a test run may be replaced with results of an additional test run in the event that—

(i) A sample is accidentally lost after the testing team leaves the site; or

(ii) Conditions occur in which one of the three runs must be discontinued because of forced shutdown; or

(iii) Extreme meteorological conditions occur; or

(iv) Other circumstances occur that are beyond the owner or operator's control.

(4) Nothing in paragraphs (e)(1) through (e)(3) of this section shall be construed to abrogate the Administrator's authority to require testing under section 114 of the Act.

(f) *Use of an alternative test method —*

(1) *General.* Until authorized to use an intermediate or major change or alternative to a test method, the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) The owner or operator of an affected source required to do performance testing by a relevant standard may use an alternative test method from that specified in the standard provided that the owner or operator—

(i) Notifies the Administrator of his or her intention to use an alternative test method at least 60 days before the performance test is scheduled to begin;

(ii) Uses Method 301 in appendix A of this part to validate the alternative test method. This may include the use of specific procedures of Method 301 if use of such procedures are sufficient to validate the alternative test method; and

(iii) Submits the results of the Method 301 validation process along with the notification of intention and the justification for not using the specified test method. The owner or operator may submit the information required in this paragraph well in advance of the deadline specified in paragraph (f)(2)(i) of this section to ensure a timely review by the Administrator in order to meet the performance test date specified in this section or the relevant standard.

(3) The Administrator will determine whether the owner or operator's validation of the proposed alternative test method is adequate and issue an approval or disapproval of the alternative test method. If the owner or operator intends to demonstrate compliance by using an alternative to any test method specified in the relevant standard, the owner or operator is

authorized to conduct the performance test using an alternative test method after the Administrator approves the use of the alternative method. However, the owner or operator is authorized to conduct the performance test using an alternative method in the absence of notification of approval/disapproval 45 days after submission of the request to use an alternative method and the request satisfies the requirements in paragraph (f)(2) of this section. The owner or operator is authorized to conduct the performance test within 60 calendar days after he/she is authorized to demonstrate compliance using an alternative test method. Notwithstanding the requirements in the preceding three sentences, the owner or operator may proceed to conduct the performance test as required in this section (without the Administrator's prior approval of the site-specific test plan) if he/she subsequently chooses to use the specified testing and monitoring methods instead of an alternative.

(4) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative test method for the purposes of demonstrating compliance with a relevant standard, the Administrator may require the use of a test method specified in a relevant standard.

(5) If the owner or operator uses an alternative test method for an affected source during a required performance test, the owner or operator of such source shall continue to use the alternative test method for subsequent performance tests at that affected source until he or she receives approval from the Administrator to use another test method as allowed under §63.7(f).

(6) Neither the validation and approval process nor the failure to validate an alternative test method shall abrogate the owner or operator's responsibility to comply with the requirements of this part.

(g) *Data analysis, recordkeeping, and reporting.*

(1) Unless otherwise specified in a relevant standard or test method, or as otherwise approved by the Administrator in writing, results of a performance test shall include the analysis of samples, determination of emissions, and raw data. A performance test is “completed” when field sample collection is terminated. The owner or operator of an affected source shall report the results of the performance test to the Administrator before the close of business on the 60th day following the completion of the performance test, unless specified otherwise in a relevant standard or as approved otherwise in writing by the Administrator (see §63.9(i)). The results of the performance test shall be submitted as part of the notification of compliance status required under §63.9(h). Before a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall send the results of the performance test to the Administrator. After a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall send the results of the performance test to the appropriate permitting authority.

(2) [Reserved]

(3) For a minimum of 5 years after a performance test is conducted, the owner or operator shall retain and make available, upon request, for inspection by the Administrator the records or results of such performance test and other data needed to determine emissions from an affected source.

(h) *Waiver of performance tests.*

(1) Until a waiver of a performance testing requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) Individual performance tests may be waived upon written application to the Administrator if, in the Administrator's judgment, the source is meeting the relevant standard(s) on a continuous basis, or the source is being operated under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) *Request to waive a performance test.*

(i) If a request is made for an extension of compliance under §63.6(i), the application for a waiver of an initial performance test shall accompany the information required for the request for an extension of compliance. If no extension of compliance is requested or if the owner or operator has requested an extension of compliance and the Administrator is still considering that request, the application for a waiver of an initial performance test shall be submitted at least 60 days before the performance test if the site-specific test plan under paragraph (c) of this section is not submitted.

(ii) If an application for a waiver of a subsequent performance test is made, the application may accompany any required compliance progress report, compliance status report, or excess emissions and continuous monitoring system performance report [such as those required under §63.6(i), §63.9(h), and §63.10(e) or specified in a relevant standard or in the source's title V permit], but it shall be submitted at least 60 days before the performance test if the site-specific test plan required under paragraph (c) of this section is not submitted.

(iii) Any application for a waiver of a performance test shall include information justifying the owner or operator's request for a waiver, such as the technical or economic infeasibility, or the impracticality, of the affected source performing the required test.

(4) *Approval of request to waive performance test.* The Administrator will approve or deny a request for a waiver of a performance test made under paragraph (h)(3) of this section when he/she—

(i) Approves or denies an extension of compliance under §63.6(i)(8); or

(ii) Approves or disapproves a site-specific test plan under §63.7(c)(3); or

(iii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iv) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

[59 FR 12430, Mar. 16, 1994, as amended at 65 FR 62215, Oct. 17, 2000; 67 FR 16602, Apr. 5, 2002; 72 FR 27443, May 16, 2007]

**§ 63.8 Monitoring requirements.**

(a) *Applicability.*

(1) The applicability of this section is set out in §63.1(a)(4).

(2) For the purposes of this part, all CMS required under relevant standards shall be subject to the provisions of this section upon promulgation of performance specifications for CMS as specified in the relevant standard or otherwise by the Administrator.

(3) [Reserved]

(4) Additional monitoring requirements for control devices used to comply with provisions in relevant standards of this part are specified in §63.11.

(b) *Conduct of monitoring.*

(1) Monitoring shall be conducted as set forth in this section and the relevant standard(s) unless the Administrator—

(i) Specifies or approves the use of minor changes in methodology for the specified monitoring requirements and procedures (see §63.90(a) for definition); or

(ii) Approves the use of an intermediate or major change or alternative to any monitoring requirements or procedures (see §63.90(a) for definition).

(iii) Owners or operators with flares subject to §63.11(b) are not subject to the requirements of this section unless otherwise specified in the relevant standard.

(2)

(i) When the emissions from two or more affected sources are combined before being released to the atmosphere, the owner or operator may install an applicable CMS for each emission stream or for the combined emissions streams, provided the monitoring is sufficient to demonstrate compliance with the relevant standard.

(ii) If the relevant standard is a mass emission standard and the emissions from one affected source are released to the atmosphere through more than one point, the owner or operator must install an applicable CMS at each emission point unless the installation of fewer systems is—

(A) Approved by the Administrator; or

(B) Provided for in a relevant standard (e.g., instead of requiring that a CMS be installed at each emission point before the effluents from those points are channeled to a common control device, the standard specifies that only one CMS is required to be installed at the vent of the control device).

(3) When more than one CMS is used to measure the emissions from one affected source (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required for each CMS. However, when one CMS is used as a backup to another CMS, the owner or operator shall report the results from the CMS used to meet the monitoring requirements of this part. If both such CMS are used during a particular reporting period to meet the monitoring requirements of this part, then the owner or operator shall report the results from each CMS for the relevant compliance period.

(c) *Operation and maintenance of continuous monitoring systems.*

(1) The owner or operator of an affected source shall maintain and operate each CMS as specified in this section, or in a relevant standard, and in a manner consistent with good air pollution control practices.

(i) The owner or operator of an affected source must maintain and operate each CMS as specified in §63.6(e)(1).

(ii) The owner or operator must keep the necessary parts for routine repairs of the affected CMS equipment readily available.

(iii) The owner or operator of an affected source must develop a written startup, shutdown, and malfunction plan for CMS as specified in §63.6(e)(3).

(2)

(i) All CMS must be installed such that representative measures of emissions or process parameters from the affected source are obtained. In addition, CEMS must be located according to procedures contained in the applicable performance specification(s).

(ii) Unless the individual subpart states otherwise, the owner or operator must ensure the read out (that portion of the CMS that provides a visual display or record), or other indication of operation, from any CMS required for compliance with the emission standard is readily accessible on site for operational control or inspection by the operator of the equipment.

(3) All CMS shall be installed, operational, and the data verified as specified in the relevant standard either prior to or in conjunction with conducting performance tests under §63.7. Verification of operational status shall, at a minimum, include completion of the manufacturer's written specifications or recommendations for installation, operation, and calibration of the system.

(4) Except for system breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level calibration drift adjustments, all CMS, including COMS and CEMS, shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

(i) All COMS shall complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(ii) All CEMS for measuring emissions other than opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(5) Unless otherwise approved by the Administrator, minimum procedures for COMS shall include a method for producing a simulated zero opacity condition and an upscale (high-level) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of all the analyzer's internal optical surfaces and all electronic circuitry, including the lamp and photodetector assembly normally used in the measurement of opacity.

(6) The owner or operator of a CMS that is not a CPMS, which is installed in accordance with the provisions of this part and the applicable CMS performance specification(s), must check the zero (low-level) and high-level calibration drifts at least once daily in accordance with the written procedure specified in the performance evaluation plan developed under paragraphs (e)(3)(i) and (ii) of this section. The zero (low-level) and high-level calibration drifts must be adjusted, at a minimum, whenever the 24-hour zero (low-level) drift exceeds two times the limits of the applicable performance specification(s) specified in the relevant standard. The system shall allow the amount of excess zero (low-level) and high-level drift measured at the 24-hour interval checks to be recorded and quantified whenever specified. For COMS, all optical and instrumental surfaces exposed to the effluent gases must be cleaned prior to performing the zero (low-level) and high-level drift adjustments; the optical surfaces and instrumental surfaces must be cleaned when the cumulative automatic zero compensation, if applicable, exceeds 4 percent opacity. The CPMS must be calibrated prior to use for the purposes of complying with this section. The CPMS must be checked daily for indication that the system is responding. If the CPMS system includes an internal system check, results must be recorded and checked daily for proper operation.

(7)

(i) A CMS is out of control if—

(A) The zero (low-level), mid-level (if applicable), or high-level calibration drift (CD) exceeds two times the applicable CD specification in the applicable performance specification or in the relevant standard; or

(B) The CMS fails a performance test audit (e.g., cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit; or

(C) The COMS CD exceeds two times the limit in the applicable performance specification in the relevant standard.

(ii) When the CMS is out of control, the owner or operator of the affected source shall take the necessary corrective action and shall repeat all necessary tests which indicate that the system is out of control. The owner or operator shall take corrective action and conduct retesting until the performance requirements are below the applicable limits. The beginning of the out-of-control period is the hour the owner or operator conducts a performance check (e.g., calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and successful demonstration that the system is within the allowable limits. During the period the CMS is out of control, recorded data shall not be used in data averages and calculations, or to meet any data availability requirement established under this part.

(8) The owner or operator of a CMS that is out of control as defined in paragraph (c)(7) of this section shall submit all information concerning out-of-control periods, including start and end dates and hours and descriptions of corrective actions taken, in the excess emissions and continuous monitoring system performance report required in §63.10(e)(3).

(d) *Quality control program.*

(1) The results of the quality control program required in this paragraph will be considered by the Administrator when he/she determines the validity of monitoring data.

(2) The owner or operator of an affected source that is required to use a CMS and is subject to the monitoring requirements of this section and a relevant standard shall develop and implement a CMS quality control program. As part of the quality control program, the owner or operator shall develop and submit to the Administrator for approval upon request a site-specific performance evaluation test plan for the CMS performance evaluation required in paragraph (e)(3)(i) of this section, according to the procedures specified in paragraph (e). In addition, each quality control program shall include, at a minimum, a written protocol that describes procedures for each of the following operations:

(i) Initial and any subsequent calibration of the CMS;

(ii) Determination and adjustment of the calibration drift of the CMS;

(iii) Preventive maintenance of the CMS, including spare parts inventory;

(iv) Data recording, calculations, and reporting;

(v) Accuracy audit procedures, including sampling and analysis methods; and

(vi) Program of corrective action for a malfunctioning CMS.

(3) The owner or operator shall keep these written procedures on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, the owner or operator shall keep previous (i.e., superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. Where relevant, e.g., program of corrective action for a malfunctioning CMS, these written procedures may be incorporated as part of the affected source's startup, shutdown, and malfunction plan to avoid duplication of planning and recordkeeping efforts.

(e) *Performance evaluation of continuous monitoring systems —*

(1) *General.* When required by a relevant standard, and at any other time the Administrator may require under section 114 of the Act, the owner or operator of an affected source being monitored shall conduct a performance evaluation of the CMS. Such performance evaluation shall be conducted according to the applicable specifications and procedures described in this section or in the relevant standard.

(2) *Notification of performance evaluation.* The owner or operator shall notify the Administrator in writing of the date of the performance evaluation simultaneously with the notification of the performance test date required under §63.7(b) or at least 60 days prior to the date the performance evaluation is scheduled to begin if no performance test is required.

(3)

(i) *Submission of site-specific performance evaluation test plan.* Before conducting a required CMS performance evaluation, the owner or operator of an affected source shall develop and submit a site-specific performance evaluation test plan to the Administrator for approval upon request. The performance evaluation test plan shall include the evaluation program objectives, an evaluation program summary, the performance evaluation schedule, data quality objectives, and both an internal and external QA program. Data quality objectives are the pre-evaluation expectations of precision, accuracy, and completeness of data.

(ii) The internal QA program shall include, at a minimum, the activities planned by routine operators and analysts to provide an assessment of CMS performance. The external QA program shall include, at a minimum, systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(iii) The owner or operator of an affected source shall submit the site-specific performance evaluation test plan to the Administrator (if requested) at least 60 days before the performance test or performance evaluation is scheduled to begin, or on a mutually agreed upon date, and review and approval of the performance evaluation test plan by the Administrator will occur with the review and approval of the site-specific test plan (if review of the site-specific test plan is requested).

(iv) The Administrator may request additional relevant information after the submittal of a site-specific performance evaluation test plan.

(v) In the event that the Administrator fails to approve or disapprove the site-specific performance evaluation test plan within the time period specified in §63.7(c)(3), the following conditions shall apply:

(A) If the owner or operator intends to demonstrate compliance using the monitoring method(s) specified in the relevant standard, the owner or operator shall conduct the performance evaluation within the time specified in this subpart using the specified method(s);

(B) If the owner or operator intends to demonstrate compliance by using an alternative to a monitoring method specified in the relevant standard, the owner or operator shall refrain from conducting the performance evaluation until the Administrator approves the use of the alternative method. If the Administrator does not approve the use of the alternative method within 30 days before the performance evaluation is scheduled to begin, the performance evaluation deadlines specified in paragraph (e)(4) of this section may be extended such that the owner or operator shall conduct the performance evaluation within 60 calendar days after the Administrator approves the use of the alternative method. Notwithstanding the requirements in the preceding two sentences, the owner or operator may proceed to conduct the performance evaluation as required in this section (without the Administrator's prior approval of the site-specific performance evaluation test plan) if he/she subsequently chooses to use the specified monitoring method(s) instead of an alternative.

(vi) Neither the submission of a site-specific performance evaluation test plan for approval, nor the Administrator's approval or disapproval of a plan, nor the Administrator's failure to approve or disapprove a plan in a timely manner shall—

(A) Relieve an owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, State, or local requirement; or

(B) Prevent the Administrator from implementing or enforcing this part or taking any other action under the Act.

(4) *Conduct of performance evaluation and performance evaluation dates.* The owner or operator of an affected source shall conduct a performance evaluation of a required CMS during any performance test required under §63.7 in accordance with the applicable performance specification as specified in the relevant standard. Notwithstanding the requirement in the previous sentence, if the owner or operator of an affected source elects to submit COMS data for compliance with a relevant opacity emission standard as provided under §63.6(h)(7), he/she shall conduct a performance evaluation of the COMS as specified in the relevant standard, before the performance test required under §63.7 is conducted in time to submit the results of the performance evaluation as specified in paragraph (e)(5)(ii) of this section. If a performance test is not required, or the requirement for a performance test has been waived under §63.7(h), the owner or operator of an affected source shall conduct the performance evaluation not later than 180 days after the appropriate compliance date for the affected source, as specified in §63.7(a), or as otherwise specified in the relevant standard.

(5) *Reporting performance evaluation results.*

(i) The owner or operator shall furnish the Administrator a copy of a written report of the results of the performance evaluation simultaneously with the results of the performance test required under §63.7 or within 60 days of completion of the performance evaluation if no test is required, unless otherwise specified in a relevant standard. The Administrator may request that the owner or operator submit the raw data from a performance evaluation in the report of the performance evaluation results.

(ii) The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the Administrator two or, upon request, three copies of a written report of the results of the COMS performance evaluation under this paragraph. The copies shall be provided at least 15 calendar days before the performance test required under §63.7 is conducted.

(f) *Use of an alternative monitoring method. —*

(1) *General.* Until permission to use an alternative monitoring procedure (minor, intermediate, or major changes; see definition in §63.90(a)) has been granted by the Administrator under this paragraph (f)(1), the owner or operator of an affected source remains subject to the requirements of this section and the relevant standard.

(2) After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring methods or procedures of this part including, but not limited to, the following:

(i) Alternative monitoring requirements when installation of a CMS specified by a relevant standard would not provide accurate measurements due to liquid water or other interferences caused by substances within the effluent gases;

(ii) Alternative monitoring requirements when the affected source is infrequently operated;

(iii) Alternative monitoring requirements to accommodate CEMS that require additional measurements to correct for stack moisture conditions;

(iv) Alternative locations for installing CMS when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(v) Alternate methods for converting pollutant concentration measurements to units of the relevant standard;

(vi) Alternate procedures for performing daily checks of zero (low-level) and high-level drift that do not involve use of high-level gases or test cells;

(vii) Alternatives to the American Society for Testing and Materials (ASTM) test methods or sampling procedures specified by any relevant standard;

(viii) Alternative CMS that do not meet the design or performance requirements in this part, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements as specified in the relevant standard. The Administrator may require that such demonstration be performed for each affected source; or

(ix) Alternative monitoring requirements when the effluent from a single affected source or the combined effluent from two or more affected sources is released to the atmosphere through more than one point.

(3) If the Administrator finds reasonable grounds to dispute the results obtained by an alternative monitoring method, requirement, or procedure, the Administrator may require the use of a method, requirement, or procedure specified in this section or in the relevant standard. If the results of the specified and alternative method, requirement, or procedure do not agree, the results obtained by the specified method, requirement, or procedure shall prevail.

(4)

(i) *Request to use alternative monitoring procedure.* An owner or operator who wishes to use an alternative monitoring procedure must submit an application to the Administrator as described in paragraph (f)(4)(ii) of this section. The application may be submitted at any time provided that the monitoring procedure is not the performance test method used to demonstrate compliance with a relevant standard or other requirement. If the alternative monitoring procedure will serve as the performance test method that is to be used to demonstrate compliance with a relevant standard, the application must be submitted at least 60 days before the performance evaluation is scheduled to begin and must meet the requirements for an alternative test method under §63.7(f).

(ii) The application must contain a description of the proposed alternative monitoring system which addresses the four elements contained in the definition of monitoring in §63.2 and a performance evaluation test plan, if required, as specified in paragraph (e)(3) of this section. In addition, the application must include information justifying the owner or operator's request for an alternative monitoring method, such as the technical or economic infeasibility, or the impracticality, of the affected source using the required method.

(iii) The owner or operator may submit the information required in this paragraph well in advance of the submittal dates specified in paragraph (f)(4)(i) above to ensure a timely review by the Administrator in order to meet the compliance demonstration date specified in this section or the relevant standard.

(iv) Application for minor changes to monitoring procedures, as specified in paragraph (b)(1) of this section, may be made in the site-specific performance evaluation plan.

(5) *Approval of request to use alternative monitoring procedure.*

(i) The Administrator will notify the owner or operator of approval or intention to deny approval of the request to use an alternative monitoring method within 30 calendar days after receipt of the original request and within 30 calendar days after receipt of any supplementary information that is submitted. If a request for a minor change is made in conjunction with site-specific performance evaluation plan, then approval of the plan will constitute approval of the minor change. Before disapproving any request to use an alternative monitoring method, the Administrator will notify the applicant of the Administrator's intention to disapprove the request together with—

(A) Notice of the information and findings on which the intended disapproval is based; and

(B) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request. At the time the Administrator notifies the applicant of his or her intention to disapprove the request, the Administrator will specify how much time the owner or operator will have after being notified of the intended disapproval to submit the additional information.

(ii) The Administrator may establish general procedures and criteria in a relevant standard to accomplish the requirements of paragraph (f)(5)(i) of this section.

(iii) If the Administrator approves the use of an alternative monitoring method for an affected source under paragraph (f)(5)(i) of this section, the owner or operator of such source shall continue to use the alternative monitoring method until he or she receives approval from the Administrator to use another monitoring method as allowed by §63.8(f).

(6) *Alternative to the relative accuracy test.* An alternative to the relative accuracy test for CEMS specified in a relevant standard may be requested as follows:

(i) *Criteria for approval of alternative procedures.* An alternative to the test method for determining relative accuracy is available for affected sources with emission rates demonstrated to be less than 50 percent of the relevant standard. The owner or operator of an affected source may petition the Administrator under paragraph (f)(6)(ii) of this section to substitute the relative accuracy test in section 7 of Performance Specification 2 with the procedures in section 10 if the results of a performance test conducted according to the requirements in §63.7, or other tests performed following the criteria in §63.7, demonstrate that the emission rate of the pollutant of interest in the units of the relevant standard is less than 50 percent of the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the owner or operator may petition the Administrator to substitute the relative accuracy test with the procedures in section 10 of Performance Specification 2 if the control device exhaust emission rate is less than 50 percent of the level needed to meet the control efficiency requirement. The alternative procedures do not apply if the CEMS is used continuously to determine compliance with the relevant standard.

(ii) *Petition to use alternative to relative accuracy test.* The petition to use an alternative to the relative accuracy test shall include a detailed description of the procedures to be applied, the location and the procedure for conducting the alternative, the concentration or response levels of the alternative relative accuracy materials, and the other equipment checks included in the alternative procedure(s). The Administrator will review the petition for completeness and applicability. The Administrator's determination to approve an alternative will depend on the intended use of the CEMS data and may require specifications more stringent than in Performance Specification 2.

(iii) *Rescission of approval to use alternative to relative accuracy test.* The Administrator will review the permission to use an alternative to the CEMS relative accuracy test and may rescind such permission if the CEMS data from a successful completion of the alternative relative accuracy procedure indicate that the affected source's emissions are approaching the level of the relevant standard. The criterion for reviewing the permission is that the collection of CEMS data shows that

emissions have exceeded 70 percent of the relevant standard for any averaging period, as specified in the relevant standard. For affected sources subject to emission limitations expressed as control efficiency levels, the criterion for reviewing the permission is that the collection of CEMS data shows that exhaust emissions have exceeded 70 percent of the level needed to meet the control efficiency requirement for any averaging period, as specified in the relevant standard. The owner or operator of the affected source shall maintain records and determine the level of emissions relative to the criterion for permission to use an alternative for relative accuracy testing. If this criterion is exceeded, the owner or operator shall notify the Administrator within 10 days of such occurrence and include a description of the nature and cause of the increased emissions. The Administrator will review the notification and may rescind permission to use an alternative and require the owner or operator to conduct a relative accuracy test of the CEMS as specified in section 7 of Performance Specification 2.

(g) *Reduction of monitoring data.*

(1) The owner or operator of each CMS must reduce the monitoring data as specified in paragraphs (g)(1) through (5) of this section.

(2) The owner or operator of each COMS shall reduce all data to 6-minute averages calculated from 36 or more data points equally spaced over each 6-minute period. Data from CEMS for measurement other than opacity, unless otherwise specified in the relevant standard, shall be reduced to 1-hour averages computed from four or more data points equally spaced over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hourly average shall consist of at least two data points with each representing a 15-minute period. Alternatively, an arithmetic or integrated 1-hour average of CEMS data may be used. Time periods for averaging are defined in §63.2.

(3) The data may be recorded in reduced or nonreduced form (e.g., ppm pollutant and percent $O_2$or ng/J of pollutant).

(4) All emission data shall be converted into units of the relevant standard for reporting purposes using the conversion procedures specified in that standard. After conversion into units of the relevant standard, the data may be rounded to the same number of significant digits as used in that standard to specify the emission limit (e.g., rounded to the nearest 1 percent opacity).

(5) Monitoring data recorded during periods of unavoidable CMS breakdowns, out-of-control periods, repairs, maintenance periods, calibration checks, and zero (low-level) and high-level adjustments must not be included in any data average computed under this part. For the owner or operator complying with the requirements of §63.10(b)(2)(vii)(A) or (B), data averages must include any data recorded during periods of monitor breakdown or malfunction.

[59 FR 12430, Mar. 16, 1994, as amended at 64 FR 7468, Feb. 12, 1999; 67 FR 16603, Apr. 5, 2002; 71 FR 20455, Apr. 20, 2006]

**§ 63.9 Notification requirements.**

(a) *Applicability and general information.*

(1) The applicability of this section is set out in §63.1(a)(4).

(2) For affected sources that have been granted an extension of compliance under subpart D of this part, the requirements of this section do not apply to those sources while they are operating under such compliance extensions.

(3) If any State requires a notice that contains all the information required in a notification listed in this section, the owner or operator may send the Administrator a copy of the notice sent to the State to satisfy the requirements of this section for that notification.

(4)

(i) Before a State has been delegated the authority to implement and enforce notification requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit notifications to the appropriate Regional Office of the EPA (to the attention of the Director of the Division indicated in the list of the EPA Regional Offices in §63.13).

(ii) After a State has been delegated the authority to implement and enforce notification requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit notifications to the delegated State authority (which may be the same as the permitting authority). In addition, if the delegated (permitting) authority is the State, the owner or operator shall send a copy of each notification submitted to the State to the appropriate

Regional Office of the EPA, as specified in paragraph (a)(4)(i) of this section. The Regional Office may waive this requirement for any notifications at its discretion.

(b) *Initial notifications.*

(1)

(i) The requirements of this paragraph apply to the owner or operator of an affected source when such source becomes subject to a relevant standard.

(ii) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source that is subject to the emission standard or other requirement, such source shall be subject to the notification requirements of this section.

(iii) Affected sources that are required under this paragraph to submit an initial notification may use the application for approval of construction or reconstruction under §63.5(d) of this subpart, if relevant, to fulfill the initial notification requirements of this paragraph.

(2) The owner or operator of an affected source that has an initial startup before the effective date of a relevant standard under this part shall notify the Administrator in writing that the source is subject to the relevant standard. The notification, which shall be submitted not later than 120 calendar days after the effective date of the relevant standard (or within 120 calendar days after the source becomes subject to the relevant standard), shall provide the following information:

(i) The name and address of the owner or operator;

(ii) The address (i.e., physical location) of the affected source;

(iii) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date;

(iv) A brief description of the nature, size, design, and method of operation of the source and an identification of the types of emission points within the affected source subject to the relevant standard and types of hazardous air pollutants emitted; and

(v) A statement of whether the affected source is a major source or an area source.

(3) [Reserved]

(4) The owner or operator of a new or reconstructed major affected source for which an application for approval of construction or reconstruction is required under §63.5(d) must provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new major-emitting affected source, reconstruct a major-emitting affected source, or reconstruct a major source such that the source becomes a major-emitting affected source with the application for approval of construction or reconstruction as specified in §63.5(d)(1)(i); and

(ii)–(iv) [Reserved]

(v) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(5) The owner or operator of a new or reconstructed affected source for which an application for approval of construction or reconstruction is not required under §63.5(d) must provide the following information in writing to the Administrator:

(i) A notification of intention to construct a new affected source, reconstruct an affected source, or reconstruct a source such that the source becomes an affected source, and

(ii) A notification of the actual date of startup of the source, delivered or postmarked within 15 calendar days after that date.

(iii) Unless the owner or operator has requested and received prior permission from the Administrator to submit less than the information in §63.5(d), the notification must include the information required on the application for approval of construction or reconstruction as specified in §63.5(d)(1)(i).

(c) *Request for extension of compliance.* If the owner or operator of an affected source cannot comply with a relevant standard by the applicable compliance date for that source, or if the owner or operator has installed BACT or technology to meet LAER consistent with §63.6(i)(5) of this subpart, he/she may submit to the Administrator (or the State with an approved permit program) a request for an extension of compliance as specified in §63.6(i)(4) through §63.6(i)(6).

(d) *Notification that source is subject to special compliance requirements.* An owner or operator of a new source that is subject to special compliance requirements as specified in §63.6(b)(3) and §63.6(b)(4) shall notify the Administrator of his/her compliance obligations not later than the notification dates established in paragraph (b) of this section for new sources that are not subject to the special provisions.

(e) *Notification of performance test.* The owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin to allow the Administrator to review and approve the site-specific test plan required under §63.7(c), if requested by the Administrator, and to have an observer present during the test.

(f) *Notification of opacity and visible emission observations.* The owner or operator of an affected source shall notify the Administrator in writing of the anticipated date for conducting the opacity or visible emission observations specified in §63.6(h)(5), if such observations are required for the source by a relevant standard. The notification shall be submitted with the notification of the performance test date, as specified in paragraph (e) of this section, or if no performance test is required or visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the initial performance test required under §63.7, the owner or operator shall deliver or postmark the notification not less than 30 days before the opacity or visible emission observations are scheduled to take place.

(g) *Additional notification requirements for sources with continuous monitoring systems.* The owner or operator of an affected source required to use a CMS by a relevant standard shall furnish the Administrator written notification as follows:

(1) A notification of the date the CMS performance evaluation under §63.8(e) is scheduled to begin, submitted simultaneously with the notification of the performance test date required under §63.7(b). If no performance test is required, or if the requirement to conduct a performance test has been waived for an affected source under §63.7(h), the owner or operator shall notify the Administrator in writing of the date of the performance evaluation at least 60 calendar days before the evaluation is scheduled to begin;

(2) A notification that COMS data results will be used to determine compliance with the applicable opacity emission standard during a performance test required by §63.7 in lieu of Method 9 or other opacity emissions test method data, as allowed by §63.6(h)(7)(ii), if compliance with an opacity emission standard is required for the source by a relevant standard. The notification shall be submitted at least 60 calendar days before the performance test is scheduled to begin; and

(3) A notification that the criterion necessary to continue use of an alternative to relative accuracy testing, as provided by §63.8(f)(6), has been exceeded. The notification shall be delivered or postmarked not later than 10 days after the occurrence of such exceedance, and it shall include a description of the nature and cause of the increased emissions.

(h) *Notification of compliance status.*

(1) The requirements of paragraphs (h)(2) through (h)(4) of this section apply when an affected source becomes subject to a relevant standard.

(2)

(i) Before a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard. The notification shall list—

(A) The methods that were used to determine compliance;

(B) The results of any performance tests, opacity or visible emission observations, continuous monitoring system (CMS) performance evaluations, and/or other monitoring procedures or methods that were conducted;

(C) The methods that will be used for determining continuing compliance, including a description of monitoring and reporting requirements and test methods;

(D) The type and quantity of hazardous air pollutants emitted by the source (or surrogate pollutants if specified in the relevant standard), reported in units and averaging times and in accordance with the test methods specified in the relevant standard;

(E) If the relevant standard applies to both major and area sources, an analysis demonstrating whether the affected source is a major source (using the emissions data generated for this notification);

(F) A description of the air pollution control equipment (or method) for each emission point, including each control device (or method) for each hazardous air pollutant and the control efficiency (percent) for each control device (or method); and

(G) A statement by the owner or operator of the affected existing, new, or reconstructed source as to whether the source has complied with the relevant standard or other requirements.

(ii) The notification must be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard (unless a different reporting period is specified in the standard, in which case the letter must be sent before the close of business on the day the report of the relevant testing or monitoring results is required to be delivered or postmarked). For example, the notification shall be sent before close of business on the 60th (or other required) day following completion of the initial performance test and again before the close of business on the 60th (or other required) day following the completion of any subsequent required performance test. If no performance test is required but opacity or visible emission observations are required to demonstrate compliance with an opacity or visible emission standard under this part, the notification of compliance status shall be sent before close of business on the 30th day following the completion of opacity or visible emission observations. Notifications may be combined as long as the due date requirement for each notification is met.

(3) After a title V permit has been issued to the owner or operator of an affected source, the owner or operator of such source shall comply with all requirements for compliance status reports contained in the source's title V permit, including reports required under this part. After a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit the notification of compliance status to the appropriate permitting authority following completion of the relevant compliance demonstration activity specified in the relevant standard.

(4) [Reserved]

(5) If an owner or operator of an affected source submits estimates or preliminary information in the application for approval of construction or reconstruction required in §63.5(d) in place of the actual emissions data or control efficiencies required in paragraphs (d)(1)(ii)(H) and (d)(2) of §63.5, the owner or operator shall submit the actual emissions data and other correct information as soon as available but no later than with the initial notification of compliance status required in this section.

(6) Advice on a notification of compliance status may be obtained from the Administrator.

(i) *Adjustment to time periods or postmark deadlines for submittal and review of required communications.*

(1)

(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (i)(2) and (i)(3) of this section, the owner or operator of an affected source remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (i)(2) and (i)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or

operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

(j) *Change in information already provided.* Any change in the information already provided under this section shall be provided to the Administrator in writing within 15 calendar days after the change.

[59 FR 12430, Mar. 16, 1994, as amended at 64 FR 7468, Feb. 12, 1999; 67 FR 16604, Apr. 5, 2002; 68 FR 32601, May 30, 2003]

**§ 63.10 Recordkeeping and reporting requirements.**

(a) *Applicability and general information.*

(1) The applicability of this section is set out in §63.1(a)(4).

(2) For affected sources that have been granted an extension of compliance under subpart D of this part, the requirements of this section do not apply to those sources while they are operating under such compliance extensions.

(3) If any State requires a report that contains all the information required in a report listed in this section, an owner or operator may send the Administrator a copy of the report sent to the State to satisfy the requirements of this section for that report.

(4)

(i) Before a State has been delegated the authority to implement and enforce recordkeeping and reporting requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit reports to the appropriate Regional Office of the EPA (to the attention of the Director of the Division indicated in the list of the EPA Regional Offices in §63.13).

(ii) After a State has been delegated the authority to implement and enforce recordkeeping and reporting requirements established under this part, the owner or operator of an affected source in such State subject to such requirements shall submit reports to the delegated State authority (which may be the same as the permitting authority). In addition, if the delegated (permitting) authority is the State, the owner or operator shall send a copy of each report submitted to the State to the appropriate Regional Office of the EPA, as specified in paragraph (a)(4)(i) of this section. The Regional Office may waive this requirement for any reports at its discretion.

(5) If an owner or operator of an affected source in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. For each relevant standard established pursuant to section 112 of the Act, the allowance in the previous sentence applies in each State beginning 1 year after the affected source's compliance date for that standard. Procedures governing the implementation of this provision are specified in §63.9(i).

(6) If an owner or operator supervises one or more stationary sources affected by more than one standard established pursuant to section 112 of the Act, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State permitting authority) a common schedule on which periodic reports required for each source shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the latest compliance date for any relevant standard established pursuant to section 112 of the Act for any such affected source(s). Procedures governing the implementation of this provision are specified in §63.9(i).

(7) If an owner or operator supervises one or more stationary sources affected by standards established pursuant to section 112 of the Act (as amended November 15, 1990) and standards set under part 60, part 61, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State permitting authority) a common schedule on which periodic reports required by each relevant (i.e., applicable) standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the relevant section 112 standard, or 1 year after the stationary source is required to be in compliance with the applicable part 60 or part 61 standard, whichever is latest. Procedures governing the implementation of this provision are specified in §63.9(i).

(b) *General record keeping requirements.*

(1) The owner or operator of an affected source subject to the provisions of this part shall maintain files of all information (including all reports and notifications) required by this part recorded in a form suitable and readily available for expeditious inspection and review. The files shall be retained for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most recent 2 years of data shall be retained on site. The remaining 3 years of data may be retained off site. Such files may be maintained on microfilm, on a computer, on computer floppy disks, on magnetic tape disks, or on microfiche.

(2) The owner or operator of an affected source subject to the provisions of this part shall maintain relevant records for such source of—

(i) The occurrence and duration of each startup or shutdown when the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards;

(ii) The occurrence and duration of each malfunction of operation ( *i.e.* , process equipment) or the required air pollution control and monitoring equipment;

(iii) All required maintenance performed on the air pollution control and monitoring equipment;

(iv)

(A) Actions taken during periods of startup or shutdown when the source exceeded applicable emission limitations in a relevant standard and when the actions taken are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see §63.6(e)(3)); or

(B) Actions taken during periods of malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) when the actions taken are different from the procedures specified in the affected source's startup, shutdown, and malfunction plan (see §63.6(e)(3));

(v) All information necessary, including actions taken, to demonstrate conformance with the affected source's startup, shutdown, and malfunction plan (see §63.6(e)(3)) when all actions taken during periods of startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), and malfunction (including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation) are consistent with the procedures specified in such plan. (The information needed to demonstrate conformance with the startup, shutdown, and malfunction plan may be recorded using a "checklist," or some other effective form of recordkeeping, in order to minimize the recordkeeping burden for conforming events);

(vi) Each period during which a CMS is malfunctioning or inoperative (including out-of-control periods);

(vii) All required measurements needed to demonstrate compliance with a relevant standard (including, but not limited to, 15-minute averages of CMS data, raw performance testing measurements, and raw performance evaluation measurements, that support data that the source is required to report);

(A) This paragraph applies to owners or operators required to install a continuous emissions monitoring system (CEMS) where the CEMS installed is automated, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. An automated CEMS records and reduces the measured data to the form of the pollutant emission standard through the use of a computerized data acquisition system. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (b)(2)(vii) of this section, the owner or operator shall retain the most recent consecutive three averaging periods of subhourly measurements and a file that contains a hard copy of the data acquisition system algorithm used to reduce the measured data into the reportable form of the standard.

(B) This paragraph applies to owners or operators required to install a CEMS where the measured data is manually reduced to obtain the reportable form of the standard, and where the calculated data averages do not exclude periods of CEMS breakdown or malfunction. In lieu of maintaining a file of all CEMS subhourly measurements as required under paragraph (b)(2)(vii) of this section, the owner or operator shall retain all subhourly measurements for the most recent reporting period. The subhourly measurements shall be retained for 120 days from the date of the most recent summary or excess emission report submitted to the Administrator.

(C) The Administrator or delegated authority, upon notification to the source, may require the owner or operator to maintain all measurements as required by paragraph (b)(2)(vii), if the administrator or the delegated authority determines these records are required to more accurately assess the compliance status of the affected source.

(viii) All results of performance tests, CMS performance evaluations, and opacity and visible emission observations;

(ix) All measurements as may be necessary to determine the conditions of performance tests and performance evaluations;

(x) All CMS calibration checks;

(xi) All adjustments and maintenance performed on CMS;

(xii) Any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements under this part, if the source has been granted a waiver under paragraph (f) of this section;

(xiii) All emission levels relative to the criterion for obtaining permission to use an alternative to the relative accuracy test, if the source has been granted such permission under §63.8(f)(6); and

(xiv) All documentation supporting initial notifications and notifications of compliance status under §63.9.

(3) *Recordkeeping requirement for applicability determinations.* If an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f), and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under this part) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the Administrator to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of this part for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with EPA guidance materials published to assist sources in making applicability determinations under section 112, if any. The requirements to determine applicability of a standard under §63.1(b)(3) and to record the results of that determination under paragraph (b)(3) of this section shall not by themselves create an obligation for the owner or operator to obtain a title V permit.

(c) *Additional recordkeeping requirements for sources with continuous monitoring systems.* In addition to complying with the requirements specified in paragraphs (b)(1) and (b)(2) of this section, the owner or operator of an affected source required to install a CMS by a relevant standard shall maintain records for such source of—

(1) All required CMS measurements (including monitoring data recorded during unavoidable CMS breakdowns and out-of-control periods);

(2)–(4) [Reserved]

(5) The date and time identifying each period during which the CMS was inoperative except for zero (low-level) and high-level checks;

(6) The date and time identifying each period during which the CMS was out of control, as defined in §63.8(c)(7);

(7) The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions and parameter monitoring exceedances, as defined in the relevant standard(s), that occurs during startups, shutdowns, and malfunctions of the affected source;

(8) The specific identification (i.e., the date and time of commencement and completion) of each time period of excess emissions and parameter monitoring exceedances, as defined in the relevant standard(s), that occurs during periods other than startups, shutdowns, and malfunctions of the affected source;

(9) [Reserved]

(10) The nature and cause of any malfunction (if known);

(11) The corrective action taken or preventive measures adopted;

(12) The nature of the repairs or adjustments to the CMS that was inoperative or out of control;

(13) The total process operating time during the reporting period; and

(14) All procedures that are part of a quality control program developed and implemented for CMS under §63.8(d).

(15) In order to satisfy the requirements of paragraphs (c)(10) through (c)(12) of this section and to avoid duplicative recordkeeping efforts, the owner or operator may use the affected source's startup, shutdown, and malfunction plan or records kept to satisfy the recordkeeping requirements of the startup, shutdown, and malfunction plan specified in §63.6(e), provided that such plan and records adequately address the requirements of paragraphs (c)(10) through (c)(12).

(d) *General reporting requirements.*

(1) Notwithstanding the requirements in this paragraph or paragraph (e) of this section, and except as provided in §63.16, the owner or operator of an affected source subject to reporting requirements under this part shall submit reports to the Administrator in accordance with the reporting requirements in the relevant standard(s).

(2) *Reporting results of performance tests.* Before a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall report the results of any performance test under §63.7 to the Administrator. After a title V permit has been issued to the owner or operator of an affected source, the owner or operator shall report the results of a required performance test to the appropriate permitting authority. The owner or operator of an affected source shall report the results of the performance test to the Administrator (or the State with an approved permit program) before the close of business on the 60th day following the completion of the performance test, unless specified otherwise in a relevant standard or as approved otherwise in writing by the Administrator. The results of the performance test shall be submitted as part of the notification of compliance status required under §63.9(h).

(3) *Reporting results of opacity or visible emission observations.* The owner or operator of an affected source required to conduct opacity or visible emission observations by a relevant standard shall report the opacity or visible emission results (produced using Test Method 9 or Test Method 22, or an alternative to these test methods) along with the results of the performance test required under §63.7. If no performance test is required, or if visibility or other conditions prevent the opacity or visible emission observations from being conducted concurrently with the performance test required under §63.7, the owner or operator shall report the opacity or visible emission results before the close of business on the 30th day following the completion of the opacity or visible emission observations.

(4) *Progress reports.* The owner or operator of an affected source who is required to submit progress reports as a condition of receiving an extension of compliance under §63.6(i) shall submit such reports to the Administrator (or the State with an approved permit program) by the dates specified in the written extension of compliance.

(5)

(i) *Periodic startup, shutdown, and malfunction reports.* If actions taken by an owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan (see §63.6(e)(3)), the owner or operator shall state such information in a startup, shutdown, and malfunction report. Actions taken to minimize emissions during such startups, shutdowns, and malfunctions shall be summarized in the report and may be done in checklist form; if actions taken are the same for each event, only one checklist is necessary. Such a report shall also include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. Reports shall only be required if a startup or shutdown caused the source to exceed any applicable emission limitation in the relevant emission standards, or if a malfunction occurred during the reporting period. The startup, shutdown, and malfunction report shall consist of a letter, containing the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, that shall be submitted to the Administrator semiannually (or on a more frequent basis if specified otherwise in a relevant standard or as established otherwise by the permitting authority in the source's title V permit). The startup, shutdown, and malfunction report shall be delivered or postmarked by the 30th day following the end of each calendar half (or other calendar reporting period, as appropriate). If the owner or operator is required to submit excess emissions and continuous monitoring system performance (or other periodic) reports under this part, the startup, shutdown, and malfunction reports required under this paragraph may be submitted simultaneously with the excess emissions and continuous monitoring system performance (or other) reports. If startup, shutdown, and malfunction reports are submitted with excess emissions and continuous monitoring system performance (or other periodic) reports, and the owner or operator receives approval to reduce the frequency of reporting for the latter under paragraph (e) of this section, the frequency of reporting for the startup, shutdown, and malfunction reports also may be reduced if the Administrator does not object to the intended change. The procedures to implement the allowance in the preceding sentence shall be the same as the procedures specified in paragraph (e)(3) of this section.

(ii) *Immediate startup, shutdown, and malfunction reports.* Notwithstanding the allowance to reduce the frequency of reporting for periodic startup, shutdown, and malfunction reports under paragraph (d)(5)(i) of this section, any time an action taken by an owner or operator during a startup or shutdown that caused the source to exceed any applicable emission limitation in the relevant emission standards, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The immediate report required under this paragraph (d)(5)(ii) shall consist of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after commencing actions inconsistent with the plan, and it shall be followed by a letter, delivered or postmarked within 7 working days after the end of the event, that contains the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy, explaining the circumstances of the event, the reasons for not following the startup, shutdown, and malfunction plan, describing all excess emissions and/or parameter monitoring exceedances which are believed to have occurred (or could have occurred in the case of malfunctions), and actions taken to minimize emissions in conformance with §63.6(e)(1)(i). Notwithstanding the requirements of the previous sentence, after the effective date of an approved permit program in the State in which an affected source is located, the owner or operator may make alternative reporting arrangements, in advance, with the permitting authority in that State. Procedures governing the arrangement of alternative reporting requirements under this paragraph (d)(5)(ii) are specified in §63.9(i).

(e) *Additional reporting requirements for sources with continuous monitoring systems —*

(1) *General.* When more than one CEMS is used to measure the emissions from one affected source (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required for each CEMS.

(2) *Reporting results of continuous monitoring system performance evaluations.*

(i) The owner or operator of an affected source required to install a CMS by a relevant standard shall furnish the Administrator a copy of a written report of the results of the CMS performance evaluation, as required under §63.8(e), simultaneously with the results of the performance test required under §63.7, unless otherwise specified in the relevant standard.

(ii) The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the Administrator two or, upon request, three copies of a written report of the results of the COMS performance evaluation conducted under §63.8(e). The copies shall be furnished at least 15 calendar days before the performance test required under §63.7 is conducted.

(3) *Excess emissions and continuous monitoring system performance report and summary report.*

(i) Excess emissions and parameter monitoring exceedances are defined in relevant standards. The owner or operator of an affected source required to install a CMS by a relevant standard shall submit an excess emissions and continuous monitoring system performance report and/or a summary report to the Administrator semiannually, except when—

(A) More frequent reporting is specifically required by a relevant standard;

(B) The Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source; or

(C) [Reserved]

(D) The affected source is complying with the Performance Track Provisions of §63.16, which allows less frequent reporting.

(ii) *Request to reduce frequency of excess emissions and continuous monitoring system performance reports.* Notwithstanding the frequency of reporting requirements specified in paragraph (e)(3)(i) of this section, an owner or operator who is required by a relevant standard to submit excess emissions and continuous monitoring system performance (and summary) reports on a quarterly (or more frequent) basis may reduce the frequency of reporting for that standard to semiannual if the following conditions are met:

(A) For 1 full year (e.g., 4 quarterly or 12 monthly reporting periods) the affected source's excess emissions and continuous monitoring system performance reports continually demonstrate that the source is in compliance with the relevant standard;

(B) The owner or operator continues to comply with all recordkeeping and monitoring requirements specified in this subpart and the relevant standard; and

(C) The Administrator does not object to a reduced frequency of reporting for the affected source, as provided in paragraph (e)(3)(iii) of this section.

(iii) The frequency of reporting of excess emissions and continuous monitoring system performance (and summary) reports required to comply with a relevant standard may be reduced only after the owner or operator notifies the Administrator in writing of his or her intention to make such a change and the Administrator does not object to the intended change. In deciding whether to approve a reduced frequency of reporting, the Administrator may review information concerning the source's entire previous performance history during the 5-year recordkeeping period prior to the intended change, including performance test results, monitoring data, and evaluations of an owner or operator's conformance with operation and maintenance requirements. Such information may be used by the Administrator to make a judgment about the source's potential for noncompliance in the future. If the Administrator disapproves the owner or operator's request to reduce the frequency of reporting, the Administrator will notify the owner or operator in writing within 45 days after receiving notice of the owner or operator's intention. The notification from the Administrator to the owner or operator will specify the grounds on which the disapproval is based. In the absence of a notice of disapproval within 45 days, approval is automatically granted.

(iv) As soon as CMS data indicate that the source is not in compliance with any emission limitation or operating parameter specified in the relevant standard, the frequency of reporting shall revert to the frequency specified in the relevant standard, and the owner or operator shall submit an excess emissions and continuous monitoring system performance (and summary) report for the noncomplying emission points at the next appropriate reporting period following the noncomplying event. After demonstrating ongoing compliance with the relevant standard for another full year, the owner or operator may again request approval from the Administrator to reduce the frequency of reporting for that standard, as provided for in paragraphs (e)(3)(ii) and (e)(3)(iii) of this section.

(v) *Content and submittal dates for excess emissions and monitoring system performance reports.* All excess emissions and monitoring system performance reports and all summary reports, if required, shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate. Written reports of excess emissions or exceedances of process or control system parameters shall include all the information required in paragraphs (c)(5) through (c)(13) of this section, in §63.8(c)(7) and §63.8(c)(8), and in the relevant standard, and they shall contain the name, title, and signature of the responsible official who is certifying the accuracy of the report. When no excess emissions or exceedances of a parameter have occurred, or a CMS has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report.

(vi) *Summary report.* As required under paragraphs (e)(3)(vii) and (e)(3)(viii) of this section, one summary report shall be submitted for the hazardous air pollutants monitored at each affected source (unless the relevant standard specifies that more than one summary report is required, e.g., one summary report for each hazardous air pollutant monitored). The summary report shall be entitled "Summary Report—Gaseous and Opacity Excess Emission and Continuous Monitoring System Performance" and shall contain the following information:

(A) The company name and address of the affected source;

(B) An identification of each hazardous air pollutant monitored at the affected source;

(C) The beginning and ending dates of the reporting period;

(D) A brief description of the process units;

(E) The emission and operating parameter limitations specified in the relevant standard(s);

(F) The monitoring equipment manufacturer(s) and model number(s);

(G) The date of the latest CMS certification or audit;

(H) The total operating time of the affected source during the reporting period;

(I) An emission data summary (or similar summary if the owner or operator monitors control system parameters), including the total duration of excess emissions during the reporting period (recorded in minutes for opacity and hours for gases), the total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total duration of excess emissions during the reporting period into those that are due to startup/shutdown, control equipment problems, process problems, other known causes, and other unknown causes;

(J) A CMS performance summary (or similar summary if the owner or operator monitors control system parameters), including the total CMS downtime during the reporting period (recorded in minutes for opacity and hours for gases), the total

duration of CMS downtime expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total CMS downtime during the reporting period into periods that are due to monitoring equipment malfunctions, nonmonitoring equipment malfunctions, quality assurance/quality control calibrations, other known causes, and other unknown causes;

(K) A description of any changes in CMS, processes, or controls since the last reporting period;

(L) The name, title, and signature of the responsible official who is certifying the accuracy of the report; and

(M) The date of the report.

(vii) If the total duration of excess emissions or process or control system parameter exceedances for the reporting period is less than 1 percent of the total operating time for the reporting period, and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report shall be submitted, and the full excess emissions and continuous monitoring system performance report need not be submitted unless required by the Administrator.

(viii) If the total duration of excess emissions or process or control system parameter exceedances for the reporting period is 1 percent or greater of the total operating time for the reporting period, or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, both the summary report and the excess emissions and continuous monitoring system performance report shall be submitted.

(4) *Reporting continuous opacity monitoring system data produced during a performance test.* The owner or operator of an affected source required to use a COMS shall record the monitoring data produced during a performance test required under §63.7 and shall furnish the Administrator a written report of the monitoring results. The report of COMS data shall be submitted simultaneously with the report of the performance test results required in paragraph (d)(2) of this section.

(f) *Waiver of recordkeeping or reporting requirements.*

(1) Until a waiver of a recordkeeping or reporting requirement has been granted by the Administrator under this paragraph, the owner or operator of an affected source remains subject to the requirements of this section.

(2) Recordkeeping or reporting requirements may be waived upon written application to the Administrator if, in the Administrator's judgment, the affected source is achieving the relevant standard(s), or the source is operating under an extension of compliance, or the owner or operator has requested an extension of compliance and the Administrator is still considering that request.

(3) If an application for a waiver of recordkeeping or reporting is made, the application shall accompany the request for an extension of compliance under §63.6(i), any required compliance progress report or compliance status report required under this part (such as under §63.6(i) and §63.9(h)) or in the source's title V permit, or an excess emissions and continuous monitoring system performance report required under paragraph (e) of this section, whichever is applicable. The application shall include whatever information the owner or operator considers useful to convince the Administrator that a waiver of recordkeeping or reporting is warranted.

(4) The Administrator will approve or deny a request for a waiver of recordkeeping or reporting requirements under this paragraph when he/she—

(i) Approves or denies an extension of compliance; or

(ii) Makes a determination of compliance following the submission of a required compliance status report or excess emissions and continuous monitoring systems performance report; or

(iii) Makes a determination of suitable progress towards compliance following the submission of a compliance progress report, whichever is applicable.

(5) A waiver of any recordkeeping or reporting requirement granted under this paragraph may be conditioned on other recordkeeping or reporting requirements deemed necessary by the Administrator.

(6) Approval of any waiver granted under this section shall not abrogate the Administrator's authority under the Act or in any way prohibit the Administrator from later canceling the waiver. The cancellation will be made only after notice is given to the owner or operator of the affected source.

[59 FR 12430, Mar. 16, 1994, as amended at 64 FR 7468, Feb. 12, 1999; 67 FR 16604, Apr. 5, 2002; 68 FR 32601, May 30, 2003; 69 FR 21752, Apr. 22, 2004; 71 FR 20455, Apr. 20, 2006]

**§ 63.11 Control device requirements.**

(a) *Applicability.* The applicability of this section is set out in §63.1(a)(4).

(b) *Flares.*

(1) Owners or operators using flares to comply with the provisions of this part shall monitor these control devices to assure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators using flares shall monitor these control devices.

(2) Flares shall be steam-assisted, air-assisted, or non-assisted.

(3) Flares shall be operated at all times when emissions may be vented to them.

(4) Flares shall be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. Test Method 22 in appendix A of part 60 of this chapter shall be used to determine the compliance of flares with the visible emission provisions of this part. The observation period is 2 hours and shall be used according to Method 22.

(5) Flares shall be operated with a flame present at all times. The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

(6) An owner/operator has the choice of adhering to the heat content specifications in paragraph (b)(6)(ii) of this section, and the maximum tip velocity specifications in paragraph (b)(7) or (b)(8) of this section, or adhering to the requirements in paragraph (b)(6)(i) of this section.

(i)

(A) Flares shall be used that have a diameter of 3 inches or greater, are nonassisted, have a hydrogen content of 8.0 percent (by volume) or greater, and are designed for and operated with an exit velocity less than 37.2 m/sec (122 ft/sec) and less than the velocity $V_{max}$, as determined by the following equation:

$$V_{max} = (X_{H2} - K_1) * K_2$$

Where:

$V_{max}$ = Maximum permitted velocity, m/sec.

$K_1$ = Constant, 6.0 volume-percent hydrogen.

$K_2$ = Constant, 3.9(m/sec)/volume-percent hydrogen.

$X_{H2}$ = The volume-percent of hydrogen, on a wet basis, as calculated by using the American Society for Testing and Materials (ASTM) Method D1946–77. (Incorporated by reference as specified in §63.14).

(B) The actual exit velocity of a flare shall be determined by the method specified in paragraph (b)(7)(i) of this section.

(ii) Flares shall be used only with the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted at 7.45 M/scm (200 Btu/scf) or greater if the flares is non-assisted. The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

Where:

$H_T$ = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C.

K = Constant=

$$1.740 \times 10^{-7} \left(\frac{1}{ppmv}\right)\left(\frac{\text{g-mole}}{\text{scm}}\right)\left(\frac{\text{MJ}}{\text{kcal}}\right)$$

where the standard temperature for (g-mole/scm) is 20 °C.

$C_i$ = Concentration of sample component i in ppmv on a wet basis, as measured for organics by Test Method 18 and measured for hydrogen and carbon monoxide by American Society for Testing and Materials (ASTM) D1946–77 or 90 (Reapproved 1994) (incorporated by reference as specified in §63.14).

$H_i$ = Net heat of combustion of sample component i, kcal/g-mole at 25 °C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382–76 or 88 or D4809–95 (incorporated by reference as specified in §63.14) if published values are not available or cannot be calculated.

n = Number of sample components.

(7)

(i) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity less than 18.3 m/sec (60 ft/sec), except as provided in paragraphs (b)(7)(ii) and (b)(7)(iii) of this section. The actual exit velocity of a flare shall be determined by dividing by the volumetric flow rate of gas being combusted (in units of emission standard temperature and pressure), as determined by Test Method 2, 2A, 2C, or 2D in appendix A to 40 CFR part 60 of this chapter, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

(ii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the method specified in paragraph (b)(7)(i) of this section, equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec), are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

(iii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the method specified in paragraph (b)(7)(i) of this section, less than the velocity $V_{max}$, as determined by the method specified in this paragraph, but less than 122 m/sec (400 ft/sec) are allowed. The maximum permitted velocity, $V_{max}$, for flares complying with this paragraph shall be determined by the following equation:

$$\mathrm{Log}_{10}(V_{max})=(H_T+28.8)/31.7$$

Where:

$V_{max}$ = Maximum permitted velocity, m/sec.

28.8 = Constant.

31.7 = Constant.

$H_T$ = The net heating value as determined in paragraph (b)(6) of this section.

(8) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity $V_{max}$. The maximum permitted velocity, $V_{max}$, for air-assisted flares shall be determined by the following equation:

$$V_{max}=8.71 = 0.708(H_T)$$

Where:

$V_{max}$ = Maximum permitted velocity, m/sec.

8.71 = Constant.

0.708 = Constant.

$H_T$ = The net heating value as determined in paragraph (b)(6)(ii) of this section.

[59 FR 12430, Mar. 16, 1994, as amended at 63 FR 24444, May 4, 1998; 65 FR 62215, Oct. 17, 2000; 67 FR 16605, Apr. 5, 2002]

**§ 63.12 State authority and delegations.**

(a) The provisions of this part shall not be construed in any manner to preclude any State or political subdivision thereof from—

(1) Adopting and enforcing any standard, limitation, prohibition, or other regulation applicable to an affected source subject to the requirements of this part, provided that such standard, limitation, prohibition, or regulation is not less stringent than any requirement applicable to such source established under this part;

(2) Requiring the owner or operator of an affected source to obtain permits, licenses, or approvals prior to initiating construction, reconstruction, modification, or operation of such source; or

(3) Requiring emission reductions in excess of those specified in subpart D of this part as a condition for granting the extension of compliance authorized by section 112(i)(5) of the Act.

(b)

(1) Section 112(l) of the Act directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce standards and other requirements pursuant to section 112 for stationary sources located in that State. Because of the unique nature of radioactive material, delegation of authority to implement and enforce standards that control radionuclides may require separate approval.

(2) Subpart E of this part establishes procedures consistent with section 112(l) for the approval of State rules or programs to implement and enforce applicable Federal rules promulgated under the authority of section 112. Subpart E also establishes procedures for the review and withdrawal of section 112 implementation and enforcement authorities granted through a section 112(l) approval.

(c) All information required to be submitted to the EPA under this part also shall be submitted to the appropriate State agency of any State to which authority has been delegated under section 112(l) of the Act, provided that each specific delegation may exempt sources from a certain Federal or State reporting requirement. The Administrator may permit all or some of the information to be submitted to the appropriate State agency only, instead of to the EPA and the State agency.

**§ 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.**

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted to the appropriate Regional Office of the U.S. Environmental Protection Agency indicated in the following list of EPA Regional Offices.

EPA Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Air, Pesticides and Toxics Division, J.F.K. Federal Building, Boston, MA 02203–2211.

EPA Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Air and Waste Management Division, 26 Federal Plaza, New York, NY 10278.

EPA Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Director, Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103.

EPA Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee). Director, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA 30303–3104.

EPA Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air and Radiation Division, 77 West Jackson Blvd., Chicago, IL 60604–3507.

EPA Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Director, Air, Pesticides and Toxics, 1445 Ross Avenue, Dallas, TX 75202–2733.

EPA Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air, RCRA, and Toxics Division, U.S. Environmental Protection Agency, 901 N. 5th Street, Kansas City, KS 66101.

EPA Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Director, Air and Toxics Division, 999 18th Street, 1 Denver Place, Suite 500, Denver, CO 80202–2405.

EPA Region IX (Arizona, California, Hawaii, Nevada, American Samoa, Guam), Director, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

EPA Region X (Alaska, Idaho, Oregon, Washington), Director, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, WA 98101.

(b) All information required to be submitted to the Administrator under this part also shall be submitted to the appropriate State agency of any State to which authority has been delegated under section 112(l) of the Act. The owner or operator of an affected source may contact the appropriate EPA Regional Office for the mailing addresses for those States whose delegation requests have been approved.

(c) If any State requires a submittal that contains all the information required in an application, notification, request, report, statement, or other communication required in this part, an owner or operator may send the appropriate Regional Office of the EPA a copy of that submittal to satisfy the requirements of this part for that communication.

[59 FR 12430, Mar. 16, 1994, as amended at 63 FR 66061, Dec. 1, 1998; 67 FR 4184, Jan. 29, 2002; 68 FR 32601, May 30, 2003; 68 FR 35792, June 17, 2003]

**§ 63.14 Incorporations by reference.**

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the Federal Register. The materials are available for purchase at the corresponding addresses noted below, and all are available for inspection at the National Archives and Records Administration (NARA), at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M St., SW., Washington, DC, and at the EPA Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106.

(1) ASTM D523–89, Standard Test Method for Specular Gloss, IBR approved for §63.782.

(2) ASTM D1193–77, 91, Standard Specification for Reagent Water, IBR approved for Appendix A: Method 306, Sections 7.1.1 and 7.4.2.

(3) ASTM D1331–89, Standard Test Methods for Surface and Interfacial Tension of Solutions of Surface Active Agents, IBR approved for Appendix A: Method 306B, Sections 6.2, 11.1, and 12.2.2.

(4) ASTM D1475–90, Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products, IBR approved for §63.788, Appendix A.

(5) ASTM D1946–77, 90, 94, Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved for §63.11(b)(6).

(6) ASTM D2369–93, 95, Standard Test Method for Volatile Content of Coatings, IBR approved for §63.788, Appendix A.

(7) ASTM D2382–76, 88, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), IBR approved for §63.11(b)(6).

(8) ASTM D2879–83, 96, Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for §63.111 and §63.2406.

(9) ASTM D3257–93, Standard Test Methods for Aromatics in Mineral Spirits by Gas Chromatography, IBR approved for §63.786(b).

(10) ASTM 3695–88, Standard Test Method for Volatile Alcohols in Water by Direct Aqueous-Injection Gas Chromatography, IBR approved for §63.365(e)(1) of Subpart O.

(11) ASTM D3792–91, Standard Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph, IBR approved for §63.788, Appendix A.

(12) ASTM D3912–80, Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants, IBR approved for §63.782.

(13) ASTM D4017–90, 96a, Standard Test Method for Water in Paints and Paint Materials by the Karl Fischer Titration Method, IBR approved for §63.788, Appendix A.

(14) ASTM D4082–89, Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants, IBR approved for §63.782.

(15) ASTM D4256–89, 94, Standard Test Method for Determination of the Decontaminability of Coatings Used in Light-Water Nuclear Power Plants, IBR approved for §63.782.

(16) ASTM D4809–95, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for §63.11(b)(6).

(17) ASTM E180–93, Standard Practice for Determining the Precision of ASTM Methods for Analysis and Testing of Industrial Chemicals, IBR approved for §63.786(b).

(18) ASTM E260–91, 96, General Practice for Packed Column Gas Chromatography, IBR approved for §§63.750(b)(2) and 63.786(b)(5).

(19)–(20) [Reserved]

(21) ASTM D2099–00, Standard Test Method for Dynamic Water Resistance of Shoe Upper Leather by the Maeser Water Penetration Tester, IBR approved for §63.5350.

(22)–(23) [Reserved]

(24) ASTM D2697–86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," IBR approved for §§63.3161(f)(1), 63.3521(b)(1), 63.3941(b)(1), 63.4141(b)(1), 63.4741(b)(1), 63.4941(b)(1), and 63.5160(c).

(25) ASTM D6093–97 (Reapproved 2003), "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," IBR approved for §§63.3161(f)(1), 63.3521(b)(1), 63.3941(b)(1), 63.4141(b)(1), 63.4741(b)(1), 63.4941(b)(1), and 63.5160(c).

(26) ASTM D1475–98 (Reapproved 2003), "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products," IBR approved for §§63.3151(b), 63.3941(b)(4), 63.3941(c), 63.3951(c), 63.4141(b)(3), 63.4141(c), and 63.4551(c).

(27) ASTM D6522–00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers,[1] IBR approved for §63.9307(c)(2), Table 4 of Subpart ZZZZ, and Table 5 to Subpart DDDDD of this part.

(28) ASTM D6420–99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectometry, IBR approved for §§63.772(a)(1)(ii), 63.2354(b)(3)(i), 63.2354(b)(3)(ii), 63.2354(b)(3)(ii)(A), and 63.2351(b)(3)(ii)(B).

(29) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§63.5799 and 63.5850.

(30) ASTM E 515–95 (Reapproved 2000), Standard Test Method for Leaks Using Bubble Emission Techniques, IBR approved for §63.425(i)(2).

(31) ASTM D5291–02, Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants, IBR approved for §63.3981, appendix A.

(32) ASTM D5965–02, "Standard Test Methods for Specific Gravity of Coating Powders," IBR approved for §§63.3151(b) and 63.3951(c).

(33) ASTM D6053–00, Standard Test Method for Determination of Volatile Organic Compound (VOC) Content of Electrical Insulating Varnishes, IBR approved for §63.3981, appendix A.

(34) E145–94 (Reapproved 2001), Standard Specification for Gravity-Convection and Forced-Ventilation Ovens, IBR approved for §63.4581, Appendix A.

(35) ASTM D6784–02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),[1] IBR approved for Table 5 to Subpart DDDDD of this part.

(36) ASTM D5066–91 (Reapproved 2001), "Standard Test Method for Determination of the Transfer Efficiency Under Production Conditions for Spray Application of Automotive Paints-Weight Basis," IBR approved for §63.3161(g).

(37) ASTM D5087–02, "Standard Test Method for Determining Amount of Volatile Organic Compound (VOC) Released from Solventborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)," IBR approved for §§63.3165(e) and 63.3176, appendix A.

(38) ASTM D6266–00a, "Test Method for Determining the Amount of Volatile Organic Compound (VOC) Released from Waterborne Automotive Coatings and Available for Removal in a VOC Control Device (Abatement)," IBR approved for §63.3165(e).

(39) ASTM Method D388–99,.[1] Standard Classification of Coals by Rank,[1] IBR approved for §63.7575.

(40) ASTM D396–02a, Standard Specification for Fuel Oils,[1] IBR approved for §63.7575.

(41) ASTM D1835–03a, Standard Specification for Liquified Petroleum (LP) Gases,[1] IBR approved for §63.7575.

(42) ASTM D2013–01, Standard Practice for Preparing Coal Samples for Analysis,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(43) ASTM D2234–00,.[1] Standard Practice for Collection of a Gross Sample of Coal,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(44) ASTM D3173–02, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(45) ASTM D3683–94 (Reapproved 2000), Standard Test Method for Trace Elements in Coal and Coke Ash Absorption,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(46) ASTM D3684–01, Standard Test Method for Total Mercury in Coal by the Oxygen Bomb Combustion/Atomic Absorption Method,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(47) ASTM D5198–92 (Reapproved 2003), Standard Practice for Nitric Acid Digestion of Solid Waste,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(48) ASTM D5865–03a, Standard Test Method for Gross Calorific Value of Coal and Coke,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(49) ASTM D6323–98 (Reapproved 2003), Standard Guide for Laboratory Subsampling of Media Related to Waste Management Activities,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(50) ASTM E711–87 (Reapproved 1996), Standard Test Method for Gross Calorific Value of Refuse-Derived Fuel by the Bomb Calorimeter,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(51) ASTM E776–87 (Reapproved 1996), Standard Test Method for Forms of Chlorine in Refuse-Derived Fuel,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(52) ASTM E871–82 (Reapproved 1998), Standard Method of Moisture Analysis of Particulate Wood Fuels,[1] IBR approved for Table 6 to Subpart DDDDD of this part.

(53) ASTM E885–88 (Reapproved 1996), Standard Test Methods for Analyses of Metals in Refuse-Derived Fuel by Atomic Absorption Spectroscopy,[1] IBR approved for Table 6 to Subpart DDDDD of this part 63.

(54) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, incorporation by reference (IBR) approved for Table 4 to Subpart DDDD of this part as specified in the subpart.

(55) ASTM D2013–04, Standard Practice for Preparing Coal Samples for Analysis, IBR approved for Table 6 to subpart DDDDD of this part.

(56) ASTM D2234–D2234M–03, Standard Practice for Collection of a Gross Sample of Coal, IBR approved for Table 6 to subpart DDDDD of this part.

(57) ASTM D6721–01, Standard Test Method for Determination of Chlorine in Coal by Oxidative Hydrolysis Microcoulometry, IBR approved for Table 6 to subpart DDDDD of this part.

(58) ASTM D3173–03, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved for Table 6 to subpart DDDDD of this part.

(59) ASTM D4606–03, Standard Test Method for Determination of Arsenic and Selenium in Coal by the Hydride Generation/Atomic Absorption Method, IBR approved for Table 6 to subpart DDDDD of this part.

(60) ASTM D6357–04, Standard Test Methods for Determination of Trace Elements in Coal, Coke, and Combustion Residues from Coal Utilization Processes by Inductively Coupled Plasma Atomic Emission Spectrometry, Inductively

Coupled Plasma Mass Spectrometry, and Graphite Furnace Atomic Absorption Spectrometry, IBR approved for Table 6 to subpart DDDDD of this part.

(61) ASTM D6722–01, Standard Test Method for Total Mercury in Coal and Coal Combustion Residues by the Direct Combustion Analysis, IBR approved for Table 6 to subpart DDDDD of this part.

(62) ASTM D5865–04, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for Table 6 to subpart DDDDD of this part.

(c) The materials listed below are available for purchase from the American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for §63.111 and §63.2406.

(2) API Publication 2518, Evaporative Loss from Fixed-roof Tanks, Second Edition, October 1991, IBR approved for §63.150(g)(3)(i)(C) of subpart G of this part.

(3) API Manual of Petroleum Measurement Specifications (MPMS) Chapter 19.2, Evaporative Loss From Floating-Roof Tanks (formerly API Publications 2517 and 2519), First Edition, April 1997, IBR approved for §63.1251 of subpart GGG of this part.

(d) *State and Local Requirements.* The materials listed below are available at the Air and Radiation Docket and Information Center, U.S. EPA, 401 M St., SW., Washington, DC.

(1) *California Regulatory Requirements Applicable to the Air Toxics Program,* January 5, 1999, IBR approved for §63.99(a)(5)(ii) of subpart E of this part.

(2) New Jersey's *Toxic Catastrophe Prevention Act Program,* (July 20, 1998), Incorporation By Reference approved for §63.99 (a)(30)(i) of subpart E of this part.

(3)

(i) Letter of June 7, 1999 to the U.S. Environmental Protection Agency Region 3 from the Delaware Department of Natural Resources and Environmental Control requesting formal full delegation to take over primary responsibility for implementation and enforcement of the Chemical Accident Prevention Program under Section 112(r) of the Clean Air Act Amendments of 1990.

(ii) Delaware Department of Natural Resources and Environmental Control, Division of Air and Waste Management, Accidental Release Prevention Regulation, sections 1 through 5 and sections 7 through 14, effective January 11, 1999, IBR approved for §63.99(a)(8)(i) of subpart E of this part.

(iii) State of Delaware Regulations Governing the Control of Air Pollution (October 2000), IBR approved for §63.99(a)(8)(ii)–(v) of subpart E of this part.

(4) Massachusetts Regulations Applicable to Hazardous Air Pollutants (July 2002). Incorporation By Reference approved for §63.99(a)(21)(ii) of subpart E of this part.

(5)

(i) New Hampshire Regulations Applicable to Hazardous Air Pollutants, March, 2003. Incorporation by Reference approved for §63.99(a)(29)(iii) of subpart E of this part.

(ii) New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006. Incorporation by Reference approved for §63.99(a)(29)(iv) of subpart E of this part.

(6) Maine Regulations Applicable to Hazardous Air Pollutants (March 2006). Incorporation By Reference approved for §63.99(a)(19)(iii) of subpart E of this part.

(e) The materials listed below are available for purchase from the National Institute of Standards and Technology, Springfield, VA 22161, (800) 553–6847.

(1) Handbook 44, Specificiations, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices 1998, IBR approved for §63.1303(e)(3).

(2) [Reserved]

(f) The following material is available from the National Council of the Paper Industry for Air and Stream Improvement, Inc. (NCASI), P.O. Box 133318, Research Triangle Park, NC 27709–3318 or at *http://www.ncasi.org.*

(1) NCASI Method DI/MEOH–94.02, Methanol in Process Liquids GC/FID (Gas Chromatography/Flame Ionization Detection), August 1998, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for §63.457(c)(3)(ii) of subpart S of this part.

(2) NCASI Method CI/WP–98.01, Chilled Impinger Method For Use At Wood Products Mills to Measure Formaldehyde, Methanol, and Phenol, 1998, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for Table 4 to Subpart DDDD of this part.

(3) NCASI Method IM/CAN/WP–99.02, Impinger/Canister Source Sampling Method for Selected HAPs and Other Compounds at Wood Products Facilities, January 2004, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for Table 4 to Subpart DDDD of this part.

(4) NCASI Method ISS/FP A105.01, Impinger Source Sampling Method for Selected Aldehydes, Ketones, and Polar Compounds, December 2005, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for table 4 to subpart DDDD of this part.

(g) The materials listed below are available for purchase from AOAC International, Customer Services, Suite 400, 2200 Wilson Boulevard, Arlington, Virginia, 22201–3301, Telephone (703) 522–3032, Fax (703) 522–5468.

(1) AOAC Official Method 978.01 Phosphorus (Total) in Fertilizers, Automated Method, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(2) AOAC Official Method 969.02 Phosphorus (Total) in Fertilizers, Alkalimetric Quinolinium Molybdophosphate Method, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(3) AOAC Official Method 962.02 Phosphorus (Total) in Fertilizers, Gravimetric Quinolinium Molybdophosphate Method, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(4) AOAC Official Method 957.02 Phosphorus (Total) in Fertilizers, Preparation of Sample Solution, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(5) AOAC Official Method 929.01 Sampling of Solid Fertilizers, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(6) AOAC Official Method 929.02 Preparation of Fertilizer Sample, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(7) AOAC Official Method 958.01 Phosphorus (Total) in Fertilizers, Spectrophotometric Molybdovanadophosphate Method, Sixteenth edition, 1995, IBR approved for §63.626(d)(3)(vi).

(h) The materials listed below are available for purchase from The Association of Florida Phosphate Chemists, P.O. Box 1645, Bartow, Florida, 33830, Book of Methods Used and Adopted By The Association of Florida Phosphate Chemists, Seventh Edition 1991, IBR.

(1) Section IX, Methods of Analysis for Phosphate Rock, No. 1 Preparation of Sample, IBR approved for §63.606(c)(3)(ii) and §63.626(c)(3)(ii).

(2) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus—$P_2O_5$or $Ca_3(PO_4)_2$, Method A-Volumetric Method, IBR approved for §63.606(c)(3)(ii) and §63.626(c)(3)(ii).

(3) Section IX, Methods of Analysis for Phosphate Rock, No. 3 Phosphorus-$P_2O_5$or $Ca_3(PO_4)_2$, Method B—Gravimetric Quimociac Method, IBR approved for §63.606(c)(3)(ii) and §63.626(c)(3)(ii).

(4) Section IX, Methods of Analysis For Phosphate Rock, No. 3 Phosphorus-$P_2O_5$or $Ca_3(PO_4)_2$, Method C—Spectrophotometric Method, IBR approved for §63.606(c)(3)(ii) and §63.626(c)(3)(ii).

(5) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-$P_2O_5$, Method A—Volumetric Method, IBR approved for §63.606(c)(3)(ii), §63.626(c)(3)(ii), and §63.626(d)(3)(v).

(6) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-$P_2O_5$, Method B—Gravimetric Quimociac Method, IBR approved for §63.606(c)(3)(ii), §63.626(c)(3)(ii), and §63.626(d)(3)(v).

(7) Section XI, Methods of Analysis for Phosphoric Acid, Superphosphate, Triple Superphosphate, and Ammonium Phosphates, No. 3 Total Phosphorus-$P_2O_5$, Method C—Spectrophotometric Method, IBR approved for §63.606(c)(3)(ii), §63.626(c)(3)(ii), and §63.626(d)(3)(v).

(i) The following materials are available for purchase from at least one of the following addresses: ASME International, Orders/Inquiries, P.O. Box 2900, Fairfield, NJ 07007–2900; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112.

(1) ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]," IBR approved for §§63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2), 63.11410(j)(1)(iii), and Table 5 of subpart DDDDD of this part.

(2) [Reserved]

(j) The following material is available for purchase from: British Standards Institute, 389 Chiswick High Road, London W4 4AL, United Kingdom.

(1) BS EN 1593:1999, Non-destructive Testing: Leak Testing—Bubble Emission Techniques, IBR approved for §63.425(i)(2).

(2) [Reserved]

(k) The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605–6000 or (800) 553–6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800:

(1) The following methods as published in the test methods compendium known as "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, Third Edition. A suffix of "A" in the method number indicates revision one (the method has been revised once). A suffix of "B" in the method number indicates revision two (the method has been revised twice).

(i) Method 0023A, "Sampling Method for Polychlorinated Dibenzo- *p* -Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources," dated December 1996 and in Update III, IBR approved for §63.1208(b)(1) of Subpart EEE of this part.

(ii) Method 9071B, "n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples," dated April 1998 and in Update IIIA, IBR approved for §63.7824(e) of Subpart FFFFF of this part.

(iii) Method 9095A, "Paint Filter Liquids Test," dated December 1996 and in Update III, IBR approved for §§63.7700(b) and 63.7765 of Subpart EEEEE of this part.

(2) [Reserved]

[59 FR 12430, Mar. 16, 1994]

**Editorial Note:** For Federal Register citations affecting §63.14, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 63.15 Availability of information and confidentiality.**

(a) *Availability of information.*

(1) With the exception of information protected through part 2 of this chapter, all reports, records, and other information collected by the Administrator under this part are available to the public. In addition, a copy of each permit application, compliance plan (including the schedule of compliance), notification of compliance status, excess emissions and continuous monitoring systems performance report, and title V permit is available to the public, consistent with protections recognized in section 503(e) of the Act.

(2) The availability to the public of information provided to or otherwise obtained by the Administrator under this part shall be governed by part 2 of this chapter.

(b) *Confidentiality.*

(1) If an owner or operator is required to submit information entitled to protection from disclosure under section 114(c) of the Act, the owner or operator may submit such information separately. The requirements of section 114(c) shall apply to such information.

(2) The contents of a title V permit shall not be entitled to protection under section 114(c) of the Act; however, information submitted as part of an application for a title V permit may be entitled to protection from disclosure.

**§ 63.16 Performance Track Provisions.**

(a) Notwithstanding any other requirements in this part, an affected source at any major source or any area source at a Performance Track member facility, which is subject to regular periodic reporting under any subpart of this part, may submit such periodic reports at an interval that is twice the length of the regular period specified in the applicable subparts; provided, that for sources subject to permits under 40 CFR part 70 or 71 no interval so calculated for any report of the results of any required monitoring may be less frequent than once in every six months.

(b) Notwithstanding any other requirements in this part, the modifications of reporting requirements in paragraph (c) of this section apply to any major source at a Performance Track member facility which is subject to requirements under any of the subparts of this part and which has:

(1) Reduced its total HAP emissions to less than 25 tons per year;

(2) Reduced its emissions of each individual HAP to less than 10 tons per year; and

(3) Reduced emissions of all HAPs covered by each MACT standard to at least the level required for full compliance with the applicable emission standard.

(c) For affected sources at any area source at a Performance Track member facility and which meet the requirements of paragraph (b)(3) of this section, or for affected sources at any major source that meet the requirements of paragraph (b) of this section:

(1) If the emission standard to which the affected source is subject is based on add-on control technology, and the affected source complies by using add-on control technology, then all required reporting elements in the periodic report may be met through an annual certification that the affected source is meeting the emission standard by continuing to use that control technology. The affected source must continue to meet all relevant monitoring and recordkeeping requirements. The compliance certification must meet the requirements delineated in Clean Air Act section 114(a)(3).

(2) If the emission standard to which the affected source is subject is based on add-on control technology, and the affected source complies by using pollution prevention, then all required reporting elements in the periodic report may be met through an annual certification that the affected source is continuing to use pollution prevention to reduce HAP emissions to levels at or below those required by the applicable emission standard. The affected source must maintain records of all calculations that demonstrate the level of HAP emissions required by the emission standard as well as the level of HAP emissions achieved by the affected source. The affected source must continue to meet all relevant monitoring and recordkeeping requirements. The compliance certification must meet the requirements delineated in Clean Air Act section 114(a)(3).

(3) If the emission standard to which the affected source is subject is based on pollution prevention, and the affected source complies by using pollution prevention and reduces emissions by an additional 50 percent or greater than required by the applicable emission standard, then all required reporting elements in the periodic report may be met through an annual certification that the affected source is continuing to use pollution prevention to reduce HAP emissions by an additional 50 percent or greater than required by the applicable emission standard. The affected source must maintain records of all calculations that demonstrate the level of HAP emissions required by the emission standard as well as the level of HAP emissions achieved by the affected source. The affected source must continue to meet all relevant monitoring and recordkeeping requirements. The compliance certification must meet the requirements delineated in Clean Air Act section 114(a)(3).

(4) Notwithstanding the provisions of paragraphs (c)(1) through (3), of this section, for sources subject to permits under 40 CFR part 70 or 71, the results of any required monitoring and recordkeeping must be reported not less frequently than once in every six months.

[69 FR 21753, Apr. 22, 2004]

| E.U. ID No. | Brief Description |
|---|---|
| | Engine(s) |
| 113 | Fire Pump (Diesel) - 235 HP |
| 114 | Emergency Generator - No. 1 at Falkenburg Advanced WWTP |
| 115 | Emergency Generator - No. 2 at Falkenburg Advanced WWTP |
| 116 | Emergency Generator - No. 3 at Falkenburg Advanced WWTP |
| 117 | Emergency Generator - No. 4 at Falkenburg Advanced WWTP |

**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: June 30, 2010*

*State Rule Effective Date: This version has not yet been adopted by the state*

*Standardized Conditions Revision Date: August 11, 2010*

**40 CFR Part 63, Subpart ZZZZ - National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines**

**Source:** 69 FR 33506, June 15, 2004, unless otherwise noted.

**[These conditions apply in general to all types of engines.]**

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**What This Subpart Covers**

**§ 63.6580 What is the purpose of subpart ZZZZ?**

Subpart ZZZZ establishes national emission limitations and operating limitations for hazardous air pollutants (HAP) emitted from stationary reciprocating internal combustion engines (RICE) located at major and area sources of HAP emissions. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and operating limitations.

[73 FR 3603, Jan. 18, 2008]

**§ 63.6585 Am I subject to this subpart?**

You are subject to this subpart if you own or operate a stationary RICE at a major or area source of HAP emissions, except if the stationary RICE is being tested at a stationary RICE test cell/stand.

(a) A stationary RICE is any internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. Stationary RICE differ from mobile RICE in that a stationary RICE is not a non-road engine as defined at 40 CFR 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition.

(b) A major source of HAP emissions is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year, except that for oil and gas production facilities, a major source of HAP emissions is determined for each surface site.

(c) An area source of HAP emissions is a source that is not a major source.

(d) If you are an owner or operator of an area source subject to this subpart, your status as an entity subject to a standard or other requirements under this subpart does not subject you to the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart as applicable.

(e) If you are an owner or operator of a stationary RICE used for national security purposes, you may be eligible to request an exemption from the requirements of this subpart as described in 40 CFR part 1068, subpart C.

[69 FR 33506, June 15, 2004, as amended at 73 FR 3603, Jan. 18, 2008]

**§ 63.6590 What parts of my plant does this subpart cover?**

This subpart applies to each affected source.

(a) *Affected source.* An affected source is any existing, new, or reconstructed stationary RICE located at a major or area source of HAP emissions, excluding stationary RICE being tested at a stationary RICE test cell/stand.

(1) *Existing stationary RICE.*

(i) For stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before December 19, 2002.

(ii) For stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iii) For stationary RICE located at an area source of HAP emissions, a stationary RICE is existing if you commenced construction or reconstruction of the stationary RICE before June 12, 2006.

(iv) A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

(2) *New stationary RICE.*

(i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is new if you commenced construction of the stationary RICE on or after June 12, 2006.

(3) *Reconstructed stationary RICE.*

(i) A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in §63.2 and reconstruction is commenced on or after December 19, 2002.

(ii) A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if you meet the definition of reconstruction in §63.2 and reconstruction is commenced on or after June 12, 2006.

(iii) A stationary RICE located at an area source of HAP emissions is reconstructed if you meet the definition of reconstruction in §63.2 and reconstruction is commenced on or after June 12, 2006.

(b) *Stationary RICE subject to limited requirements.*

(1) An affected source which meets either of the criteria in paragraphs (b)(1)(i) through (ii) of this section does not have to meet the requirements of this subpart and of subpart A of this part except for the initial notification requirements of §63.6645(f).

(i) The stationary RICE is a new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions.

(ii) The stationary RICE is a new or reconstructed limited use stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions.

(2) A new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis must meet the initial notification requirements of §63.6645(h) and the requirements of §§63.6625(c), 63.6650(g), and 63.6655(c). These stationary RICE do not have to meet the emission limitations and operating limitations of this subpart.

(3) A stationary RICE which is an existing spark ignition 4 stroke rich burn (4SRB) stationary RICE located at an area source of HAP emissions; an existing spark ignition 4SRB stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions; an existing spark ignition 2 stroke lean burn (2SLB) stationary RICE; an existing spark ignition 4 stroke lean burn (4SLB) stationary RICE; an existing compression ignition emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions; an existing spark ignition emergency or limited use stationary RICE; an existing limited use stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions; an existing stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis; or an existing stationary residential, commercial, or institutional emergency stationary RICE located at an area source of HAP emissions, does not have to meet the requirements of this subpart and of subpart A of this part. No initial notification is necessary.

(c) *Stationary RICE subject to Regulations under 40 CFR Part 60.* An affected source that is a new or reconstructed stationary RICE located at an area source, or is a new or reconstructed stationary RICE located at a major source of HAP emissions and is a spark ignition 2 stroke lean burn (2SLB) stationary RICE with a site rating of less than 500 brake HP, a spark ignition 4 stroke lean burn (4SLB) stationary RICE with a site rating of less than 250 brake HP, or a 4 stroke rich burn (4SRB) stationary RICE with a site rating of less than or equal to 500 brake HP, a stationary RICE with a site rating of less than or equal to 500 brake HP which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an emergency or limited use stationary RICE with a site rating of less than or equal to 500 brake HP, or a compression ignition (CI) stationary RICE with a site rating of less than or equal to 500 brake HP, must meet the requirements of this part by meeting the requirements of 40 CFR part 60 subpart IIII, for compression ignition engines or 40 CFR part 60 subpart JJJJ, for spark ignition engines. No further requirements apply for such engines under this part.

[69 FR 33506, June 15, 2004, as amended at 73 FR 3604, Jan. 18, 2008; 75 FR 9674, Mar. 3, 2010; 75 FR 37733, June 30, 2010]

**§ 63.6595 When do I have to comply with this subpart?**

(a) *Affected Sources.*

(1) If you have an existing stationary RICE, excluding existing non-emergency CI stationary RICE, with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the applicable emission limitations and operating limitations no later than June 15, 2007. If you have an existing non-emergency CI stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, an existing stationary CI RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, or an existing stationary CI RICE located at an area source of HAP emissions, you must comply with the applicable emission limitations and operating limitations no later than May 3, 2013.

(2) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions before August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart no later than August 16, 2004.

(3) If you start up your new or reconstructed stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions after August 16, 2004, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(4) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions before January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart no later than January 18, 2008.

(5) If you start up your new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions after January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(6) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions before January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart no later than January 18, 2008.

(7) If you start up your new or reconstructed stationary RICE located at an area source of HAP emissions after January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of your affected source.

(b) *Area sources that become major sources.* If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the compliance dates in paragraphs (b)(1) and (2) of this section apply to you.

(1) Any stationary RICE for which construction or reconstruction is commenced after the date when your area source becomes a major source of HAP must be in compliance with this subpart upon startup of your affected source.

(2) Any stationary RICE for which construction or reconstruction is commenced before your area source becomes a major source of HAP must be in compliance with the provisions of this subpart that are applicable to RICE located at major sources within 3 years after your area source becomes a major source of HAP.

(c) If you own or operate an affected source, you must meet the applicable notification requirements in §63.6645 and in 40 CFR part 63, subpart A.

[69 FR 33506, June 15, 2004, as amended at 73 FR 3604, Jan. 18, 2008; 75 FR 9675, Mar. 3, 2010]

**General Compliance Requirements**

**§ 63.6605 What are my general requirements for complying with this subpart?**

(a) You must be in compliance with the emission limitations and operating limitations in this subpart that apply to you at all times.

(b) At all times you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

[75 FR 9675, Mar. 3, 2010]

**Other Requirements and Information**

**§ 63.6665 What parts of the General Provisions apply to me?**

Table 8 to this subpart shows which parts of the General Provisions in §§63.1 through 63.15 apply to you. If you own or operate a new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP), a new or reconstructed stationary RICE located at an area source of HAP emissions, or any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with any of the requirements of the General Provisions specified in Table 8: An existing 2SLB stationary RICE, an existing

4SLB stationary RICE, an existing stationary RICE that combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an existing emergency stationary RICE, or an existing limited use stationary RICE. If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in the General Provisions specified in Table 8 except for the initial notification requirements: A new stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new emergency stationary RICE, or a new limited use stationary RICE.

[75 FR 9678, Mar. 3, 2010]

**§ 63.6670 Who implements and enforces this subpart?**

(a) This subpart is implemented and enforced by the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the U.S. EPA) has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out whether this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are:

(1) Approval of alternatives to the non-opacity emission limitations and operating limitations in §63.6600 under §63.6(g).

(2) Approval of major alternatives to test methods under §63.7(e)(2)(ii) and (f) and as defined in §63.90.

(3) Approval of major alternatives to monitoring under §63.8(f) and as defined in §63.90.

(4) Approval of major alternatives to recordkeeping and reporting under §63.10(f) and as defined in §63.90.

(5) Approval of a performance test which was conducted prior to the effective date of the rule, as specified in §63.6610(b).

**§ 63.6675 What definitions apply to this subpart?**

Terms used in this subpart are defined in the Clean Air Act (CAA); in 40 CFR 63.2, the General Provisions of this part; and in this section as follows:

*Area source* means any stationary source of HAP that is not a major source as defined in part 63.

*Associated equipment* as used in this subpart and as referred to in section 112(n)(4) of the CAA, means equipment associated with an oil or natural gas exploration or production well, and includes all equipment from the well bore to the point of custody transfer, except glycol dehydration units, storage vessels with potential for flash emissions, combustion turbines, and stationary RICE.

*Black start engine* means an engine whose only purpose is to start up a combustion turbine.

*CAA* means the Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended by Public Law 101–549, 104 Stat. 2399).

*Compression ignition* means relating to a type of stationary internal combustion engine that is not a spark ignition engine.

*Custody transfer* means the transfer of hydrocarbon liquids or natural gas: After processing and/or treatment in the producing operations, or from storage vessels or automatic transfer facilities or other such equipment, including product loading racks, to pipelines or any other forms of transportation. For the purposes of this subpart, the point at which such liquids or natural gas enters a natural gas processing plant is a point of custody transfer.

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation or operating limitation;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation or operating limitation in this subpart during malfunction, regardless of whether or not such failure is permitted by this subpart.

(4) Fails to satisfy the general duty to minimize emissions established by §63.6(e)(1)(i).

*Diesel engine* means any stationary RICE in which a high boiling point liquid fuel injected into the combustion chamber ignites when the air charge has been compressed to a temperature sufficiently high for auto-ignition. This process is also known as compression ignition.

*Diesel fuel* means any liquid obtained from the distillation of petroleum with a boiling point of approximately 150 to 360 degrees Celsius. One commonly used form is fuel oil number 2. Diesel fuel also includes any non-distillate fuel with comparable physical and chemical properties ( *e.g.* biodiesel) that is suitable for use in compression ignition engines.

*Digester gas* means any gaseous by-product of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and $CO_2$.

*Dual-fuel engine* means any stationary RICE in which a liquid fuel (typically diesel fuel) is used for compression ignition and gaseous fuel (typically natural gas) is used as the primary fuel.

*Emergency stationary RICE* means any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, *etc.* Stationary CI ICE used for peak shaving are not considered emergency stationary ICE. Stationary CI ICE used to supply power to an electric grid or that supply non-emergency power as part of a financial arrangement with another entity are not considered to be emergency engines, except as permitted under §63.6640(f). Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by the manufacturer, the vendor, or the insurance company associated with the engine. Required testing of such units should be minimized, but there is no time limit on the use of emergency stationary RICE in emergency situations and for routine testing and maintenance. Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may also operate an additional 50 hours per year in non-emergency situations. All other emergency stationary RICE must comply with the requirements specified in §63.6640(f).

*Engine startup* means the time from initial start until applied load and engine and associated equipment reaches steady state or normal operation. For stationary engine with catalytic controls, engine startup means the time from initial start until applied load and engine and associated equipment, including the catalyst, reaches steady state or normal operation.

*Four-stroke engine* means any type of engine which completes the power cycle in two crankshaft revolutions, with intake and compression strokes in the first revolution and power and exhaust strokes in the second revolution.

*Gaseous fuel* means a material used for combustion which is in the gaseous state at standard atmospheric temperature and pressure conditions.

*Gasoline* means any fuel sold in any State for use in motor vehicles and motor vehicle engines, or nonroad or stationary engines, and commonly or commercially known or sold as gasoline.

*Glycol dehydration unit* means a device in which a liquid glycol (including, but not limited to, ethylene glycol, diethylene glycol, or triethylene glycol) absorbent directly contacts a natural gas stream and absorbs water in a contact tower or absorption column (absorber). The glycol contacts and absorbs water vapor and other gas stream constituents from the natural gas and becomes “rich” glycol. This glycol is then regenerated in the glycol dehydration unit reboiler. The “lean” glycol is then recycled.

*Hazardous air pollutants (HAP)* means any air pollutants listed in or pursuant to section 112(b) of the CAA.

*ISO standard day conditions* means 288 degrees Kelvin (15 degrees Celsius), 60 percent relative humidity and 101.3 kilopascals pressure.

*Landfill gas* means a gaseous by-product of the land application of municipal refuse typically formed through the anaerobic decomposition of waste materials and composed principally of methane and $CO_2$.

*Lean burn engine* means any two-stroke or four-stroke spark ignited engine that does not meet the definition of a rich burn engine.

*Limited use stationary RICE* means any stationary RICE that operates less than 100 hours per year.

*Liquefied petroleum gas* means any liquefied hydrocarbon gas obtained as a by-product in petroleum refining of natural gas production.

*Liquid fuel* means any fuel in liquid form at standard temperature and pressure, including but not limited to diesel, residual/crude oil, kerosene/naphtha (jet fuel), and gasoline.

*Major Source*, as used in this subpart, shall have the same meaning as in §63.2, except that:

(1) Emissions from any oil or gas exploration or production well (with its associated equipment (as defined in this section)) and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units, to determine whether such emission points or stations are major sources, even when emission points are in a contiguous area or under common control;

(2) For oil and gas production facilities, emissions from processes, operations, or equipment that are not part of the same oil and gas production facility, as defined in §63.1271 of subpart HHH of this part, shall not be aggregated;

(3) For production field facilities, only HAP emissions from glycol dehydration units, storage vessel with the potential for flash emissions, combustion turbines and reciprocating internal combustion engines shall be aggregated for a major source determination; and

(4) Emissions from processes, operations, and equipment that are not part of the same natural gas transmission and storage facility, as defined in §63.1271 of subpart HHH of this part, shall not be aggregated.

*Malfunction* means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

*Natural gas* means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the Earth's surface, of which the principal constituent is methane. Natural gas may be field or pipeline quality.

*Non-selective catalytic reduction (NSCR)* means an add-on catalytic nitrogen oxides ($NO_X$) control device for rich burn engines that, in a two-step reaction, promotes the conversion of excess oxygen, $NO_X$, CO, and volatile organic compounds (VOC) into $CO_2$, nitrogen, and water.

*Oil and gas production facility* as used in this subpart means any grouping of equipment where hydrocarbon liquids are processed, upgraded ( *i.e.*, remove impurities or other constituents to meet contract specifications), or stored prior to the point of custody transfer; or where natural gas is processed, upgraded, or stored prior to entering the natural gas transmission and storage source category. For purposes of a major source determination, facility (including a building, structure, or installation) means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in this section. Equipment that is part of a facility will typically be located within close proximity to other equipment located at the same facility. Pieces of production equipment or groupings of equipment located on different oil and gas leases, mineral fee tracts, lease tracts, subsurface or surface unit areas, surface fee tracts, surface lease tracts, or separate surface sites, whether or not connected by a road, waterway, power line or pipeline, shall not be considered part of the same facility. Examples of facilities in the oil and natural gas production source category include, but are not limited to, well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

*Oxidation catalyst* means an add-on catalytic control device that controls CO and VOC by oxidation.

*Peaking unit or engine* means any standby engine intended for use during periods of high demand that are not emergencies.

*Percent load* means the fractional power of an engine compared to its maximum manufacturer's design capacity at engine site conditions. Percent load may range between 0 percent to above 100 percent.

*Potential to emit* means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air

pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. For oil and natural gas production facilities subject to subpart HH of this part, the potential to emit provisions in §63.760(a) may be used. For natural gas transmission and storage facilities subject to subpart HHH of this part, the maximum annual facility gas throughput for storage facilities may be determined according to §63.1270(a)(1) and the maximum annual throughput for transmission facilities may be determined according to §63.1270(a)(2).

*Production field facility* means those oil and gas production facilities located prior to the point of custody transfer.

*Production well* means any hole drilled in the earth from which crude oil, condensate, or field natural gas is extracted.

*Propane* means a colorless gas derived from petroleum and natural gas, with the molecular structure $C_3H_8$.

*Residential/commercial/institutional emergency stationary RICE* means an emergency stationary RICE used in residential establishments such as homes or residences, commercial establishments such as office buildings, hotels, or stores, or institutional establishments such as medical centers, research centers, and institutions of higher education.

*Responsible official* means responsible official as defined in 40 CFR 70.2.

*Rich burn engine* means any four-stroke spark ignited engine where the manufacturer's recommended operating air/fuel ratio divided by the stoichiometric air/fuel ratio at full load conditions is less than or equal to 1.1. Engines originally manufactured as rich burn engines, but modified prior to December 19, 2002 with passive emission control technology for $NO_X$(such as pre-combustion chambers) will be considered lean burn engines. Also, existing engines where there are no manufacturer's recommendations regarding air/fuel ratio will be considered a rich burn engine if the excess oxygen content of the exhaust at full load conditions is less than or equal to 2 percent.

*Site-rated HP* means the maximum manufacturer's design capacity at engine site conditions.

*Spark ignition* means relating to either: A gasoline-fueled engine; or any other type of engine a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for CI and gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines.

*Stationary reciprocating internal combustion engine (RICE)* means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. Stationary RICE differ from mobile RICE in that a stationary RICE is not a non-road engine as defined at 40 CFR 1068.30, and is not used to propel a motor vehicle or a vehicle used solely for competition.

*Stationary RICE test cell/stand* means an engine test cell/stand, as defined in subpart PPPPP of this part, that tests stationary RICE.

*Stoichiometric* means the theoretical air-to-fuel ratio required for complete combustion.

*Storage vessel with the potential for flash emissions* means any storage vessel that contains a hydrocarbon liquid with a stock tank gas-to-oil ratio equal to or greater than 0.31 cubic meters per liter and an American Petroleum Institute gravity equal to or greater than 40 degrees and an actual annual average hydrocarbon liquid throughput equal to or greater than 79,500 liters per day. Flash emissions occur when dissolved hydrocarbons in the fluid evolve from solution when the fluid pressure is reduced.

*Subpart* means 40 CFR part 63, subpart ZZZZ.

*Surface site* means any combination of one or more graded pad sites, gravel pad sites, foundations, platforms, or the immediate physical location upon which equipment is physically affixed.

*Two-stroke engine* means a type of engine which completes the power cycle in single crankshaft revolution by combining the intake and compression operations into one stroke and the power and exhaust operations into a second stroke. This system requires auxiliary scavenging and inherently runs lean of stoichiometric.

[69 FR 33506, June 15, 2004, as amended at 71 FR 20467, Apr. 20, 2006; 73 FR 3607, Jan. 18, 2008; 75 FR 9679, Mar. 3, 2010]

**Table 8 to Subpart ZZZZ of Part 63—Applicability of General Provisions to Subpart ZZZZ.**

As stated in §63.6665, you must comply with the following applicable general provisions.

| General provisions citation | Subject of citation | Applies to subpart | Explanation |
|---|---|---|---|
| §63.1 | General applicability of the General Provisions | Yes. | |
| §63.2 | Definitions | Yes | Additional terms defined in §63.6675. |
| §63.3 | Units and abbreviations | Yes. | |
| §63.4 | Prohibited activities and circumvention | Yes. | |
| §63.5 | Construction and reconstruction | Yes. | |
| §63.6(a) | Applicability | Yes. | |
| §63.6(b)(1)–(4) | Compliance dates for new and reconstructed sources | Yes. | |
| §63.6(b)(5) | Notification | Yes. | |
| §63.6(b)(6) | [Reserved] | | |
| §63.6(b)(7) | Compliance dates for new and reconstructed area sources that become major sources | Yes. | |
| §63.6(c)(1)–(2) | Compliance dates for existing sources | Yes. | |
| §63.6(c)(3)–(4) | [Reserved] | | |
| §63.6(c)(5) | Compliance dates for existing area sources that become major sources | Yes. | |
| §63.6(d) | [Reserved] | | |
| §63.6(e) | Operation and maintenance | No. | |
| §63.6(f)(1) | Applicability of standards | No. | |
| §63.6(f)(2) | Methods for determining compliance | Yes. | |
| §63.6(f)(3) | Finding of compliance | Yes. | |
| §63.6(g)(1)–(3) | Use of alternate standard | Yes. | |
| §63.6(h) | Opacity and visible emission standards | No | Subpart ZZZZ does not contain opacity or visible emission standards. |
| §63.6(i) | Compliance extension procedures and criteria | Yes. | |
| §63.6(j) | Presidential compliance exemption | Yes. | |
| §63.7(a)(1)–(2) | Performance test dates | Yes | Subpart ZZZZ contains performance test dates at §§63.6610, 63.6611, and 63.6612. |
| §63.7(a)(3) | CAA section 114 authority | Yes. | |
| §63.7(b)(1) | Notification of performance test | Yes | Except that §63.7(b)(1) only applies as specified in §63.6645. |
| §63.7(b)(2) | Notification of rescheduling | Yes | Except that §63.7(b)(2) only applies as specified in §63.6645. |

| General provisions citation | Subject of citation | Applies to subpart | Explanation |
|---|---|---|---|
| §63.7(c) | Quality assurance/test plan | Yes | Except that §63.7(c) only applies as specified in §63.6645. |
| §63.7(d) | Testing facilities | Yes. | |
| §63.7(e)(1) | Conditions for conducting performance tests | No. | Subpart ZZZZ specifies conditions for conducting performance tests at §63.6620. |
| §63.7(e)(2) | Conduct of performance tests and reduction of data | Yes | Subpart ZZZZ specifies test methods at §63.6620. |
| §63.7(e)(3) | Test run duration | Yes. | |
| §63.7(e)(4) | Administrator may require other testing under section 114 of the CAA | Yes. | |
| §63.7(f) | Alternative test method provisions | Yes. | |
| §63.7(g) | Performance test data analysis, recordkeeping, and reporting | Yes. | |
| §63.7(h) | Waiver of tests | Yes. | |
| §63.8(a)(1) | Applicability of monitoring requirements | Yes | Subpart ZZZZ contains specific requirements for monitoring at §63.6625. |
| §63.8(a)(2) | Performance specifications | Yes. | |
| §63.8(a)(3) | [Reserved] | | |
| §63.8(a)(4) | Monitoring for control devices | No. | |
| §63.8(b)(1) | Monitoring | Yes. | |
| §63.8(b)(2)–(3) | Multiple effluents and multiple monitoring systems | Yes. | |
| §63.8(c)(1) | Monitoring system operation and maintenance | Yes. | |
| §63.8(c)(1)(i) | Routine and predictable SSM | Yes. | |
| §63.8(c)(1)(ii) | SSM not in Startup Shutdown Malfunction Plan | Yes. | |
| §63.8(c)(1)(iii) | Compliance with operation and maintenance requirements | Yes. | |
| §63.8(c)(2)–(3) | Monitoring system installation | Yes. | |
| §63.8(c)(4) | Continuous monitoring system (CMS) requirements | Yes | Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS). |
| §63.8(c)(5) | COMS minimum procedures | No | Subpart ZZZZ does not require COMS. |
| §63.8(c)(6)–(8) | CMS requirements | Yes | Except that subpart ZZZZ does not require COMS. |
| §63.8(d) | CMS quality control | Yes. | |
| §63.8(e) | CMS performance evaluation | Yes | Except for §63.8(e)(5)(ii), which applies to COMS. |
| | | Except that | |

| General provisions citation | Subject of citation | Applies to subpart | Explanation |
|---|---|---|---|
| | | §63.8(e) only applies as specified in §63.6645. | |
| §63.8(f)(1)–(5) | Alternative monitoring method | Yes | Except that §63.8(f)(4) only applies as specified in §63.6645. |
| §63.8(f)(6) | Alternative to relative accuracy test | Yes | Except that §63.8(f)(6) only applies as specified in §63.6645. |
| §63.8(g) | Data reduction | Yes | Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at §§63.6635 and 63.6640. |
| §63.9(a) | Applicability and State delegation of notification requirements | Yes. | |
| §63.9(b)(1)–(5) | Initial notifications | Yes | Except that §63.9(b)(3) is reserved. |
| | | Except that §63.9(b) only applies as specified in §63.6645. | |
| §63.9(c) | Request for compliance extension | Yes | Except that §63.9(c) only applies as specified in §63.6645. |
| §63.9(d) | Notification of special compliance requirements for new sources | Yes | Except that §63.9(d) only applies as specified in §63.6645. |
| §63.9(e) | Notification of performance test | Yes | Except that §63.9(e) only applies as specified in §63.6645. |
| §63.9(f) | Notification of visible emission (VE)/opacity test | No | Subpart ZZZZ does not contain opacity or VE standards. |
| §63.9(g)(1) | Notification of performance evaluation | Yes | Except that §63.9(g) only applies as specified in §63.6645. |
| §63.9(g)(2) | Notification of use of COMS data | No | Subpart ZZZZ does not contain opacity or VE standards. |
| §63.9(g)(3) | Notification that criterion for alternative to RATA is exceeded | Yes | If alternative is in use. |
| | | Except that §63.9(g) only applies as specified in §63.6645. | |
| §63.9(h)(1)–(6) | Notification of compliance status | Yes | Except that notifications for sources using a CEMS are due 30 days after completion of performance evaluations. §63.9(h)(4) is reserved. |
| | | | Except that §63.9(h) only applies as specified in §63.6645. |
| §63.9(i) | Adjustment of submittal deadlines | Yes. | |
| §63.9(j) | Change in previous information | Yes. | |

| General provisions citation | Subject of citation | Applies to subpart | Explanation |
|---|---|---|---|
| §63.10(a) | Administrative provisions for recordkeeping/reporting | Yes. | |
| §63.10(b)(1) | Record retention | Yes. | |
| §63.10(b)(2)(i)–(v) | Records related to SSM | No. | |
| §63.10(b)(2)(vi)–(xi) | Records | Yes. | |
| §63.10(b)(2)(xii) | Record when under waiver | Yes. | |
| §63.10(b)(2)(xiii) | Records when using alternative to RATA | Yes | For CO standard if using RATA alternative. |
| §63.10(b)(2)(xiv) | Records of supporting documentation | Yes. | |
| §63.10(b)(3) | Records of applicability determination | Yes. | |
| §63.10(c) | Additional records for sources using CEMS | Yes | Except that §63.10(c)(2)–(4) and (9) are reserved. |
| §63.10(d)(1) | General reporting requirements | Yes. | |
| §63.10(d)(2) | Report of performance test results | Yes. | |
| §63.10(d)(3) | Reporting opacity or VE observations | No | Subpart ZZZZ does not contain opacity or VE standards. |
| §63.10(d)(4) | Progress reports | Yes. | |
| §63.10(d)(5) | Startup, shutdown, and malfunction reports | No. | |
| §63.10(e)(1) and (2)(i) | Additional CMS Reports | Yes. | |
| §63.10(e)(2)(ii) | COMS-related report | No | Subpart ZZZZ does not require COMS. |
| §63.10(e)(3) | Excess emission and parameter exceedances reports | Yes. | Except that §63.10(e)(3)(i) (C) is reserved. |
| §63.10(e)(4) | Reporting COMS data | No | Subpart ZZZZ does not require COMS. |
| §63.10(f) | Waiver for recordkeeping/reporting | Yes. | |
| §63.11 | Flares | No. | |
| §63.12 | State authority and delegations | Yes. | |
| §63.13 | Addresses | Yes. | |
| §63.14 | Incorporation by reference | Yes. | |
| §63.15 | Availability of information | Yes. | |

[75 FR 9688, Mar. 3, 2010]

# APPENDIX A

## ABBREVIATIONS, ACRONYMS, CITATIONS AND IDENTIFICATION NUMBERS

**Abbreviations and Acronyms:**

**° F**: degrees Fahrenheit

**acfm**: actual cubic feet per minute

**AOR:** Annual Operating Report

**ARMS**: Air Resource Management System (Department's database)

**BACT**: best available control technology

**Btu**: British thermal units

**CAM**: compliance assurance monitoring

**CEMS**: continuous emissions monitoring system

**cfm**: cubic feet per minute

**CFR**: Code of Federal Regulations

**CO**: carbon monoxide

**COMS**: continuous opacity monitoring system

**DARM**: Division of Air Resources Management

**DCA**: Department of Community Affairs

**DEP**: Department of Environmental Protection

**Department**: Department of Environmental Protection

**dscfm**: dry standard cubic feet per minute

**EPA**: Environmental Protection Agency

**ESP**: electrostatic precipitator (control system for reducing particulate matter)

**EU**: emissions unit

**F.A.C.**: Florida Administrative Code

**F.D.**: forced draft

**F.S.**: Florida Statutes

**FGR**: flue gas recirculation

**Fl**: fluoride

**$ft^2$**: square feet

**$ft^3$**: cubic feet

**gpm**: gallons per minute

**gr**: grains

**HAP**: hazardous air pollutant

**Hg**: mercury

**I.D.**: induced draft

**ID**: identification

**ISO:** International Standards Organization (refers to those conditions at 288 Kelvin, 60% relative humidity and 101.3 kilopascals pressure.)

**kPa**: kilopascals

**LAT:** Latitude

**lb**: pound

**lbs/hr**: pounds per hour

**LONG:** Longitude

**MACT**: maximum achievable technology

**mm:** millimeter

**MMBtu**: million British thermal units

**MSDS**: material safety data sheets

**MW**: megawatt

**NESHAP**: National Emissions Standards for Hazardous Air Pollutants

**$NO_X$**: nitrogen oxides

**NSPS**: New Source Performance Standards

**O&M**: operation and maintenance

**$O_2$**: oxygen

**ORIS:** Office of Regulatory Information Systems

**OS:** Organic Solvent

**Pb**: lead

**PM**: particulate matter

**$PM_{10}$**: particulate matter with a mean aerodynamic diameter of 10 microns or less

**PSD**: prevention of significant deterioration

**psi**: pounds per square inch

**PTE**: potential to emit

**RACT**: reasonably available control technology

**RATA**: relative accuracy test audit

**RMP:** Risk Management Plan

**RO:** Responsible Official

**SAM**: sulfuric acid mist

**scf**: standard cubic feet

**scfm**: standard cubic feet per minute

**SIC**: standard industrial classification code

**SNCR**: selective non-catalytic reduction (control system used for reducing emissions of nitrogen oxides)

**SOA**: Specific Operating Agreement

**$SO_2$**: sulfur dioxide

**TPH**: tons per hour

**TPY**: tons per year

**UTM**: Universal Transverse Mercator coordinate system

**VE**: visible emissions

**VOC**: volatile organic compounds

**x:** By or times

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**Citations:**

*The following examples illustrate the methods used in this permit to abbreviate and cite the references of rules, regulations, guidance memorandums, permit numbers and ID numbers.*

Code of Federal Regulations:

*Example*: **[40 CFR 60.334]**

| | | | |
|---|---|---|---|
| Where: | 40 | refers to | Title 40 |
| | CFR | refers to | Code of Federal Regulations |
| | 60 | refers to | Part 60 |
| | 60.334 | refers to | Regulation 60.334 |

Florida Administrative Code (F.A.C.) Rules:

*Example*: **[Rule 62-213.205, F.A.C.]**

| | | | |
|---|---|---|---|
| Where: | 62 | refers to | Title 62 |
| | 62-213 | refers to | Chapter 62-213 |
| | 62-213.205 | refers to | Rule 62-213.205, F.A.C. |

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**Identification Numbers:**

Facility Identification (ID) Number:

*Example*: Facility ID No.: 1050221

*Where:*

105 = 3-digit number code identifying the facility is located in Polk County
0221 = 4-digit number assigned by state database.

Permit Numbers:

*Example*: 1050221-002-AV, or
1050221-001-AC

*Where:*
AC = Air Construction Permit
AV = Air Operation Permit (Title V Source)
105 = 3-digit number code identifying the facility is located in Polk County
0221= 4-digit number assigned by permit tracking database
001 or 002= 3-digit sequential project number assigned by permit tracking database

*Example*: PSD-FL-185
PA95-01
AC53-208321

*Where:*

| | | |
|---|---|---|
| PSD | = | Prevention of Significant Deterioration Permit |
| PA | = | Power Plant Siting Act Permit |
| AC53 | = | old Air Construction Permit numbering identifying the facility is located in Polk County |

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
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JUN 3 2004

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

Mr. Herbert T. Dixon, Jr.
Vice President
TESTAR, Inc.
7424-108 ACC Boulevard
Raleigh, NC 27617

Dear Mr. Dixon:

This is in response to your letter dated May 6, 2004, that requested approval for a modification to EPA Method 23 (40 CFR 60, Appendix A). Method 23 is required for determining compliance with polychlorinated dibenzo-p-dioxin and polychlorinated dibenzofuran emission limits in 40 CFR 60.30b - 60.39b (Subpart Cb), 40 CFR 60.50a - 60.59a (Subpart Ea), 40 CFR 60.50b - 60.59b (Subpart Eb), and 40 CFR 63.1340 - 63.1359 (Subpart LLL). In your letter you also cited Subpart Ca. Subpart Ca was withdrawn in 1995 when Subpart Cb became a final rule.

Method 23 specifies that the tester use acetone, methylene chloride, and toluene to recover the sample from the sampling train glassware. You have requested that we approve an alternative test procedure to omit the methylene chloride rinse. You are proposing this modification on behalf of your clients who operate municipal waste combustors subject to either Subpart Cb, Ea or Eb or operate Portland cement plants subject to Subpart LLL at the locations shown in the enclosure.

In addition, you requested approval of the same modification to EPA Method 0023A (EPA Publication # SW-846) on behalf of your clients who operate hazardous waste combustors. Method 0023A is required for determining compliance with polychlorinated dibenzo-p-dioxin and polychlorinated dibenzofuran emission limits in 40 CFR 264.340 - 264.347 (Subpart O). EPA's Office of Solid Waste is responsible for the emission limits on hazardous waste combustors in 40 CFR 264.343 as well as Method 0023A, and we do not have the delegated authority to approve alternatives to their test procedures.

Based on data that the EPA collected on the relative efficiency of rinsing with methylene chloride and toluene as opposed to rinsing with toluene alone, we agree that it is acceptable to omit the methylene chloride rinse. Therefore, we are approving your request to omit the methylene chloride rinse from Method 23, when the method is used to determine compliance with either 40 CFR 60.30b - 60.39b (Subpart Cb), 40 CFR 60.50a - 60.59a (Subpart Ea), 40 CFR

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60.50b - 60.59b (Subpart Eb), or 40 CFR 63.1340 - 63.1359 (Subpart LLL) at the individual facilities specified in the enclosure (Tables I, II, and III).

If you need further assistance, please contact Gary McAlister at (919) 541-1062.

Sincerely,

Robin R. Segall for CBO

Conniesue B. Oldham, Ph.D., Group Leader
Source Measurement Technology Group

Enclosure

cc: Jack Harvanek, Region I
Donald Wright, Region II
Chris Pilla, Region III
Dave McNeal, Region IV
Nabil Fayoumi, Region V
Charles Ritchey, Region VI
Don Bahnke, Region VII
Stanley Tong, Region IX
Paul Boys, Region X

**ATTACHMENT 1**
**MUNICIPAL WASTE COMBUSTION FACILITIES**

| Facility Name | Facility Address |
|---|---|
| Wheelabrator Saugus, Inc. | Saugus, MA |
| Wheelabrator North Andover, Inc. | North Andover, MA |
| Wheelabrator Millbury, Inc. | Millbury, MA |
| Wheelabrator Concord, Inc. | Concord, NH |
| Wheelabrator Claremont, Inc. | Claremont, NH |
| Wheelabrator Lisbon, Inc. | Lisbon, CT |
| Wheelabrator Bridgeport, Inc. | Bridgeport, CT |
| Wheelabrator Hudson Falls, Inc. | Hudson Falls, NY |
| Wheelabrator Westchester, Inc. | Peekskill, NY |
| Wheelabrator Falls, Inc. | Morrisville PA |
| Wheelabrator Gloucester, Inc. | Westville, NJ |
| Wheelabrator Baltimore, Inc. | Baltimore, MD |
| Wheelabrator North Broward, Inc. | Pompano Beach, FL |
| Wheelabrator South Broward, Inc. | Ft. Lauderdale, FL |
| Wheelabrator Pinellas, Inc. | St. Petersburg, FL |
| Wheelabrator McKay Bay, Inc. | Tampa, FL |
| Wheelabrator Ridge, Inc. | Auburndale, FL |
| Wheelabrator Spokane, Inc. | Spokane, WA |
| Covanta Haverhill, Inc. | Haverhill, MA |
| Mid-Conn Resource Recovery Facility | Hartford, CT |
| Bristol Resource Recovery Facility | Bristol, CT |
| Wallingford Resource Recovery Facility | Wallingford, CT |
| Onondaga County Resource Recovery Facility | Syracuse, NY |
| Babylon Resource Recovery Facility | Babylon, NY |
| Huntington Resource Recovery Facility | Huntington, NY |
| Warren County Resource Recovery Facility | Oxford, NJ |
| Union County Resource Recovery Facility | Rahway, NJ |
| Lancaster County Resource Recovery Facility | Bainbridge, PA |
| Montgomery County Resource Recovery Facility | Dickerson, MD |
| Alexandria Waste to Energy Facility | Alexandria, VA |
| I-95 Energy / Resource Recovery Facility | Lorton, FL |
| Huntsville Resource Recovery Facility | Huntsville, AL |
| Lake County Resource Recovery Facility | Okahumpka, FL |
| Pasco County Resource Recovery Facility | Spring Hill, FL |
| Hillsborough County Resource Recovery Facility | Tampa, FL |
| Lee County Resource Recovery Facility | Ft. Meyers, FL |
| Michigan Waste Energy, Inc. | Detroit, MI |
| Kent County Resource Recovery Facility | Grand Rapids, MI |
| Indianapolis Resource Recovery Facility | Indianapolis, IN |
| Hennepin Resource Recovery Facility | Minneapolis, MN |
| Marion County Resource Recovery Facility | Salem, OR |
| Stanislaus Resource Recovery Facility | Crows Landing, CA |
| Honolulu Resource Recovery Venture | Honolulu, HI |
| York County Resource Recovery Facility | York, PA |

**ATTACHMENT 1**
**MUNICIPAL WASTE COMBUSTION FACILITIES**
**(continued)**

| | |
|---|---|
| Metro-Dade Resource Recovery Facility | Miami, FL |
| Panama City Resource Recovery Facility | Panama City, FL |
| Camden County Resource Recovery Facility | Camden, NJ |
| Montenay Charleston Resource Recovery, Inc. | Charleston, SC |
| Southeastern Connecticut Resource Recovery Facility | Preston, CT |
| Hempstead Resource Recovery Facility | Hempstead, NY |
| Mid-Maine Waste Action Corporation | Auburn, ME |
| Maine Energy Recovery Company | Biddeford, ME |
| SPSA | Portsmouth, VA |

# APPENDIX BW

## BIOMEDICAL WASTE DEFINITIONS

The following definitions are excerpted from Rule 64E-16.002 Definitions, Florida Administrative Code (F.A.C.) (version dated 6/3/97). For ease of reference, the rule numbering has been retained.

(2) Biomedical Waste -- Any solid or liquid waste which may present a threat of infection to humans, including nonliquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included:
   (a) Used, absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood; and absorbent materials saturated with blood or blood products that have dried.
   (b) Non-absorbent, disposable devices that have been contaminated with blood, body fluids, or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.

(3) Biomedical Waste Generator -- A facility or person that produces biomedical waste. The term includes hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics and funeral homes.
   (a) Mobile health care units, such as bloodmobiles, that are part of a stationary biomedical waste generator, are not considered individual biomedical waste generators.
   (b) Funeral homes that do not practice embalming are not considered biomedical waste generators.

(4) Body Fluids -- Those fluids which have the potential to harbor pathogens, such as human immunodeficiency virus and hepatitis B virus and include blood, blood products, lymph, semen, vaginal secretions, cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. In instances where identification of the fluid cannot be made, it shall be considered to be a regulated body fluid. Body excretions such as feces and secretions such as nasal discharges, saliva, sputum, sweat, tears, urine, and vomitus shall not be considered biomedical waste unless visibly contaminated with blood.

# APPENDIX I

## LIST OF INSIGNIFICANT EMISSIONS UNITS AND/OR ACTIVITIES

The facilities, emissions units, or pollutant-emitting activities listed in Rule 62-210.300(3)(a), F.A.C., Categorical Exemptions, or that meet the criteria specified in Rule 62-210.300(3)(b)1., F.A.C., Generic Emissions Unit Exemption, are exempt from the permitting requirements of Chapters 62-210, 62-212 and 62-4, F.A.C.; provided, however, that exempt emissions units shall be subject to any applicable emission limiting standards and the emissions from exempt emissions units or activities shall be considered in determining the potential emissions of the facility containing such emissions units. Emissions units and pollutant-emitting activities exempt from permitting under Rules 62-210.300(3)(a) and (b)1., F.A.C., shall not be exempt from the permitting requirements of Chapter 62-213, F.A.C., if they are contained within a Title V source; however, such emissions units and activities shall be considered insignificant for Title V purposes provided they also meet the criteria of Rule 62-213.430(6)(b), F.A.C. No emissions unit shall be entitled to an exemption from permitting under Rules 62-210.300(3)(a) and (b)1., F.A.C., if its emissions, in combination with the emissions of other units and activities at the facility, would cause the facility to emit or have the potential to emit any pollutant in such amount as to make the facility a Title V source.

The below listed emissions units and/or activities are considered insignificant pursuant to Rule 62-213.430(6), F.A.C.

Brief Description of Emissions Units and/or Activities

{All storage tanks listed here that are not regulated by 40 CFR 60 Subpart Kb.}

1. Fire and safety equipment.
2. Paint usage of less than 6 gallons per day.
3. Mineral spirits drums.
4. Bulk drum of cooling water treatment.
5. Flanges and valves.
6. 55 gallon oil storage drums.
7. 300 and 449 gallon fuel storage tanks.
8. Laboratory vent.
9. Yard waste mulching operation adjacent (north) of Hillsborough County Resource Recovery Facility.
10. Sulfuric acid tank.
11. Chlorine cylinders.
12. Aqueous ammonia (19%) storage tank.
13. Other non-road engines (portable) located at the facility; these engines are not regulated under 40 CFR 63, Subpart ZZZZ: consisting of welders, pressure washers, general purpose engines, emergency generators, light carts, pumps and blowers.
14. Any other emissions unit or activity that:
    a. Is exempted from the requirement to obtain an air construction permit as cited in Rule 62-213.430(6)(a), F.A.C.. And meets all of the following criteria pursuant to Rule 62-213.430(6)(b), F.A.C.:
        b. Is not subject to a unit-specific applicable requirement.
    c. In combination with other units and activities proposed as insignificant, would not cause the facility to exceed any major source threshold(s) as defined by Rule 62-213.420(3)(c)1., F.A.C. unless acknowledged in a permit application.
    d. Would neither emit nor have the potential to emit:
        i. 500 pounds per year of lead and lead compounds expressed as lead;
        ii. 1,000 pounds per year or more of any hazardous air pollutant;
        iii. 2,500 pounds per year or more of total hazardous air pollutants; or
        iv. 5.0 tons per year or more of any other regulated pollutant.

## FACILITY-WIDE REPORTING REQUIREMENTS

(Version Dated 01/05/2011)

**RR1.** Reporting Schedule. This table summarizes information for convenience purposes only. It does not supersede any of the terms or conditions of this permit.

| **Report** | **Reporting Deadline(s)** | **Related Condition(s)** |
|---|---|---|
| Plant Problems/Permit Deviations | Immediately upon occurrence (See RR2.d.) | RR2., RR3. |
| Malfunction Excess Emissions Report | Every 3 months (quarterly), if requested | RR3. |
| Semi-Annual Monitoring Report | Every 6 months | RR4. |
| Annual Operating Report | April 1st of each year | RR5. |
| Annual Emissions Fee Form and Fee | March 1st of each year | RR6. |
| Annual Statement of Compliance | Within 60 days after the end of each calendar year (or more frequently if specified by Rule 62-213.440(2), F.A.C., or by any other applicable requirement); and<br>Within 60 days after submittal of a written agreement for transfer of responsibility, or<br>Within 60 days after permanent shutdown. | RR7. |
| Notification of Administrative Permit Corrections | As needed | RR8. |
| Notification of Startup after Shutdown for More than One Year | Minimum of 60 days prior to the intended startup date or, if emergency startup, as soon as possible after the startup date is ascertained | RR9. |
| Permit Renewal Application | 225 days prior to the expiration date of permit | TV17. |

*{Permitting Note: See permit Section III. Emissions Unit(s) and Specific Conditions, for any additional Emissions Unit-specific reporting requirements.}*

**RR2.** Reports of Problems.

a. Plant Operation-Problems. If the permittee is temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules.

b. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
   (1) A description of and cause of noncompliance; and
   (2) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

c. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

d. "Immediately" shall mean the same day, if during a workday (i.e., 8:00 a.m. - 5:00 p.m.), or the first business day after the incident, excluding weekends and holidays; and, for purposes of Rule 62-4.160(15) and 40 CFR 70.6(a)(3)(iii)(B), "promptly" or "prompt" shall have the same meaning as "immediately".

[Rule 62-4.130, Rule 62-4.160(8), Rule 62-4.160(15), and Rule 62-213.440(1)(b), F.A.C.; 40 CFR 70.6(a)(3)(iii)(B)]

**RR3.** Reports of Deviations from Permit Requirements. The permittee shall report in accordance with the requirements of Rule 62-210.700(6), F.A.C. (below), and Rule 62-4.130, F.A.C. (condition RR2.), deviations from permit requirements, including those attributable to upset conditions as defined in the permit. Reports shall include the probable cause of such deviations, and any corrective actions or preventive measures taken.
*Rule 62-210.700(6)*: In case of excess emissions resulting from malfunctions, each owner or operator shall notify the Department or the appropriate Local Program in accordance with Rule 62-4.130, F.A.C. (See condition RR2.). A full written report on the malfunctions shall be submitted in a quarterly report, if requested by the Department.
[Rules 62-213.440(1)(b)3.b., and 62-210.700(6), F.A.C.]

**RR4.** Semi-Annual Monitoring Reports. The permittee shall submit reports of any required monitoring at least every six (6) months. All instances of deviations from permit requirements must be clearly identified in such reports. [Rule 62-213.440(1)(b)3.a., F.A.C.]

**RR5.** Annual Operating Report.
a. The permittee shall submit to the Compliance Authority, each calendar year, on or before April 1st, a completed DEP Form No. 62-210.900(5), "Annual Operating Report for Air Pollutant Emitting Facility", for the preceding calendar year.
b. Emissions shall be computed in accordance with the provisions of Rule 62-210.370(2), F.A.C.
[Rules 62-210.370(2) & (3), and 62-213.440(3)(a)2., F.A.C.]

**RR6.** Annual Emissions Fee Form and Fee. Each Title V source permitted to operate in Florida must pay between January 15th and March 1st of each year, an annual emissions fee in an amount determined as set forth in Rule 62-213.205(1), F.A.C.
a. If the Department has not received the fee by February 15th of the year following the calendar year for which the fee is calculated, the Department will send the primary responsible official of the Title V source a written warning of the consequences for failing to pay the fee by March 1st. If the fee is not postmarked by March 1st of the year due, the Department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee unpaid plus interest on such amount computed in accordance with Section 220.807, F.S. If the Department determines that a submitted fee was inaccurately calculated, the Department shall either refund to the permittee any amount overpaid or notify the permittee of any amount underpaid. The Department shall not impose a penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The Department shall waive the collection of underpayment and shall not refund overpayment of the fee, if the amount is less than 1 percent of the fee due, up to $50.00. The Department shall make every effort to provide a timely assessment of the adequacy of the submitted fee. Failure to pay timely any required annual emissions fee, penalty, or interest constitutes grounds for permit revocation pursuant to Rule 62-4.100, F.A.C.
b. Any documentation of actual hours of operation, actual material or heat input, actual production amount, or actual emissions used to calculate the annual emissions fee shall be retained by the owner for a minimum of five (5) years and shall be made available to the Department upon request.
c. A completed DEP Form 62-213.900(1), "Major Air Pollution Source Annual Emissions Fee Form", must be submitted by a responsible official with the annual emissions fee.
[Rules 62-213.205(1), (1)(g), (1)(i) & (1)(j), F.A.C.]

**RR7**. Annual Statement of Compliance.
a. The permittee shall submit a Statement of Compliance with all terms and conditions of the permit that includes all the provisions of 40 CFR 70.6(c)(5)(iii), incorporated by reference at Rule 62-204.800, F.A.C., using DEP Form No. 62-213.900(7). Such statement shall be accompanied by a certification in accordance with Rule 62-213.420(4), F.A.C., for Title V requirements and with Rule 62-214.350, F.A.C., for Acid Rain requirements. Such statements shall be submitted (postmarked) to the Department and EPA:

(1) Annually, within 60 days after the end of each calendar year during which the Title V permit was effective, or more frequently if specified by Rule 62-213.440(2), F.A.C., or by any other applicable requirement; and
(2) Within 60 days after submittal of a written agreement for transfer of responsibility as required pursuant to 40 CFR 70.7(d)(1)(iv), adopted and incorporated by reference at Rule 62-204.800, F.A.C., or within 60 days after permanent shutdown of a facility permitted under Chapter 62-213, F.A.C.; provided that, in either such case, the reporting period shall be the portion of the calendar year the permit was effective up to the date of transfer of responsibility or permanent facility shutdown, as applicable.

b. In lieu of individually identifying all applicable requirements and specifying times of compliance with, non-compliance with, and deviation from each, the responsible official may use DEP Form No. 62-213.900(7) as such statement of compliance so long as the responsible official identifies all reportable deviations from and all instances of non-compliance with any applicable requirements and includes all information required by the federal regulation relating to each reportable deviation and instance of non-compliance.
c. The responsible official may treat compliance with all other applicable requirements as a surrogate for compliance with Rule 62-296.320(2), Objectionable Odor Prohibited.

[Rules 62-213.440(3)(a)2. & 3. and (b), F.A.C.]

**RR8.** Notification of Administrative Permit Corrections.

a. A facility owner shall notify the Department by letter of minor corrections to information contained in a permit. Such notifications shall include:
(1) Typographical errors noted in the permit;
(2) Name, address or phone number change from that in the permit;
(3) A change requiring more frequent monitoring or reporting by the permittee;
(4) A change in ownership or operational control of a facility, subject to the following provisions:
(a) The Department determines that no other change in the permit is necessary;
(b) The permittee and proposed new permittee have submitted an Application for Transfer of Air Permit, and the Department has approved the transfer pursuant to Rule 62-210.300(7), F.A.C.; and
(c) The new permittee has notified the Department of the effective date of sale or legal transfer.
(5) Changes listed at 40 CFR 72.83(a)(1), (2), (6), (9) and (10), adopted and incorporated by reference at Rule 62-204.800, F.A.C., and changes made pursuant to Rules 62-214.340(1) and (2), F.A.C., to Title V sources subject to emissions limitations or reductions pursuant to 42 USC ss. 7651-7651o;
(6) Changes listed at 40 CFR 72.83(a)(11) and (12), adopted and incorporated by reference at Rule 62-204.800, F.A.C., to Title V sources subject to emissions limitations or reductions pursuant to 42 USC ss. 7651-7651o, provided the notification is accompanied by a copy of any EPA determination concerning the similarity of the change to those listed at Rule 62-210.360(1)(e), F.A.C.; and
(7) Any other similar minor administrative change at the source.

b. Upon receipt of any such notification, the Department shall within 60 days correct the permit and provide a corrected copy to the owner.
c. After first notifying the owner, the Department shall correct any permit in which it discovers errors of the types listed at Rules 62-210.360(1)(a) and (b), F.A.C., and provide a corrected copy to the owner.
d. For Title V source permits, other than general permits, a copy of the corrected permit shall be provided to EPA and any approved local air program in the county where the facility or any part of the facility is located.

[Rule 62-210.360, F.A.C.]

**RR9.** Notification of Startup. The owners or operator of any emissions unit or facility which has a valid air operation permit which has been shut down more than one year, shall notify the Department in writing of the intent to start up such emissions unit or facility, a minimum of 60 days prior to the intended startup date.

a. The notification shall include information as to the startup date, anticipated emission rates or pollutants released, changes to processes or control devices which will result in changes to emission rates, and any other conditions which may differ from the valid outstanding operation permit.
b. If, due to an emergency, a startup date is not known 60 days prior thereto, the owner shall notify the Department as soon as possible after the date of such startup is ascertained.

[Rule 62-210.300(5), F.A.C.]

**RR10.** Report Submission. The permittee shall submit all compliance related notifications and reports required of this permit to the Compliance Authority. {See front of permit for address and phone number.}

**RR11.** EPA Report Submission. Any reports, data, notifications, certifications, and requests required to be sent to the United States Environmental Protection Agency, Region 4, should be sent to: Air, Pesticides & Toxics Management Division, United States Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303-8960. Phone: 404/562-9077.

**RR12.** Acid Rain Report Submission. Acid Rain Program Information shall be submitted, as necessary, to: Department of Environmental Protection, Emissions Monitoring Section, 2600 Blair Stone Road, Mail Station #5510, Tallahassee, Florida 32399-2400. Phone: 850/717-9000. Fax: 850/717-9001.

**RR13.** Report Certification. All reports shall be accompanied by a certification by a responsible official, pursuant to Rule 62-213.420(4), F.A.C. [Rule 62-213.440(1)(b)3.c, F.A.C.]

**RR14.** Certification by Responsible Official (R.O.). In addition to the professional engineering certification required for applications by Rule 62-4.050(3), F.A.C., any application form, report, compliance statement, compliance plan and compliance schedule submitted pursuant to Chapter 62-213, F.A.C., shall contain a certification signed by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. Any responsible official who fails to submit any required information or who has submitted incorrect information shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary information or correct information. [Rule 62-213.420(4), F.A.C.]

**RR15.** Confidential Information. Whenever an applicant submits information under a claim of confidentiality pursuant to Section 403.111, F.S., the applicant shall also submit a copy of all such information and claim directly to EPA. Any permittee may claim confidentiality of any data or other information by complying with this procedure. [Rules 62-213.420(2), and 62-213.440(1)(d)6., F.A.C.]

**RR16.** Forms and Instructions. The forms used by the Department in the Title V source operation program are adopted and incorporated by reference in Rule 62-213.900, F.A.C. The forms are listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, by contacting the appropriate permitting authority or by accessing the Department's web site at: http://www.dep.state.fl.us/air/rules/forms.htm.

a. Major Air Pollution Source Annual Emissions Fee Form (Effective 10/12/2008).
b. Statement of Compliance Form (Effective 06/02/2002).
c. Responsible Official Notification Form (Effective 06/02/2002).

[Rule 62-213.900, F.A.C.: Forms (1), (7) and (8)]

# APPENDIX TR

## FACILITY-WIDE TESTING REQUIREMENTS

(Version Dated 9/12/2008)

Unless otherwise specified in the permit, the following testing requirements apply to each emissions unit for which testing is required. The terms "stack" and "duct" are used interchangeably in this appendix.

**TR1.** Required Number of Test Runs. For mass emission limitations, a compliance test shall consist of three complete and separate determinations of the total air pollutant emission rate through the test section of the stack or duct and three complete and separate determinations of any applicable process variables corresponding to the three distinct time periods during which the stack emission rate was measured; provided, however, that three complete and separate determinations shall not be required if the process variables are not subject to variation during a compliance test, or if three determinations are not necessary in order to calculate the unit's emission rate. The three required test runs shall be completed within one consecutive five-day period. In the event that a sample is lost or one of the three runs must be discontinued because of circumstances beyond the control of the owner or operator, and a valid third run cannot be obtained within the five-day period allowed for the test, the Secretary or his or her designee may accept the results of two complete runs as proof of compliance, provided that the arithmetic mean of the two complete runs is at least 20% below the allowable emission limiting standard. [Rule 62-297.310(1), F.A.C.]

**TR2.** Operating Rate During Testing. Testing of emissions shall be conducted with the emissions unit operating at permitted capacity. If it is impractical to test at permitted capacity, an emissions unit may be tested at less than the maximum permitted capacity; in this case, subsequent emissions unit operation is limited to 110 percent of the test rate until a new test is conducted. Once the unit is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purpose of additional compliance testing to regain the authority to operate at the permitted capacity. Permitted capacity is defined as 90 to 100 percent of the maximum operation rate allowed by the permit. [Rule 62-297.310(2), F.A.C.]

**TR3.** Calculation of Emission Rate. For each emissions performance test, the indicated emission rate or concentration shall be the arithmetic average of the emission rate or concentration determined by each of the three separate test runs unless otherwise specified in a particular test method or applicable rule. [Rule 62-297.310(3), F.A.C.]

**TR4.** Applicable Test Procedures.

a. *Required Sampling Time.*

(1) Unless otherwise specified in the applicable rule, the required sampling time for each test run shall be no less than one hour and no greater than four hours, and the sampling time at each sampling point shall be of equal intervals of at least two minutes.

(2) Opacity Compliance Tests. When either EPA Method 9 or DEP Method 9 is specified as the applicable opacity test method, the required minimum period of observation for a compliance test shall be sixty (60) minutes for emissions units which emit or have the potential to emit 100 tons per year or more of particulate matter, and thirty (30) minutes for emissions units which have potential emissions less than 100 tons per year of particulate matter and are not subject to a multiple-valued opacity standard. The opacity test observation period shall include the period during which the highest opacity emissions can reasonably be expected to occur. Exceptions to these requirements are as follows:

(a) For batch, cyclical processes, or other operations which are normally completed within less than the minimum observation period and do not recur within that time, the period of observation shall be equal to the duration of the batch cycle or operation completion time.

(b) The observation period for special opacity tests that are conducted to provide data to establish a surrogate standard pursuant to Rule 62-297.310(5)(k), F.A.C., Waiver of Compliance Test Requirements, shall be established as necessary to properly establish the relationship between a proposed surrogate standard and an existing mass emission limiting standard.

(c) The minimum observation period for opacity tests conducted by employees or agents of the Department to verify the day-to-day continuing compliance of a unit or activity with an

applicable opacity standard shall be twelve minutes.

b. *Minimum Sample Volume*. Unless otherwise specified in the applicable rule or test method, the minimum sample volume per run shall be 25 dry standard cubic feet.

c. *Required Flow Rate Range.* For EPA Method 5 particulate sampling, acid mist/sulfur dioxide, and fluoride sampling which uses Greenburg Smith type impingers, the sampling nozzle and sampling time shall be selected such that the average sampling rate will be between 0.5 and 1.0 actual cubic feet per minute, and the required minimum sampling volume will be obtained.

d. *Calibration of Sampling Equipment*. Calibration of the sampling train equipment shall be conducted in accordance with the schedule shown in Table 297.310-1, F.A.C.

**TABLE 297.310-1 CALIBRATION SCHEDULE**

| ITEM | MINIMUM CALIBRATION FREQUENCY | REFERENCE INSTRUMENT | TOLERANCE |
|---|---|---|---|
| Liquid in glass thermometer | Annually | ASTM Hg in glass ref. thermometer or equivalent or thermometric points | +/-2% |
| Bimetallic thermometer | Quarterly | Calib. liq. in glass | 5° F |
| Thermocouple | Annually | ASTM Hg in glass ref. thermometer, NBS calibrated reference and potentiometer | 5° F |
| Barometer | Monthly | Hg barometer or NOAA station | +/-1% scale |
| Pitot Tube | When required or when damaged | By construction or measurements in wind tunnel D greater than 16" and standard pitot tube | See EPA Method 2, Fig. 2-2 & 2-3 |
| Probe Nozzles | Before each test or when nicked, dented, or corroded | Micrometer | +/- 0.001" mean of at least three readings; Max. deviation between readings, 0.004" |
| Dry Gas Meter and Orifice Meter | 1. Full Scale: When received, when 5% change observed, annually | Spirometer or calibrated wet test or dry gas test meter | 2% |
| | 2. One Point: Semiannually | | |
| | 3. Check after each test series | Comparison check | 5% |

e. *Allowed Modification to EPA Method 5*. When EPA Method 5 is required, the following modification is allowed: the heated filter may be separated from the impingers by a flexible tube.

[Rule 62-297.310(4), F.A.C.]

**TR5.** Determination of Process Variables.

a. *Required Equipment*. The owner or operator of an emissions unit for which compliance tests are required shall install, operate, and maintain equipment or instruments necessary to determine process variables,

such as process weight input or heat input, when such data are needed in conjunction with emissions data to determine the compliance of the emissions unit with applicable emission limiting standards.

b. *Accuracy of Equipment*. Equipment or instruments used to directly or indirectly determine process variables, including devices such as belt scales, weight hoppers, flow meters, and tank scales, shall be calibrated and adjusted to indicate the true value of the parameter being measured with sufficient accuracy to allow the applicable process variable to be determined within 10% of its true value.

[Rule 62-297.310(5), F.A.C.]

**TR6.** Sampling Facilities. Permittees that are required to sample mass emissions from point sources shall install stack sampling ports and provide sampling facilities that meet the requirements of this condition. Sampling facilities include sampling ports, work platforms, access to work platforms, electrical power, and sampling equipment support. All stack sampling facilities must also comply with all applicable Occupational Safety and Health Administration (OSHA) Safety and Health Standards described in 29 CFR Part 1910, Subparts D and E.

a. *Permanent Test Facilities*. The owner or operator of an emissions unit for which a compliance test, other than a visible emissions test, is required on at least an annual basis, shall install and maintain permanent stack sampling facilities.

b. *Temporary Test Facilities*. The owner or operator of an emissions unit that is not required to conduct a compliance test on at least an annual basis may use permanent or temporary stack sampling facilities. If the owner chooses to use temporary sampling facilities on an emissions unit, and the Department elects to test the unit, such temporary facilities shall be installed on the emissions unit within 5 days of a request by the Department and remain on the emissions unit until the test is completed.

c. *Sampling Ports*.
   (1) All sampling ports shall have a minimum inside diameter of 3 inches.
   (2) The ports shall be capable of being sealed when not in use.
   (3) The sampling ports shall be located in the stack at least 2 stack diameters or equivalent diameters downstream and at least 0.5 stack diameter or equivalent diameter upstream from any fan, bend, constriction or other flow disturbance.
   (4) For emissions units for which a complete application to construct has been filed prior to December 1, 1980, at least two sampling ports, 90 degrees apart, shall be installed at each sampling location on all circular stacks that have an outside diameter of 15 feet or less. For stacks with a larger diameter, four sampling ports, each 90 degrees apart, shall be installed. For emissions units for which a complete application to construct is filed on or after December 1, 1980, at least two sampling ports, 90 degrees apart, shall be installed at each sampling location on all circular stacks that have an outside diameter of 10 feet or less. For stacks with larger diameters, four sampling ports, each 90 degrees apart, shall be installed. On horizontal circular ducts, the ports shall be located so that the probe can enter the stack vertically, horizontally or at a 45 degree angle.
   (5) On rectangular ducts, the cross sectional area shall be divided into the number of equal areas in accordance with EPA Method 1. Sampling ports shall be provided which allow access to each sampling point. The ports shall be located so that the probe can be inserted perpendicular to the gas flow.

d. *Work Platforms*.
   (1) Minimum size of the working platform shall be 24 square feet in area. Platforms shall be at least 3 feet wide.
   (2) On circular stacks with 2 sampling ports, the platform shall extend at least 110 degrees around the stack.
   (3) On circular stacks with more than two sampling ports, the work platform shall extend 360 degrees around the stack.
   (4) All platforms shall be equipped with an adequate safety rail (ropes are not acceptable), toe board, and hinged floor-opening cover if ladder access is used to reach the platform. The safety rail directly in line with the sampling ports shall be removable so that no obstruction exists in an area 14 inches below each sample port and 6 inches on either side of the sampling port.

e. *Access to Work Platform*.
   (1) Ladders to the work platform exceeding 15 feet in length shall have safety cages or fall arresters with a minimum of 3 compatible safety belts available for use by sampling personnel.
   (2) Walkways over free-fall areas shall be equipped with safety rails and toe boards.
f. *Electrical Power*.
   (1) A minimum of two 120-volt AC, 20-amp outlets shall be provided at the sampling platform within 20 feet of each sampling port.
   (2) If extension cords are used to provide the electrical power, they shall be kept on the plant's property and be available immediately upon request by sampling personnel.
g. *Sampling Equipment Support*.
   (1) A three-quarter inch eyebolt and an angle bracket shall be attached directly above each port on vertical stacks and above each row of sampling ports on the sides of horizontal ducts.
      (a) The bracket shall be a standard 3 inch × 3 inch × one-quarter inch equal-legs bracket which is 1 and one-half inches wide. A hole that is one-half inch in diameter shall be drilled through the exact center of the horizontal portion of the bracket. The horizontal portion of the bracket shall be located 14 inches above the centerline of the sampling port.
      (b) A three-eighth inch bolt which protrudes 2 inches from the stack may be substituted for the required bracket. The bolt shall be located 15 and one-half inches above the centerline of the sampling port.
      (c) The three-quarter inch eyebolt shall be capable of supporting a 500 pound working load. For stacks that are less than 12 feet in diameter, the eyebolt shall be located 48 inches above the horizontal portion of the angle bracket. For stacks that are greater than or equal to 12 feet in diameter, the eyebolt shall be located 60 inches above the horizontal portion of the angle bracket. If the eyebolt is more than 120 inches above the platform, a length of chain shall be attached to it to bring the free end of the chain to within safe reach from the platform.
   (2) A complete monorail or dual rail arrangement may be substituted for the eyebolt and bracket.
   (3) When the sample ports are located in the top of a horizontal duct, a frame shall be provided above the port to allow the sample probe to be secured during the test.

[Rule 62-297.310(6), F.A.C.]

**TR7.** Frequency of Compliance Tests. The following provisions apply only to those emissions units that are subject to an emissions limiting standard for which compliance testing is required.

a. *General Compliance Testing.*
   (1) The owner or operator of a new or modified emissions unit that is subject to an emission limiting standard shall conduct a compliance test that demonstrates compliance with the applicable emission limiting standard prior to obtaining an operation permit for such emissions unit.
   (2) For excess emission limitations for particulate matter specified in Rule 62-210.700, F.A.C., a compliance test shall be conducted annually while the emissions unit is operating under soot blowing conditions in each federal fiscal year during which soot blowing is part of normal emissions unit operation, except that such test shall not be required in any federal fiscal year in which a fossil fuel steam generator does not burn liquid and/or solid fuel for more than 400 hours other than during startup.
   (3) The owner or operator of an emissions unit that is subject to any emission limiting standard shall conduct a compliance test that demonstrates compliance with the applicable emission limiting standard prior to obtaining a renewed operation permit. Emissions units that are required to conduct an annual compliance test may submit the most recent annual compliance test to satisfy the requirements of this provision. In renewing an air operation permit pursuant to sub-subparagraph 62-210.300(2)(a)3.b., c., or d., F.A.C., the Department shall not require submission of emission compliance test results for any emissions unit that, during the year prior to renewal:
      (a) Did not operate; or
      (b) In the case of a fuel burning emissions unit, burned liquid and/or solid fuel for a total of no more than 400 hours.

(4) During each federal fiscal year (October 1 – September 30), unless otherwise specified by rule, order, or permit, the owner or operator of each emissions unit shall have a formal compliance test conducted for:
   (a) Visible emissions, if there is an applicable standard;
   (b) Each of the following pollutants, if there is an applicable standard, and if the emissions unit emits or has the potential to emit: 5 tons per year or more of lead or lead compounds measured as elemental lead; 30 tons per year or more of acrylonitrile; or 100 tons per year or more of any other regulated air pollutant; and
   (c) Each NESHAP pollutant, if there is an applicable emission standard.

(5) An annual compliance test for particulate matter emissions shall not be required for any fuel burning emissions unit that, in a federal fiscal year, does not burn liquid and/or solid fuel, other than during startup, for a total of more than 400 hours.

(6) For fossil fuel steam generators on a semi-annual particulate matter emission compliance testing schedule, a compliance test shall not be required for any six-month period in which liquid and/or solid fuel is not burned for more than 200 hours other than during startup.

(7) For emissions units electing to conduct particulate matter emission compliance testing quarterly pursuant to paragraph 62-296.405(2)(a), F.A.C., a compliance test shall not be required for any quarter in which liquid and/or solid fuel is not burned for more than 100 hours other than during startup.

(8) Any combustion turbine that does not operate for more than 400 hours per year shall conduct a visible emissions compliance test once per each five-year period, coinciding with the term of its air operation permit.

(9) The owner or operator shall notify the Department, at least 15 days prior to the date on which each formal compliance test is to begin, of the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator.

(10) An annual compliance test conducted for visible emissions shall not be required for units exempted from air permitting pursuant to subsection 62-210.300(3), F.A.C.; units determined to be insignificant pursuant to subparagraph 62-213.300(2)(a)1., A.C., or paragraph 62-213.430(6)(b), F.A.C.; or units permitted under the General Permit provisions in paragraph 62-210.300(4)(a) or Rule 62-213.300, F.A.C., unless the general permit specifically requires such testing.

b. *Special Compliance Tests.* When the Department, after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained Department rule or in a permit issued pursuant to those rules is being violated, it shall require the owner or operator of the emissions unit to conduct compliance tests which identify the nature and quantity of pollutant emissions from the emissions unit and to provide a report on the results of said tests to the Department.

c. *Waiver of Compliance Test Requirements.* If the owner or operator of an emissions unit that is subject to a compliance test requirement demonstrates to the Department, pursuant to the procedure established in Rule 62-297.620, F.A.C., that the compliance the emissions unit with an applicable weight emission limiting standard can be adequately determined by means other than the designated test procedure, such as specifying a surrogate standard of no visible emissions for particulate matter sources equipped with a bag house or specifying a fuel analysis for sulfur dioxide emissions, the Department shall waive the compliance test requirements for such emissions units and order that the alternate means of determining compliance be used, provided, however, the provisions of paragraph 62-297.310(7)(b), F.A.C., shall apply.

[Rule 62-297.310(7), F.A.C.]

**TR8.** Test Reports.

a. The owner or operator of an emissions unit for which a compliance test is required shall file a report with the Department on the results of each such test.

b. The required test report shall be filed with the Department as soon as practical but no later than 45 days

after the last sampling run of each test is completed.

c. The test report shall provide sufficient detail on the emissions unit tested and the test procedures used to allow the Department to determine if the test was properly conducted and the test results properly computed. As a minimum, the test report, other than for an EPA or DEP Method 9 test, shall provide the following information.
   (1) The type, location, and designation of the emissions unit tested.
   (2) The facility at which the emissions unit is located.
   (3) The owner or operator of the emissions unit.
   (4) The normal type and amount of fuels used and materials processed, and the types and amounts of fuels used and material processed during each test run.
   (5) The means, raw data and computations used to determine the amount of fuels used and materials processed, if necessary to determine compliance with an applicable emission limiting standard.
   (6) The type of air pollution control devices installed on the emissions unit, their general condition, their normal operating parameters (pressure drops, total operating current and GPM scrubber water), and their operating parameters during each test run.
   (7) A sketch of the duct within 8 stack diameters upstream and 2 stack diameters downstream of the sampling ports, including the distance to any upstream and downstream bends or other flow disturbances.
   (8) The date, starting time and duration of each sampling run.
   (9) The test procedures used, including any alternative procedures authorized pursuant to Rule 62-297.620, F.A.C. Where optional procedures are authorized in this chapter, indicate which option was used.
   (10) The number of points sampled and configuration and location of the sampling plane.
   (11) For each sampling point for each run, the dry gas meter reading, velocity head, pressure drop across the stack, temperatures, average meter temperatures and sample time per point.
   (12) The type, manufacturer and configuration of the sampling equipment used.
   (13) Data related to the required calibration of the test equipment.
   (14) Data on the identification, processing and weights of all filters used.
   (15) Data on the types and amounts of any chemical solutions used.
   (16) Data on the amount of pollutant collected from each sampling probe, the filters, and the impingers, are reported separately for the compliance test.
   (17) The names of individuals who furnished the process variable data, conducted the test, analyzed the samples and prepared the report.
   (18) All measured and calculated data required to be determined by each applicable test procedure for each run.
   (19) The detailed calculations for one run that relate the collected data to the calculated emission rate.
   (20) The applicable emission standard and the resulting maximum allowable emission rate for the emissions unit plus the test result in the same form and unit of measure.
   (21) A certification that, to the knowledge of the owner or his authorized agent, all data submitted are true and correct. When a compliance test is conducted for the Department or its agent, the person who conducts the test shall provide the certification with respect to the test procedures used. The owner or his authorized agent shall certify that all data required and provided to the person conducting the test are true and correct to his knowledge.

[Rule 62-297.310(8), F.A.C.]

# TITLE V GENERAL CONDITIONS

(Version Dated 02/06/2012)

## Operation

**TV1.** General Prohibition. A permitted installation may only be operated, maintained, constructed, expanded or modified in a manner that is consistent with the terms of the permit.
[Rule 62-4.030, Florida Administrative Code (F.A.C.)]

**TV2.** Validity. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department. [Rule 62-4.160(2), F.A.C.]

**TV3.** Proper Operation and Maintenance. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules. [Rule 62-4.160(6), F.A.C.]

**TV4. Not federally enforceable.** Health, Safety and Welfare. To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S. [Rule 62-4.050(3), F.A.C.]

**TV5.** Continued Operation. An applicant making timely and complete application for permit, or for permit renewal, shall continue to operate the source under the authority and provisions of any existing valid permit or Florida Electrical Power Plant Siting Certification, and in accordance with applicable requirements of the Acid Rain Program and applicable requirements of the CAIR Program, until the conclusion of proceedings associated with its permit application or until the new permit becomes effective, whichever is later, provided the applicant complies with all the provisions of subparagraphs 62-213.420(1)(b)3., F.A.C. [Rules 62-213.420(1)(b)2., F.A.C.]

**TV6**. Changes Without Permit Revision. Title V sources having a valid permit issued pursuant to Chapter 62-213, F.A.C., may make the following changes without permit revision, provided that sources shall maintain source logs or records to verify periods of operation:

a. Permitted sources may change among those alternative methods of operation allowed by the source's permit as provided by the terms of the permit;
b. A permitted source may implement operating changes, as defined in Rule 62-210.200, F.A.C., after the source submits any forms required by any applicable requirement and provides the Department and EPA with at least 7 days written notice prior to implementation. The source and the Department shall attach each notice to the relevant permit;
   (1) The written notice shall include the date on which the change will occur, and a description of the change within the permitted source, the pollutants emitted and any change in emissions, and any term or condition becoming applicable or no longer applicable as a result of the change;
   (2) The permit shield described in Rule 62-213.460, F.A.C., shall not apply to such changes;
c. Permitted sources may implement changes involving modes of operation only in accordance with Rule 62-213.415, F.A.C.

[Rule 62-213.410, F.A.C.]

**TV7.** Circumvention. No person shall circumvent any air pollution control device, or allow the emission of air pollutants without the applicable air pollution control device operating properly. [Rule 62-210.650, F.A.C.]

## Compliance

**TV8.** Compliance with Chapter 403, F.S., and Department Rules. Except as provided at Rule 62-213.460, Permit Shield, F.A.C., the issuance of a permit does not relieve any person from complying with the requirements of Chapter 403, F.S., or Department rules. [Rule 62-4.070(7), F.A.C.]

**TV9**. Compliance with Federal, State and Local Rules. Except as provided at Rule 62-213.460, F.A.C., issuance of a permit does not relieve the owner or operator of a facility or an emissions unit from complying

with any applicable requirements, any emission limiting standards or other requirements of the air pollution rules of the Department or any other such requirements under federal, state, or local law. [Rule 62-210.300, F.A.C.]

**TV10.** Binding and enforceable. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions. [Rule 62-4.160(1), F.A.C.]

**TV11.** Timely information. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly. [Rule 62-4.160(15), F.A.C.]

**TV12.** Halting or reduction of source activity. It shall not be a defense for a permittee in an enforcement action that maintaining compliance with any permit condition would necessitate halting of or reduction of the source activity. [Rule 62-213.440(1)(d)3., F.A.C.]

**TV13.** Final permit action. Any Title V source shall comply with all the terms and conditions of the existing permit until the Department has taken final action on any permit renewal or any requested permit revision, except as provided at Rule 62-213.412(2), F.A.C. [Rule 62-213.440(1)(d)4., F.A.C.]

**TV14**. Sudden and unforeseeable events beyond the control of the source. A situation arising from sudden and unforeseeable events beyond the control of the source which causes an exceedance of a technology-based emissions limitation because of unavoidable increases in emissions attributable to the situation and which requires immediate corrective action to restore normal operation, shall be an affirmative defense to an enforcement action in accordance with the provisions and requirements of 40 CFR 70.6(g)(2) and (3), hereby adopted and incorporated by reference. [Rule 62-213.440(1)(d)5., F.A.C.]

**TV15.** Permit Shield. Except as provided in Chapter 62-213, F.A.C., compliance with the terms and conditions of a permit issued pursuant to Chapter 62-213, F.A.C., shall, as of the effective date of the permit, be deemed compliance with any applicable requirements in effect, provided that the source included such applicable requirements in the permit application. Nothing in this condition or in any permit shall alter or affect the ability of EPA or the Department to deal with an emergency, the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance, or the requirements of the Federal Acid Rain Program, the CAIR Program. [Rule 62-213.460, F.A.C.]

**TV16.** Compliance With Federal Rules. A facility or emissions unit subject to any standard or requirement of 40 CFR, Part 60, 61, 63 or 65, adopted and incorporated by reference at Rule 62-204.800, F.A.C., shall comply with such standard or requirement. Nothing in this chapter shall relieve a facility or emissions unit from complying with such standard or requirement, provided, however, that where a facility or emissions unit is subject to a standard established in Rule 62-296, F.A.C., such standard shall also apply. [Rule 62-296.100(3), F.A.C.]

## Permit Procedures

**TV17.** Permit Revision Procedures. The permittee shall revise its permit as required by Rules 62-213.400, 62-213.412, 62-213.420, 62-213.430 & 62-4.080, F.A.C.; and, in addition, the Department shall revise permits as provided in Rule 62-4.080, F.A.C. & 40 CFR 70.7(f).

**TV18.** Permit Renewal. The permittee shall renew its permit as required by Rules 62-4.090, 62.213.420(1) and 62-213.430(3), F.A.C. Permits being renewed are subject to the same requirements that apply to permit issuance at the time of application for renewal. Permit renewal applications shall contain that information identified in Rules 62-210.900(1) [Application for Air Permit - Long Form], 62-213.420(3) [Required Information], 62-213.420(6) [CAIR Part Form], F.A.C. Unless a Title V source submits a timely and complete application for permit renewal in accordance with the requirements this rule, the existing permit shall expire and the source's right to operate shall terminate. For purposes of a permit renewal, a timely

application is one that is submitted 225 days before the expiration of a permit that expires on or after June 1, 2009. No Title V permit will be issued for a new term except through the renewal process. [Rules 62-213.420 & 62-213.430, F.A.C.]

**TV19.** Insignificant Emissions Units or Pollutant-Emitting Activities. The permittee shall identify and evaluate insignificant emissions units and activities as set forth in Rule 62-213.430(6), F.A.C.

**TV20.** Savings Clause. If any portion of the final permit is invalidated, the remainder of the permit shall remain in effect. [Rule 62-213.440(1)(d)1., F.A.C.]

**TV21**. Suspension and Revocation.

a. Permits shall be effective until suspended, revoked, surrendered, or expired and shall be subject to the provisions of Chapter 403, F.S., and rules of the Department.
b. Failure to comply with pollution control laws and rules shall be grounds for suspension or revocation.
c. A permit issued pursuant to Chapter 62-4, F.A.C., shall not become a vested property right in the permittee. The Department may revoke any permit issued by it if it finds that the permit holder or his agent:
   (1) Submitted false or inaccurate information in his application or operational reports.
   (2) Has violated law, Department orders, rules or permit conditions.
   (3) Has failed to submit operational reports or other information required by Department rules.
   (4) Has refused lawful inspection under Section 403.091, F.S.
d. No revocation shall become effective except after notice is served by personal services, certified mail, or newspaper notice pursuant to Section 120.60(5), F.S., upon the person or persons named therein and a hearing held if requested within the time specified in the notice. The notice shall specify the provision of the law, or rule alleged to be violated, or the permit condition or Department order alleged to be violated, and the facts alleged to constitute a violation thereof.

[Rule 62-4.100, F.A.C.]

**TV22. Not federally enforceable.** Financial Responsibility. The Department may require an applicant to submit proof of financial responsibility and may require the applicant to post an appropriate bond to guarantee compliance with the law and Department rules. [Rule 62-4.110, F.A.C.]

**TV23.** Emissions Unit Reclassification.

a. Any emissions unit whose operation permit has been revoked as provided for in Chapter 62-4, F.A.C., shall be deemed permanently shut down for purposes of Rule 62-212.500, F.A.C. Any emissions unit whose permit to operate has expired without timely renewal or transfer may be deemed permanently shut down, provided, however, that no such emissions unit shall be deemed permanently shut down if, within 20 days after receipt of written notice from the Department, the emissions unit owner or operator demonstrates that the permit expiration resulted from inadvertent failure to comply with the requirements of Rule 62-4.090, F.A.C., and that the owner or operator intends to continue the emissions unit in operation, and either submits an application for an air operation permit or complies with permit transfer requirements, if applicable.
b. If the owner or operator of an emissions unit which is so permanently shut down, applies to the Department for a permit to reactivate or operate such emissions unit, the emissions unit will be reviewed and permitted as a new emissions unit.

[Rule 62-210.300(6), F.A.C.]

**TV24.** Transfer of Permits. Per Rule 62-4.160(11), F.A.C., this permit is transferable only upon Department approval in accordance with Rule 62-4.120, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations occurring prior to the sale or legal transfer of the facility. The permittee shall also comply with the requirements of Rule 62-210.300(7), F.A.C., and use DEP Form No. 62-210.900(7). [Rules 62-4.160(11), 62-4.120, and 62-210.300(7), F.A.C.]

**Rights, Title, Liability, and Agreements**

**TV25.** Rights. As provided in Subsections 403.987(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit. [Rule 62-4.160(3), F.A.C.]

**TV26**. Title. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. [Rule 62-4.160(4), (F.A.C.]

**TV27.** Liability. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of F.S. and Department rules, unless specifically authorized by an order from the Department. [Rule 62-4.160(5), F.A.C.]

**TV28.** Agreements.

a. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
   (1) Have access to and copy any records that must be kept under conditions of the permit;
   (2) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and,
   (3) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules. Reasonable time may depend on the nature of the concern being investigated.

b. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

c. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

[Rules 62-4.160(7), (9), and (10), F.A.C.]

**Recordkeeping and Emissions Computation**

**TV29.** Permit. The permittee shall keep this permit or a copy thereof at the work site of the permitted activity. [Rule 62-4.160(12), F.A.C.]

**TV30.** Recordkeeping.

a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least five (5) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:
   (1) The date, exact place, and time of sampling or measurements, and the operating conditions at the time of sampling or measurement;
   (2) The person responsible for performing the sampling or measurements;
   (3) The dates analyses were performed;
   (4) The person and company that performed the analyses;

(5) The analytical techniques or methods used;
(6) The results of such analyses.

[Rules 62-4.160(14) and 62-213.440(1)(b)2., F.A.C.]

**TV31.** Emissions Computation. Pursuant to Rule 62-210.370, F.A.C., the following required methodologies are to be used by the owner or operator of a facility for computing actual emissions, baseline actual emissions, and net emissions increase, as defined at Rule 62-210.200, F.A.C., and for computing emissions for purposes of the reporting requirements of subsection 62-210.370(3) and paragraph 62-212.300(1)(e), F.A.C., or of any permit condition that requires emissions be computed in accordance with Rule 62-210.370, F.A.C. Rule 62-210.370, F.A.C., is not intended to establish methodologies for determining compliance with the emission limitations of any air permit.

For any of the purposes specified above, the owner or operator of a facility shall compute emissions in accordance with the requirements set forth in this subsection.

a. Basic Approach. The owner or operator shall employ, on a pollutant-specific basis, the most accurate of the approaches set forth below to compute the emissions of a pollutant from an emissions unit; provided, however, that nothing in this rule shall be construed to require installation and operation of any continuous emissions monitoring system (CEMS), continuous parameter monitoring system (CPMS), or predictive emissions monitoring system (PEMS) not otherwise required by rule or permit, nor shall anything in this rule be construed to require performance of any stack testing not otherwise required by rule or permit.
   (1) If the emissions unit is equipped with a CEMS meeting the requirements of paragraph 62-210.370(2)(b), F.A.C., the owner or operator shall use such CEMS to compute the emissions of the pollutant, unless the owner or operator demonstrates to the department that an alternative approach is more accurate because the CEMS represents still-emerging technology.
   (2) If a CEMS is not available or does not meet the requirements of paragraph 62-210.370(2)(b), F.A.C, but emissions of the pollutant can be computed pursuant to the mass balance methodology of paragraph 62-210.370(2)(c), F.A.C., the owner or operator shall use such methodology, unless the owner or operator demonstrates to the department that an alternative approach is more accurate.
   (3) If a CEMS is not available or does not meet the requirements of paragraph 62-210.370(2)(b), F.A.C., and emissions cannot be computed pursuant to the mass balance methodology, the owner or operator shall use an emission factor meeting the requirements of paragraph 62-210.370(2)(d), F.A.C., unless the owner or operator demonstrates to the department that an alternative approach is more accurate.
b. Continuous Emissions Monitoring System (CEMS).
   (1) An owner or operator may use a CEMS to compute emissions of a pollutant for purposes of this rule provided:
      (a) The CEMS complies with the applicable certification and quality assurance requirements of 40 CFR Part 60, Appendices B and F, or, for an acid rain unit, the certification and quality assurance requirements of 40 CFR Part 75, all adopted by reference at Rule 62-204.800, F.A.C.; or,
      (b) The owner or operator demonstrates that the CEMS otherwise represents the most accurate means of computing emissions for purposes of this rule.
   (2) Stack gas volumetric flow rates used with the CEMS to compute emissions shall be obtained by the most accurate of the following methods as demonstrated by the owner or operator:
      (a) A calibrated flowmeter that records data on a continuous basis, if available; or
      (b) The average flow rate of all valid stack tests conducted during a five-year period encompassing the period over which the emissions are being computed, provided all stack tests used shall represent the same operational and physical configuration of the unit.
   (3) The owner or operator may use CEMS data in combination with an appropriate f-factor, heat input data, and any other necessary parameters to compute emissions if such method is demonstrated by the owner or operator to be more accurate than using a stack gas volumetric flow rate as set forth at subparagraph 62-210.370(2)(b)2., F.A.C., above.
c. Mass Balance Calculations.

(1) An owner or operator may use mass balance calculations to compute emissions of a pollutant for purposes of this rule provided the owner or operator:
   (a) Demonstrates a means of validating the content of the pollutant that is contained in or created by all materials or fuels used in or at the emissions unit; and,
   (b) Assumes that the emissions unit emits all of the pollutant that is contained in or created by any material or fuel used in or at the emissions unit if it cannot otherwise be accounted for in the process or in the capture and destruction of the pollutant by the unit's air pollution control equipment.

(2) Where the vendor of a raw material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material or fuel, the owner or operator shall use the highest value of the range to compute the emissions, unless the owner or operator demonstrates using site-specific data that another content within the range is more accurate.

(3) In the case of an emissions unit using coatings or solvents, the owner or operator shall document, through purchase receipts, records and sales receipts, the beginning and ending VOC inventories, the amount of VOC purchased during the computational period, and the amount of VOC disposed of in the liquid phase during such period.

d. Emission Factors.

(1) An owner or operator may use an emission factor to compute emissions of a pollutant for purposes of this rule provided the emission factor is based on site-specific data such as stack test data, where available, unless the owner or operator demonstrates to the department that an alternative emission factor is more accurate. An owner or operator using site-specific data to derive an emission factor, or set of factors, shall meet the following requirements.
   (a) If stack test data are used, the emission factor shall be based on the average emissions per unit of input, output, or gas volume, whichever is appropriate, of all valid stack tests conducted during at least a five-year period encompassing the period over which the emissions are being computed, provided all stack tests used shall represent the same operational and physical configuration of the unit.
   (b) Multiple emission factors shall be used as necessary to account for variations in emission rate associated with variations in the emissions unit's operating rate or operating conditions during the period over which emissions are computed.
   (c) The owner or operator shall compute emissions by multiplying the appropriate emission factor by the appropriate input, output or gas volume value for the period over which the emissions are computed. The owner or operator shall not compute emissions by converting an emission factor to pounds per hour and then multiplying by hours of operation, unless the owner or operator demonstrates that such computation is the most accurate method available.

(2) If site-specific data are not available to derive an emission factor, the owner or operator may use a published emission factor directly applicable to the process for which emissions are computed. If no directly-applicable emission factor is available, the owner or operator may use a factor based on a similar, but different, process.

e. Accounting for Emissions During Periods of Missing Data from CEMS, PEMS, or CPMS. In computing the emissions of a pollutant, the owner or operator shall account for the emissions during periods of missing data from CEMS, PEMS, or CPMS using other site-specific data to generate a reasonable estimate of such emissions.

f. Accounting for Emissions During Periods of Startup and Shutdown. In computing the emissions of a pollutant, the owner or operator shall account for the emissions during periods of startup and shutdown of the emissions unit.

g. Fugitive Emissions. In computing the emissions of a pollutant from a facility or emissions unit, the owner or operator shall account for the fugitive emissions of the pollutant, to the extent quantifiable, associated with such facility or emissions unit.

h. Recordkeeping. The owner or operator shall retain a copy of all records used to compute emissions pursuant to this rule for a period of five years from the date on which such emissions information is submitted to the department for any regulatory purpose.

[Rule 62-210.370(1) & (2), F.A.C.]

**Responsible Official**

**TV32**. Designation and Update. The permittee shall designate and update a responsible official as required by Rule 62-213.202, F.A.C.

**Prohibitions and Restrictions**

**TV33.** Asbestos. This permit does not authorize any demolition or renovation of the facility or its parts or components which involves asbestos removal. This permit does not constitute a waiver of any of the requirements of Chapter 62-257, F.A.C., and 40 CFR 61, Subpart M, National Emission Standard for Asbestos, adopted and incorporated by reference in Rule 62-204.800, F.A.C. Compliance with Chapter 62-257, F.A.C., and 40 CFR 61, Subpart M, Section 61.145, is required for any asbestos demolition or renovation at the source. [40 CFR 61; Rule 62-204.800, F.A.C.; and, Chapter 62-257, F.A.C.]

**TV34.** Refrigerant Requirements. Any facility having refrigeration equipment, including air conditioning equipment, which uses a Class I or II substance (listed at 40 CFR 82, Subpart A, Appendices A and B), and any facility which maintains, services, or repairs motor vehicles using a Class I or Class II substance as refrigerant must comply with all requirements of 40 CFR 82, Subparts B and F, and with Chapter 62-281, F.A.C.

**TV35.** Open Burning Prohibited. Unless otherwise authorized by Rule 62-296.320(3) or Chapter 62-256, F.A.C., open burning is prohibited.

# APPENDIX U

## LIST OF UNREGULATED EMISSIONS UNITS AND/OR ACTIVITIES

Unregulated Emissions Units and/or Activities. An emissions unit which emits no "emissions-limited pollutant" and which is subject to no unit-specific work practice standard, though it may be subject to regulations applied on a facility-wide basis (e.g., unconfined emissions, odor, general opacity) or to regulations that require only that it be able to prove exemption from unit-specific emissions or work practice standards.

The below listed emissions units and/or activities are neither 'regulated emissions units' nor 'insignificant emissions units'.

| E.U. ID No. | Brief Description of Emissions Units and/or Activity |
|---|---|
| 103 | Cooling Tower for MWC Units 1-3<br>The cooling tower does not use chromium-based water treatment chemicals. |
| 104 | Waste Water Treatment Plant |
| 105 | NaOH Storage Tank |
| 111 | Cooling Tower Cell for MWC Unit 4.<br>This emissions unit is a cooling tower cell for MWC Unit 4. The cooling tower does not use chromium-based water treatment chemicals.<br>It has the following nominal design characteristics: a circulating water flow rate of 11,000 gpm; drift eliminators; and a drift rate of no more than 0.001 percent of the circulating water flow. |