

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 08/10/2020, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2003-0156. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 60**

**[EPA-HQ-OAR-2003-0156; FRL-10013-19-OAR]**

**RIN 2060-AU60**

### **Standards of Performance for New Stationary Sources and Emission Guidelines for**

### **Existing Sources: Other Solid Waste Incineration Units Review**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with requirements under the Clean Air Act (CAA), the U.S.

Environmental Protection Agency (EPA) performed a periodic review of the emissions standards and other requirements for Other Solid Waste Incineration (OSWI) units, covering certain very small municipal waste combustion (VSMWC) and institutional waste incineration (IWI) units. Although the EPA is not proposing revisions to the OSWI New Source Performance Standards (NSPS) and Emission Guidelines (EG) specifically based on its statutory periodic review, the EPA is otherwise—in accordance with its authority under the CAA—proposing changes to the OSWI NSPS and EG.

**DATES:** *Comments.* Comments must be received on or before **[INSERT DATE 45 DAYS**

**AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your

comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Public hearing.* If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the EPA will hold a virtual public hearing. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on requesting and registering for a public hearing.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OAR-2003-0156, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).  
Follow the online instructions for submitting comments.
- Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2003-0156 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2003-0156.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2003-0156, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004.  
The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting coronavirus disease 2019 (COVID-19). Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed action, contact Dr. Nabanita Modak Fischer, Sector Policies and Programs Division (E143-05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5572; fax number: (919) 541-0516; and email address: [modak.nabanita@epa.gov](mailto:modak.nabanita@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Participation in virtual public hearing.* Please note that the EPA is deviating from its typical approach because the President has declared a national emergency. Due to the current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local

orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

If requested, the virtual public hearing will be held on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 5:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details on the virtual public hearing at <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance>.

The EPA will begin pre-registering speakers for the hearing upon publication of this document in the **Federal Register**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance> or contact Ms. Virginia Hunt at (919) 541-0832 or by email at [hunt.virginia@epa.gov](mailto:hunt.virginia@epa.gov). The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by

emailing it to Dr. Nabanita Modak Fischer and Ms. Virginia Hunt. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance>. While the EPA expects the hearing to go forward, if requested, as described in this preamble, please monitor our website or contact Ms. Virginia Hunt at (919) 541-0832 or [hunt.virginia@epa.gov](mailto:hunt.virginia@epa.gov) to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with Ms. Virginia Hunt and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advance notice.

*Docket.* The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2003-0156. All documents in the docket are listed on the *Regulations.gov* website. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through <https://www.regulations.gov/>.

*Instructions.* Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0156. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical

difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <https://www.epa.gov/dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risks of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

*Submitting CBI.* Do not submit information containing CBI to the EPA through <https://www.regulations.gov/> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in Instructions above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not

contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2003-0156. Note that written comments containing CBI and submitted by mail may be delayed and no hand deliveries will be accepted.

*Preamble acronyms and abbreviations.* We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA identifies the following terms and acronyms here:

ACI	air curtain incinerator
ANSI	American National Standards Institute
AOGA	Alaska Oil and Gas Association
ASME	American Society of Mechanical Engineers
Cd	cadmium
CAA	Clean Air Act
CBI	Confidential Business Information
CDC	Centers for Disease Control and Prevention
CDX	Central Data Exchange
CEDRI	Compliance and Emissions Data Reporting Interface
CEMS	continuous emissions monitoring systems
CFR	Code of Federal Regulations
CISWI	commercial and industrial solid waste incineration
CO	carbon monoxide
COVID-19	coronavirus disease 2019
D.C. Circuit	U.S. Court of Appeals for the District of Columbia Circuit
DCOT	digital camera opacity technique
DF	dioxins/furans
ECHO	Enforcement and Compliance History Online
EG	emission guidelines

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.



EPA	Environmental Protection Agency
ERT	Electronic Reporting Tool
ET	Eastern Time
FVF	fuel variability factor
HCl	hydrochloric acid
Hg	mercury
HMIWI	hospital, medical, and infectious waste incineration
ICR	Information Collection Request
IWI	institutional waste incineration
MACT	maximum achievable control technology
MSW	municipal solid waste
MWC	municipal waste combustor
NEI	National Emissions Inventory
ng/dscm	nanograms per dry standard cubic meter
N	nitrogen
NO <sub>x</sub>	oxides of nitrogen
NRDC	Natural Resources Defense Council
NSPS	new source performance standards
NTTAA	National Technology Transfer and Advancement Act
OSWI	other solid waste incineration
Pb	lead
PM	particulate matter
ppmvd	parts per million by dry volume
PRA	Paperwork Reduction Action
RFA	Regulatory Flexibility Act
SO <sub>2</sub>	sulfur dioxide
SRI	small remote incinerator
SSM	startup, shutdown, and malfunction
TEQ	toxic equivalency factor
TMB	total mass basis
TPD	tons per day
µg/dscm	micrograms per dry standard cubic meter
UMRA	Unfunded Mandates Reform Act
VCS	voluntary consensus standards
VSMWC	very small municipal waste combustion
XML	extensible markup language

*Organization of this document.* The information in this preamble is organized as follows:

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

I. General Information

- A. Does this action apply to me?
- B. What is the background?
- C. What action is the Agency taking?
- D. What is the Agency's authority for taking this action?
- E. What data collection activities were conducted?
- F. What other relevant background information and data are available?
- G. What are the incremental costs and benefits of this action?

II. OSWI Review and Proposed Revisions

- A. CAA Section 129(a)(5) Review
- B. What other actions are we proposing?
- C. What compliance dates are we proposing?

III. Summary of Cost, Environmental, and Economic Impacts

- A. What are the affected sources?
- B. What are the air quality impacts?
- C. What are the cost impacts?
- D. What are the economic impacts?
- E. What are the benefits?

IV. Request for Comments

V. Statutory and Executive Orders Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
- C. Paperwork Reduction Act (PRA)
- D. Regulatory Flexibility Act (RFA)
- E. Unfunded Mandates Reform Act (UMRA)
- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act (NTTAA)
- K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

**I. General Information**

*A. Does this action apply to me?*

Categories and entities potentially affected by the proposed action are those that operate OSWI units. The NSPS and EG for OSWI, hereinafter referred to as “the OSWI standards,” affect the categories of sources identified in Table 1 of this preamble:

TABLE 1. INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source Category	NAICS Code <sup>1</sup>	Examples of potentially regulated entities
Any state, local, or tribal government using a VSMWC unit.	562213, 92411	Solid waste combustion units burning municipal solid waste (MSW).
Any correctional institutions using an IWI unit.	922 7213	Correctional institutions.
Any nursing or residential care facilities using an OSWI unit.	623	Any nursing care, residential intellectual and developmental disability, residential mental health and substance abuse, or assisted living facilities.
Any federal government agency using an OSWI unit.	928, 7121	Department of Defense (labs, military bases, munition facilities) and National Parks.
Any educational institution using an OSWI unit.	6111, 6112, 6113	Primary and secondary schools, universities, colleges, and community colleges.
Any church or convent using an OSWI unit.	8131	Churches and convents.
Any civic or religious organization using an OSWI unit.	8134	Civic associations and fraternal associations.
Any industrial or commercial facility using a VSMWC unit.	114, 211, 212, 221, 486	Oil and gas exploration operations; mining; pipeline operators; utility providers; fishing operations.

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 60.2885, 60.2981, and 60.2991. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*B. What is the background?*

Section 129 of the CAA requires the EPA to develop and adopt NSPS and EG for solid waste incineration units in accordance with CAA sections 129 and 111. Section 129(a) of the CAA requires the EPA to establish NSPS for new sources, and CAA section 129(b) requires the EPA to establish procedures for states to submit plans for implementing EG for existing sources (and see CAA sections 111(b) and (d)). The EPA proposed NSPS and EG for OSWI units on December 9, 2004, and promulgated them on December 16, 2005 (70 FR 74870), at 40 CFR part 60, subparts EEEE and FFFF.<sup>1</sup> Following that final action, the Administrator received a petition for reconsideration of the OSWI standards, and on June 28, 2006, the EPA announced reconsideration on the final OSWI rules (71 FR 36726). After consideration of comments and information received through the reconsideration process, we concluded that no additional changes were necessary to the final OSWI rules (72 FR 2620, January 22, 2007).

In addition to the administrative reconsideration requests, some entities petitioned for judicial review of the 2005 OSWI standards. The judicial review proceedings initially were stayed and, ultimately, the EPA requested a voluntary remand of the OSWI standards. By Order dated April 21, 2016, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) granted the EPA's request for a remand. *Sierra Club v. EPA*, No. 06-1066. The remand was requested to allow the EPA to consider potential revisions, if any, to the OSWI standards that might be appropriate in light of certain legal developments, including 2007 and 2008 decisions from the D.C. Circuit.

The OSWI standards establish maximum achievable control technology (MACT) emission limits for OSWI units. Under current regulations, the term "OSWI unit" means either a

---

<sup>1</sup> The regulations were revised on November 24, 2006 (71 FR 67802) in a direct final rule to address corrections. This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

VSMWC unit or an IWI unit. A VSMWC unit is any municipal waste combustion unit that has the capacity to combust less than 35 tons per day (TPD) of MSW or refuse-derived fuel. An IWI unit is any combustion unit that combusts institutional waste and is a distinct operating unit of the institutional facility that generated the waste. The OSWI standards set emission standards for nine pollutants: cadmium (Cd), carbon monoxide (CO), dioxins/furans (DF), hydrochloric acid (HCl), lead (Pb), mercury (Hg), oxides of nitrogen (NO<sub>x</sub>), particulate matter (PM), and sulfur dioxide (SO<sub>2</sub>) and also establish opacity standards.

CAA section 129(a)(5) requires the EPA, every 5 years, to review and, in accordance with CAA sections 129 and 111, revise standards and other requirements for solid waste incineration units (such as the OSWI standards). In 2018, the U.S. District Court for the District of Columbia found that the EPA had failed to undertake the requisite CAA section 129(a)(5) periodic review of the OSWI standards and ordered the EPA to do the review; publish a proposed rulemaking by August 31, 2020; and promulgate a final rule by May 31, 2021. *Sierra Club v. Wheeler*, 330 F.Supp.3d 407.

*C. What action is the Agency taking?*

The EPA has conducted the requisite CAA section 129(a)(5) 5-year review, and we are giving notice of that review. We are not proposing any revisions to the OSWI standards specifically based on that review, but we are proposing various changes to the OSWI standards, including some changes that were occasioned by the 2016 voluntary remand of the OSWI standards (and the legal developments related to that request for a remand). In accordance with the EPA's general authority under CAA section 129(a) and as discussed further in sections II.A and II.B of this preamble, we are proposing: (1) certain MACT floor redeterminations; (2) changes to applicability provisions; (3) testing and monitoring flexibilities so that units with

rudimentary designs can demonstrate compliance with the rule; (4) revised regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); (5) provisions for electronic reporting of certain notifications and reports; (6) revisions to recordkeeping and reporting provisions consistent with the revised testing and monitoring; (7) changes to title V permitting requirements; and (8) other technical edits, clarifications, and revisions intended to improve the understanding of the rule and improve consistency with other CAA section 129 rules.

*D. What is the Agency's authority for taking this action?*

Section 129 of the CAA requires the EPA to establish NSPS and EG pursuant to sections 111 and 129 of the CAA for new and existing solid waste incineration units, including “other categories of solid waste incineration units.” This action amends the OSWI standards under such authority. In addition, CAA section 129(a)(5) specifically requires the EPA to periodically review and revise the standards and the requirements for solid waste incineration units, including OSWI units.

The EPA has substantial discretion to distinguish among classes, types, and sizes of incinerator units within a category while setting standards. CAA section 129(a)(2) provides that standards “applicable to solid waste incineration units promulgated under . . . [section 111] and this section shall reflect the maximum degree of reduction in emissions of . . . [certain listed air pollutants] that the Administrator, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new and existing units in each category.” This level of control is referred to as a maximum achievable control technology, or MACT standard. CAA section 129(a)(4) further directs the EPA to set numeric emission limits for certain enumerated

pollutants (Cd, CO, DF, HCl, Pb, Hg, NO<sub>x</sub>, PM, and SO<sub>2</sub>). In addition, the standards “shall be based on methods and technologies for removal or destruction of pollutants.” CAA section 129(a)(3).

In promulgating a MACT standard, the EPA must first calculate the minimum stringency levels for new and existing solid waste incineration units in a category, generally based on levels of emissions control achieved in practice by the subject units. The minimum level of stringency is called the MACT “floor,” and there are different approaches to determining the floors for new and/or existing sources. For new (and reconstructed sources), CAA section 129(a)(2) provides that the “degree of reduction in emissions that is deemed achievable. . . shall not be less stringent than the emissions control that is achieved in practice by the best controlled similar unit, as determined by the Administrator.” Emissions standards for existing units may be less stringent than standards for new units, but CAA section 129(a)(2) requires that the standards “shall not be less stringent than the average emissions limitation achieved by the best performing 12 percent of units in the category.” The MACT floors form the least stringent regulatory option the EPA may consider in the determination of MACT standards for a source category. The EPA must also determine whether to control emissions “beyond-the-floor,” after considering the costs, non-air quality health and environmental impacts, and energy requirements of such more stringent control.

In general, all MACT analyses involve an assessment of the emissions from the best performing units in a source category. The assessment can be based on actual emissions data, knowledge of the air pollution control in place in combination with actual emissions data, or on other information, such as state regulatory requirements, that enables the EPA to estimate the actual performance of the regulated units. For each source category, the assessment involves a

review of actual emissions data with an appropriate accounting for emissions variability. Other methods of estimating emissions can be used provided that the methods can be shown to provide reasonable estimates of the actual emissions performance of a source or sources. Where there is more than one method or technology to control emissions, the analysis may result in several potential regulations (called regulatory options), one of which is selected as MACT for each pollutant. Each regulatory option the EPA considers must be at least as stringent as the minimum stringency “floor” requirements. The EPA must examine, but is not necessarily required to adopt, more stringent “beyond-the-floor” regulatory options to determine MACT. Unlike the floor minimum stringency requirements, the EPA must consider various impacts of the more stringent regulatory options in determining whether MACT standards are to reflect “beyond-the-floor” requirements. If the EPA concludes that the more stringent regulatory options have unreasonable impacts, the EPA selects the “floor-based” regulatory option as MACT. If the EPA concludes that impacts associated with “beyond-the-floor” levels of control are acceptable in light of additional emissions reductions achieved, the EPA selects those levels as MACT.

Under CAA section 129(a)(2), for new sources, the EPA determines the best control currently in use for a given pollutant and establishes one potential regulatory option at the emission level achieved by that control with an appropriate accounting for emissions variability. More stringent potential beyond-the-floor regulatory options might reflect controls used on other sources that could be applied to the source category in question.

For existing sources, the EPA determines the average emissions limitation achieved by the best performing 12 percent of units to form the floor regulatory option. More stringent beyond-the-floor regulatory options reflect other or additional controls capable of achieving better performance.



As noted above, CAA section 129(a)(5) requires the EPA to conduct a review of the standards at 5-year intervals and, in accordance with CAA sections 129 and 111, revise the standards. In conducting periodic reviews under CAA section 129(a)(5), the EPA attempts to assess the performance of and variability associated with control measures affecting emissions performance at sources in the subject source category (including the installed emissions control equipment), along with recent developments in practices, processes, and control technologies, and determines whether it is appropriate to revise the NSPS and EG. This approach is consistent with the requirement that standards under CAA section 129(a)(3) “shall be based on methods and technologies for removal or destruction of pollutants before, during or after combustion.” We do not interpret CAA section 129(a)(5), together with CAA section 111, as requiring the EPA to recalculate MACT floors in connection with this periodic review.<sup>2</sup> This general approach is similar to the approach taken by the EPA in periodically reviewing CAA section 111 standards, which, under CAA section 111(b)(1)(B), requires the EPA, except in specified circumstances, to review NSPS promulgated under that section every 8 years and to revise the standards if the EPA determines that it is appropriate to do so.

*E. What data collection activities were conducted?*

The EPA reviewed the inventory of OSWI units developed for the current standards and performed data gathering to identify additional units.<sup>3</sup> The current OSWI rule covers VSMWC and IWI as well as air curtain incinerators (ACIs) combusting municipal solid waste or

---

<sup>2</sup> Elsewhere in the CAA, including under CAA section 112(d)(6), the EPA is also obliged to undertake periodic reviews. Although the nature or scope of the periodic review under CAA section 112(d)(6) is different than under CAA section 129(a)(5), it may be worth noting that, even under CAA section 112(d)(6), the EPA is not obligated to recalculate MACT floors in the course of a periodic review. *NRDC v. EPA*, 529 F.3d 1077, 1084 (D.C. Cir. 2008); *Nat’l Ass’n for Surface Finishing v. EPA*, 795 F.3d 1, 7-9 (D.C. Cir. 2015).

<sup>3</sup> An OSWI inventory was developed for the 2005 rulemaking and included in Docket ID No. EPA-HQ-OAR-2003-0156.

institutional waste. ACIs burning only wood waste, clean lumber, and yard waste are only subject to opacity requirements in the OSWI rule. The EPA identified 97 VSMWC, IWI, and ACI units at 84 facilities from the prior inventory. Data searches to identify additional units encompassed review of the existing EPA databases, state permit databases, manufacturers' websites, other government agencies, and military and police sources.

The EPA's Enforcement and Compliance History Online (ECHO) website allows users to search for facilities by NSPS subparts.<sup>4</sup> The ECHO database provides integrated compliance and enforcement information for approximately 800,000 regulated facilities nationwide. For facilities identified by ECHO as subject to the OSWI NSPS, the EPA conducted web searches and reviewed online state air permits, where available. The EPA added 20 units at 20 facilities to the OSWI inventory from the ECHO search results. No emissions data were found for these units.

The EPA also searched the 2014 National Emissions Inventory (NEI), Version 2, to identify facilities with OSWI units. The NEI is a database that contains information about sources that emit certain air pollutants, known as "criteria" pollutants, their precursors, and hazardous air pollutants. The database includes estimates of annual air pollutant emissions from sources in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. The NEI also includes information about control devices and control approaches. Based on the NEI, four units at four facilities were added to the EPA's inventory of OSWI sources. Emissions data are available for only three of these units; no emissions data were found for the remaining unit.

---

<sup>4</sup> See <https://echo.epa.gov/>.

The EPA searched state permit databases and reviewed online permits, including title V and general permits, to identify additional OSWI units. Fourteen additional units at 14 facilities were identified and added to the OSWI inventory as a result of the permit reviews. No emissions data were found for these units in the permit documents; however, Pima County Department of Environmental Quality (PDEQ) provided a recent test report from 2019 for one unit in Arizona.

The EPA reviewed customer lists available on two incinerator manufacturer websites. These incinerators are small, portable incinerators, and the customer lists included universities and other entities. Ten units at 10 facilities were added to the OSWI inventory from incinerator manufacturer customer lists. Other searches included the EPA's WebFIRE database, the U.S. Drug Enforcement Administration website, the National Park Service website, the EPA's Toxics Release Inventory, and the California Air Resources Board and Air Quality Maintenance Districts websites. No units were added to the OSWI inventory from these data sources.

In addition to the OSWI units identified through the data searches described above, we also considered and included 29 remote incinerators at 25 facilities and associated emissions test and waste information collected from commercial and industrial facilities in Alaska (as further discussed in section II.B of this preamble). Taking these all together, a total of 174 OSWI units at 157 facilities were identified. These searches are documented in the memorandum, *Documentation of Data Gathering Efforts for Other Solid Waste Incineration (OSWI) Units*, which is available in the docket for this action.

*F. What other relevant background information and data are available?*

In addition to inventorying OSWI units, the EPA reviewed the ECHO and the NEI information, as well as state permit databases, for representative emissions data for OSWI units. In state permit databases, we obtained limited information for two OSWI units, both with

capacities greater than 10 TPD (but less than 35 TPD), one located at a Texas facility and the other at an Arizona facility. The information for the Texas facility included an emissions test report for the nine OSWI pollutants for one OSWI unit, and the information for the Arizona facility included a test summary for one OSWI unit. The EPA also obtained limited emissions data (for the nine pollutants) from the 2014 NEI, Version 2 for three of the four OSWI units identified in the NEI. The NEI data did not include control device information for these four units. We also reviewed data collected during the development of the NSPS and EG for Commercial and Industrial Solid Waste Incineration (CISWI) units,<sup>5</sup> as well as additional test data submitted by the Alaska Oil and Gas Association (AOGA) for small remote incinerators (SRI) in Alaska (submitted in connection with a request that the EPA modify the SRI emission limits established in the February 7, 2013, final CISWI rule).<sup>6</sup>

*G. What are the incremental costs and benefits of this action?*

We have estimated that this proposed rule will decrease burden by \$57,000 annually. We anticipate about 31 tons per year in emission reductions in the CAA section 129 pollutants as a result of the proposed amendments. See section III of this preamble for additional information.

## **II. OSWI Review and Proposed Revisions**

### *A. CAA Section 129(a)(5) Review*

#### **1. How did the EPA conduct the review under CAA section 129(a)(5)?**

In conducting periodic reviews under CAA section 129(a)(5), the EPA attempts to assess the performance of and variability associated with control measures affecting emissions

---

<sup>5</sup> Includes emissions data collected from Phase II of the CISWI ICR survey used to support the March 21, 2011 CISWI final rule (76 FR 15704) as well as the 2013 CISWI final reconsideration (78 FR 9112, February 7, 2013).

<sup>6</sup> As further discussed in sections II.B.1 and II.B.2 of this preamble, the EPA has re-evaluated the applicability of the CISWI rules to certain incinerators burning more than 30-percent MSW and is also proposing to revise the OSWI rules such that the OSWI standards will be applicable to these incinerators, which would be treated as VSMWC units.

performance at sources in the subject source category (including the installed emissions control equipment), along with developments in practices, processes, and control technologies. For development of the proposed rule, the EPA reviewed available performance data for currently operating OSWI units or the best representative sources. In reviewing the standards based on currently available emissions information, we address the CAA section 129(a)(5) review's goals of assessing the performance efficiency of the installed equipment and ensuring that the emission limits reflect the performance of the technologies required by the MACT standards. In addition, we considered whether new technologies and processes and improvements in practices have been demonstrated at sources subject to the 2005 OSWI rule.

Our review focused on identifying OSWI units to develop an inventory of units and evaluating developments in processes and control technologies that have occurred since the OSWI standards were promulgated. Where we identified additional units or new developments at units, we analyzed their emissions and controls and the technical feasibility, estimated costs, energy implications, and non-air environmental impacts of any identified controls. We also considered emission reductions associated with applying each development, if any. This analysis informed our decision of whether to revise the OSWI emissions standards. In addition, we considered the appropriateness of applying controls to new sources versus retrofitting existing sources. For these purposes, we considered any of the following to be a development:

- any add-on control technology or other equipment that was not identified and considered during development of the original standards;
- any improvements in previously identified and considered add-on control technology or other equipment that could result in additional emissions reduction;
- any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original standards; and

- any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original standards).

In addition to reviewing the processes and control technologies that were considered at the time we originally developed the OSWI standards, we reviewed, as discussed in sections I.E and I.F of this preamble, a variety of data sources in our investigation of potential processes or controls to consider.

## 2. Results and Proposed Actions from the EPA's CAA Section 129(a)(5) Review

We identified limited emissions data for three out of four OSWI units from the NEI, and emissions test data for two new large OSWI units from state permit documentation that demonstrate compliance with the OSWI standards through use of add-on control devices similar to those considered during the original OSWI rule development. From the limited data available, we did not identify any new developments in practices, processes, or control technologies for any OSWI units. Based strictly on our 5-year review analysis, we do not believe that any changes to the OSWI standards are appropriate, and, accordingly, the EPA is not proposing any revisions pursuant to CAA section 129(a)(5).

### *B. What other actions are we proposing?*

Although not predicated on the CAA section 129(a)(5) review, the EPA is taking the opportunity to propose certain changes to the OSWI standards in light of other developments and our experience with the CAA section 129 solid waste incinerator rules, as well as considerations associated with the 2016 remand of the 2005 OSWI standards. Thus, we are proposing changes to OSWI sub-categories and related MACT floor recalculations. Additionally, we are proposing other applicability-related and definitional changes. These proposed revisions are discussed in sections II.B.1 and II.B.2 of this preamble. We are also proposing changes to the SSM

provisions; the testing, monitoring, recordkeeping, and reporting requirements; the applicability

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

of title V permitting for certain ACIs; and miscellaneous other technical and editorial changes to the regulatory text. These proposed changes are discussed in sections II.B.3 through II.B.8 of this preamble.

## 1. Proposed Revisions to the MACT Floor

We are proposing MACT floor recalculations for the OSWI source category in light of the 2016 voluntary remand of judicial proceedings relating to the OSWI standards, as well as public comments regarding the final OSWI standards (70 FR 74870, December 16, 2005) that raised issues that, upon further consideration, we believe should be readdressed. At the time the EPA set the OSWI standards, we lacked emissions data on OSWI units, and the emission limits were based on information for similar sources in the hospital, medical, and infectious waste incineration (HMIWI) unit source category, considering the similarities in combustion unit size, design, operations, and waste composition between OSWI and HMIWI units.<sup>7</sup> We have now collected additional information on two new OSWI units (constructed after the OSWI standards were issued) and emissions information for certain existing small incineration units located in Alaska that previously have been regarded as CISWI units, as small remote incinerators (SRI), but—under this proposal—are treated as OSWI units.<sup>8</sup> We are proposing to consider the existing

---

<sup>7</sup> The 2005 MACT standards were developed based on the best representative sources. For new IWI and VSMWC units, the MACT floor emission limits were based on emissions information from HMIWIs similar in size, design, and operation and using medium-efficiency wet scrubbers for emissions control. For existing IWI and VSMWC units, the EPA considered the MACT floor based on emissions test information from small, uncontrolled, modular/starved air municipal waste combustion (MWC) units that were collected during the MWC regulatory development process. However, the EPA had also identified one existing OSWI unit, an IWI unit, with a medium efficiency wet scrubber. Therefore, the EPA ultimately set beyond-the-floor standards for existing OSWI reflecting the use of a medium-efficiency wet scrubber, based on the emission limits that were achievable considering the available HMIWI data.

<sup>8</sup> The CISWI NSPS are found at 40 CFR part 60, subpart CCCC, and the EG are found at 40 CFR part 60, subpart DDDD (collectively the “CISWI standards”). The CISWI standards initially were promulgated in 2000 (60 FR 75338) and revised in 2005 (70 FR 55568), 2011 (76 FR 15704), 2013 (78 FR 9112), and 2016 (81 FR 40956). The CISWI standards generally apply to operating units of commercial or industrial facilities that combust solid waste (see, *e.g.*, 40 CFR 60.2015 and 60.2265). The CISWI standards cover certain small, remote incinerators (SRI) that combust three TPD or less of solid waste and are located more than 25 miles from a MSW landfill (see, *e.g.*, 40 CFR 60.2265).

SRI units as VSMWC units subject to the OSWI standards. In light of the voluntary remand and the additional data gathered, we are proposing revised subcategories and MACT standards that better reflect actual emissions test data from OSWI units and the population of OSWI. These standards are based, in part, on the size of the OSWI unit. The proposed standards are more representative of and better reflect the emissions achievable for new and existing units in each category required under CAA sections 129(a)(2) and (4).

The EPA did not previously address SRI units in the OSWI standards. At the time the OSWI standards were promulgated, we contemplated regulating the small incinerators that are located at commercial businesses or industrial sites as CISWI units under future revisions to the final CISWI rules (70 FR 74882). Prior to revising the CISWI standards, we had insufficient information about the small units operated in the commercial and industrial facilities (*e.g.*, operating at oil exploration sites or oil-field based camps) to determine if they could be treated as VSMWC units. In 2010, in connection with a CISWI rulemaking, the EPA conducted an Information Collection Request (ICR) to collect data for these small incinerators. The data, however, did not provide detailed information on the type of waste these units were burning (*i.e.*, industrial waste or municipal-type waste generated onsite) and the percentages of each type being combusted. Consistent with our stated intent during the OSWI rulemaking, the EPA set the emission standards for the SRI subcategory under the CISWI rule because such combustion units are located at commercial/industrial facilities (typically in isolated areas of Alaska).

In June 2017, AOGA submitted to the EPA data that provided additional information on waste characterization for SRI in Alaska. The new data indicated that most such units burn more than 30-percent municipal type solid waste; that is, the type of waste material—regardless



whether it is collected from households, the general public, institutions, commercial or industrial operations, or some combination—that is typically regarded as municipal waste.

Based on the new information provided by AOGA in 2017 and a re-evaluation of the OSWI definition of MSW and related terms, we reconsidered the dividing line between the OSWI standards and the CISWI standards. Units that combust more than 30 percent MSW, even units located at commercial or industrial facilities, that otherwise meet the definition of VSMWC (as proposed herein), including units with a capacity of three TPD or less located away from MSW landfills, should be subject to the OSWI rule instead of the CISWI standards.<sup>9</sup> Consistent with this revised approach on the coverage or applicability of the OSWI standards, we have considered the information from AOGA in recalculating the MACT floors—for certain subcategories of OSWI units.

As noted in section I.F of this preamble, we have also gathered emissions information on two OSWI units constructed since 2005, with waste capacities greater than 10 TPD (but less than 35 TPD), including one at a Texas facility and one at a facility in Arizona. Both of these units are continuously-fed rotary combustors that use add-on air pollution control devices, including wet and dry scrubbers and fabric filters, to comply with the current OSWI standards.

In light of the design and compliance information obtained for two OSWI units (one in Arizona and one in Texas) and the addition of design and operational information from the CISWI ICR and the AOGA for the SRI units, we are proposing to subcategorize IWI and VSMWC units based on size. The two subcategories proposed are large units that have capacities greater than 10 TPD and small units that have capacities less than or equal to 10 TPD. For

---

<sup>9</sup> Incinerators that burn less than 30-percent MSW and are located at an industrial or commercial facility, including SRI, would remain subject to the CISWI rule. However, the units under consideration here are burning greater than 30-percent MSW, according to AOGA members. For a more detailed discussion of OSWI applicability-related issues and proposals relating to OSWI definitions, see the discussion in section II.B.2 of this preamble.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

incineration units, differences in size typically reflect differences in operation and equipment complexity. Units with capacities less than or equal to 10 TPD typically feed waste to the unit in batches and some units may not even be equipped with stacks. Units larger than 10 TPD typically feed waste to the unit continuously or semi-continuously and also typically have stacks or flues that can be routed to air pollution control devices. Therefore, we are proposing subcategories as follows: (1) VSMWC units with a capacity to combust less than or equal to 10 TPD of MSW or refuse-derived fuel; (2) IWI units with a capacity to combust less than or equal to 10 TPD of institutional waste; (3) VSMWC units with a capacity to combust greater than 10 TPD of MSW or refuse-derived fuel (but less than 35 TPD); and (4) IWI units with a capacity to combust greater than 10 TPD of institutional waste. In connection with this size-based sub-categorization, we are also proposing to add a definition of “small OSWI unit,” a unit with a capacity less than or equal to 10 TPD. (Accordingly, the term “small OSWI unit” will be used, hereinafter, to refer to units with capacities less than or equal to ten TPD.)

Based on the updated inventory, emissions, and waste data provided by AOGA, we have developed revised emission limits for existing small OSWI units, using the average emission limitation of the best performing 12 percent of such sources and also considering variability in emissions, consistent with CAA section 129(a)(2). To calculate the MACT floor emission limits for small existing OSWI sources, we considered the available test run data<sup>10</sup> provided in response to the 2010 ICR and test data from 2014 submitted in June 2017 by AOGA in their attempt to address concerns that they had with the 2010 ICR data pertaining to the emissions test data representativeness and waste variability. In the MACT floor analysis, we used the run data from the 2010 and 2014 emission tests to calculate the 99<sup>th</sup> percentile upper limits (UL)

---

<sup>10</sup> Run data includes the emissions data captured during a stack test comprising at least three sampling runs. This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

statistical interval for the best 12 percent of such incineration units for each pollutant to address the range of operating conditions of the incinerator. The UL is a common statistical interval used to address variability and was the same statistical interval used to calculate the CISWI SRI emission limits (76 FR 15723, March 21, 2011).

In addition to addressing the range of operating conditions of the incinerator, AOGA noted that the waste profile of the 2010 emissions test data was not representative of the range of wastes combusted during normal operations. The AOGA asserted that the testing sites seemed to misinterpret the goal of the testing and may have prepared “best case” waste for the 2010 testing instead of a more representative waste profile. To address this, accompanying the additional emission tests conducted in 2014, AOGA also submitted waste composition and elemental analysis data for nitrogen (N), Cd, Pb, Hg, chlorine, and sulfur in the wastes combusted (sometimes also referred to as the “fuel” in similar fuel variability factor (FVF) calculations used in boiler and CISWI standards for certain pollutants). We applied the EPA’s previous analytical approach of calculating FVF to calculate an analogous “waste variability factor” (WVF) for small OSWI units since these units are not designed to co-fire waste with coal or other solid fuels, and applied this WVF to the 99-percentile UL calculation for the six pollutants that are influenced directly by waste composition; Cd, HCl, Pb, Hg, SO<sub>2</sub>, and NO<sub>x</sub>. A detailed discussion of the emission limit calculation can be found in the memorandum, *OSWI Emission Limit Calculations for Existing and New Sources*, which is available in the docket for this action.

The new proposed emission limits for the pollutants regulated under CAA section 129(a)(4) (Cd, HCl, Pb, Hg, SO<sub>2</sub>, NO<sub>x</sub>, PM, DF, and CO) are shown in Table 2 of this preamble. We are providing two options for limits for DF, one based on the total mass basis (TMB) and one based on the toxic equivalency factor (TEQ). As we have done for other CAA section 129

standards, sources may meet one or the other of the DF limits, but are not required to meet both. We are proposing to apply these revised emission limits for small VSMWC and IWI units (with capacity less than or equal to 10 TPD of solid waste), as the data reflect our best knowledge of existing OSWI units of this size.

TABLE 2. REVISED OSWI STANDARDS FOR EXISTING SMALL OSWI UNITS<sup>1</sup>

Pollutant	Concentration Units	Revised Emission Limit
Cd	µg/dscm <sup>2</sup>	2,000
HCl	ppmvd <sup>3</sup>	500
Pb	µg/dscm	32,000
Hg	µg/dscm	69
SO <sub>2</sub>	ppmvd	130
NO <sub>x</sub>	ppmvd	210
PM	mg/dscm	280
DF (TMB) <sup>4</sup>	ng/dscm <sup>5</sup>	4,700
DF (TEQ) <sup>4</sup>	ng/dscm	86
CO	ppmvd	220

<sup>1</sup>Emission limits are for small existing VSMWC and IWI units with capacities less than or equal to 10 TPD.

<sup>2</sup>Micrograms per dry standard cubic meters.

<sup>3</sup>Parts per million by dry volume.

<sup>4</sup>For DF, you must meet either the TMB limit or the TEQ limit.

<sup>5</sup>Nanograms per dry standard cubic meters.

We are also proposing to revise the MACT floors for new, small OSWI units (both VSMWC and IWI). Section 129(a)(2) of the CAA requires that MACT for new sources be no less stringent than the emissions control achieved in practice by the best controlled similar unit. Therefore, the approach for new sources was similar to that used with the existing sources (i.e., 99 percentile UL with FVF applied for the pollutants influenced by waste composition), except the top performing unit's data were used to calculate the MACT floor emission limit instead of the average of the best performing 12 percent of units. A detailed discussion of the emission limit calculation can be found in the memorandum, *OSWI Emission Limit Calculations for Existing and New Sources*, which is available in the docket for this action. The new source emission limits are shown in Table 3 of this preamble.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

TABLE 3. REVISED OSWI STANDARDS FOR NEW SMALL OSWI UNITS<sup>1</sup>

Pollutant	Concentration Units	Revised Emission Limit
Cd	µg/dscm	400
HCl	ppmvd	210
Pb	µg/dscm	26,000
Hg	µg/dscm	12
SO <sub>2</sub>	ppmvd	38
NO <sub>x</sub>	ppmvd	180
PM	mg/dscm	210
DF (TMB)	ng/dscm	3,100
DF (TEQ)	ng/dscm	40
CO	ppmvd	69

<sup>1</sup>Emission limits are for small new VSMWC and IWI units with capacities less than or equal to 10 TPD.

For OSWI units that are not small OSWI units, we have not recalculated the MACT floors and are not proposing any changes to the emissions limitations. As mentioned before, large VSMWC and IWI units (with capacities greater than 10 TPD) have a different design and mode of operation than small OSWI units. We do not have sufficient information on these units that would enable us to revise the MACT floor for these existing OSWI units, and we are not proposing any changes to the current OSWI limits for existing sources for these units. Emissions data for two units in this size category demonstrate that sources require use of add-on control devices similar to those considered in the development of the 2005 OSWI standards to meet the emission limits, which supports our decision to retain the 2005 OSWI emission limits for this OSWI subcategory. Information provided on the units shows that the units are meeting the current OSWI emission limits and are in compliance with the current rule. We are not proposing any changes to the current OSWI emission limits for VSMWC and IWI units with capacities greater than 10 TPD (new and existing).

The EPA also examined whether it was appropriate to adopt more stringent “beyond-the-floor” regulatory options to determine MACT. Unlike the floor minimum stringency requirements, the EPA must consider various impacts of the more stringent regulatory options in

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

determining whether MACT standards are to reflect “beyond-the-floor” requirements, including considering the costs, non-air quality health and environmental impacts, and energy requirements of such more stringent control. Small OSWI units often are of very basic, rudimentary design and function, as discussed in section II.B.4 of this preamble. Requiring additional controls on small OSWI units is infeasible or simply would be cost prohibitive. For OSWI units with capacities greater than 10 TPD, the 2005 final rule already incorporated beyond-the-floor requirements. We do not have sufficient information for large OSWI units that would enable us to revise the beyond the floor limits in this action. However, based on the information we have from the 2005 rule, requiring any further controls would likely only provide minimal emissions reductions with substantial cost investments. Considering these factors, we concluded that revised beyond-the-floor limits are unreasonable for the OSWI subcategories. A more detailed discussion of the beyond-the-floor analyses is provided in the memorandum, *OSWI Emission Limit Calculations for Existing and New Sources*, which is available in the docket for this action.

In the 2005 final OSWI rule, we also established opacity standards for ACI units that would otherwise meet the definitions of IWI or VSMWC units, but burn only 100-percent wood wastes, 100-percent clean lumber, 100-percent yard waste, or 100-percent mixture of only wood waste, clean lumber, and yard waste. We are not proposing any changes to the opacity standards for these units. However, ACIs that do not burn only 100-percent wood wastes, clean lumber, or yard wastes and that would meet the definition of an IWI or VSMWC unit would be required to meet the applicable OSWI standards.

The emission limits, including the proposed revised limits for small OSWI units and the (unchanged) limits for units with capacities greater than 10 TPD, are summarized in Table 4 of this preamble.

TABLE 4. LIMITS FOR OSWI UNITS, INCLUDING PROPOSED LIMITS FOR SMALL OSWI UNITS

Pollutant	Concentration Units	Existing VSMWC and IWI Units		New VSMWC and IWI Units	
		Small <sup>1</sup>	Large <sup>2</sup>	Small <sup>1</sup>	Large <sup>2</sup>
Cd	µg/dscm	2,000	18	400	18
HCl	ppmvd	500	15	210	15
Pb	µg/dscm	32,000	226	26,000	226
Hg	µg/dscm	69	74	12	74
SO <sub>2</sub>	ppmvd	130	3.1	38	3.1
NO <sub>x</sub>	ppmvd	210	103	180	103
PM	mg/dscm	280	30	210	30
DF (TMB)	ng/dscm	4,700	33	3,100	33
DF (TEQ)	ng/dscm	86	- <sup>3</sup>	40	- <sup>3</sup>
CO	ppmvd	220	40	69	40

<sup>1</sup> Small units include those with capacity less than or equal to 10 TPD.

<sup>2</sup> Limit basis is from 2005 OSWI Rule. For PM, the 2005 OSWI standard is shown as mg/dscm rather than grains per dscf.

<sup>3</sup> DF TEQ basis was not calculated for the 2005 rule.

## 2. Proposed Revisions to Applicability of OSWI Requirements

We are proposing two changes to the applicability of the OSWI standards in order to resolve inconsistent definitions between OSWI and other CAA section 129 rulemakings, and update aspects of the rule that we have reconsidered based on new data. The proposed changes include (1) removing the definition of the term “collected from” as used in, and limiting the definition of, “municipal solid waste” in order to place the focus on the source and type or nature of the waste, rather than the manner in which is it “collected” and (2) modifying the OSWI definition of “municipal waste combustion unit” to make it clear that pyrolysis/combustion units are not OSWI units.

First, we are clarifying that the applicability of the OSWI standards to VSMWC units is based on the source and type or nature of waste incinerated rather than the particular manner in which the waste is collected. The regulatory history of the MWC rules indicates that the EPA intended to determine the applicability of the MWC rule based on the type of waste combusted in a unit and not based on the location of the incineration unit (54 FR 52261, December 20, 1989). This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

The 2005 OSWI rule finalized a definition of “municipal solid waste” that was similar to the definition of “municipal waste” provided in CAA section 129(g)(5), but interpreted this, for the purposes of VSMWC applicability under OSWI, to mean that the municipal waste must be “collected from” certain or multiple sites. We have since re-evaluated our interpretation in OSWI where the rule explains municipal waste must be limited to those collected from outside the site of the incinerator. Other existing CAA section 129 incinerator rules do not necessarily place the same emphasis on where the waste is collected. The principal MWC rules, for example, do not focus on or even define “collected from,” and, instead, more broadly include materials discarded by a wide range of sources, regardless of how or where the waste may be “collected” (see, *e.g.*, 40 CFR 60.51b and 60.1465). We are proposing to modify the definitions in the OSWI standards to remove the specific definition of “collected from” and, thus, to eliminate the limitation that waste may not be burned at the same site where it is generated in order for it to be considered MSW.

We are, accordingly, proposing a different approach to the treatment of MSW under the OSWI standards than we opted to pursue when the standards were promulgated. There, we stated that “small incinerators that are located at commercial business (such as stores, restaurants and apartments) or industrial sites are not VSMWC units because they do not burn waste which has been ‘collected from.’” (70 FR 74882). Under this proposal, such incinerators would no longer be subject to this “collected from” limitation and would qualify as VSMWC (provided these units burn more than 30-percent MSW).<sup>11</sup> We believe this approach is more consistent with the EPA’s other CAA section 129 MWC rules. We also believe, on further review, that this approach

---

<sup>11</sup> An incinerator is not considered to be combusting MSW “if it combusts a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste.” See, *e.g.*, 40 CFR 60.2977.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.



is more consistent with the CAA section 129 definition of “municipal waste.” Section 129(g)(5) of the CAA essentially defines the term “municipal waste” to mean refuse “collected from the general public and from residential, commercial, institutional, and industrial sources consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber and other combustible materials and non-combustible materials such as metal, glass and rock.” We do not read this definition as necessitating that, to constitute MSW, the material or refuse must be a cumulative collection of refuse from each and every one of the sources identified (that is, the “general public,” “residential,” or “commercial” sources) or even necessarily of multiple such sources. Moreover, the term “collected from” is not defined in the CAA, and we do not read it as necessarily requiring (for waste to be considered MSW) that the waste must be transferred from one site and burned at another site.

Next, we are proposing to revise the OSWI definition of “municipal waste combustion unit” to remove the reference to “pyrolysis/combustion units.” The term is not defined in the current regulation and there is no similar specific reference to such units in the institutional waste incineration unit definition. In the preamble to the OSWI standards , we briefly stated that “pyrolysis/combustion units (two chamber incinerators with a starved air primary chamber followed by an afterburner to complete combustion) within the VSMWC and IWI subcategories are considered OSWI units” (70 FR 74876 and 74877). In the recent past, however, the EPA has received several inquiries about OSWI applicability to pyrolysis/combustion units, and we believe that there is considerable confusion in the regulated community regarding the reference to pyrolysis/combustion units in the definition of municipal waste combustion unit. Upon further review of the language in the final OSWI rule (70 FR 74876 and 74877), we believe the reference to pyrolysis/combustion units as MWC should not apply to OSWI units because such

units are used to combust uncontained gases and do not involve the combustion of solid waste as defined in the OSWI rule. See 70 FR 74877 (where we noted that units that are used to combust uncontained gases and are not used to dispose of solid waste generally are not subject to the OSWI standards).

An OSWI unit is either a VSMWC or an IWI, and both types of units combust “solid waste.” Solid waste includes solid, liquid, and semisolid material. Solid waste also includes “contained gaseous material,” defined as gases that are in a container when that container is combusted (40 CFR 60.2977, 60.3078).

The combustion of uncontained gases in pyrolysis/combustion units is inconsistent with the definition of solid waste and the associated definition of “contained gaseous material” in OSWI, and therefore, with solid waste combustion for the purpose of the OSWI rule. The EPA understands pyrolysis to be a process that takes place in an inert environment. In a closely coupled pyrolysis/combustion chamber, the gaseous material comes out of the pyrolysis chamber and immediately is incinerated in the combustion chamber. The pyrolysis gas is not placed into a container and then combusted. Therefore, the pyrolysis gas in the closely coupled pyrolysis/combustion chamber is not “contained gaseous material,” as referenced in the definition of solid waste. We noted in connection with the promulgation of the OSWI standards that thermal oxidizers, catalytic oxidizers, and flameless thermal oxidizers are not considered to be subject to the OSWI rule if these units are used to combust uncontained gas from an industrial process (70 FR 74877). Moreover, unlike combustion, the pyrolysis process is endothermic and does not require the addition of oxygen (i.e. the partial pressure of oxygen during a pyrolysis process is maintained close to zero). Based on this understanding, we recognize that the pyrolysis process, by itself, is not combustion. In summary, because the pyrolysis itself is not combustion

and pyrolysis gases are not a “solid waste” under OSWI, a pyrolysis-combustion unit should not be referenced in the definition of MWC unit for the purposes of the OSWI rule.<sup>12</sup> Accordingly, we are proposing to revise the definition of “municipal waste combustion unit” in 40 CFR 60.2977 and 40 CFR 60.3078 to remove the reference to “pyrolysis/combustion units” from the definition, reflecting our view that such units should not be regarded as municipal waste combustion units under the OSWI rule.

### 3. Proposed Removal of SSM Provisions

Currently, the OSWI standards do not apply during SSM periods (see 40 CFR 60.2918, 60.3025). The EPA proposes to eliminate this limitation or qualification on the applicability of the OSWI standards. The EPA proposes this change in light of the 2016 remand and certain legal developments, including a decision by the D.C. Circuit that invalidated certain regulations related to SSM in the 40 CFR part 63 General Provisions (*Sierra Club v. EPA*, 551 F.3d 1019 (2008)). While the decision did not specifically address the SSM provisions in the OSWI standards, it calls those provisions into question.

We are not proposing separate emission standards for OSWI units that would apply during SSM periods. We determined that OSWI units will be able to meet the emission limits during periods of startup because most units burn natural gas or clean distillate oil to start, and

---

<sup>12</sup> Discarded material that is processed in such a unit would still be a solid waste under the Resource Conservation and Recovery Act (RCRA), and, therefore, subject to state RCRA Subtitle D solid waste management program requirements. In the case of hazardous waste, RCRA sections 3002(a) and 3004(a) grant the EPA the authority to control gaseous emissions from hazardous waste management as may be necessary to protect human health and the environment. RCRA sections 3004(n), and (o)(1)(B), further direct the EPA to regulate air emissions from, respectively, hazardous waste treatment, storage and disposal facilities, and hazardous waste incinerators. The authority provided in RCRA section 3004(q) to regulate fuel produced from hazardous waste also encompasses gaseous fuels (when they are produced from hazardous wastes). The authority provided in RCRA section 3004(u) to control “releases” of hazardous constituents from solid waste management units at a facility seeking a RCRA permit also encompasses gaseous releases (when the gases are hazardous constituents). The authority granted under these sections of the statute is independent of the EPA’s authorities over solid waste. As an example, the EPA has authority to regulate emissions generated during treatment of hazardous waste, including volatilization and incineration of hazardous waste.

waste is not added until the unit has reached combustion temperatures. Emissions from burning natural gas or distillate fuel oil would generally be significantly lower than from burning solid wastes. During shutdown periods, emissions are also generally significantly lower than emissions during normal operations because the materials in the incinerator will be almost fully combusted before shutdown occurs. Control of the lower emissions during startup and shutdown should be able to be accomplished using the same technological controls required for emissions during normal operations. Furthermore, the approach for establishing the revised MACT floors for OSWI units ranked individual OSWI or similar units based on actual performance for each pollutant, with an appropriate accounting of emissions variability. Because we accounted for emissions variability and established appropriate averaging times to determine compliance with the proposed OSWI standards, we believe we have adequately addressed any minor variability that may potentially occur during startup or shutdown. However, we note that we do not have available data for OSWI units during periods of startup and shutdown. We request comment on the proposed removal of the SSM provisions and the proposal to leave in place the OSWI standards during SSM periods, including any additional information for consideration for startup and shutdown periods for OSWI units.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment (see 40 CFR 60.2). The EPA interprets CAA section 129 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 129 standards. Under CAA section 129, emissions standards for new sources must be no less stringent than the level "achieved" by the best

controlled similar source and for existing sources generally must be no less stringent than the average emission limitation “achieved” by the best performing 12 percent of sources in the category. There is nothing in CAA section 129 that directs the Agency to consider malfunctions in determining the level “achieved” by the best performing sources when setting emission standards. As the D.C. Circuit has recognized, the phrase “average emissions limitation achieved by the best performing 12 percent of” sources “says nothing about how the performance of the best units is to be calculated.” *Nat’l Ass’n of Clean Water Agencies v. EPA*, 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 129 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a “normal or usual manner” and no statutory language compels the EPA to consider such events in setting CAA section 129 standards. The EPA’s approach to malfunctions in the analogous circumstances (setting “achievable” standards under CAA section 112) has been upheld as reasonable by the D.C. Circuit in *U.S. Sugar Corp. v. EPA*, 830 F.3d 579, 606-610 (2016).

As the D.C Circuit recognized in *U.S. Sugar Corp*, accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 (“the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a

wide array of circumstances.”) As such, the performance of units that are malfunctioning is not “reasonably” foreseeable. See, e.g., *Sierra Club v. EPA*, 167 F.3d 658, 662 (D.C. Cir. 1999) (“The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study. ") See also, *Weyerhaeuser v. Costle*, 590 F.2d 1011, 1058 (D.C. Cir. 1978) (“In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by ‘uncontrollable acts of third parties,’ such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.”). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source’s emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 129 to avoid such a result. The EPA’s approach to malfunctions is consistent with CAA section 129 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector Risk and Technology Review, the EPA established a work practice standard for unique types of malfunction that result in releases from pressure relief devices or emergency flaring events because the EPA had information to determine that such work practices reflected the level of control that applies to the best performers. 80 FR 75178, 75211 through 14 (December 1, 2015). The EPA will consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. We note that there are no provisions for establishing work practice standards under CAA section 129.

In the event that a source fails to comply with the applicable CAA section 129 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 129 standard was, in fact, sudden, infrequent, not reasonably preventable, and was not instead caused, in part, by poor maintenance or careless operation. 40 CFR 60.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an

administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA’s interpretation of the CAA and, in particular, CAA section 129, is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp. v. EPA*, 830 F.3d 579, 606-610 (2016).

For these reasons, we are proposing to remove and reserve 40 CFR 60.2918 and 40 CFR 60.3025, which provided exceptions for SSM. We are proposing minor harmonizing revisions to other rule requirements that reference SSM, such as revisions to the definition of “Deviation” to remove language for periods of SSM, for consistency with these changes.

#### 4. Proposed Revisions to Testing and Compliance

For small OSWI units, we are proposing alternatives to conducting the initial and annual performance tests and to remove the requirements to install, calibrate, maintain, and operate continuous emissions monitoring systems (CEMS). The OSWI standards currently require owners and operators of OSWI units to conduct initial and annual performance tests to demonstrate compliance (40 CFR 60.2927, 60.2932 and 60.3030, 60.3033). Owners and operators may conduct performance tests less often than annually for a given pollutant if they are able to demonstrate compliance with the emissions limitations for three consecutive annual tests (40 CFR 60.2934, 60.3035). The OSWI standards also require CEMS for CO and oxygen (40 CFR 60.2939, 60.3038).

We are proposing a new substitute means of compliance demonstration for small OSWI units, as we recognize that testing can impose substantial financial burdens and technical



challenges on owners and operators of these sources. Based on the limited information available, we expect that most OSWI units are likely small incinerators that are not equipped with stacks from which to sample emissions during a performance test, and a stack or extension would be needed in order to perform the testing required by the OSWI standards. In some instances, it physically may not be possible to equip the incinerator with a stack, and in other cases, costs for doing so may be prohibitive. Transporting, installing, and supporting the extension for testing in the field can present additional issues, such as space or property constraints that may require additional construction of scaffolding, ducting, or modifications to underlying structures to install the appropriate extensions and sampling ports.<sup>13</sup> Additionally, many of these small OSWI units are located in remote and difficult to access areas of the country, and it is difficult to mobilize stack testing crews to some of these locations.

These technical and economic infeasibilities are magnified for existing sources, which have previously installed units that may have never been equipped with a stack and for which additional space or property modifications may be infeasible. Further, owners and operators may find it economically infeasible to conduct initial or annual performance tests of these small units due to the cost of stack testing. We believe that similar difficulties may arise in connection with

---

<sup>13</sup> The OSWI standards are found in 40 CFR part 60, subparts EEEE (NSPS) and FFFF (EG). In addition, subpart A (General Provisions) of part 60 contains various generally-applicable provisions, including provisions relating to performance testing (see, for example, 40 CFR 60.8). These generally-applicable performance testing provisions require, in part, owners and operators to provide performance testing facilities, including sampling ports. We believe, however, that for small OSWI units there could be significant challenges to conducting such modifications in the field to fit units at every site. In any event, the application of the General Provisions in subpart A to the other part 60 subparts is subordinate to the specific provisions found in the other subparts, such as the OSWI standards. See, for example, 40 CFR 60.8(b) (performance test shall be conducted in accordance with the methods and procedures in each applicable subpart), 60.8(f) (performance testing shall be conducted in a prescribed manner, unless otherwise specified in the applicable subpart), and 60.11 (compliance shall be determined in accordance with 40 CFR 60.8, unless otherwise specified in the applicable standard). Moreover, the EPA retains the authority to limit or modify the application of subpart A in subsequent rulemaking, including rulemaking relating to other part 60 subparts, such as the OSWI standards. In the event of a conflict between the performance testing provision of subpart A and the provisions of subparts EEEE and FFFF, the provisions of the source specific subparts (here, EEEE and FFFF) control.

monitoring, including installation and operation of CEMS. Although we recognize these challenges exist for certain sources, adequate demonstration of initial and on-going compliance is necessary.<sup>14</sup> Therefore, we are proposing alternatives to the testing and monitoring requirements to provide regulatory flexibilities for small OSWI units.

At present, the OSWI standards require new sources to conduct initial performance testing within 60 days after the OSWI unit reaches the charge rate by which it will operate, but not later than 180 days after initial startup (40 CFR 60.2928); existing sources must conduct initial performance testing no later than 180 days after the final compliance date. We are proposing to retain this requirement, but we are also proposing—for small OSWI units—to add a substitute means of compliance demonstration, under which such initial performance testing would not be required. In lieu of that initial performance testing, owners and operators of small OSWI units would have the option to submit detailed information concerning the unit—including the make, model and manufacturer of the unit, and the type and capacity of the unit, information on the unit’s air pollution control devices (if any), waste type and quantity information, and the charge rate—and to identify in the EPA’s WebFIRE database a representative performance test.<sup>15</sup> The test must be representative for the small OSWI unit in terms of similar throughput, method of processing and burning waste, operating temperatures,

---

<sup>14</sup> CAA 129(c) requires, in part, the EPA to include emissions monitoring as part of solid waste incinerator standards. This requirement has been construed as requiring assurance of compliance with emission standards. *Nat’l Ass’n of Clean Water Agencies v. EPA*, 734 F.3d 1115, 1160 (D.C. Cir. 2013). The EPA believes that, for the other solid waste incineration source category, the package of testing, monitoring, reporting, and recordkeeping requirements associated with the proposed substitute means of compliance testing for small OSWI units will adequately assure compliance with the standards.

<sup>15</sup> Some tests in the WebFIRE database may not qualify for use as a representative performance test. Representative performance tests must be conducted according to the requirements in the OSWI rule, demonstrate compliance with the OSWI standards, and include the following information in the report: unit design (including air pollution control devices), charge rate during the test, type of operation, combustion temperature during the test, types of waste burned during the test and the relative amount of each waste to the total waste burned, type and amount of supplemental fuels used during the test, and, if the tested unit has an air pollution control device, the operating parameter data for the control device during the test.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

types of wastes or supplemental fuels burned, and waste profiles. If there is no representative performance test available in the WebFIRE database, the small OSWI unit cannot use the substitute means of compliance demonstration and must comply with the initial performance testing requirements.

To use this alternative option, the owner/operator must submit a notification including the manufacturer, make, model, and type of unit, and documentation that the capacity of the unit is less than or equal to 10 TPD. We are proposing that owners and operators of new small OSWI units (constructed after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**) and small OSWI units modified or reconstructed six months after the effective date of the final rule would be required to either complete their initial performance test within 60 days after the unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup,<sup>16</sup> or submit a notification of intention to use the substitute means of compliance demonstration to the Administrator within 6 months after the date of publication of the final rule (currently estimated by the EPA—depending on the actual date of publication of the final rule—to be on or about November 30, 2021), or within 60 days after initial startup, whichever of these dates is later. Owners and operators of existing small units (constructed on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**) would not be required to submit a notification of intention to the Administrator, but would be required to identify the results of an existing performance test in the EPA’s WebFIRE that is representative of their OSWI unit or conduct an initial performance test, no later than 3 years after a state plan is

---

<sup>16</sup> For units that start-up between **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and the date that is 6 months after publication of the final rule, the initial performance test must be conducted within 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, or by the date 240 days after publication of the final rule (currently estimated by the EPA to be on or about February 28, 2022), whichever date is later.

approved or no later than 5 years after the date of promulgation of the final rule, whichever of these dates is earlier.

The proposed substitute means of compliance demonstration relies on the availability of the results of performance tests conducted on potentially representative sources in the EPA's WebFIRE database. One way the EPA envisions this option could be implemented is through one or more testing coordinators that would develop a testing protocol and conduct performance tests for representative units from similar source groups.<sup>17,18</sup> For example, each owner/operator opting to use the substitute means of compliance demonstration would submit to a testing coordinator information on its small OSWI unit, including unit design, operations information and waste profiles. It is our expectation that the testing coordinator would review the data provided and identify a representative unit for each similar source group, establish the waste profile for the similar source group, and coordinate and/or conduct the performance test on the representative unit from the similar source group. The results of the test could then be used to demonstrate initial compliance by owners and operators of any small OSWI unit for which the test is representative. To aid implementation of this option, the EPA intends to provide a grant or

---

<sup>17</sup> A "testing coordinator" may be, for example, a state or university that would collect waste data from a group of sources, form similar groups of facilities based on the information provided, develop a testing protocol, and conduct performance tests for representative units from similar source groups.

<sup>18</sup> "Similar source groups" may include units of similar throughput, method of processing and burning waste, operating temperatures, waste variability, and estimated waste profiles. It is expected that a performance test conducted on one unit in a similar source group would likely be representative for all of the units in the similar source group. The proposed option would allow for a testing coordinator to have some latitude to determine what constitutes a similar source group. For example, the testing coordinator would have the discretion to test representative units for existing sources (constructed on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**), and new sources (constructed after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**), from similar source groups separately. Alternatively, the testing coordinator might be able to select a new source (e.g., a model unit constructed after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, that has a similar design that would be carried forward into future years) from a similar source group that is also similar to existing sources. In this latter case, if the new unit tested is able to demonstrate initial compliance with the emissions limits for VSMWC and IWI units under the NSPS and EG, then both the existing and new units described by the similar source group may be able to use the test data to demonstrate initial compliance.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

contract to testing coordinators. To conserve resources, if there are multiple testing coordinators, the testing coordinators should work together in conducting performance tests in order to provide performance test results that will be representative for the largest number of small OSWI units.

Another way that the EPA envisions this representative testing alternative might be implemented is if owners and operators of small OSWI units that are similar in design and operation and burn the same waste types combine resources. One small OSWI unit in the group would be tested, and once the results are available in WebFIRE, that performance test would be used to demonstrate initial compliance for any small OSWI unit for which the test is representative.

Beginning on the effective date for new sources (6 months after publication of the final rule in the **Federal Register**), and until the owner/operator identifies a representative performance test, each owner/operator of a small OSWI unit would be required to collect data on a weekly basis to characterize the unit operations and the waste profiles for the OSWI unit. The waste profile information would be used to capture the differing waste streams and waste variability for the unit in order to develop a representative waste profile. The owner/operator would use these data to locate the results of a representative performance test in the EPA's WebFIRE database. The owner/operator would submit information on the representative performance test and documentation of how the performance test is representative for their small OSWI unit (*e.g.*, based on the unit type and design, charge rate, operating temperatures, types of waste burned, and any air pollution control devices) to the Administrator through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). Owners and operators would maintain a record (*i.e.*, copy) of the representative

performance test report (acquired from the EPA's WebFIRE database) and the submitted documentation of how the test is representative.

Because we anticipate this approach would need to afford time for testing coordinators to determine similar source groups, develop testing protocols, and coordinate with each other, owners and operators of existing and new small units who wish to use the substitute means of compliance demonstration are encouraged to submit their notification of intent to use the substitute means of compliance demonstration and identify their waste variability and waste characterization and profile data as soon as possible following the promulgation of the final rule. We note that, if this alternative initial compliance option is finalized, owners and operators who do not provide their initial waste characterization data to a testing coordinator in a timely manner could miss the opportunity to avail themselves of this option due to the amount of planning, time, and resources required for coordinators to perform these tests as well as the fact that their unit may not be of the similar source group tested. Owners and operators who cannot find a representative test conducted for a unit that is similar to their units would be required to conduct their own initial performance tests. Because the compliance date for new sources is earlier than the compliance date for existing sources, and it is uncertain how many tests could be conducted with the EPA-supplied grant or contract money, owners and operators of existing sources are encouraged to start collecting information that would be useful in conducting similar sources tests and submit this information to the testing coordinators as soon as possible. This will greatly increase the likelihood that a representative test is available in the WebFIRE database prior the compliance deadline.<sup>19</sup>

---

<sup>19</sup> When deciding the sources to test, a testing coordinator has multiple options: (1) select an existing source similar to other existing sources; (2) select a unit that is representative of both new and existing sources; (3) select a new source that is similar to other new sources; and (4) select a unit with a design that would be carried forward into

We anticipate that the testing coordinators would be able to complete testing on OSWI units that are representative of most existing and new small units and submit the results of the testing within 18 months of the date of publication of the final rule. The testing results for these potentially representative units will be submitted to the EPA's CEDRI, and would then be available to owners and operators in the EPA's WebFIRE database. (See section II.B.6 of this preamble for a discussion of electronic reporting.) We are proposing a time period of 21 months following the date of publication of the final rule in the **Federal Register** or 60 days after the OSWI unit reaches the maximum charge rate at which it will operate, but no later than 180 days after initial startup, whichever date is later, for owners and operators of small OSWI units to identify a representative performance test in WebFIRE and submit information to the Administrator identifying the representative performance test. This period allows time for a testing coordinator conducting the test to develop the testing protocol, conduct performance tests, and electronically submit the results of the test through CEDRI; for the EPA to transfer these results to the EPA's WebFIRE database; and for owners and operators to find a representative performance test and submit information on how it is representative to the Administrator.

For demonstrating continuous compliance, we are also proposing, for small OSWI units, an alternative waste characterization option in lieu of the current annual performance testing requirements, as many of the concerns about the availability or feasibility of initial testing for small OSWI units also apply to annual testing. We are proposing the alternative continuous compliance option for small OSWI units in lieu of annual testing (or the requirements to conduct

---

future years. The decision on which sources will be tested will be based in part on the pool of data that is available to the testing coordinator at the time that the testing protocols are developed. If the testing coordinator does not have data on existing sources, it may not be feasible to conduct performance tests that are representative for any existing units. If a performance test is conducted on an existing unit, it must, among other things, demonstrate initial compliance with the emissions limits for new units in order for a new unit to use it as a representative performance test.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

testing less often than annual for specific pollutants) because the option is a more readily available compliance option for units with rudimentary designs or units without a stack and the costs associated with waste stream characterization are less prohibitive than those for an annual stack test. This alternative continuous compliance demonstration option includes periodic, robust operational recordkeeping in lieu of conducting an annual performance test. Following the facility's initial performance test or representative performance test (if using the substitute means of compliance demonstration), an owner/operator would demonstrate continuous compliance through recordkeeping. The recordkeeping requirements would include recording the source-specific waste profiles and incinerator unit operating parameters, including the daily average charge rate and the 3-hour average combustion chamber temperature of the unit. To demonstrate compliance, the weekly records of the source-specific waste profile would need to indicate that the waste combusted is consistent, within +/- 15 percent by weight, of the percentage established for that waste category according to the waste profiles established during the representative performance test (if using the substitute means of compliance demonstration) or the facility's initial performance test.<sup>20</sup> Additionally, the records would need to demonstrate that the unit is operated within the charge rate and temperature ranges established during the initial performance test or the representative performance test.

If the facility anticipates combusting a waste stream with a different profile, the owner/operator would be required to conduct a performance test of the unit with a waste stream representative of the new waste profile, or, alternatively, identify a representative performance test report in the WebFIRE database, before combusting the modified waste stream (*i.e.*, the

---

<sup>20</sup> If, for example, the paper component of the waste stream during initial testing was 20 percent then burning waste streams with a paper component between 5 and 35 percent of the total waste stream would be acceptable weekly operation and, assuming all other requirements are met, additional testing would not be required for the source. This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.



owner or operator must identify that the unit is of similar throughput, method of processing and burning waste, charge rate, operating temperatures, waste management plan, estimated waste variability and waste profiles to the representative unit). Similarly, if the facility anticipates exceeding or operating outside of the established operating parameter ranges, the owner/operator would be required to conduct a performance test of the unit while operating at the new parameter limits (or find a representative performance test with those operating parameter limits in the WebFIRE database) to confirm that the unit continues to meet the OSWI emission standards under the new operating parameter limits. Failure to comply with the retesting requirement would constitute a deviation from the OSWI standards.

Finally, we are proposing to modify the monitoring requirements for small OSWI units that use the alternative continuous compliance option in lieu of complying with the annual performance testing requirements by removing the requirement for CO and oxygen CEMS. We are proposing this change for the same reasons that we are proposing an alternative to the annual performance test. In addition to the cost of maintaining CEMS, part of calibrating a CEMS generally requires an annual stack test to verify the operation of the CEMS. Relieving owners and operators of small OSWI units of the obligation to conduct an annual performance test without likewise removing the requirement for CEMS, which includes performing an annual stack test, would not achieve the stated goals and benefits of removing the annual performance test.

For OSWI units other than small OSWI units, we are also proposing that such units may use CO CEMS data in lieu of initial and annual testing for CO, provided the CEMS has been previously certified and is meeting the ongoing quality assurance/quality control requirements. Facilities that use this option would be allowed to use a 12-hour rolling average of the 1-hour

arithmetic average CEMS data to determine compliance with the CO emission limitations.

However, the initial performance evaluation (certification) must be conducted prior to collecting CEMS data for the initial compliance demonstration. Under the proposed rules, such units could also use CO CEMS data in lieu of conducting an annual performance test for CO. This proposed change would provide flexibility for sources and reduce the burden associated with testing, while assuring compliance based on continuously measured emissions data.

## 5. Proposed Recordkeeping and Reporting Revisions

We are proposing several revisions to the recordkeeping and reporting requirements. A number of proposed recordkeeping changes are associated with the proposal to establish—for small OSWI units—a substitute compliance demonstration option (for initial performance testing, as well as continuous compliance testing). For small OSWI units using the substitute compliance demonstration process, we propose (in connection with the initial compliance test requirement) owners and operators will be required to maintain records of the notification of intent to use the substitute means of compliance demonstration and the documentation demonstrating the design, operation, and unit capacity, copies of the initial waste characterization and operating data, and documentation related to the representative (substitute) performance test and how the test is representative of the unit. The new proposed recordkeeping requirements for owners and operators of small OSWI units—and associated with the proposed substitute continuous compliance requirements—include records on such particulars as unit start and end times of operation, the quantity or weight of each waste type (*e.g.*, pounds of solid waste, food waste, wood or yard waste), the quantities of supplemental fuels burned (flow rate or percentage of operating time), percentage of each waste type of total waste burned, and the temperature (three-hour average) and charge rate (TPD), and records for units using air pollution

controls such as a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filters. The proposed recordkeeping is intended to help ensure that small OSWI units that choose the proposed substitute continuous compliance option are able to demonstrate compliance with the emission and operating limits of the OSWI standards. Among other things, the recordkeeping requirements help to demonstrate that the waste types burned by small OSWI units are within +/- 15 percent of the percentages established for each waste category according to the profiles established during the initial performance test or representative performance test.

We are also proposing reporting-related changes, especially changes associated with the substitute compliance testing program for small OSWI units. For example, we are proposing—for small OSWI units using the substitute continuous compliance option—that owners and operators would be required to include in annual reports a statement that there were no deviations from the weekly waste characterization requirements and the unit has been operated within the operating parameter limits. The proposed recordkeeping and reporting is intended to help ensure that there is adequate information available to determine compliance with the standards and the severity of any failure to meet a standard, and to further assure compliance with the standards at all times. We are also proposing to clarify the timeline for submittal of an annual report for owners and operators that choose to comply with the substitute means of compliance in lieu of an initial performance test; for these units, an annual report must be submitted no later than 12 months following the submission of the representative performance test and the description of the how the test is representative for the OSWI unit.

We are also proposing to revise the recordkeeping and reporting requirements for deviations, which apply to both large and small OSWI units. Currently, these requirements focus on identifying malfunctions and deviations from the emission limitations or operating limits that

apply, including whether any monitoring system used to determine compliance with the emission limitations or operating limits was inoperative, inactive, malfunctioning or out of control. We are proposing several additional requirements to clarify that a deviation includes any “failure to meet an applicable standard” and what must be recorded and reported. The proposed changes include the following:

- Revising the definition of “deviation” to remove language for periods of SSM, as discussed in section II.B.3 of this preamble.
- Revising 40 CFR 60.2932(c) and 40 CFR 60.3033(c) to clarify the alarm time that constitutes a deviation from the operating limit for OSWI units with fabric filters and bag leak detection systems.
- Revising 40 CFR 60.2932(d) and 40 CFR 60.3033(d) to include deviations from the weekly waste characterization requirements, provide for performance testing when the waste profile of the OSWI unit is modified, and clarify that failure to conduct a performance test or identify a representative test when the waste profile has changed constitutes a deviation.
- Revising 40 CFR 60.2942(f) and 40 CFR 60.3033(f) to clarify that, for OSWI units using CEMS, failure to collect required data is a deviation of the monitoring requirements.
- Revising 40 CFR 60.2949 and 40 CFR 60.3046 to specify that facilities must retain a record identifying the calendar dates, times, and durations of malfunctions and a description of the failure and the corrective action taken.
- Revising 40 CFR 60.2956(e) and 40 CFR 60.3051(e) to clarify that for OSWI units with CMS, the annual report must include a statement that there were no periods during which the CMS were inoperative, inactive, malfunctioning or out of control.
- Removing deviation reporting requirements (40 CR 60.2956(g); 40 CFR 60.3051(g)) previously included as part of the annual report to remove redundant reporting; these requirements are included in the deviation report submitted on a semiannual basis (40 CFR 60.2958; 40 CFR 60.3053).
- Modifying the annual reporting requirements in 40 CFR 60.2956 and 40 CFR 60.3051 to require facilities to provide a statement that there was no deviation identified from the weekly waste characterization (i.e., the waste types burned are within 15-percent variation of the profiles established during the initial performance test) and the unit has been operated within the charge rate and temperature ranges established when no deviations have occurred during the reporting period.
- For deviation reporting, revising the title of 40 CFR 60.2957 and 60.3052 to “What other reports must I submit if I have a deviation?”, and reorganizing these sections to be consistent with the definition of “deviation” and in order to better reflect the types of deviations which must be reported.
- Clarifying the requirements of 40 CFR 60.2958 and 40 CFR 60.3053 to clarify the contents of the deviation report, including identifying the calendar dates, times, and durations of any deviations and a description of any corrective actions taken, and adding

new requirements to report deviations from the weekly waste characterization and operating parameter limits established for small OSWI units.

We are proposing additional changes to the recordkeeping and reporting requirements that include consistency edits based on the proposed revisions to allow for use of CO CEMS data in lieu of annual testing for CO (for OSWI units that have capacities greater than 10 TPD), and proposed revisions to the monitoring requirements that ensure consistency with other CAA section 129 rules (e.g., adding operating parameters for controls other than a wet scrubber that may be employed for OSWI units and clarifying the frequency of the data recording or averaging for each required operating parameter). These proposed changes to the monitoring requirements are described further in sections II.B.4 and II.B.8 of this preamble.

#### 6. Proposed Requirements for Electronic Reporting

The EPA is proposing that owners and operators of OSWI units submit electronic copies of required performance test reports, performance evaluation reports, deviation reports, and annual compliance reports through the EPA's CDX using CEDRI. A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, which is available in the docket for this action. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website<sup>21</sup> at the time of the test be submitted in the format generated through the use of the ERT, or an electronic file consistent with the extensible markup language (XML) schema on the ERT website, and that other performance test results be submitted in portable document format (PDF) using the attachment

---

<sup>21</sup> <https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>.

module of the ERT. Similarly, performance evaluation results of CEMS measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT, or alternatively, an electronic file consistent with the XML schema on the ERT website, and other performance evaluation results, be submitted in PDF using the attachment module of the ERT.

For deviation reports and annual compliance reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed templates for these reports is included in the docket for this action.<sup>22</sup> The EPA specifically requests comment on the content, layout, and overall design of the templates. Facilities would have 1 year from the date of publication of the final rule, or once the reporting forms have been made available in CEDRI for at least 1 year, whichever date is later, to submit these reports.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI that preclude an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.2961(d) and 40 CFR 63.3056(d). The situation where an extension may be warranted due to a

---

<sup>22</sup> See OSWI\_Annual\_Report\_Template.xlsx and OSWI\_Deviation\_Report\_Template.xlsx, available at Docket ID. No. EPA-HQ-OAR-2003-015.

*force majeure* event, which is defined as 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 an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.2961(e) and 40 CFR 63.3056(e). Examples of *force majeure* events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. See proposed requirements at 40 CFR 60.2961 and 40 CFR 60.3056.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan<sup>23</sup> to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy<sup>24</sup> developed in

---

<sup>23</sup> The EPA's *Final Plan for Periodic Retrospective Reviews of Existing Regulations*, August 2011. Available at: <https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154>.

<sup>24</sup> E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf>. This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

response to the White House's Digital Government Strategy.<sup>25</sup> For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, referenced earlier in this section.

#### 7. Proposed Revisions to Title V Permitting Requirements for ACIs Burning Only Wood Waste, Clean Lumber, and Yard Waste

The 2005 OSWI rule contains a regulatory requirement that ACIs that burn only wood waste, clean lumber, and yard waste must apply for an obtain a title V operating permit. The EPA is proposing to eliminate this regulatory title V permitting requirement for such ACIs that are not located at a major source or subject to title V for other reasons. The EPA has received feedback from several states indicating that the title V requirements are unnecessarily burdensome and expensive for states to maintain for these ACIs. Based on available data, ACI that burn exclusively wood waste, clean lumber, and yard waste are commonly located at facilities that would not otherwise require a title V operating permit.<sup>26</sup>

In previous rulemaking, we provided for title V permitting for these ACIs for various reasons, as explained in the final OSWI rule (70 FR 74884-74885, December 4, 2005). In particular, we believed initially that compliance with a title V permit was necessary to assure compliance with the opacity requirements established for such incinerators. In this rulemaking we are reconsidering the need for a regulatory requirement for title V permitting for these air

---

<sup>25</sup> *Digital Government: Building a 21<sup>st</sup> Century Platform to Better Serve the American People*, May 2012. Available at: <https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html>.

<sup>26</sup> CAA section 129(e) generally requires title V permits for "solid waste incineration units." Under CAA section 129(g)(1), however, the term "solid waste incineration unit" does not include air curtain incinerators that only burn wood wastes, yard wastes, and clean lumber (and that comply with opacity limitations). In addition, in our view, the opacity limitations applicable, under CAA 129, to such ACIs are not standards or regulations "under section 7411," such that the ACIs would be subject to a title V permitting requirement under CAA section 502(a). This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.



curtain incineration units that are only subject to an opacity limitation and related requirements to assure compliance, because such units are not considered solid waste incineration units under section 129. Also, based on input from various states on the burdens and costs of title V permitting for such incinerators, we no longer believe it is appropriate or necessary to require title V permitting.

#### 8. Proposed Technical Edits, Clarifications, and Additional Revisions to Improve the OSWI Standards

We are proposing several additional technical corrections, harmonizing changes, clarifications, and improvements to the OSWI standards that are intended to improve the understanding of the rule and to improve consistency with other CAA section 129 rules.

We are proposing several harmonizing changes throughout the OSWI standards, in keeping with the proposed revisions discussed in sections II.B.1 through 7 of this preamble, to incorporate the revised emission limits, operating limits, alternatives to testing and monitoring, and recordkeeping and reporting. These harmonizing changes include incorporation of compliance dates and other revisions to clarify applicability of existing requirements to small OSWI units, such as revisions to the title of the standards to remove old compliance dates; redefining when a small OSWI unit is considered a new or existing incineration unit based on date of construction, reconstruction, or modification; clarifying the timeline for when the changes for small OSWI units become effective; and updating the timeline for the submittal of an operator training course, site-specific documentation, conduct of the initial performance test or substitute means of compliance demonstration, and submittal of title V reports for small OSWI units. For the emission guidelines, the proposed changes also include specifying the timeline of submittal and approval for revisions to state plans to include the requirements for

small OSWI units, the compliance schedule that must be included in state plans, and the EPA's authority to implement and enforce a federal plan if a state plan is not approved. We are also proposing changes that would clarify and improve the organization of the rule, enhance readability, and improve compliance.

In some cases, we are proposing to remove redundant language, for example, 40 CFR 60.2970(b) and 40 CFR 60.3062(b). These paragraphs repeat the requirements for ACIs burning only 100-percent wood waste, clean lumber, yard waste, or a mixture of these wastes, which are already provided in 40 CFR 60.2888(b) and 40 CFR 60.2994(b). We are also proposing revisions to add or correct cross-references to add clarity to existing requirements; for example, we are proposing to clarify the implementation and enforcement authorities in 40 CFR 60.2889 and 40 CFR 60.2990 that are not transferred to state, local, or tribal authorities by adding cross-references to specific rule provisions. Similarly, we are proposing to clarify 40 CFR 60.2966 and 40 CFR 60.3059 to specify that units must obtain a title V operating permit based on when they meet the applicability criteria for OSWI units.

We are proposing additional clarifications that would improve compliance with the existing requirements; for example, we are adding a requirement that the incinerator operator training course under 40 CFR 60.2905(c) and 40 CFR 60.3014(c) must include coverage of good combustion practices as well as waste characterization procedures, and related actions for prevention and correction of malfunctions, which must be included to maintain operator qualifications and kept in required site-specific documentation. These clarifications ensure that owners and operators will be aware of good combustion practices that reduce the products of incomplete combustion and prevent conditions that lead to malfunctions. Similarly, we are adding a provision to 40 CFR 60.2911 and 40 CFR 60.3020 to clarify the qualified operator

requirements for batch units. Because batch units are designed to provide for flexibility in operation and allows for owner or operator discretion for the timing of individual batches, we have added a requirement that batch units must have a qualified operator accessible at times during the operation of the unit.

In several cases, we are proposing revisions such that the OSWI standards are more consistent with the monitoring requirements in other CAA section 129 rules. For example, the 2005 final OSWI standards only provide operating requirements for wet scrubbers as an air pollution control device. We are proposing to include operating limits and operating parameter monitoring requirements for additional controls that may be employed for OSWI units, including dry scrubbers, electrostatic precipitators, and fabric filters (see proposed 40 CFR 60.2916 and Table 2 to subpart EEEE; 40 CFR 60.3023 and Table 3 to subpart FFFF). Additionally, we are proposing to clarify that OSWI units that use an alternate method for air pollution control beyond a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filter, including other methods such as material balance, may petition the EPA for specific operating parameter limits in these cases. The proposed requirements would add flexibility for facilities by expanding the control options available. In addition, we are proposing to revise the requirements for owners and operators of OSWI units using control options to require that the minimum operating parameters (*e.g.*, combustion operating chamber temperature, pressure drop, liquid flow rate, etc.) established for initial compliance are calculated based on the lowest 1-hr average as measured during the most recent performance test (or representative performance test) demonstrating compliance. The current OSWI standards require that these parameters are calculated using the average as measured during the most recent performance test. Similarly, we are proposing to revise the continuous compliance requirements to specify the averaging times for continuous

compliances for operating parameters for the extended control options (which is generally based on three-hour rolling averages). The proposed revisions include harmonizing edits to the recordkeeping and reporting requirements. The proposed revisions would provide additional flexibility for owners and operators and are consistent with other CAA section 129 rules.

We are also proposing, for consistency with other CAA section 129 rules and so that the standards apply at all times, to revise the compliance requirements for OSWI units that require continuous monitoring to clarify that the 12-hour rolling average values must include CEMS data during startup and shutdown. We are adding a definition of “CEMS data during startup and shutdown” and specifying that such data are not corrected for O<sub>2</sub> content when estimating averages. The proposed changes also include revisions to the equations used to calculate the 12-hour rolling average for CO and the associated recordkeeping and reporting requirements.

Other proposed minor corrections, clarifications, and edits for consistency with the proposed revisions in sections II.B.1 through II.B.7 of this preamble include:

- Updating 40 CFR 60.2890 and 40 CFR 60.2998 to clarify the principal components of the subparts include definitions and table.
- For existing units, adding new section 40 CFR 60.3003 to clarify that certain substitute means of compliance demonstration requirements must be completed prior to the compliance date.
- Modifying 40 CFR 60.2910 to 40 CFR 60.3019 to clarify that site-specific documentation must include procedures for establishing initial and continuous compliance, such as procedures to determine waste characterization.
- Updating requirements for initial and annual performance tests such that they must be conducted according to the methods and meet the revised emissions limitations specified in Tables 1 through 1b to subpart EEEE and Tables 2 and 2b to subpart FFFF, as applicable.
- Updating 40 CFR 60.2922(e), 40 CFR 60.2940(c), 40 CFR 60.3027(e), and 40 CFR 60.3039(c) to add references to ANSI/ASME PTC 19.10-198 Part 10 (2010), “Flue and Exhaust Gas Analyses” (previously approved as an alternative method to EPA Method 3B in the 2005 OSWI rule).
- Proposing to add an additional test method, ASTM D7520-16, “Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere,” as an acceptable alternative to EPA Method 9 for opacity. This test method was identified as an

acceptable alternative to EPA Method 9 when specific provisions are followed, as discussed in section V.J of this preamble.

- Revising 40 CFR 60.2932(d) and 40 CFR 60.3033(d) to specify that small OSWI units using control devices must continuously monitor operating parameters and specifying the averaging values to demonstrate continuous compliance.
- Revising 40 CFR 60.2939 and 40 CFR 60.3038 (requirements for installation and calibration of CEMS) such that they apply only to OSWI units with a capacity greater than 10 TPD.
- Clarifying the installation and calibration requirements for operating parameter equipment in 40 CFR 60.2944 and 40 CFR 60.3043, including adding new requirements for bag leak detection systems.
- Revising 40 CFR 60.2949(b) and 40 CFR 60.3046(b) to incorporate recordkeeping for data from OSWI units that use an alternate method for air pollution control beyond a wet scrubber, dry scrubber, electrostatic precipitator, fabric filter, or other method such as material balance.
- Clarifying that for CO CEMS, records of annual performance evaluations must be maintained (40 CFR 60.2949(g) and 40 CFR 60.3046(g)).
- Adding a recordkeeping requirement for notifications submitted for excluded units, such as temporary-use incinerators.
- Revising 40 CFR 60.2954 to clarify that a copy of the waste management plan must be submitted following the initial performance test, for consistency with 40 CFR 60.3049(c).
- Clarifying that for facilities with a title V permit, the permit may address the submittal timeline of the annual report (40 CFR 60.2955, 40 CFR 60.3050).
- Minor clarifications to the content of the annual reports and deviation reports, including what information must be submitted if a performance test is conducted during the annual period and what information may be excluded if the reports are submitted via CEDRI (40 CFR 60.2956, 40 CFR 60.3051).
- Removing outdated requirements for timelines for submittal of title V permits for OSWI units constructed prior to promulgation of the final rule.
- Other minor grammatical or technical edits (e.g., corrections to typographical errors or cross-references within existing provisions, or to clarify existing provisions).

### *C. What compliance dates are we proposing?*

We are proposing compliance dates for the amended rule in accordance with CAA section 129(f). The compliance date depends on whether the OSWI unit is small and whether the OSWI unit is a new or existing unit.

Under the proposed rule, OSWI units with a capacity greater than 10 TPD—continue, with limited changes, to be subject to the requirements of the current OSWI standards—either

the NSPS or to a plan promulgated pursuant to the EG, respectively.<sup>27</sup> With certain exceptions (discussed below), these sources will continue to follow the emission and operating limits, including compliance, monitoring, and testing provisions, associated with the current OSWI standards; therefore, the compliance dates are unchanged from the current OSWI standards. For new large OSWI units, some limited requirements apply before construction is initiated and, otherwise, the limits apply when the unit begins operation (see 40 CFR 60.2881). For existing large OSWI units (that is, units constructed on or before December 9, 2004), CAA section 129(f)(2) provides that performance standards and other requirements shall be effective as expeditiously as practicable after approval of a state plan or promulgation of a federal plan, but in no event later than 5 years after such standards or requirements are promulgated. Therefore, consistent with the current OSWI standards, compliance for existing sources must be demonstrated no later than three years after the effective date of a state plan approval or December 16, 2010, whichever is earlier.

We recognize that our action proposes to make some changes to the OSWI standards, as applicable to existing large OSWI units, including eliminating the SSM provisions at 40 CFR 60.3025 and adding electronic reporting. The elimination of the SSM provisions does not necessitate the installation of additional technological controls, but rather ensures more continuous application of the emission limitations and operating limits. And, as previously noted, the proposed electronic reporting provisions ultimately will reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual

---

<sup>27</sup> Consistent with the OSWI standards, if you commenced construction of an OSWI unit with a capacity greater than 10 TPD on or before December 9, 2004, you were considered an existing unit, subject to a plan promulgated pursuant to the EG (see 40 CFR 60.2981). Otherwise, if you commenced construction after December 9, 2004, or if you commenced reconstruction or modification on or after June 16, 2006, you were considered a new OSWI unit, subject to the NSPS (40 CFR part 60, subpart EEEE).

processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, and minimizing data reporting errors. Accordingly, for existing large OSWI units, we propose that these changes to the current OSWI EG—the elimination of the SSM provision and the addition of electronic reporting—will be effective the date the state plan is approved (or after a federal plan is promulgated), but not later than 5 years after the date of publication of the final rule (here, not later than on or about May 31, 2026, assuming a final rule reflecting this proposed action is promulgated on or about May 31, 2021).

As for small OSWI units, we are proposing revised MACT standards and revised compliance, monitoring, and testing requirements. For new sources, CAA section 129(f)(1) requires that performance standards and other requirements shall be effective 6 months after the promulgation of the final rule (here, on or about November 30, 2021, assuming a final rule reflecting this proposed action is promulgated on or about May 31, 2021). For these purposes, a new small OSWI unit is a unit that commenced construction after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, or commenced modification or reconstruction on or after the effective date of the final rule (on or about November 30, 2021). We are proposing that these new units must demonstrate compliance no later than 6 months after promulgation of the final rule (on or about November 30, 2021), or the date the unit first begins operation, whichever is later.

For existing sources, CAA section 129(f)(2) requires that the performance standards and other requirements shall be effective not later than 3 years after the state plan is approved or 5 years after the date such standards or requirements are promulgated (here, on or about May 31, 2026), whichever is earlier. For these purposes, an existing small OSWI unit is one for which construction commenced on or before **[INSERT DATE OF PUBLICATION IN THE**

**FEDERAL REGISTER**]. So, for such small OSWI units, we are proposing a compliance date of 5 years after the date the emission standards or requirements are promulgated (here, on or about May 31, 2021)—or May 31, 2026—or 3 years after the effective date of a state plan approval, whichever is earlier. Incineration units with a capacity less than 10 TPD that were constructed prior to **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and that are subject to a current OSWI standard must continue to comply with the current standard until the compliance date of the OSWI standards for these sources is revised in accordance with this proposal. Existing solid waste incinerators that were constructed prior to **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and are subject to other incinerator standards or requirements (such as the CISWI rule) that would be subject to the OSWI standards as revised in accordance with this proposal, must continue to comply with such other applicable incinerator standards or requirements until the effective date (or final compliance date) of these revised OSWI standards (not later than 5 years after the date of publication of the final rule, or on or about May 31, 2026).

### **III. Summary of Cost, Environmental, and Economic Impacts**

#### *A. What are the affected sources?*

The EPA estimates that there are approximately 174 OSWI units at 157 facilities that would be affected by the proposed amendments. The basis of our estimate of affected facilities is provided in the memorandum, *Documentation of Data Gathering Efforts for Other Solid Waste Incineration (OSWI) Units*, which is available in the docket for this action. We have not received any input on, and do not anticipate, any new sources over the next 3 years.



*B. What are the air quality impacts?*

We anticipate a reduction of 31.3 tons per year of total CAA section 129 pollutants due to the proposed rule. We assumed no additional add-on controls would be needed to meet the proposed rule. Emission reductions would result from facilities reducing the quantities or pollutant-emission causing waste being burned to meet the emission limits. The proposed amendments would also eliminate the SSM exemptions and require that the OSWI standards be met at all times. As such, we expect that emissions during these periods would be minimized, which will protect public health and the environment. Additionally, the proposed amendments requiring electronic submittal of performance tests, deviation reports, and annual compliance reports will streamline reporting for affected sources, increase the usefulness of the data and improve data accessibility for the public, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.*, increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment that would be required under this rule. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

*C. What are the cost impacts?*

We anticipate that the proposed rule would ultimately result in a burden reduction for affected sources. To determine whether the proposed requirements would add to, or reduce, costs from what OSWI facilities are already incurring by complying with the current rule, we

compared the costs for the new requirements with the costs incurred by meeting the current OSWI standards.

We do not have sufficient information on the number of OSWI units that are in compliance with the current OSWI standards because the OSWI federal plan was not finalized, resulting in states not developing or incorporating the federal plan requirements into state rules. Additionally, the 2005 final OSWI rule did not require electronic reporting, and as such, we do not have internal compliance reports from existing facilities that would definitively demonstrate their compliance. Therefore, the number of units in compliance could conceivably have been zero. However, from our data gathering efforts, we are aware of several units that are complying with the OSWI standards. Therefore, the actual number is not zero, but is still unknown and likely low. In absence of a final federal plan and EPA-approved state plans in most states, we have assumed 10 percent of the population of facilities operating OSWI units are in compliance with the current rule. To develop baseline costs, we assumed no additional add-on control would be necessary for the 10 percent of facilities to meet the current limit. However, we included the initial cost of testing, parametric monitoring systems, CO and oxygen CEMS because the current OSWI rule requires these systems. Annual compliance costs are comprised of annual testing of all OSWI units, parametric monitoring costs, CO and oxygen CEMS monitoring costs, and associated recordkeeping and reporting. We estimated the total capital investment for the 10 percent of facilities assumed to be in compliance with the current OSWI rule to be \$5.65 million. We estimated the annual costs for the 10 percent of facilities assumed to be in compliance with the current OSWI rules to be \$1.91 million.

Based on available information, we believe that all facilities will likely be in compliance with the proposed emission limits in this action and no additional control will be required to meet

the OSWI standards. The costs that would be incurred, if the proposal is finalized, are for initial compliance, continuous compliance, and recordkeeping and reporting. The proposal would require facilities to conduct an initial stack test, unless they demonstrate initial compliance following a substitute means of compliance demonstration. For these sources, the costs of initial compliance would be offset to testing coordinators (for which the EPA will provide grants or contracts). All facilities would be required to demonstrate continuous compliance based on their waste characterization and to keep records of waste profiles, charge rates, and operating parameters such as temperature. For this analysis, it was assumed that larger facilities, facilities owned by corporations, and facilities operated by the federal government would incur the expense of initial testing without federal grants. These units comprise 37 percent of the known OSWI sources, or 60 units. The total initial cost of compliance (for testing and recordkeeping) for the proposed OSWI standards is estimated to be \$5.85 million and the annual compliance costs (for recordkeeping) are estimated to be \$1.85 million.

The resulting cost impacts of the proposed rule in comparison to the current rule is an additional \$200,000 in capital investment, and a net burden reduction of \$57,000 annually. The cost calculations are detailed in the memorandum, *Costs and Impacts for Other Solid Waste Incinerators*, which is available in the docket for this action.

The EPA also provides an analysis of the compliance cost in present value and equivalent annual value form in the memorandum, *Economic Impact Analysis for the Proposed Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units*, which is available in the docket for this action. The economic impact analysis also presents a sensitivity analysis of the compliance costs impacts of

the proposed amendments as a function of participation in the substitute means of compliance demonstration program that is described in this proposal.

*D. What are the economic impacts?*

The proposed rule is burden reducing relative to the 2005 rule because it removes several requirements of the 2005 rule. Because the 2005 rule has yet to be fully implemented, many, if not most, affected OSWI owner/operators will need to perform initial compliance actions and incur compliance costs on an ongoing basis. Because of the relatively small number of affected existing units (less than 200) and because the EPA does not anticipate affected new sources in the next 3 years, the EPA expects minimal economic impacts under the proposal. As discussed in the economic impact analysis associated with the 2005 rule, OSWI owner/operators may substitute landfilling services for incineration rather than perform compliance actions associated with this rule (see Docket Item No. EPA-HQ-OAR-2003-0156-0101). However, the rate at which owner/operators of OSWI units substitute the use of landfilling services rather than incur the costs of OSWI compliance is highly uncertain. Additionally, in the substitute means of compliance demonstration program, the EPA is proposing a mechanism that would reduce compliance costs and associated economic impacts while maintaining environmental protections. More information and details of this analysis is provided in the memorandum, *Economic Impact Analysis for the Proposed Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units*, which is available in the docket for this action.

*E. What are the benefits?*

This action will likely lead to air quality improvements. The EPA estimates about 31 tons per year emission reductions in the CAA section 129 pollutants as a result of the proposed

amendments. The proposed amendments also revise the OSWI standards such that they apply at all times, which we expect will minimize emissions during these periods and protect public health and the environment. Additionally, the proposed amendments require electronic submittal of performance tests, deviation reports, and annual compliance reports, which will streamline reporting for affected sources and increase the usefulness of the data and improve data accessibility for the public. The electronic reporting requirements will, therefore, further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. See section II.B.6 of this preamble for more information.

#### **IV. Request for Comments**

We solicit comments on the proposed testing and compliance options, as discussed in section II.B.4 of this preamble. Specifically, we request that owners of affected or potentially affected units provide information on their unit or potential units, including waste characterization data, to characterize and categorize units for testing. The EPA is also interested in any additional information, including emissions data, that may be available, and whether facilities have completed testing. Additionally, we request comments on the proposed options for units combusting less than 10 TPD that would allow facilities to use a substitute means of compliance demonstration for initial compliance. We also request comment on the proposed annual compliance options that allow for recordkeeping of waste characterization and operating parameters in lieu of annual testing; specifically, we request any data or templates that may be used currently within industry to track the waste combusted and operations of OSWI units.

#### **V. Statutory and Executive Orders Reviews**

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the EPA's analysis of the potential costs and benefits associated with this action in section III of this preamble.

*C. Paperwork Reduction Act (PRA)*

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The ICR documents that the EPA prepared have been assigned EPA ICR number 2163.07 for 40 CFR part 60, subpart EEEE and EPA ICR number 2164.07 for 40 CFR part 60, subpart FFFF. You can find a copy of the ICRs in the docket for this rule, and they are briefly summarized here.

The EPA is proposing to revise 40 CFR part 60, subpart EEEE and subpart FFFF to include new requirements for subcategories of VSMWC or IWI units that have capacities equal to or less than 10 TPD. For units that have capacities equal to or less than 10 TPD, the EPA is proposing revised emission limits and a substitute means of compliance demonstration in lieu of initial and annual stack testing, add-on control devices, and CEMS. Units with a capacity to combust greater than or equal to 10 TPD would continue to meet the current testing, monitoring, and recordkeeping requirements of the NSPS or EG. Additionally, the EPA is proposing to remove the reporting requirements related to periods of SSM, because the emission limits will apply at all times. The EPA is also proposing electronic reporting requirements for submittal of

certain reports and performance test results. The ICRs reflect only the incremental burden associated with the requirements of the proposed rules.

*Respondents/affected entities:* Owners and operators of other solid waste incineration units.

*Respondent's obligation to respond:* Mandatory (40 CFR 60, subparts EEEE and FFFF).

*Estimated number of respondents:* 128.

*Frequency of response:* Initially and annually.

*Total estimated burden:* 5,817 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* \$2,150,000 (per year), includes \$1,490,000 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov), Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA will respond to any ICR-related comments in the final rule.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This notice of proposed rulemaking will reduce some regulatory requirements relative to those specified in the 2005 OSWI rule. The December 2005 final OSWI rule was certified as not having a significant economic impact on a substantial number of small entities. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed \$100 million or more.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.



*G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. We believe that certain small OSWI units may be owned or operated by tribal governments or communities.

However, consistent with the EPA Policy on Coordination and Consultation with Indian Tribes, the EPA will provide tribal officials the opportunity to provide meaningful and timely input early in the development of this action through multiple outreach activities such as tribal partnership calls, webinars, and offers for government-to-government consultation with potentially impacted tribes and other tribes as requested.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

This action involves technical standards. Two voluntary consensus standards (VCS) were identified as an acceptable alternative to the EPA test methods for the purposes of this rule.

The VCS, American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) PTC 19-10-1981 Part 10 (2010), “Flue and Exhaust Gas Analyses” was identified as an acceptable alternative to EPA Methods 3B, 6, and 7 (manual portion only, not the instrumental procedures). This standard was previously incorporated into the 2005 OSWI final rule. This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources. The gases covered in ANSI/ASME PTC 19.10–1981 are oxygen, carbon dioxide, CO, (N), SO<sub>2</sub>, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons, however the use in this rule is only applicable to oxygen, carbon dioxide, SO<sub>2</sub>, nitric oxide, and nitrogen dioxide. This standard may be obtained from <https://www.asme.org/> or from the American Society of Mechanical Engineers (ASME) at Three Park Avenue, New York, New York 10016-5990.

The VCS, ASTM D7520-16, “Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere” was identified as an acceptable alternative to EPA Method 9, but only if these conditions are followed: (1) during the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand); (2) you must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16; (3) you must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination; and (4) you or the DCOT vendor must have a minimum of four independent

technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5-percent opacity.

The EPA proposes to use ASTM D7520-16, “Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere” as an acceptable alternative to EPA Method 9. This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. With the conditions identified above, we found that the technical sampling and analytical procedures are an equivalent method to EPA Method 9. This method is available for purchase from ASTM International, 100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428-2959, (800) 262-1373, <http://www.astm.org/>. The EPA’s approval of this method as an alternative method does not provide or imply a certification or validation of any vendor’s hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520-16 is on the facility, DCOT operator, and DCOT vendor.

While the EPA also identified 26 VCS that were potentially applicable for this rule in lieu of the EPA reference methods, the Agency is not proposing to use these standards. After reviewing the available standards, the EPA determined that the 26 candidate methods would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. For additional information, see the memorandum, *Voluntary*

*Consensus Standard Results for Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units; Proposed Rule,* which is available in the docket for this action.

*K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (58 FR 7629, February 16, 1994).

It does not affect the level of protection provided to human health or the environment. This action adds alternative approaches to existing testing and monitoring methods as described in the 2005 OSWI rule. This action incorporates regulatory flexibilities without compromising the environmental protection and, thus, ensures even a unit with rudimentary design will have several options for demonstrating compliance, thereby helping to further ensure against any disproportionately high and adverse human health or environmental effects on minority or low-income populations.

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 08/10/2020, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2003-0156. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

### **List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations.

---

Dated:

---

**Andrew Wheeler,**

*Administrator.*

For the reasons set forth in the preamble, the EPA is proposing to amend 40 CFR part 60 as follows:

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

**Subpart A—General Provisions**

2. Section 60.17 is amended by:

- a. Revising paragraph (g)(14);
- b. Redesignating paragraphs (h)(193) through (209) as paragraphs (h)(194) through (210); and
- c. Adding paragraph (h)(193).

The revisions and addition read as follows:

**§60.17 Incorporations by reference.**

\* \* \* \* \*

(g) \* \* \*

(14) ASME/ANSI PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], (Issued August 31, 1981), IBR approved for §§60.56c(b), 60.63(f), 60.106(e), 60.104a(d), (h), (i), and (j), 60.105a(b), (d), (f), and (g), 60.106a(a), 60.107a(a), (c), and (d), 60.2922(e), 60.2940(c), tables 1, 1a, 1b, and 3 to subpart EEEE, §§60.3027(e) and 60.3039(c), tables 2, 2b, and 4 to subpart FFFF, table 2 to subpart JJJJ, §§60.285a(f), 60.4415(a), 60.2145(s) and (t), 60.2710(s) and (t), 60.2730(q), 60.4900(b), 60.5220(b), tables 1 and 2 to subpart LLLL, tables 2 and 3 to subpart MMMM, §§60.5406(c), 60.5406a(c), 60.5407a(g), 60.5413(b), 60.5413a(b), and 60.5413a(d).

\* \* \* \* \*

(h) \* \* \*

(193) ASTM D7520-16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, approved April 1, 2016, IBR approved for §§60.2972(a) and 60.3067(a), tables 1, 1a, and 1b to subpart EEEE, and tables 2 and 2b to subpart FFFF.

\* \* \* \* \*

3. Subpart EEEE of part 60 is amended by revising the subpart title to read as follows:

**Subpart EEEE—Standards of Performance for Other Solid Waste Incineration Units**

4. Section 60.2881 is revised to read as follows:

**§60.2881 When does this subpart become effective?**

For all OSWI units, this subpart takes effect June 16, 2006. Some of the requirements in this subpart apply to planning the incineration unit and must be completed even before construction is initiated on the unit (i.e., the preconstruction requirements in §§60.2894 and 60.2895). Other requirements such as the emission limitations and operating limits apply when the unit begins operation. Requirements for small OSWI units, as defined in §60.2977, and constructed after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, become effective no later than **[DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**.

5. Section 60.2885 is amended by revising paragraph (b) to read as follows:

**§60.2885 Does this subpart apply to my incineration unit?**

\* \* \* \* \*

(b) Your incineration unit is an OSWI unit as defined in §60.2977 or an air curtain incinerator (ACI) subject to this subpart as described in §60.2888(b). Other solid waste

incineration units are very small municipal waste combustion units and institutional waste incineration units as defined in §60.2977, and include small OSWI units (either very small municipal waste combustion units or institutional waste incinerators).

\* \* \* \* \*

6. Section 60.2886 is amended by revising paragraph (a) introductory text and adding paragraphs (a)(3) through (5) to read as follows:

**§60.2886 What is a new incineration unit?**

(a) A new incineration unit is an incineration unit subject to this subpart that meets any of the criteria specified in paragraphs (a)(1) through (4) of this section, except as specified in paragraph (a)(5) of this section.

\* \* \* \* \*

(3) Is a small OSWI unit as defined in §60.2977 and commenced construction after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(4) Is a small OSWI unit as defined in §60.2977 and commenced reconstruction or modification on or after **[DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER.]**

(5) If your incineration unit is a small OSWI unit as defined in §60.2977 and commenced construction, reconstruction, or modification prior to **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, paragraphs (a)(1) and (2) of this section no longer apply. These units are considered new incineration units and remain subject to the applicable requirements of this subpart until the units become subject to the requirements of an approved state plan or federal plan that implements subpart FFFF of this part (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units).



\* \* \* \* \*

7. Section 60.2887 is amended by revising paragraphs (b)(1) and (b)(3) to read as follows:

**§60.2887 What combustion units are excluded from this subpart?**

\* \* \* \* \*

(b) \* \* \*

(1) The unit has a federally enforceable permit limiting the combustion of municipal solid waste to 30 percent of the total fuel input by weight.

\* \* \* \* \*

(3) You provide the Administrator with a copy of the federally enforceable permit.

\* \* \* \* \*

8. Section 60.2888 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

**§60.2888 Are air curtain incinerators regulated under this subpart?**

(a) Air curtain incinerators that burn less than 35 tons per day of municipal solid waste or air curtain incinerators located at institutional facilities burning any amount of institutional waste generated at that facility are incineration units subject to all requirements of this subpart, including the emission limitations specified in tables 1, 1a, and 1b of this subpart.

(b) Air curtain incinerators that burn less than 35 tons per day and burn only the materials listed in paragraphs (b)(1) through (4) of this section collected from the general public and from residential, commercial, institutional, and industrial sources; or, air curtain incinerators located at institutional facilities that burn only the materials listed in paragraphs (b)(1) through (4) of this

section generated at that facility, are required to meet only the requirements in §§60.2970 through 60.2973 and are exempt from all other requirements of this subpart.

\* \* \* \* \*

9. Section 60.2889 is revised to read as follows:

**§60.2889 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. Environmental Protection Agency (EPA), or a delegated authority such as your State, local, or tribal agency. If EPA has delegated authority to your state, local, or tribal agency, then that agency (as well as EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if 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, the authorities contained in paragraphs (b)(1) through (9) of this section are retained by EPA and are not transferred to the state, local, or tribal agency.

(1) The authority to approve alternatives to the emission limitations in tables 1, 1a, and 1b of this subpart and operating limits established under §60.2916 and table 2 of this subpart.

(2) The authority to approve petitions for specific operating limits in accordance with the requirements in §60.2917.

(3) The authority of the Administrator to receive and grant petitions under §60.8(b)(3) to approve major alternatives to test methods in §60.2922.

(4) The authority to approve major alternatives to monitoring in §§60.2939 through 60.2945.

(5) The authority to approve major alternatives to recordkeeping and reporting in §§60.2949 through 60.2962.

(6) The authority to receive the required notices and to approve continued operation in connection with the status report requirements in §60.2911(c)(2).

(7) The authority of the Administrator to receive and grant petitions under §60.11(e)(6) through (8) to adjust opacity standards and establish opacity standards in accordance with alternative opacity emission limits in §60.2915 and §§60.2971 through 60.2973.

(8) The authority of the Administrator under §60.8(b)(4) to waive performance test requirements and §60.8(b)(5) to approve shorter sampling times or smaller sample volumes.

(9) The authority to approve an alternative to any electronic reporting to the EPA required by this subpart.

10. Section 60.2890 is amended by revising the introductory text and adding paragraphs (j) and (k) to read as follows:

**§60.2890 How are these new source performance standards structured?**

These new source performance standards contain eleven major components, as follows:

\* \* \* \* \*

(j) Definitions.

(k) Tables.

11. Section 60.2895 is amended by revising paragraphs (a) and (b) to read as follows:

**§60.2895 What is a siting analysis?**

(a) The siting analysis must consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to public health or the environment. In considering such alternatives, you may consider costs, energy impacts, non-air environmental impacts, or any other factors related to the practicability of the alternatives.

(b) Analyses of your OSWI unit's impacts that are prepared to comply with state, local, or other federal regulatory requirements may be used to satisfy the requirements of this section, provided they include the consideration of air pollution control alternatives specified in paragraph (a) of this section.

\* \* \* \* \*

12. Section 60.2905 is amended by revising paragraphs (b), (c) introductory text, (c)(1)(iv), (c)(1)(viii), and (c)(1)(x) to read as follows:

**§60.2905 What are the operator training and qualification requirements?**

\* \* \* \* \*

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (c)(1) through (3) of this section:

(1) \* \* \*

(iv) Combustion controls and monitoring, including good combustion practices and waste characterization procedures.

\* \* \* \* \*

(viii) Actions to prevent and correct malfunctions or to prevent and correct conditions that may lead to malfunction.

\* \* \* \* \*

(x) Applicable federal, state, and local regulations, including Occupational Safety and Health Administration workplace standards.

\* \* \* \* \*

13. Section 60.2906 is amended by:

- a. Revising the introductory text and paragraph (a);
- b. Redesignating paragraph (c) as paragraph (d); and
- c. Adding paragraph (c).

The revisions and addition read as follows:

**§60.2906 When must the operator training course be completed?**

The operator training course must be completed by the latest of the dates specified in paragraphs (a) through (d) of this section.

- (a) Six months after your OSWI unit startup date.

\* \* \* \* \*

(c) [DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] for small OSWI units that commenced construction after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

\* \* \* \* \*

14. Section 60.2908 is amended by revising paragraph (d) to read as follows:

**§60.2908 How do I maintain my operator qualification?**

\* \* \* \* \*

- (d) Prevention and correction of malfunctions or conditions that may lead to malfunction.

\* \* \* \* \*

15. Section 60.2910 is amended by:

- a. Revising paragraphs (a) introductory text and (a)(4);
- b. Adding paragraph (a)(10); and

c. Revising paragraphs (b)(1) and (c)(2).

The revisions and addition read as follows:

**§60.2910 What site-specific documentation is required?**

(a) Documentation must be available at the facility and readily accessible for all OSWI unit operators that addresses the ten topics described in paragraphs (a)(1) through (10) of this section. You must maintain this information and the training records required by paragraph (c) of this section in a manner that they can be readily accessed and are suitable for inspection upon request.

\* \* \* \* \*

(4) Procedures for maintaining good combustion practices, including proper combustion air supply levels.

\* \* \* \* \*

(10) Procedures for establishing initial and continuous compliance, including but not limited to, procedures to determine waste characterization.

\* \* \* \* \*

(b) \* \* \*

(1) The initial review of the information listed in paragraph (a) of this section must be conducted by December 18, 2006, or prior to an employee's assumption of responsibilities for operation of the OSWI unit, whichever date is later.

\* \* \* \* \*

(c) \* \* \*

(2) Records showing the names of the OSWI unit operators who have completed the operator training requirements under §60.2905, met the criteria for qualification under §60.2907,

and maintained or renewed their qualification under §§60.2908 or 60.2909. Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

\* \* \* \* \*

16. Section 60.2911 is amended by revising the introductory paragraph to read as follows:

**§60.2911 What if all the qualified operators are temporarily not accessible?**

For each batch OSWI unit, a qualified operator must be accessible at all times when the unit is operating. For each continuous OSWI unit or intermittent OSWI unit, if all qualified operators are temporarily not accessible (i.e., not at the facility and not able to be at the facility within 1 hour), you must meet one of the three criteria specified in paragraphs (a) through (c) of this section, depending on the length of time that a qualified operator is not accessible.

\* \* \* \* \*

17. Section 60.2915 is revised to read as follows:

**§60.2915 What emission limitations must I meet and by when?**

For OSWI units with initial startup before **[DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, you must meet the emission limitations specified in table 1 of this subpart 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup. For OSWI units with capacities greater than 10 tons per day and with initial startup on or after **[DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, you must meet the emissions limitations specified in table 1a of this subpart 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup. For small OSWI

units with initial startup on or after **[DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, you must meet the emission limitations specified in table 1b of this subpart 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup.

18. Section 60.2916 is revised to read as follows:

**§60.2916 What operating limits must I meet and by when?**

You must comply with the requirements in paragraphs (a) through (h) of this section, as applicable. If you own or operate a small OSWI unit using the substitute means of compliance demonstration under §60.2929, the references in this section to the most recent performance test demonstrating compliance are not applicable and instead, refer to the limits established during the representative performance test identified in the information submitted as specified in §60.2929(b).

(a) You must establish a maximum charge rate, calculated using the procedures in paragraph (a)(1) or (2) of this section, as appropriate.

(1) For continuous and intermittent units, maximum charge rate is the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(2) For batch units, maximum charge rate is the charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(b) You must establish a minimum combustion chamber operating temperature, equal to the lowest 1-hour average combustion chamber operating temperature measured during the most recent performance test demonstrating compliance with all applicable emission limitations.



(c) If you use a wet scrubber to comply with the emission limitations, you must establish operating limits for the operating parameters as described in paragraphs (c)(1) through (3) of this section.

(1) Minimum pressure drop across the wet scrubber, which is calculated as the lowest 1-hour average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as the average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(2) Minimum scrubber liquor flow rate, which is calculated as the lowest 1-hour average liquor flow rate at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(3) Minimum scrubber liquor pH, which is calculated as the lowest 1-hour average liquor pH at the outlet to the wet scrubber measured during the most recent performance test demonstrating compliance with the hydrogen chloride and sulfur dioxide emission limitations.

(d) If you use a dry scrubber to comply with the emission limitations, you must measure the injection rate of each sorbent during the performance test. The minimum operating limit for the injection rate of each sorbent is calculated as the lowest 1-hour average injection rate for each sorbent measured during the most recent performance test demonstrating compliance with the hydrogen chloride emission limitations.

(e) If you use an electrostatic precipitator to comply with the emission limitations, you must measure the (secondary) voltage and amperage of the electrostatic precipitator collection plates during the particulate matter performance test. Calculate the average electric power value

(secondary voltage  $\times$  secondary current = secondary electric power) for each test run. The minimum operating limit for the electrostatic precipitator is calculated as the lowest 1-hour average secondary electric power measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(f) If you use a fabric filter to comply with the emission limitations, you must operate each fabric filter system such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during a 6-month period. Calculate the alarm time (i.e., time that the alarm sounds) as specified in paragraphs (f)(1) and (2) of this section.

(1) If inspection of the fabric filter demonstrates that no corrective action is required, the alarm duration is not counted in the alarm time calculation.

(2) If corrective action is required and you take less than an hour to initiate corrective action, the alarm time is counted as 1 hour. If you take longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(g) If you own or operate a small OSWI unit and you demonstrate continuous compliance according to §60.2932(d), you must establish the amount of waste burned in each waste category as a percentage of total waste burned on a mass basis. These percentages are your waste profile and must be based on the categories of waste fed to the incinerator (e.g., food waste, paper waste, wood waste) during the most recent performance test.

(h) You must meet the operating limits specified in paragraphs (a) through (g) of this section no later than the date specified in paragraph (h)(1) or (2) of this section, as applicable.

(1) For each OSWI unit with a capacity greater than 10 tons per day or for each small OSWI unit for which you conduct an initial performance test under §60.2927(a), within 60 days

after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup.

(2) For each small OSWI unit for which you use the substitute means of compliance demonstration under §60.2929, by the date you submit to the Administrator the information required in §60.2929(b).

19. Section 60.2917 is amended by revising the section heading and the introductory text to read as follows:

**§60.2917 What if I do not use a wet scrubber, dry scrubber, or fabric filter to comply with the emission limitations?**

If you use an air pollution control device other than a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filter to comply with the emission limitations under §60.2915, you must petition EPA for specific operating limits, the values of which are to be established during the performance test and then continuously monitored thereafter. Additionally, unless you demonstrate continuous compliance using the requirements in §60.2932(d), if you limit emissions in some other manner, including material balances, to comply with the emission limitations under §60.2915, then you must submit a petition. You must submit the petition at least 60 days before the performance test is scheduled to begin and not conduct the initial performance test until after the petition has been approved by EPA. Your petition must include the five items listed in paragraphs (a) through (e) of this section.

\* \* \* \* \*

20. Subpart EEEE of part 60 is amended by removing §60.2918.

**§60.2918 [Removed]**

21. Section 60.2922 is amended by revising paragraphs (b) through (g) introductory text, (g)(1)(i), and (g)(3)(i) and (ii) to read as follows:

**§60.2922 How do I conduct the initial and annual performance test?**

\* \* \* \* \*

(b) All performance tests must be conducted using the methods in tables 1, 1a, and 1b of this subpart.

(c) All performance tests must be conducted using the minimum run duration specified in tables 1, 1a, and 1b of this subpart.

(d) EPA Method 1 of appendix A of this part must be used to select the sampling location and number of traverse points.

(e) EPA Method 3A or 3B of appendix A of this part or ANSI/ASME PTC 19.10-1981 Part 10 (2010), “Flue and Exhaust Gas Analyses” (incorporated by reference, see §60.17(g)), in lieu of EPA Method 3B, must be used for gas composition analysis, including measurement of oxygen concentration. EPA Method 3A or 3B of appendix A of this part or ANSI/ASME PTC 19.10-1981 must be used simultaneously with each method.

(f) All pollutant concentrations, except for opacity, must be adjusted to 7 percent oxygen using Equation 1 in §60.2975.

(g) EPA Method 26A of appendix A of this part must be used for hydrogen chloride concentration analysis, with the additional requirements specified in paragraphs (g)(1) through (3) of this section.

(1) \* \* \*

(i) Assemble the sampling train(s) and conduct a conditioning run by collecting between 14 liters per minute (0.5 cubic feet per minute) and 30 liters per minute (1.0 cubic feet per minute) of gas over a one-hour period. Follow the sampling procedures outlined in section 8.1.5 of EPA Method 26A of appendix A of this part. For the conditioning run, water can be used as the impinger solution.

\* \* \* \* \*

(3) \* \* \*

(i) The cyclone described in section 6.1.4 of EPA Method 26A of appendix A of this part must be used.

(ii) The post-test moisture removal procedure described in section 8.1.6 of EPA Method 26A of appendix A of this part must be used.

22. Section 60.2923 is revised to read as follows:

**§60.2923 How are the performance test data used?**

You use results of performance tests to demonstrate compliance with the emission limitations in tables 1, 1a, and 1b of this subpart.

23. Section 60.2927 is revised to read as follows:

**§60.2927 How do I demonstrate initial compliance with the emission limitations and establish the operating limits?**

(a) Except as provided in paragraph (b) of this section, you must conduct an initial performance test, as required under §60.8, to determine compliance with the emission limitations in table 1, 1a, or 1b of this subpart and to establish operating limits using the procedures in §60.2916 or §60.2917. The initial performance test must be conducted using the test methods listed in table 1, 1a, or 1b of this subpart and the procedures in §60.2922. In the event of any

conflict between §60.8 and the provisions of this subpart, the provisions of this subpart shall apply.

(b) For small OSWI units, as defined in §60.2977, you must demonstrate initial compliance according to paragraph (a) of this section, unless you comply with the requirements for the substitute means of compliance demonstration in §60.2929.

(c) As an alternative to conducting a performance test under paragraph (a) of this section for carbon monoxide, you may use a 12-hour rolling average of the 1-hour arithmetic average CEMS data to determine compliance with the emission limitations in tables 1, 1a, and 1b of this subpart. The initial performance evaluation required by §60.2940(b) must be conducted prior to collecting CEMS data that will be used for the initial compliance demonstration.

24. Section 60.2928 is revised to read as follows:

**§60.2928 By what date must I conduct the initial performance test?**

The initial performance test must be conducted within 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup. For units which start-up between **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and **[DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, the initial performance test must be conducted within 60 days after your OSWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, or by **[DATE 240 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, whichever date is later.

25. Section 60.2929 is added to read as follows:

**§60.2929 What are the substitute means of compliance demonstration requirements for**

**small OSWI units?**

Instead of conducting the initial performance test in §60.2927(a), small OSWI units, as defined in §60.2977, may demonstrate initial compliance according to the requirements in paragraphs (a) through (d) of this section.

(a) You must submit the information specified in paragraph (a)(1) of this section and comply with the requirements of paragraph (a)(2) of this section for each OSWI unit for which you are using a substitute means of compliance demonstration.

(1) On or before [**DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**] or within 60 days of startup, whichever is later, you must submit a written notification to the Administrator that you intend to use the substitute means of compliance demonstration. Your submittal must include information on the design and operation of the OSWI unit, including the information in paragraphs (a)(1)(i) through (iii) of this section.

(i) Manufacturer, make, and model of the unit.

(ii) Type of unit (e.g., burn barrel, incinerator with secondary chamber, etc.).

(iii) Capacity of the unit.

(2) Beginning on [**DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**] or upon initial startup, whichever is later, you must collect the data in paragraphs (a)(2)(i) through (vii) of this section. You must continue to collect the data in paragraphs (a)(2)(i) through (vii) of this section until you meet the requirements of paragraph (b) of this section.

(i) Identity and weight of each waste type (e.g., lbs of paper waste, food waste, wood or yard waste) on a weekly total basis for the date range the information is collected.

(ii) Identity and quantities (e.g. flow rate or percentage of operating time) of supplemental fuels burned on a weekly total basis for the date range the information is collected.

(iii) Percentage of total waste burned for each waste type on a weekly average basis for the date range the information is collected.

(iv) Temperature indicative of the combustion chamber and description of where temperature is measured. Record this information on a 3-hour rolling average basis for the date range the information is collected.

(v) Hours operated per day for the date range the information is collected.

(vi) Charge rate each day in tons per day for the date range the information is collected.

(vii) Operating parameter data for any air pollution control devices. For wet scrubbers, include pressure drop across the scrubber or amperage to the scrubber, scrubber liquor inlet flow rate, and scrubber liquor pH at the outlet of the scrubber. For dry scrubbers, include injection rate of each sorbent used. For electrostatic precipitators, include the secondary voltage, secondary amperage, and secondary power. Record this information on a 3-hour rolling average basis for the date range the information is collected.

(b) On or before the latest of **[DATE 21 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**; 60 days after the OSWI unit reaches the charge rate at which it will operate; or 180 days after initial startup, you must identify the results of a performance test in the EPA's WebFIRE database that is representative for your OSWI unit using the criteria in paragraphs (b)(2)(i) through (viii) of this section and submit the information in paragraphs (b)(1) and (2) of this section. You must submit the information following the procedure in paragraph (b)(3) of this section. The performance test may be any test that meets



the requirements in paragraph (c) of this section, regardless of location, that is representative of your OSWI unit.

(1) Identify the representative performance test used to demonstrate initial compliance with each OSWI unit by submitting the information in paragraphs (b)(1)(i) through (vi) of this section as provided in the EPA's WebFIRE database for the performance test:

(i) Organization.

(ii) Facility.

(iii) City.

(iv) State.

(v) County.

(vi) Submission date.

(2) A description of how the test is representative for your OSWI unit, based on the following criteria, using the data submitted as specified in paragraph (a)(1) and collected as specified in paragraph (a)(2) of this section:

(i) Unit design, including type of unit and any associated air pollution control devices.

(ii) Charge rate.

(iii) Type of operation (batch, continuous, intermittent).

(iv) Combustion temperature and location of temperature measurement.

(v) Types of waste burned.

(vi) The waste profile, as defined in §60.2977.

(vii) Type and amount of supplemental fuels.

(viii) Similarity of air pollution control devices and operation of the air pollution control devices, if the performance test was conducted on a unit with an air pollution control device.

(3) You must submit the information required in paragraphs (b)(1) and (2) of this section via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit the information, including information claimed to be CBI, to the EPA on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Other Solid Waste Incineration Units Sector Lead, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted via the EPA's CDX as described earlier in this paragraph (b)(3). Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(c) Any performance test used as a representative test in a substitute means of compliance demonstration under paragraph (b) of this section must be conducted following the initial testing requirements of §60.2922 and demonstrate compliance with the emission limits in table 1b of this subpart. In addition to the results of the performance test and the information required by §60.8(f)(2), the performance test report must contain the information in paragraphs (c)(1) through (8) of this section.

- (1) Unit design, including type of unit and any associated air pollution control devices.
- (2) Charge rate during the test.

(3) Type of operation (batch, continuous, intermittent).

(4) Combustion temperature and location of temperature measurement. The temperature must be recorded continuously for each run of the performance test. The performance test report must also identify the lowest 1-hour average combustion chamber operating temperature.

(5) Types of waste burned during the test.

(6) The waste profile, as defined in §60.2977, established during the test.

(7) Type and amount of supplemental fuels burned during the test and the timeframe that each supplemental fuel was burned during the test.

(8) If the performance test was conducted on a unit with an air pollution control device, the operating parameter data for the control device must be recorded continuously for each run of the performance test. The performance test report must also identify the lowest or highest, as applicable, 1-hour average for the operating parameter.

(i) For wet scrubbers, the performance test report must include data for pressure drop across the scrubber or amperage to the scrubber, scrubber liquor inlet flow rate, and scrubber liquor pH at the outlet of the scrubber.

(ii) For dry scrubbers, the performance test report must include data for the injection rate of each sorbent used.

(iii) For electrostatic precipitators, the performance test report must include data for the secondary voltage, secondary amperage, and secondary power.

(d) If there are no results from a performance test that meet the requirements of paragraph (c) of this section that are representative of your OSWI unit, you must demonstrate initial compliance according to the requirements of §60.2927(a).

26. Section 60.2932 is revised to read as follows:

**§60.2932 How do I demonstrate continuous compliance with the emission limitations and the operating limits?**

You must demonstrate continuous compliance according to the requirements in paragraphs (a) through (c) of this section, unless you own or operate a small OSWI unit, as defined in §60.2977. If you own or operate a small OSWI unit, you must either comply with the requirements in paragraphs (a) and (c) of this section or the requirements in paragraph (d) of this section.

(a) You must conduct an annual performance test for all of the pollutants in table 1, 1a, or 1b of this subpart for each OSWI unit to determine compliance with the emission limitations, except if you own or operate an OSWI unit with a capacity greater than 10 tons per day, you are not required to conduct an annual performance test for carbon monoxide. The annual performance test must be conducted using the test methods listed in table 1, 1a, or 1b of this subpart and the procedures in §60.2922.

(b) You must continuously monitor carbon monoxide emissions to determine compliance with the carbon monoxide emissions limitation. Twelve-hour rolling average values, including CEMS data during startup and shutdown as defined in this subpart, are used to determine compliance. A 12-hour rolling average value above the carbon monoxide emission limit in table 1, 1a, or 1b of this subpart constitutes a deviation from the emission limitation.

(c) You must continuously monitor the operating parameters specified in §60.2916(a) through (f) or established under §60.2917. Three-hour rolling average values are used to determine compliance with the operating limits, with the exception of bag leak detection system alarm time, unless a different averaging period is established under §60.2917. A 3-hour rolling average value (unless a different averaging period is established under §60.2917) above the

established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. For bag leak detection systems, an alarm time of more than 5 percent of the operating time during a 6-month period constitutes a deviation from the operating limit. Operating limits do not apply during performance tests.

(d) For each small OSWI unit, you must comply with the requirements in paragraphs (d)(1) through (3) of this section.

(1) You must record the mass rate of each category of waste burned and on a weekly average basis and you must maintain the percentage of waste burned for each waste category within +/- 15 percent of the percentage established for that waste category according to the waste profile established under §60.2916(g) and maintain records as required in §60.2949(p). Failure to maintain the percentage of waste burned for each waste category within +/- 15 percent of the percentage established for that waste category constitutes a deviation.

(2) If your waste profile will not meet the requirement in paragraph (d)(1) of this section, before combusting the modified waste stream, you must either conduct a performance test of the unit using the test methods listed in table 1b of this subpart and the procedures in §60.2922 with a waste stream representative of the new waste profile or identify a representative performance test for the new waste profile. If you use a representative performance test, the performance test must meet the requirements in §60.2929(c), and you must submit the information in §60.2929(b)(1) and (2) to the Administrator. Failure to conduct a performance test or identify a representative test constitutes a deviation.

(3) You must continuously monitor the operating parameters specified in §60.2916(b) through (f), as applicable. The total daily charge rate is used to determine compliance with the charge rate limit in §60.2916(a). For the operating parameters in §60.2916(b) through (f),

determine compliance as described in paragraphs (d)(3)(i) or (ii) of this section. Failure to meet the operating parameters specified in §60.2916(a) through (f) is a deviation.

(i) Three-hour rolling average values are used to determine compliance with the operating parameter limits, unless your small OSWI unit operates on a batch basis and it is operated for less than three hours.

(ii) If your small OSWI unit operates on a batch basis, and you operate for less than three hours, compliance with the operating parameter limits are determined by averaging the operating parameter over the length of the batch operation.

27. Section 60.2933 is revised to read as follows:

**§60.2933 By what date must I conduct the annual performance test?**

For each OSWI unit that is subject to the annual performance test requirement in §60.2932(a), you must conduct annual performance tests within 12 months following the initial performance test. Conduct subsequent annual performance tests within 12 months following the previous one.

28. Section 60.2934 is amended by adding paragraph (d) to read as follows:

**§60.2934 May I conduct performance testing less often?**

\* \* \* \* \*

(d) For small OSWI units demonstrating initial compliance following the substitute means of compliance demonstration requirements in §60.2929, the requirements in paragraphs (a) through (c) of this section do not apply.

29. Section 60.2935 is revised to read as follows:

**§60.2935 May I conduct a repeat performance test to establish new operating limits?**

(a) Yes, you may conduct a repeat performance test at any time to establish new values for the operating limits. The Administrator may request a repeat performance test at any time.

(b) For each small OSWI unit, as defined in §60.2977, for which you opt to demonstrate continuous compliance following the requirements in §60.2932(d), if you want to establish new operating parameter limits or establish a different waste profile, you must comply with either paragraph (b)(1) or (2) of this section.

(1) You must conduct a new performance test of the unit using the test methods listed in table 1b of this subpart and the procedures in §60.2922 with a waste stream representative of the new waste profile or under the new operating parameter limits.

(2) You must identify a representative performance test that meets the requirements in §60.2929(c). You must submit the information in §60.2929(b)(1) and (2) to the Administrator.

30. Section 60.2939 is amended by revising paragraph (a) to read as follows:

**§60.2939 What continuous emission monitoring systems must I install?**

(a) For each OSWI unit with a capacity greater than 10 tons per day, you must install, calibrate, maintain, and operate continuous emission monitoring systems for carbon monoxide and for oxygen. You must monitor the oxygen concentration at each location where you monitor carbon monoxide.

\* \* \* \* \*

31. Section 60.2940 is amended by revising paragraphs (b) and (c) to read as follows:

**§60.2940 How do I make sure my continuous emission monitoring systems are operating correctly?**

\* \* \* \* \*

(b) Complete your initial performance evaluation of the continuous emission monitoring systems within 60 days after your OSWI unit reaches the maximum load level at which it will operate, but no later than 180 days after its initial startup.

(c) For initial and annual performance evaluations, collect data concurrently (or within 30 to 60 minutes) using your carbon monoxide and oxygen continuous emission monitoring systems. To validate carbon monoxide concentration levels, use EPA Method 10, 10A, or 10B of appendix A of this part. Use EPA Method 3A or 3B of appendix A to this part or ANSI/ASME PTC 19.10-198 Part 10 (2010), “Flue and Exhaust Gas Analyses” (incorporated by reference, see §60.17(g)), in lieu of Method 3B, to measure oxygen. Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in appendix B of this part. Table 3 of this subpart shows the required span values and performance specifications that apply to each continuous emission monitoring system.

\* \* \* \* \*

32. Section 60.2942 is amended by revising the section heading and paragraphs (a) and (f) to read as follows:

**§60.2942 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems?**

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Except for CEMS data during startup and shutdown, as defined in this subpart, the 1-hour arithmetic averages for carbon monoxide must be expressed in parts per million by dry volume corrected to 7 percent oxygen. The CEMS data during startup and shutdown are not corrected to 7 percent oxygen and are measured at stack oxygen content. Use the 1-hour averages



of oxygen data from your CEMS to determine the actual oxygen level and to calculate emissions at 7 percent oxygen. Use Equation 2 in §60.2975 to calculate the 12-hour rolling averages from the 1-hour arithmetic averages.

\* \* \* \* \*

(f) If continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements, refer to table 3 of this subpart. It shows alternate methods for collecting data when systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data. Failure to collect required data is a deviation of the monitoring requirements.

33. Section 60.2944 is amended by revising the section heading and paragraphs (a) and (c), and adding paragraph (d) to read as follows:

**§60.2944 What operating parameter monitoring equipment must I install, or what operating parameters must I monitor?**

(a) You must install, calibrate (to manufacturers' specifications at the frequency recommended by the manufacturer), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in table 2 of this subpart, as applicable. These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in table 2 of this subpart at all times. The devices must be positioned to provide a representative measurement of the parameter monitored.

\* \* \* \* \*

(c) If you are using a fabric filter to comply with the requirements of this subpart, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (c)(1) through (8) of this section:

(1) You must install and operate a bag leak detection system for each exhaust stack of the fabric filter. The bag leak sensor(s) must be installed in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment of the fabric filter;

(2) Each bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations; and in accordance with the guidance provided in EPA-454/R-98-015 (incorporated by reference, see §60.17(j));

(3) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 1 milligrams per actual cubic meter or less;

(4) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings;

(5) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor;

(6) The bag leak detection system must be equipped with an alarm system that will automatically alert an operator when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located where it is observed easily by plant operating personnel;

(7) For positive pressure fabric filter systems, a bag leak detection system must be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter; and

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(d) If you are required to petition the EPA for operating limits under §60.2917, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in §60.2917.

34. Section 60.2949 is amended by revising the introductory text and paragraphs (b) through (e) and (g), and adding paragraphs (p), (q), and (r) to read as follows:

**§60.2949 What records must I keep?**

You must maintain the information specified in paragraphs (a) through (r) of this section, as applicable, for a period of at least 5 years.

\* \* \* \* \*

(b) Records of the data described in paragraphs (b)(1) through (10) of this section.

(1) The OSWI unit charge dates, times, weights, and total daily charge rates.

(2) The combustion chamber operating temperature every 15 minutes of operation.

(3) For each OSWI unit with a wet scrubber, the liquor flow rate to the wet scrubber inlet, pressure drop across the wet scrubber system or amperage to the wet scrubber, and liquor pH at the outlet of the wet scrubber, every 15 minutes of operation.

(4) For each OSWI unit with a dry scrubber, the injection rate of each sorbent, every 15 minutes of operation.

(5) For each OSWI unit with an electrostatic precipitator, the secondary voltage, secondary current, and secondary electric power, every 15 minutes of operation.

(6) For each OSWI unit with a fabric filter, the date, time, and duration of each alarm; the times corrective action was initiated and completed; and a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of the operating time during each 6-month period that the alarm sounds, calculated as specified in §60.2916(f).

(7) For OSWI units that establish operating limits for controls under §60.2917, you must maintain data collected for all operating parameters used to determine compliance with the operating limits.

(8) For OSWI units that use a carbon monoxide CEMS, all 1-hour average concentrations of carbon monoxide and oxygen.

(9) All 12-hour rolling average values of carbon monoxide emissions, corrected to 7 percent oxygen (except during periods of startup and shutdown), all 3-hour rolling average values of continuously monitored operating parameters, and total daily charge rates, as applicable.

(10) Records of the dates, times, and durations of any bypass of the control device.

(c) Records of the start date and time and duration in hours of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment, and description of the malfunction.

(d) Records of actions taken during periods of malfunction to minimize emissions in accordance with §60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(e) Start date, start time, end date and end time for each period for which monitoring data show a deviation from the carbon monoxide emissions limit in table 1, 1a, or 1b of this subpart or a deviation from the operating limits in table 2 of this subpart or a deviation from other operating limits established under §60.2917 with a description of the deviations, reasons for such deviations, and a description of corrective actions taken. You must record the start date, start time, end date and end time for each period when all qualified operators were not accessible in accordance with §60.2911.

\* \* \* \* \*

(g) For carbon monoxide continuous emissions monitoring systems, document the results of your annual performance evaluations, daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of this part.

\* \* \* \* \*

(p) If you comply with the substitute means of compliance demonstration requirements in §60.2929 for your small OSWI unit, you must keep the records specified in paragraphs (p)(1) through (4) of this section.

(1) Copy of the notification submitted to the Administrator that you intend to use the substitute means of compliance demonstration as required in §60.2929(a)(1).

(2) Records of the data collected as required in §60.2929(a)(2).

(3) Copy of the representative performance test used to demonstrate initial compliance;  
and

(4) Documentation of how the test in paragraph (p)(3) of this section is representative of the unit as required in §60.2929(b)(2).

(q) If you comply with the continuous compliance requirements of §60.2932(d), you must keep records of the following elements reported on a weekly basis at the frequency they are monitored in accordance with table 2 of this subpart (e.g., each 3-hr average recorded temperature), as specified in paragraphs (q)(1) through (7) of this section.

(1) Start and end times the unit is operated when waste is being combusted.

(2) Identity and weight of each waste category (e.g., lbs of solid waste, food waste, wood or yard waste).

(3) Identities and quantities of supplemental fuel burned (e.g. flow rate or percentage of operating time).

(4) The waste profile, as defined in §60.2977.

(5) Temperature of unit combustion chamber and description of where temperature is measured, as a three-hour average for each batch operation.

(6) Charge rate (in tons per day) of each operation.

(7) For each OSWI unit using a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filter, the records specified in paragraph (b)(3) through (10) of this section, as applicable.

(r) Copies of any notifications submitted pursuant to §§60.2887 and 60.2969.

35. Section 60.2954 is amended by revising the introductory text and adding paragraph (c) to read as follows:

**§60.2954 What information must I submit following my initial performance test?**

Unless you choose to comply with the substitute means of compliance demonstration requirements in §60.2929, you must submit the information specified in paragraphs (a) and (b) of this section no later than 60 days following the initial performance test. All reports must be signed by the facilities manager.

\* \* \* \* \*

(c) The waste management plan, as specified in §§60.2899 through 60.2901.

36. Section 60.2955 is revised to read as follows:

**§60.2955 When must I submit my annual report?**

You must submit an annual report no later than 12 months following the submission of the information in §60.2954, unless you choose to comply with the substitute means of compliance demonstration requirements in §60.2929. If you choose to comply with the substitute means of compliance demonstration requirements in §60.2929, you must submit an annual report no later than 12 months following the submission of the information in §60.2929(b). You must submit subsequent reports no more than 12 months following the previous report. The permit will address the submittal of annual reports for a unit with an operating permit required under title V of the Clean Air Act.

37. Section 60.2956 is amended by:

- a. Revising the introductory text and paragraphs (b) through (f);
- b. Removing and reserving paragraph (g);
- c. Revising paragraphs (h) and (j); and
- d. Adding paragraph (k).

The revisions and addition read as follows:

**§60.2956 What information must I include in my annual report?**

The annual report required under §60.2955 must include the items listed in paragraphs (a) through (k) of this section. If you have a deviation from the operating limits or the emission limitations, you must also submit deviation reports as specified in §§60.2957 through 60.2959.

\* \* \* \* \*

(b) Statement by the owner or operator, with their name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the requirements of 40 CFR 70.5(d) or 40 CFR 71.5(d). If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces this requirement.

(c) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

(d) Identification of each OSWI unit, and for each OSWI unit, the parameters monitored and values for the operating limits established pursuant to §60.2916 or §60.2917.

(e) If no deviations from any emission limitation or operating limit that applies to you has occurred during the annual reporting period, a statement that there were no deviations from the emission limitations or operating limits during the reporting period. If you use a CMS to monitor emissions or operating parameters and there were no periods during which any CMS was inoperative, inactive, malfunctioning or out of control, a statement that no monitoring system used to determine compliance with the emission limitations or operating limits was inoperative, inactive, malfunctioning or out of control.

(f) The highest recorded 12-hour average and the lowest recorded 12-hour average, as applicable, for carbon monoxide emissions if you are using a CEMS to demonstrate continuous compliance and the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported.

(g) [Reserved]

(h) If a performance test was conducted during the reporting period, identification of the OSWI unit tested, the pollutant(s) tested, and the date of the performance test. Submit, following



the procedure specified in §60.2961(b), the performance test report no later than the date that you submit the annual report.

\* \* \* \* \*

(j) The start date, start time, and duration in hours for each period when all qualified OSWI unit operators were unavailable for more than 12 hours, but less than 2 weeks.

(k) If you are complying with the continuous compliance requirements for small OSWI units in §60.2932(d) and have had no deviations from the weekly waste profile requirements or deviations from the operating limits, a statement that there were no deviations from the weekly waste profile requirements, and the OSWI unit has been operated within the operating parameter limits established during the representative performance test identified in the information submitted as required in §60.2929(b) or the initial performance test conducted by the source as required in §60.2929(d).

38. Section 60.2957 is amended by revising the section heading and paragraph (a) to read as follows:

**§60.2957 What other reports must I submit if I have a deviation?**

(a) You must submit a deviation report as specified in paragraphs (a)(1) through (3) of this section:

(1) If your OSWI unit fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements.

(2) If your OSWI unit 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 unit that meets the requirements in §60.2885 and is required to obtain such a permit.

(3) If you deviate from the requirements to have a qualified operator accessible as specified in §60.2911, you must meet the requirements of §60.2959.

\* \* \* \* \*

39. Section 60.2958 is revised to read as follows:

**§60.2958 What must I include in the deviation report?**

In each report required under §60.2957, you must include the company name and address and the beginning and ending dates for the reporting period. For any pollutant or operating parameter that deviated from the emission limitations, operating limits or other requirement specified in this subpart, or for each CMS that experienced downtime or was out of control, include the items described in paragraphs (a) through (g) of this section, as applicable. If you are complying with the continuous compliance requirements for small OSWI units in §60.2932(d), you must also include the items described in paragraphs (h) and (i) of this section. You must identify the OSWI unit associated with the information required in paragraphs (a) through (i) in your deviation report.

(a) Identification of the emission limit, operating parameter or other requirement from which there was a deviation and the start date, start time, and duration in hours of each deviation.

(b) The averaged and recorded data for those dates, including, when applicable, the information recorded under §60.2949(b)(9) and (c) through (e) for the calendar period being reported.

(c) The cause of each deviation from the emission limitations, operating limits or other requirement and your corrective actions.

(d) For each CMS, the start date, start time, duration in hours, and cause for each instance of monitor downtime (other than downtime associated with zero, span, and other routine calibration checks).

(e) For each CMS, the start date, start time, duration in hours, and corrective action taken for each instance that the monitor is out of control.

(f) The dates, times, and duration in hours of any bypass of the control device and your corrective actions.

(g) For batch OSWI units, the dates, times, and duration in hours of any deviation from the requirements to have a qualified operator accessible as required in §60.2911.

(h) If you are complying with the continuous compliance requirements for small OSWI units in §60.2932(d), the dates, times, duration in weeks and cause for each deviation from the waste profile required in §60.2932(d)(1).

(i) The dates, times, duration in hours, and cause for each deviation from the operating parameter limits established during the representative performance test identified in the information submitted as required in §60.2929(b) or the initial performance test conducted by the source as required in §60.2927(a).

40. Section 60.2961 is revised to read as follows:

**§60.2961 In what form can I submit my reports?**

(a) Before **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, you must submit annual and deviation reports electronically or in paper format, postmarked on or before the submittal due dates. Beginning on **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, or once the report template for this subpart has been available on the Compliance and Emissions

Data Reporting Interface (CEDRI) website for one year, whichever date is later, you must submit all subsequent annual compliance reports and deviation reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed CBI. You must use the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Other Solid Waste Incineration Units Sector Lead, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(b) Beginning on [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (b)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information required under paragraph (b)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly

mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (b)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(c) Beginning on [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], within 60 days after the date of completing each continuous emissions monitoring system (CEMS) performance evaluation, you must submit the results of the performance evaluation following the procedures specified in paragraphs (c)(1) through (3) of this section.

(1) *Performance evaluations of CEMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate

electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI*. Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information required under paragraph (c)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (c)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(d) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (d)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.



(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of *force majeure* for failure to timely comply with the reporting requirement. To assert a claim of *force majeure*, you must meet the requirements outlined in paragraphs (e)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as 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 you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting;

and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

41. Section 60.2966 is revised to read as follows:

**§60.2966 Am I required to apply for and obtain a title V operating permit for my unit?**

(a) Yes, if your OSWI unit meets the applicability criteria in §60.2885 and thus is subject to this subpart, you are required to obtain a title V operating permit for your OSWI unit.

(b) Air curtain incinerators as specified in §60.2888(b) and subject only to the requirements in §§60.2970 through 60.2973 are exempted from title V permitting requirements per these regulations.

42. Section 60.2967 is revised to read as follows:

**§60.2967 When must I submit a title V permit application for my new unit?**

(a) If your new unit subject to this subpart is applying for a permit for the first time , a complete title V permit application must be submitted timely either 12 months after the date the unit commences operation as a new source or before one of the dates specified in paragraph (b) of this section, as applicable. See section 503(c) of the Clean Air Act and 40 CFR 70.5(a)(1)(i) and 40 CFR 71.5(a)(1)(i).

(b) For a unit that commenced operation as a new source as of December 16, 2005, then a complete title V permit application must be submitted not later than December 18, 2006. For a small OSWI unit that commenced operation as a new source as of **[DATE OF PUBLICATION**

**OF FINAL RULE IN THE FEDERAL REGISTER]**, a complete title V permit application must be submitted not later than **[DATE 1 YEAR AND 1 DAY AFTER PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER]**.

43. Section 60.2970 is amended by removing and reserving paragraph (b).

44. Section 60.2972 is amended by revising paragraph (a) to read as follows:

**§60.2972 How must I monitor opacity for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?**

(a) Use EPA Method 9 of appendix A of this part or ASTM D7520-16, “Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere,” (incorporated by reference (IBR), see §60.17(h)), to determine compliance with the opacity limitation.

\* \* \* \* \*

45. Section 60.2973 is amended by revising paragraph (e) to read as follows:

**§60.2973 What are the recordkeeping and reporting requirements for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?**

\* \* \* \* \*

(e) Before **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date. On and after **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, within 60 days after the date of completing the initial opacity test and each annual opacity test required by this subpart, you must submit the results of the opacity test following the procedures specified in §60.2961(b)(1) through (3).

\* \* \* \* \*

46. Subpart EEEE of part 60 is amended by removing section 60.2974.

**§60.2974 [Removed]**

47. Section 60.2975 is amended by revising parameters “E<sub>a</sub>” and “E<sub>hj</sub>” of Equation 2 in paragraph (d) to read as follows:

**§60.2975 What equations must I use?**

\* \* \* \* \*

(d) \* \* \*

E<sub>a</sub> = Average carbon monoxide pollutant rate for the 12-hour period, ppm corrected to 7 percent O<sub>2</sub>. Note that a 12-hour period may include CEMS data during startup and shutdown, as defined in the subpart, in which case the period will not consist entirely of data that have been corrected to 7 percent O<sub>2</sub>.

E<sub>hj</sub> = Hourly arithmetic average pollutant rate for hour “j,” ppm corrected to 7 percent O<sub>2</sub>. CEMS data during startup and shutdown, as defined in the subpart, are not corrected to 7 percent oxygen, and are measured at stack oxygen content.

48. Section 60.2977 is amended by:

- a. Revising the definition for “Administrator”;
- b. Adding in alphabetical order a definition for “CEMS data during startup and shutdown”;
- c. Removing the definition for “Collected from”;
- d. Revising the definitions for “Deviation,” “Low-level radioactive waste,” “Municipal waste combustion unit,” and “Particulate matter”; and
- e. Adding in alphabetical order definitions for “Small OSWI unit” and “Waste profile.”

The revisions and additions read as follows:

**§60.2977 What definitions must I know?**

\* \* \* \* \*

*Administrator means:*

(1) For approved and effective state section 111(d)/129 plans, the Director of the state air pollution control agency, or his or her delegatee;

(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.

\* \* \* \* \*

*CEMS data during startup and shutdown* means CEMS data collected during the first hours of a OSWI startup from a cold start until waste is fed to the unit and the hours of operation following the cessation of waste material being fed to the OSWI during a unit shutdown. For each startup event, the length of time that CEMS data may be claimed as being CEMS data during startup must be 48 operating hours or less. For each shutdown event, the length of time that CEMS data may be claimed as being CEMS data during shutdown must be 24 operating hours or less.

\* \* \* \* \*

*Deviation* means any instance in which a unit that meets the requirements in §60.2885, 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, operating limit, or operator qualification and accessibility requirements; and

(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 unit that meets the requirements in §60.2885 and is required to obtain such a permit.

\* \* \* \* \*

*Low-level radioactive waste* means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

\* \* \* \* \*

*Municipal waste combustion unit* means, for the purpose of this subpart and subpart FFFF of this part, any setting or equipment that combusts municipal solid waste (as defined in this subpart) including, but not limited to, field-erected, modular, cyclonic burn barrel, and custom built incineration units (with or without energy recovery) operating with starved or excess air, boilers, furnaces, and air curtain incinerators (except those air curtain incinerators listed in §60.2888(b)).

\* \* \* \* \*

*Particulate matter* means total particulate matter emitted from OSWI units as measured by EPA Method 5 or EPA Method 29 of appendix A of this part.

\* \* \* \* \*

*Small OSWI unit* means OSWI units with capacities less than or equal to 10 tons per day.

\* \* \* \*

*Waste profile* means for a small OSWI unit the amount of each waste category burned as a percentage of total waste burned on a mass basis.

\* \* \* \*

49. Table 1 to subpart EEEE of part 60 is amended by revising the title, rows 7, 8, and 10, and footnote “a” to read as follows:

**Table 1 to Subpart EEEE of Part 60—Emission Limitations for OSWI Units with Initial Startup before [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**

\* \* \* \*

For the air pollutant	You must meet this emission limitation <sup>a</sup>	Using this averaging time	And determining compliance using this method
* * *	* * *	* *	
7. Opacity	10 percent	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages)	Method 9 of appendix A of this part, or ASTM D7520-16 (incorporated by reference (IBR) see §60.17(h)), if the following conditions are met: 1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand). 2. You must also have

			<p>standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16.</p> <p>3. You must follow the recordkeeping procedures outlined in §63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.</p> <p>4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.</p>
8. Oxides of nitrogen	103 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Methods 7 and 7C only.
* * * * *			
10. Sulfur dioxide	3.1 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 6 only.

<sup>a</sup>All emission limitations (except for opacity and CEMS data during startup and shutdown) are measured at 7 percent oxygen, dry basis at standard conditions. CEMS data during startup and shutdown are measured at stack oxygen content.

\* \* \* \* \*

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.



50. Tables 1a and 1b to subpart EEEE of part 60 are added to read as follows:

**Table 1a to Subpart EEEE of Part 60—Emission Limitations for OSWI Units With Capacities Greater Than 10 Tons Per Day and With Initial Startup On or After [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**

As stated in §60.2915, you must comply with the following:

<b>For the air pollutant</b>	<b>You must meet this emission limitation<sup>a</sup></b>	<b>Using this averaging time</b>	<b>And determining compliance using this method</b>
1. Cadmium	18 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
2. Carbon monoxide	40 parts per million by dry volume	3-run average (1 hour minimum sample time per run during performance test), and 12-hour rolling averages measured using CEMS. <sup>b</sup>	Method 10, 10A, or 10B of appendix A of this part and CEMS.
3. Dioxins/furans (total basis)	33 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample meter time per run)	Method 23 of appendix A of this part.
4. Hydrogen chloride	15 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 26A of appendix A of this part.
5. Lead	226 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
6. Mercury	74 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
7. Opacity	10 percent	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages)	Method 9 of appendix A of this part, or ASTM D7520-16 (IBR, see §60.17(h)), if the following conditions are met: 1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of

			<p>various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).</p> <p>2. You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16.</p> <p>3. You must follow the recordkeeping procedures outlined in §63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.</p> <p>4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.</p>
8. Oxides of nitrogen	103 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Methods 7 and 7C only.
9. Particulate matter	0.013 grains per dry standard cubic foot	3-run average (1 hour minimum sample time per run)	Method 5 or 29 of appendix A of this part.

10. Sulfur dioxide	3.1 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 6 only.
--------------------	-------------------------------------	----------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------

<sup>a</sup>All emission limitations (except for opacity and CEMS data during startup and shutdown) are measured at 7 percent oxygen, dry basis at standard conditions. CEMS data during startup and shutdown are measured at stack oxygen content.

<sup>b</sup>Calculated each hour as the average of the previous 12 operating hours.

**Table 1b to Subpart EEEE of Part 60—Emission Limitations for Small OSWI With Initial Startup On or After [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**

As stated in §60.2915, you must comply with the following:

<b>For the air pollutant</b>	<b>You must meet this emission limitation<sup>a</sup></b>	<b>Using this averaging time</b>	<b>And determining compliance using this method</b>
1. Cadmium	400 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
2. Carbon monoxide	69 parts per million by dry volume	3-run average (1 hour minimum sample time per run during performance test), and 12-hour rolling averages measured using CEMS <sup>b</sup>	Method 10, 10A, or 10B of appendix A of this part
3a. Dioxins/furans (total mass basis) <sup>c</sup>	3,100 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample meter time per run)	Method 23 of appendix A of this part.
3b. Dioxins/furans (toxic equivalency basis) <sup>c</sup>	40 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample meter time per run)	Method 23 of appendix A of this part.
4. Hydrogen chloride	210 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 26A of appendix A of this part.
5. Lead	26,000 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
6. Mercury	12 micrograms per	3-run average (1 hour	Method 29 of appendix A of

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

	dry standard cubic meter	minimum sample time per run)	this part.
7. Opacity	10 percent	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages)	<p>Method 9 of appendix A of this part, or ASTM D7520-16 (IBR, see §60.17(h)), if the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).</li> <li>2. You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16.</li> <li>3. You must follow the recordkeeping procedures outlined in §63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.</li> <li>4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not</li> </ol>

			exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.
8. Oxides of nitrogen	180 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Methods 7 and 7C only.
9. Particulate matter	210 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 5 or 29 of appendix A of this part.
10. Sulfur dioxide	38 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 6 only.

<sup>a</sup>All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions.

<sup>b</sup>Calculated each hour as the average of the previous 12 operating hours.

<sup>c</sup>For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.

51. Table 2 to subpart EEEE of part 60 is revised to read as follows:

**Table 2 to Subpart EEEE of Part 60—Operating Limits for Incinerators**

As stated in §60.2916, you must comply with the following:

For these operating parameters	You must establish these operating limits	And monitoring using these minimum frequencies		
		Data measurement	Data recording	Averaging time
1. Charge rate	Maximum charge rate	Periodic	For batch, each batch. For continuous or intermittent every hour	Daily for batch units or small OSWI units complying with §60.2932(d). 3-hour rolling for continuous and intermittent units <sup>a</sup> .
2. Combustion temperature	Minimum combustion chamber operating temperature	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .

3. Pressure drop across the wet scrubber or amperage to wet scrubber	Minimum pressure drop or amperage	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
4. Wet scrubber liquor flow rate	Minimum flow rate at inlet to the scrubber	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
5. Wet scrubber liquor pH	Minimum pH at scrubber outlet	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
6. Dry scrubber sorbent injection	Minimum injection rate of each sorbent	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
7. Electrostatic precipitator secondary electric power	Minimum secondary electric power, calculated from the secondary voltage and secondary current	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
8. Bag leak detection system alarm time	Alarm time < 5 percent of the operating time during a 6-month period.	Continuous	Each date and time of alarm start and stop	Calculate alarm time as specified in §60.2916(f).
9. Waste profile	The amount of each waste category burned as a percentage of total waste burned on a mass basis.	Periodic	For batch, each batch. For continuous or intermittent every hour.	Weekly

<sup>a</sup>Calculated each hour as the average of the previous 3 operating hours.

52. Table 3 to subpart EEEE of part 60 is amended by revising row 2 to read as follows:

**Table 3 to Subpart EEEE of Part 60—Requirements for Continuous Emission Monitoring Systems (CEMS)**

\* \* \* \* \*

For the following pollutants	Use the following span values for your CEMS	Use the following performance specifications (P.S.) in appendix B of this part for your CEMS	If needed to meet minimum data requirements, use the following alternate methods in appendix A of this part to collect data
* * * * *	* * * * *	* * *	
2. Oxygen	25 percent oxygen	P.S.3	Method 3A or 3B, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 3B only.

53. Table 4 to subpart EEEE of part 60 is amended by revising row 1.a.ii and adding row 4.a.xi to read as follows:

**Table 4 to Subpart EEEE of Part 60—Summary of Reporting Requirements**

\* \* \* \* \*

Report	Due date	Contents	Reference
1. Preconstruction report	a. Prior to commencing construction	i. Statement of intent to construct; ii. Anticipated date of commencement of construction;	§60.2952. §60.2952.
* * * * *			
		xi. For each small OSWI unit for which you demonstrate continuous compliance according to §60.2932(d), if no deviations from the percentages established for each waste category according to the waste profile required in §60.2932(d)(1) and the OSWI unit has been operated within the operating parameter limits, a statement that there were no deviations from the weekly waste profile requirements and the OSWI unit has been operated within the operating parameter limits.	§§60.2955 and 60.2956.
* * * * *			

\* \* \* \* \*

54. Subpart FFFF of part 60 is amended by revising the subpart title to read as follows:

**Subpart FFFF— Emission Guidelines and Compliance Times for Other Solid Waste**

**Incineration Units**

55. Section 60.2980 is revised to read as follows:

**§60.2980 What is the purpose of this subpart?**

This subpart establishes emission guidelines and compliance schedules for the control of emissions from other solid waste incineration (OSWI) units. The pollutants addressed by these emission guidelines are listed in tables 2 and 2b of this subpart. These emission guidelines are

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

developed in accordance with sections 111(d) and 129 of the Clean Air Act and subpart B of this part.

56. Section 60.2981 is revised to read as follows:

**§60.2981 Am I affected by this subpart?**

(a) If you are the Administrator of an air quality program in a State or United States protectorate with one or more existing incineration units as defined in §60.2992, you must submit a State plan to the U.S. Environmental Protection Agency (EPA) that implements the emission guidelines contained in this subpart.

(b) You must submit the State plan to EPA by the dates specified in paragraph (b)(1) or (2) of this section.

(1) By December 18, 2006, for OSWI units that commenced construction prior to December 9, 2004 or commenced reconstruction or modification on or before June 16, 2006.

(2) By **[DATE 1 YEAR AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]** for OSWI units that commenced construction after December 9, 2004 or reconstruction or modification after June 16, 2006 but prior to **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

57. Section 60.2982 is revised to read as follows:

**§60.2982 Is a State plan required for all States?**

No, you are not required to submit a State plan if there are no existing incineration units that are an OSWI unit as defined in §§60.2992 and 60.3078 or air curtain incinerators subject to this subpart as described in §60.2994 in your State and you submit a negative declaration letter in place of the State plan.

58. Section 60.2983 is amended by revising paragraph (b) to read as follows:



**§60.2983 What must I include in my State plan?**

\* \* \* \* \*

(b) Your State plan may deviate from the format and content of the emission guidelines contained in this subpart. However, if your State plan does deviate, you must demonstrate that your State plan is at least as protective as the emission guidelines contained in this subpart. Your State plan must address regulatory applicability, compliance schedule, operator training and qualification, a waste management plan, emission limitations, stack testing or substitute means of compliance, operating parameter requirements, monitoring, recordkeeping and reporting, and air curtain incinerator requirements.

\* \* \* \* \*

59. Section 60.2985 is revised to read as follows:

**§60.2985 What if my State plan is not approvable?**

(a) If you do not submit an approvable State plan (or a negative declaration letter) by December 17, 2007, EPA will develop a Federal plan according to §60.27 to implement the emission guidelines contained in this subpart.

(b) If you do not submit an approvable State plan that meets the requirements of this subpart and contains the emission limits in table 2b of this subpart by **[DATE 1 YEAR AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, for OSWI units that commenced construction after December 9, 2004 but no later than **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or commenced reconstruction or modification after June 16, 2006 but no later than **[DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, the EPA will

develop a Federal plan according to §60.27, to implement the emission guidelines contained in this subpart.

(c) Owners and operators of incineration units not covered by an approved State plan must comply with the Federal plan. The Federal plan is an interim action and applies to units until a State plan covering those units is approved and becomes effective.

60. Section 60.2986 is revised to read as follows:

**§60.2986 Is there an approval process for a negative declaration letter?**

No, EPA has no formal review process for negative declaration letters. Once we receive your negative declaration letter, we will place a copy in the public docket and publish a notice in the FEDERAL REGISTER. If, at a later date, an existing incineration unit as defined in §60.2992 is found in your State, the Federal plan implementing the emission guidelines contained in this subpart would automatically apply to that unit until your State plan is approved.

61. Section 60.2987 is amended by:

- a. Revising the introductory text and paragraph (a);
- b. Redesignating paragraph (b) as paragraph (c); and
- c. Adding paragraph (b).

The revisions and addition read as follows:

**§60.2987 What compliance schedule must I include in my State plan?**

Your State plan must include compliance schedules that require existing incineration units as defined in §60.2992 to achieve final compliance as expeditiously as practicable after approval of the State plan but not later than the earlier of the following dates:

- (a) December 16, 2010 for existing incineration units specified in §60.2992(a)(1).

(b) [DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] for existing incineration units specified in §60.2992(a)(2).

\* \* \* \* \*

62. Section 60.2988 is amended by revising paragraph (a) to read as follows:

**§60.2988 Are there any State plan requirements for this subpart that apply instead of the requirements specified in subpart B of this part?**

\* \* \* \* \*

(a) State plans developed to implement this subpart must be as protective as the emission guidelines contained in this subpart. State plans must require all existing incineration units as defined in §60.2992(a)(1) to comply by December 16, 2010 or 3 years after the effective date of State plan approval, whichever is sooner. State plans must require all existing incineration units as defined in §60.2992(a)(2) to comply by [DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] or 3 years after the effective date of State plan approval, whichever is sooner. This applies instead of the option for case-by-case less stringent emission standards and longer compliance schedules in §60.24(f).

\* \* \* \* \*

63. Section 60.2989 is revised to read as follows:

**§60.2989 Does this subpart directly affect incineration unit owners and operators in my state?**

(a) No, this subpart does not directly affect incineration unit owners and operators in your state. However, unit owners and operators must comply with the State plan you develop to implement the emission guidelines contained in this subpart.

(b) You must submit an approvable plan as required in paragraphs (b)(1) and (2) of this section.

(1) For OSWI units with capacities greater than 10 tons per day, if you do not submit an approvable plan to implement and enforce the guidelines contained in this subpart by December 17, 2007, EPA will implement and enforce a Federal plan, as provided in §60.2985, to ensure that each unit within your State reaches compliance with all the provisions of this subpart by December 16, 2010.

(2) For small OSWI units, if you do not submit an approvable State plan to implement and enforce the guidelines contained in this subpart by **[DATE 2 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, for OSWI units that commenced construction, reconstruction, or modification on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER ]**, the EPA will implement and enforce a federal plan, as provided in §60.2985, to ensure that each unit within your state that commenced construction, reconstruction, or modification on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, reaches compliance with all the provisions of this subpart by **[DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**.

64. Section 60.2990 is revised to read as follows:

**§60.2990 What Authorities are withheld by EPA?**

The following authorities are withheld by EPA and not transferred to the State, local or tribal agency:

(1) The authority to approve alternatives to the emission limitations in tables 2 and 2b of this subpart and operating limits established under §60.3023 and table 3 of this subpart.

(2) The authority to approve petitions for specific operating limits in accordance with the requirements in §60.3024.

(3) The authority of the Administrator to receive and grant petitions under §60.8(b)(3) to approve of major alternatives to test methods in §60.3027.

(4) The authority to approve major alternatives to monitoring in §§60.3038 through 60.3044.

(5) The authority to approve major alternatives to recordkeeping and reporting in §§60.3046 through 60.3057.

(6) The authority to receive the required notices and to approve continued operation in connection with the status report requirements in §60.3020(c)(2).

(7) The authority of the Administrator to receive and grant petitions under §60.11(e)(6) through (8) to adjust opacity standards and establish opacity standards in accordance with §60.3022 and §§60.3066 through 60.3068.

(8) The authority of the Administrator under §60.8(b)(4) to waive performance test and §60.8(b)(5) to approve shorter sampling times or smaller sample volumes.

(9) The authority to approve an alternative to any electronic reporting to the EPA required by this subpart.

65. Section 60.2991 is amended by revising paragraph (b) to read as follows:

**§60.2991 What incineration units must I address in my State plan?**

\* \* \* \* \*

(b) The incineration unit is an OSWI unit as defined in §60.3078 or an air curtain incinerator (ACI) subject to this subpart as described in §60.2994(b). OSWI units are very small municipal waste combustion units and institutional waste incineration units as defined in

§60.3078, and include small OSWI units (either very small municipal waste combustion units or institutional waste incinerators).

\* \* \* \* \*

66. Section 60.2992 is revised to read as follows:

**§60.2992 What is an existing incineration unit?**

(a) An existing incineration unit covered by state plan regulations under this subpart is an OSWI unit as defined in §60.3078 or air curtain incinerator as specified in §60.2994, which meets the criteria in paragraph (a)(1) or (3) of this section except as provided in paragraph (b) of this section.

(1) The OSWI unit or air curtain incinerator subject to this subpart commenced construction on or before December 9, 2004.

(2) The OSWI unit or air curtain incinerator subject to this subpart is a small OSWI unit as defined in §60.3078 and commenced construction on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(3) If the OSWI unit or air curtain incinerator subject to this subpart is a small OSWI unit as defined in §60.3078 that commenced construction after December 9, 2004 and prior to **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the unit remains subject to the applicable requirements of subpart EEEE of this part (New Source Performance Standards for Other Solid Waste Incineration Units) until the unit becomes subject to a state plan or federal plan that implements this subpart.

(b) If the owner or operator of an incineration unit that commenced construction on or before December 9, 2005 makes changes that meet the definition of modification or reconstruction on or after June 16, 2006, the unit becomes subject to subpart EEEE of this part

(New Source Performance Standards for Other Solid Waste Incineration Units) and the State plan no longer applies to that unit. If the incineration unit is a small OSWI unit as defined in §60.3078 that meets the definition of modification or reconstruction on and after June 16, 2006 and prior to **[DATE 6 MONTHS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, the unit remains subject to the applicable requirements of subpart EEEE of this part (New Source Performance Standards for Other Solid Waste Incineration Units) until the unit becomes subject to a state plan or federal plan that implements this subpart.

(c) If the owner or operator of an existing incineration unit makes physical or operational changes to the unit primarily to comply with the State plan, then subpart EEEE of this part does not apply to that unit. Such changes do not qualify as modifications or reconstructions under subpart EEEE of this part.

67. Section 60.2993 is amended by revising paragraphs (b)(1) and (b)(3) to read as follows:

**§60.2993 Are any combustion units excluded from my State plan?**

\* \* \* \* \*

(b) \* \* \*

(1) Has a federally enforceable permit limiting the combustion of municipal solid waste to 30 percent of the total fuel input by weight.

\* \* \* \* \*

(3) Provides the Administrator with a copy of the federally enforceable permit.

\* \* \* \* \*

68. Section 60.2994 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

**§60.2994 Are air curtain incinerators regulated under this subpart?**

(a) Air curtain incinerators that burn less than 35 tons per day of municipal solid waste or air curtain incinerators located at institutional facilities burning any amount of institutional waste generated at that facility are incineration units subject to all requirements of this subpart, including the emission limitations specified in tables 2 and 2b of this subpart.

(b) Air curtain incinerators that burn less than 35 tons per day and burn only the materials listed in paragraphs (b)(1) through (4) of this section collected from the general public and from residential, commercial, institutional, and industrial sources; or, air curtain incinerators located at institutional facilities that burn only the materials listed in paragraphs (b)(1) through (4) of this section generated at that facility, are required to meet only the requirements in §§60.3062 through 60.3068 and are exempt from all other requirements of this subpart.

\* \* \* \* \*

69. Section 60.2998 is amended by revising the introductory text and adding paragraphs (j) and (k) to read as follows:

**§60.2998 What are the principal components of the model rule?**

The model rule contains eleven major components, as follows:

\* \* \* \* \*

(j) Definitions.

(k) Tables.

70. Section 60.3003 is added to read as follows:

**§60.3003 What else must I do prior to the compliance date if I meet the substitute means of**



**compliance demonstration?**

If you intend to meet the requirements for the substitute means of compliance demonstration requirements in §60.3032, the requirements in §60.3032(a) and (b) must be completed prior to the compliance date in table 1 of this subpart.

71. Section 60.3014 is amended by revising paragraphs (b), (c) introductory text, (c)(1)(iv), (c)(1)(viii) and (c)(1)(x) to read as follows:

**§60.3014 What are the operator training and qualification requirements?**

\* \* \* \* \*

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (c)(1) through (3) of this section:

(1) \* \* \*

(iv) Combustion controls and monitoring, including good combustion practices and waste characterization procedures.

\* \* \* \* \*

(viii) Actions to prevent and correct malfunctions or to prevent conditions that may lead to malfunction.

\* \* \* \* \*

(x) Applicable federal, state, and local regulations, including Occupational Safety and Health Administration workplace standards.

\* \* \* \* \*

72. Section 60.3015 is amended by revising the introductory text and paragraph (b) to read as follows:

**§60.3015 When must the operator training course be completed?**

The operator training course must be completed by the latest of the dates specified in paragraphs (a) through (c) of this section.

\* \* \* \* \*

(b) Six months after your OSWI unit startup date.

\* \* \* \* \*

73. Section 60.3017 is amended by revising paragraph (d) to read as follows:

**§60.3017 How do I maintain my operator qualification?**

\* \* \* \* \*

(d) Prevention and correction of malfunctions or conditions that may lead to malfunction.

\* \* \* \* \*

74. Section 60.3019 is amended by:

- a. Revising paragraphs (a) introductory text and (a)(4);
- b. Adding paragraph (a)(10); and
- c. Revising paragraph (c)(2).

The revisions and addition read as follows:

**§60.3019 What site-specific documentation is required?**

(a) Documentation must be available at the facility and readily accessible for all OSWI unit operators that addresses the ten topics described in paragraphs (a)(1) through (10) of this section. You must maintain this information and the training records required by paragraph (c) of

this section in a manner that they can be readily accessed and are suitable for inspection upon request.

\* \* \* \* \*

(4) Procedures for maintaining good combustion practices, including proper combustion air supply levels.

\* \* \* \* \*

(10) Procedures for establishing initial and continuous compliance, including but not limited to, procedures to determine waste characterization.

\* \* \* \* \*

(c) \* \* \*

(2) Records showing the names of the OSWI unit operators who have completed the operator training requirements under §60.3014, met the criteria for qualification under §60.3016, and maintained or renewed their qualification under §§60.3017 or 60.3018. Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

\* \* \* \* \*

75. Section 60.3020 is amended by revising the introductory text to read as follows:

**§60.3020 What if all the qualified operators are temporarily not accessible?**

For each batch OSWI unit, a qualified operator must be accessible at all times when the unit is operating. For each continuous OSWI unit or intermittent OSWI unit, if all qualified operators are temporarily not accessible (*i.e.*, not at the facility and not able to be at the facility within 1 hour), you must meet one of the three criteria specified in paragraphs (a) through (c) of this section, depending on the length of time that a qualified operator is not accessible.

\* \* \* \* \*

76. Section 60.3022 is revised to read as follows:

**§60.3022 What emission limitations must I meet and by when?**

For OSWI units as defined in §60.2992(a)(1), you must meet the emission limitations specified in table 2 of this subpart. For small OSWI units as defined in §60.2992(a)(2), you must meet the emission limitations specified in table 2b of this subpart, except as provided in §60.2992(a)(3). You must meet the emissions limitations on the date the initial performance test is required or completed (whichever is earlier). Section 60.3031 specifies the date by which you are required to conduct your performance test.

77. Section 60.3023 is revised to read as follows:

**§60.3023 What operating limits must I meet and by when?**

You must comply with the requirements in paragraphs (a) through (h) of this section, as applicable. If you own or operate a small OSWI unit using the substitute means of compliance demonstration under §60.3032, the references in this section to the most recent performance test demonstrating compliance are not applicable and instead, refer to the limits established during the representative performance test identified in the information submitted as specified in §60.3032(b).

(a) You must establish a maximum charge rate, calculated using the procedures in paragraph (a)(1) or (2) of this section, as appropriate.

(1) For continuous and intermittent units, maximum charge rate is the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(2) For batch units, maximum charge rate is the charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(b) You must establish a minimum combustion chamber operating temperature, equal to the lowest 1-hour average combustion chamber operating temperature measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(c) If you use a wet scrubber to comply with the emission limitations, you must establish operating limits for the operating parameters as described in paragraphs (c)(1) through (3) of this section.

(1) Minimum pressure drop across the wet scrubber, which is calculated as the lowest 1-hour average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as the average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(2) Minimum scrubber liquor flow rate, which is calculated as the lowest 1-hour average liquor flow rate at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(3) Minimum scrubber liquor pH, which is calculated as the lowest 1-hr average liquor pH at the outlet to the wet scrubber measured during the most recent performance test demonstrating compliance with the hydrogen chloride and sulfur dioxide emission limitations.

(d) If you use a dry scrubber to comply with the emission limitations, you must measure the injection rate of each sorbent during the performance test. The minimum operating limit for the injection rate of each sorbent is calculated as the lowest 1-hour average injection rate for each

sorbent measured during the most recent performance test demonstrating compliance with the hydrogen chloride emission limitations.

(e) If you use an electrostatic precipitator to comply with the emission limitations, you must measure the (secondary) voltage and amperage of the electrostatic precipitator collection plates during the particulate matter performance test. Calculate the average electric power value (secondary voltage  $\times$  secondary current = secondary electric power) for each test run. The minimum operating limit for the electrostatic precipitator is calculated as the lowest 1-hour average secondary electric power measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(f) If you use a fabric filter to comply with the emission limitations, you must operate each fabric filter system such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during a 6-month period. Calculate the alarm time (i.e., time that the alarm sounds) as specified in paragraphs (f)(1) and (2) of this section.

(1) If inspection of the fabric filter demonstrates that no corrective action is required, the alarm duration is not counted in the alarm time calculation.

(2) If corrective action is required and you take less than an hour to initiate corrective action, the alarm time is counted as 1 hour. If you take longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(g) If you own or operate a small OSWI unit and you demonstrate continuous compliance according to §60.3033(d), you must establish the amount of waste burned in each waste category as a percentage of total waste burned on a mass basis. These percentages are your waste profile and must be based on the categories of waste fed to the incinerator (e.g., food waste, paper waste, wood waste) during the most recent performance test.

(h) You must meet the operating limits specified in paragraphs (a) through (g) of this section no later than the date specified in paragraph (h)(1) or (2) of this section, as applicable.

(1) For each OSWI unit with a capacity greater than 10 tons per day or for each small OSWI unit for which you conduct an initial performance test under §60.3030(a), beginning on the date 180 days after your final compliance date in table 1 of this subpart.

(2) For each small OSWI unit for which you use the substitute means of compliance demonstration under §60.3032, by the date you submit to the Administrator the information required in §60.3032(b).

78. Section 60.3024 is amended by revising the section heading and the introductory text to read as follows:

**§60.3024 What if I do not use a wet scrubber, dry scrubber, or fabric filter to comply with the emission limitations?**

If you use an air pollution control device other than a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filter to comply with the emission limitations under §60.3022, you must petition EPA for specific operating limits, the values of which are to be established during the performance test and then continuously monitored thereafter. Additionally, unless you demonstrate continuous compliance using the requirements in §60.3032(d), if you limit emissions in some other manner, including material balances, to comply with the emission limitations under §60.3022, then you must submit a petition. You must submit the petition at least 60 days before the performance test is scheduled to begin and not conduct the initial performance test until after the petition has been approved by EPA. Your petition must include the five items listed in paragraphs (a) through (e) of this section.

\* \* \* \* \*

79. Subpart FFFF of part 60 is amended by removing §60.3025.

**§60.3025 [Removed]**

80. Section 60.3027 is amended by revising paragraphs (b) through (e), (g) introductory text, (g)(1)(i), and (g)(3)(i) and (ii) to read as follows:

**§60.3027 How do I conduct the initial and annual performance test?**

\* \* \* \* \*

(b) All performance tests must be conducted using the methods in tables 2 and 2b of this subpart.

(c) All performance tests must be conducted using the minimum run duration specified in tables 2 and 2b of this subpart.

(d) EPA Method 1 of appendix A of this part must be used to select the sampling location and number of traverse points.

(e) EPA Method 3A or 3B of appendix A of this part or ANSI/ASME PTC 19.10-1981 Part 10 (2010), “Flue and Exhaust Gas Analyses” (incorporated by reference, see §60.17(g)), in lieu of EPA Method 3B, must be used for gas composition analysis, including measurement of oxygen concentration. EPA Method 3A or 3B of appendix A of this part or ANSI/ASME PTC 19.10-1981 must be used simultaneously with each method.

\* \* \* \* \*

(g) EPA Method 26A of appendix A of this part must be used for hydrogen chloride concentration analysis, with the additional requirements specified in paragraphs (g)(1) through (3) of this section.

(1) \* \* \*



(i) Assemble the sampling train(s) and conduct a conditioning run by collecting between 14 liters per minute (0.5 cubic feet per minute) and 30 liters per minute (1.0 cubic feet per minute) of gas over a 1-hour period. Follow the sampling procedures outlined in section 8.1.5 of EPA Method 26A of appendix A of this part. For the conditioning run, water can be used as the impinger solution.

\* \* \* \* \*

(3) \* \* \*

(i) The cyclone described in section 6.1.4 of EPA Method 26A of appendix A of this part must be used.

(ii) The post-test moisture removal procedure described in section 8.1.6 of EPA Method 26A of appendix A of this part must be used.

81. Section 60.3028 is revised to read as follows:

**§60.3028 How are the performance test data used?**

You use results of performance tests to demonstrate compliance with the emission limitations in tables 2 and 2b of this subpart.

82. Section 60.3030 is revised to read as follows:

**§60.3030 How do I demonstrate initial compliance with the emission limitations and establish the operating limits?**

(a) Except as provided in paragraph (b) of this section, you must conduct an initial performance test, as required under §60.8, to determine compliance with the emission limitations in table 2 or 2b of this subpart and to establish operating limits using the procedures in §60.3023 or §60.3024. The initial performance test must be conducted using the test methods listed in table

2 or 2b of this subpart and the procedures in §60.3027. In the event of any conflict between §60.8 and the provisions of this subpart, the provisions of this subpart shall apply.

(b) For small OSWI units as defined in §60.3078, you must demonstrate initial compliance according to paragraph (a) of this section, unless you comply with the requirements for the substitute means of compliance demonstration requirements in §60.3032.

(c) As an alternative to conducting a performance test under paragraph (a) of this section for carbon monoxide, you may use a 12-hour rolling average of the 1-hour arithmetic average CEMS data to determine compliance with the emission limitations in tables 2 and 2b of this subpart. The initial performance evaluation required by §60.3039(b) must be conducted prior to collecting CEMS data that will be used for the initial compliance demonstration.

83. Section 60.3031 is revised to read as follows:

**§60.3031 By what date must I conduct the initial performance test?**

The initial performance test must be conducted no later than 180 days after your final compliance date. Your final compliance date is specified in table 1 of this subpart.

84. Section 60.3032 is added to read as follows:

**§60.3032 What are the substitute means of compliance demonstration requirements for small OSWI units?**

Instead of conducting the initial performance test in §60.3030(a), small OSWI units, as defined in §60.3078, may demonstrate initial compliance according to the requirements in paragraphs (a) through (d) of this section.

(a) For each OSWI unit for which you are using the substitute means of compliance demonstration, beginning on the effective date of your State plan approval, or **[DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**,

whichever date is earlier, you must collect the data in paragraphs (1) through (7) of this section until you meet the requirements in paragraph (b) of this section.

(1) Identity and weight of each waste type (e.g., lbs of paper waste, food waste, wood or yard waste) on a weekly total basis for the date range the information is collected.

(2) Identity and quantities (e.g. flow rate or percentage of operating time) of supplemental fuels burned on a weekly total basis for the date range the information is collected.

(3) Percentage of total waste burned for each waste type on a weekly average basis for the date range the information is collected.

(4) Temperature indicative of the combustion chamber and description of where temperature is measured. Record this information on a 3-hour rolling average basis for the date range the information is collected.

(5) Hours operated per day for the date range the information is collected.

(6) Charge rate each day in tons per day for the date range the information is collected.

(7) Operating parameter data for any air pollution control devices. For wet scrubbers, include pressure drop across the scrubber or amperage to the scrubber, scrubber liquor inlet flow rate, and scrubber liquor pH at the outlet of the scrubber. For dry scrubbers, include injection rate of each sorbent used. For electrostatic precipitators, include the secondary voltage, secondary amperage, and secondary power. Record this information on a 3-hour rolling average basis for the date range the information is collected.

(b) On or before 3 years after the effective date of State plan approval, or **[DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, whichever is earlier, you must identify the results of a performance test in the EPA's WebFIRE database that is representative for your OSWI unit using the criteria in

paragraphs (b)(2)(i) through (viii) of this section and submit the information in paragraphs (b)(1) and (2) of this section. You must submit the information following the procedure in paragraph (b)(3) of this section. The performance test may be any test that meets the requirements in paragraph (c) of this section, regardless of location, that is representative of your OSWI unit.

(1) Identify the representative performance test used to demonstrate initial compliance with each OSWI unit by submitting the information in paragraphs (b)(1)(i) through (vi) of this section as provided in the EPA's WebFIRE database for the performance test.

(i) Organization.

(ii) Facility.

(iii) City.

(iv) State.

(v) County.

(vi) Submission date.

(2) A description of how the test is representative for your OSWI unit, based on the following criteria, using the data collected as specified in paragraph (a) of this section:

(i) Unit design, including type of unit and any associated air pollution control devices.

(ii) Charge rate.

(iii) Type of operation (batch, continuous, intermittent).

(iv) Combustion temperature and location of temperature measurement.

(v) Types of waste burned.

(vi) The waste profile, as defined in §60.3078.

(vii) Type and amount of supplemental fuels.

(viii) Similarity of air pollution control devices and operation of the air pollution control devices, if the performance test was conducted on a unit with an air pollution control device.

(3) You must submit the information required in paragraphs (b)(1) and (2) of this section via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit the information, including information claimed to be CBI, to the EPA on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Other Solid Waste Incineration Units Sector Lead, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted via the EPA's CDX as described earlier in this paragraph (b)(3). Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(c) Any performance test used as a representative test in a substitute means of compliance demonstration under paragraph (b) of this section must be conducted according to the initial testing requirements of §60.3027 and demonstrate initial compliance with the emissions limits in table 2b of this subpart. In addition to the results of the performance test and the information required by §60.8(f)(2), the performance test report must contain the information in paragraphs (c)(1) through (8) of this section.

- (1) Unit design, including type of unit and any associated air pollution control devices.
- (2) Charge rate during the test.
- (3) Type of operation (batch, continuous, intermittent).
- (4) Combustion temperature and location of temperature measurement. The temperature must be recorded continuously for each run of the performance test. The performance test report must also identify the lowest 1-hour average combustion chamber operating temperature.
- (5) Types of waste burned during the test.
- (6) The waste profile, as defined in §60.3078, established during the test.
- (7) Type and amount of supplemental fuels burned during the test and the timeframe that each supplemental fuel was burned during the test.
- (8) If the performance test was conducted on a unit with an air pollution control device, the operating parameter data for the control device must be recorded continuously for each run of the performance test. The performance test report must also identify the lowest or highest, as applicable, 1-hour average for the operating parameter.
  - (i) For wet scrubbers, the performance test report must include data for pressure drop across the scrubber or amperage to the scrubber, scrubber liquor inlet flow rate, and scrubber liquor pH at the outlet of the scrubber.
  - (ii) For dry scrubbers, the performance test report must include data for the injection rate of each sorbent used.
  - (iii) For electrostatic precipitators, the performance test report must include data for the secondary voltage, secondary amperage, and secondary power.

(d) If there are no results from a performance test that meet the requirements of paragraph (c) of this section that are representative of your OSWI unit, you must demonstrate initial compliance according to the requirements of §60.3030(a).

85. Section 60.3033 is revised to read as follows:

**§60.3033 How do I demonstrate continuous compliance with the emission limitations and the operating limits?**

You must demonstrate continuous compliance according to the requirements in paragraphs (a) through (c) of this section, unless you own or operate a small OSWI unit, as defined in §60.3078. If you own or operate a small OSWI unit, you must either comply with the requirements in paragraphs (a) and (c) of this section or the requirements in paragraph (d) of this section.

(a) You must conduct an annual performance test for all of the pollutants in table 2 or 2b of this subpart for each OSWI unit to determine compliance with the emission limitations, except if you own or operate an OSWI unit with a capacity greater than 10 tons per day, you are not required to conduct an annual performance test for carbon monoxide. The annual performance test must be conducted using the test methods listed in table 2 or 2b of this subpart and the procedures in §60.3027.

(b) You must continuously monitor carbon monoxide emissions to determine compliance with the carbon monoxide emissions limitation. Twelve-hour rolling average values, including CEMS data during startup and shutdown as defined in this subpart, are used to determine compliance. A 12-hour rolling average value above the carbon monoxide emission limit in table 2 or 2b of this subpart constitutes a deviation from the emission limitation.

(c) You must continuously monitor the operating parameters specified in §60.3023(a) through (f) or established under §60.3024. Three-hour rolling average values are used to determine compliance with the operating limits, with the exception of bag leak detection system alarm time, unless a different averaging period is established under §60.3024. A 3-hour rolling average value (unless a different averaging period is established under §60.3024) above the established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. For bag leak detection systems, an alarm time of more than 5 percent of the operating time during a 6-month period constitutes a deviation from the operating limit. Operating limits do not apply during performance tests.

(d) For each small OSWI unit, you must comply with the requirements in paragraphs (d)(1) through (3) of this section.

(1) You must record the mass rate of each category of waste burned and on a weekly average basis and you must maintain the percentage of waste burned for each waste category within +/- 15 percent of the percentage established for that waste category according to the waste profile established under §60.3023(g) and maintain records as required in §60.3046(o). Failure to maintain the percentage of waste burned for each waste category within +/- 15 percent of the percentage established for that waste category constitutes a deviation.

(2) If your waste profile will not meet the requirement in paragraph (d)(1) of this section, before combusting the modified waste stream, you must either conduct a performance test of the unit using the test methods listed in table 2b of this subpart and the procedures in §60.3027 with a waste stream representative of the new waste profile, or identify a representative performance test for the new waste profile. If you use a representative performance test, the performance test must meet the requirements in §60.3032(c), and you must submit the information in



§60.3032(b)(1) and (2) to the Administrator. Failure to conduct a performance test or identify a representative test constitutes a deviation.

(3) You must continuously monitor the operating parameters specified in §60.3023(b) through (f), as applicable. The total daily charge rate is used to determine compliance with the charge rate limit in §60.3023(a). For the operating parameters in §60.3023(b) through (f), determine compliance as described in paragraphs (d)(3)(i) or (ii) of this section. Failure to meet the operating parameters specified in §60.3023(a) through (f) is a deviation.

(i) Three-hour rolling average values are used to determine compliance with the operating parameter limits, unless your small OSWI unit operates on a batch basis and it is operated for less than three hours.

(ii) If your small OSWI unit operates on a batch basis, and you operate for less than three hours, compliance with the operating parameter limits are determined by averaging the operating parameter over the length of the batch operation.

86. Section 60.3034 is revised to read as follows:

**§60.3034 By what date must I conduct the annual performance test?**

For each OSWI unit that is subject to the annual performance test requirement in §60.3033(a), you must conduct annual performance tests within 12 months following the initial performance test. Conduct subsequent annual performance tests within 12 months following the previous one.

87. Section 60.3035 is amended by adding paragraph (d) to read as follows:

**§60.3035 May I conduct performance testing less often?**

\* \* \* \* \*

(d) For small OSWI units demonstrating initial compliance according to the substitute means of compliance demonstration requirements in §60.3032, the requirements in paragraphs (a) through (c) of this section do not apply.

88. Section 60.3036 is revised to read as follows:

**§60.3036 May I conduct a repeat performance test to establish new operating limits?**

(a) Yes, you may conduct a repeat performance test at any time to establish new values for the operating limits. The Administrator may request a repeat performance test at any time.

(b) For each small OSWI unit, as defined in §60.3078, for which you opt to demonstrate continuous compliance according to the requirements in §60.3033(d), if you want to establish new operating parameter limits or establish a different waste profile, you must comply with either paragraph (b)(1) or (2) of this section.

(1) You must conduct a new performance test of the unit using the test methods listed in table 2b of this subpart and the procedures in §60.3027 with a waste stream representative of the new waste profile or under the new operating limits.

(2) You must identify a representative performance test that meets the requirements in §60.3032(c). You must submit the information in §60.3032(b)(1) and (2) to the Administrator.

89. Section 60.3038 is amended by revising paragraph (a) to read as follows:

**§60.3038 What continuous emission monitoring systems must I install?**

(a) For each OSWI unit with a capacity greater than 10 tons per day, you must install, calibrate, maintain, and operate continuous emission monitoring systems for carbon monoxide and for oxygen. You must monitor the oxygen concentration at each location where you monitor carbon monoxide.

\* \* \* \* \*

90. Section 60.3039 is amended by revising paragraphs (b) and (c) to read as follows:

**§60.3039 How do I make sure my continuous emission monitoring systems are operating correctly?**

\* \* \* \* \*

(b) Complete your initial performance evaluation of the continuous emission monitoring systems within 180 days after your final compliance date in table 1 of this subpart.

(c) For initial and annual performance evaluations, collect data concurrently (or within 30 to 60 minutes) using your carbon monoxide and oxygen continuous emission monitoring systems. To validate carbon monoxide concentration levels, use EPA Method 10, 10A, or 10B of appendix A of this part. Use EPA Method 3A or 3B of appendix A to this part or ANSI/ASME PTC 19.10-198 Part 10 (2010), “Flue and Exhaust Gas Analyses” (incorporated by reference, see §60.17(g)), in lieu of Method 3B, to measure oxygen. Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in appendix B of this part. Table 4 of this subpart shows the required span values and performance specifications that apply to each continuous emission monitoring system.

\* \* \* \* \*

91. Section 60.3041 is amended by revising the section heading and paragraphs (a) and (f) to read as follows:

**§60.3041 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems?**

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Except for CEMS data during startup and shutdown as defined in this subpart, the 1-hr

arithmetic averages for carbon monoxide must be expressed in parts per million by dry volume corrected to 7 percent oxygen. The CEMS data during startup and shutdown are not corrected to 7 percent oxygen and are measured at stack oxygen content. Use the 1-hour averages of oxygen data from your CEMS to determine the actual oxygen level and to calculate emissions at 7 percent oxygen. Use Equation 2 in §60.3076 to calculate the 12-hour rolling averages from the 1-hour arithmetic averages.

\* \* \* \* \*

(f) If continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements, refer to table 4 of this subpart. It shows alternate methods for collecting data when systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data. Failure to collect required data is a deviation of the monitoring requirements.

92. Section 60.3043 is amended by revising the section heading and paragraphs (a) and (c), and adding paragraph (d) to read as follows:

**§60.3043 What operating parameter monitoring equipment must I install, or what operating parameters must I monitor?**

(a) You must install, calibrate (to manufacturers' specifications at the frequency recommended by the manufacturer), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in table 3 of this subpart, as applicable. These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in table 3 of this subpart at all times. The devices must be positioned to provide a representative measurement of the parameter monitored.

\* \* \* \* \*

(c) If you are using a fabric filter to comply with the requirements of this subpart, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (c)(1) through (8) of this section:

(1) You must install and operate a bag leak detection system for each exhaust stack of the fabric filter. The bag leak sensor(s) must be installed in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment of the fabric filter;

(2) Each bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations; and in accordance with the guidance provided in EPA-454/R-98-015 (incorporated by reference, see §60.17(j));

(3) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 1 milligrams per actual cubic meter or less;

(4) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings;

(5) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor;

(6) The bag leak detection system must be equipped with an alarm system that will alert automatically an operator when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located where it is observed easily by plant operating personnel;

(7) For positive pressure fabric filter systems, a bag leak detection system must be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter; and

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(d) If you are required to petition the EPA for operating limits under §60.3024, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in §60.3024.

93. Section 60.3046 is amended by revising the introductory text and paragraphs (b) through (e) and (g), and adding paragraphs (o) through (q) to read as follows:

**§60.3046 What records must I keep?**

You must maintain the information specified in paragraphs (a) through (q) of this section, as applicable, for a period of at least 5 years.

\* \* \* \* \*

(b) Records of the data described in paragraphs (b)(1) through (10) of this section.

(1) The OSWI unit charge dates, times, weights, and total daily charge rates.

(2) The combustion chamber operating temperature every 15 minutes of operation.

(3) For each OSWI unit with a wet scrubber, the liquor flow rate to the wet scrubber inlet; pressure drop across the wet scrubber system or amperage to the wet scrubber; and liquor pH at the outlet of the wet scrubber, every 15 minutes of operation.

(4) For each OSWI unit with a dry scrubber, the injection rate of each sorbent, every 15 minutes of operation.

(5) For each OSWI unit with an electrostatic precipitator, the secondary voltage, secondary current, and secondary electric power, every 15 minutes of operation.

(6) For each OSWI unit with a fabric filter, the date, time, and duration of each alarm; the times corrective action was initiated and completed; and a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of the operating time during each 6-month period that the alarm sounds, calculated as specified in §60.3023(f).

(7) For OSWI units that establish operating limits for controls under §60.3024, you must maintain data collected for all operating parameters used to determine compliance with the operating limits.

(8) For OSWI units that use a carbon monoxide CEMS, all 1-hour average concentrations of carbon monoxide and oxygen.

(9) All 12-hour rolling average values of carbon monoxide emissions, corrected to 7 percent oxygen (except during periods of startup and shutdown), and all 3-hour rolling average values of continuously monitored operating parameters, and total daily charge rates, as applicable.

(10) Records of the dates, times, and durations of any bypass of the control device.

(c) Records of the start date and time and duration in hours of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment and description of the malfunction.

(d) Records of actions taken during periods of malfunction to minimize emissions in accordance with §60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(e) Start date, start time, end date and end time for each period for which monitoring data show a deviation from the carbon monoxide emissions limit in table 2 or 2b of this subpart or a deviation from the operating limits in table 3 of this subpart or a deviation from other operating limits established under §60.3024 with a description of the deviations, reasons for such deviations, and a description of corrective actions taken. You must record the start date, start time, end date and end time for each period when all qualified operators were not accessible in accordance with §60.3020.

\* \* \* \* \*

(g) For carbon monoxide continuous emissions monitoring systems, document the results of your annual performance evaluations, daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of this part.

\* \* \* \* \*

(o) If you comply with the substitute means of compliance demonstration requirements in §60.3032 for your small OSWI unit, you must keep the records specified in paragraphs (o)(1) through (3) of this section.

(1) Records of data collected as required in §60.3032(a)(2).

(2) Copy of the representative performance test used to demonstrate initial compliance;  
and

(3) Documentation of how the test in paragraph (o)(2) of this section is representative of the unit as required in §60.3032(b)(2).

(p) If you comply with the continuous compliance requirements in §60.3033(d), you must keep records of the following elements reported on a weekly basis at the frequency they are



monitored in accordance with table 3 of this subpart (e.g., each 3-hr average recorded temperature), as specified in paragraphs (p)(1) through (7) of this section.

(1) Start and end times the unit is operated when waste is being combusted.

(2) Identity and weight of each waste category (e.g., lbs of solid waste, food waste, wood or yard waste).

(3) Identities and quantities of supplemental fuel burned (e.g. flow rate or percentage of operating time).

(4) The waste profile, as defined in §60.3078.

(5) Temperature of unit combustion chamber and description of where temperature is measured, as a three-hour average for each batch operation.

(6) Charge rate (in tons per day) of each operation,

(7) For each OSWI unit using a wet scrubber, dry scrubber, electrostatic precipitator, or fabric filter, the records specified in paragraph (b)(3) through (10) of this section, as applicable.

(q) Copies of any notifications submitted pursuant to §§60.2993 and 60.3061.

94. Section 60.3049 is amended by revising the introductory text to read as follows:

**§60.3049 What information must I submit following my initial performance test?**

Unless you choose to comply with the substitute means of compliance demonstration requirements in §60.3032, you must submit the information specified in paragraphs (a) through (c) of this section no later than 60 days following the initial performance test. All reports must be signed by the facilities manager.

\* \* \* \* \*

95. Section 60.3050 is revised to read as follows:

**§60.3050 When must I submit my annual report?**

You must submit an annual report no later than 12 months following the submission of the information in §60.3049, unless you choose to comply with the substitute means of compliance demonstration requirements in §60.3032. If you choose to comply with the substitute means of compliance demonstration requirements in §60.3032, you must submit an annual report no later than 12 months following the submission of the information in §60.3032(b). You must submit subsequent reports no more than 12 months following the previous report. The permit will address the submittal of annual reports for a unit with an operating permit required under title V of the Clean Air Act.

96. Section 60.3051 is amended by:

- a. Revising the introductory text and paragraphs (b) through (f);
- b. Removing and reserving paragraph (g);
- c. Revising paragraph (h) and (j); and
- d. Adding paragraph (k).

The revisions and addition read as follows:

**§60.3051 What information must I include in my annual report?**

The annual report required under §60.3050 must include the items listed in paragraphs (a) through (k) of this section. If you have a deviation from the operating limits or the emission limitations, you must also submit deviation reports as specified in §§60.3052 through 60.3054.

\* \* \* \* \*

(b) Statement by the owner or operator, with their name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the

requirements of 40 CFR 70.5(d) or 40 CFR 71.5(d). If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces this requirement.

(c) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of report when the report is submitted via CEDRI.

(d) Identification of each OSWI unit, and for each OSWI unit, the parameters monitored and values for the operating limits established pursuant to §60.3023 or §60.3024.

(e) If no deviations from any emission limitation or operating limit that applies to you has occurred during the annual reporting period, a statement that there were no deviations from the emission limitations or operating limits during the reporting period. If you use a CMS to monitor emissions or operating parameters and there were no periods during which any CMS was inoperative, inactive, malfunctioning or out of control, a statement that no monitoring system used to determine compliance with the emission limitations or operating limits was inoperative, inactive, malfunctioning or out of control.

(f) The highest recorded 12-hour average and the lowest recorded 12-hour average, as applicable, for carbon monoxide emissions if you are using a CEMS to demonstrate continuous compliance and the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported.

(g) [Reserved]

(h) If a performance test was conducted during the reporting period, identification of the OSWI unit tested, the pollutant(s) tested, and the date of the performance test. Submit, following the procedure specified in §60.3056(b), the performance test report no later than the date that you submit the annual report.

\* \* \* \* \*

(j) The start date, start time, and duration in hours for each period when all qualified OSWI unit operators were unavailable for more than 12 hours, but less than 2 weeks.

(k) If you are complying with the continuous compliance requirements for small OSWI units in §60.3033(d) and have had no deviations from the weekly waste profile requirements or deviations from the operating limits, a statement that there were no deviations from the weekly waste profile requirements, and the OSWI unit has been operated within the operating parameter limits established during the representative performance test identified in the information submitted as required in §60.3032(b) or the initial performance test conducted by the source, as required in §60.3032(d).

97. Section 60.3052 is amended by revising the section heading and paragraph (a) to read as follows:

**§60.3052 What other reports must I submit if I have a deviation?**

(a) You must submit a deviation report as specified in paragraphs (a)(1) through (3) of this section:

(1) If your OSWI unit fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements.

(2) If your OSWI unit 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 unit that meets the requirements in §60.2991 and is required to obtain such a permit.

(3) If you deviate from the requirements to have a qualified operator accessible as specified in §60.3020, you must meet the requirements of §60.3054.

\* \* \* \* \*

98. Section 60.3053 is revised to read as follows:

**§60.3053 What must I include in the deviation report?**

In each report required under §60.3052, you must include the company name and address and the beginning and ending dates for the reporting period. For any pollutant or operating parameter that deviated from the emission limitations, operating limits or other requirement specified in this subpart, or for each CMS that experienced downtime or was out of control, include the items described in paragraphs (a) through (g) of this section, as applicable. If you are complying with the continuous compliance requirements for small OSWI units in §60.3033(d), you must also include the items described in paragraphs (h) and (i) of this section. You must identify the OSWI unit associated with the information required in paragraphs (a) through (i) of this section in your deviation report.

(a) Identification of the emission limit, operating parameter or other requirement from which there was a deviation and the start date, start time, and duration in hours of each deviation.

(b) The averaged and recorded data for those dates, including, when applicable, the information recorded under §60.3046(b)(9) and (c) through (e) for the calendar period being reported.

(c) The cause of each deviation from the emission limitations, operating limits or other requirement and your corrective actions.

(d) For each CMS, the start date, start time, duration in hours, and cause for each instance of monitor downtime (other than downtime associated with zero, span, and other routine calibration checks).

(e) For each CMS, the start date, start time, duration in hours, and corrective action taken for each instance that the monitor is out of control.

(f) The dates, times, and durations in hours of any bypass of the control device and your corrective actions.

(g) For batch OSWI units, the dates, times, and duration in hours of any deviation from the requirements to have a qualified operator accessible as required in §60.3014.

(h) If you are complying with the continuous compliance requirements for small OSWI units in §60.3033(d), the dates, times, duration in weeks, and cause for each deviation from the waste profile required in §60.3033(d)(1).

(i) The dates, times, duration in hours, and cause for each deviation from the operating parameter limits established during the representative performance test identified in the information submitted as required in §60.3032(b) or the initial performance test conducted by the source as required in §60.3030(d).

99. Section 60.3056 is revised to read as follows:

**§60.3056 In what form can I submit my reports?**

(a) Before **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, you must submit annual and deviation reports electronically or in paper format, postmarked on or before the submittal due dates. Beginning on **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, or once the reporting template for this subpart has been available on the Compliance and Emissions Data Reporting Interface (CEDRI) website for one year, whichever date is later, you must submit all subsequent annual compliance reports and deviation reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information

you claim as confidential business information (CBI). Anything submitted using CEDRI cannot later be claimed CBI. You must use the appropriate electronic report template on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/cedri>) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim, submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Other Solid Waste Incineration Units Sector Lead, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(b) Beginning on [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (b)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website ([https://www.epa.gov/electronic-reporting-](https://www.epa.gov/electronic-reporting-ert)*

*airemissions/electronic-reporting-tool-ert)* at the time of the test. Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (<https://cdx.epa.gov/>). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information required under paragraph (b)(1) or (2) of this section CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via EPA's CDX as described in paragraphs (b)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to



the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(c) Beginning on [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], within 60 days after the date of completing each continuous emissions monitoring system (CEMS) performance evaluation, you must submit the results of the performance evaluation following the procedures specified in paragraphs (c)(1) through (3) of this section.

(1) *Performance evaluations of CEMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CEMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *CBI.* Do not use CEDRI to submit information you claim as CBI. Anything submitted using CEDRI cannot later be claimed CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information required under paragraph (c)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate

electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraphs (c)(1) and (2) of this section. All CBI claims must be asserted at the time of submission. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(d) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (d)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of the measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of *force majeure* for failure to timely comply with the reporting requirement. To assert a claim of *force majeure*, you must meet the requirements outlined in paragraphs (e)(1) through (5) of this section.

(1) You may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as 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 you from complying with the requirement to submit a report electronically within the

time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of the measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the *force majeure* event occurs.

100. Section 60.3059 is revised to read as follows:

**§60.3059 Am I required to apply for and obtain a title V operating permit for my unit?**

(a) Yes, if your OSWI unit is an existing incineration unit subject to an applicable EPA-approved and effective Clean Air Act section 111(d)/129 State or Tribal plan or an applicable

and effective Federal plan, you are required to obtain a title V operating permit for your OSWI unit. 40 CFR 70.5(a)(1) and 40 CFR 71.5(a)(1) addresses the title V application deadlines.

(b) Air curtain incinerators as specified in §60.2994(b) and subject only to the requirements in §§60.3062 through 60.3068 are exempted from title V permitting requirements per these regulations.

101. Subpart FFFF of part 60 is amended by removing section 60.3060.

**§60.3060 [Removed]**

102. Section 60.3062 is amended by removing and reserving paragraph (b).

103. Section 60.3067 is amended by revising paragraph (a) to read as follows:

**§60.3067 How must I monitor opacity for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?**

(a) Use EPA Method 9 of appendix A of this part or ASTM D7520-16, “Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere,” (incorporated by reference (IBR), see §60.17(h)), to determine compliance with the opacity limitation.

\* \* \* \* \*

104. Section 60.3068 is amended by revising paragraph (d) to read as follows:

**§60.3068 What are the recordkeeping and reporting requirements for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?**

\* \* \* \* \*

(d) Before **[DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date. On and after **[DATE 180 DAYS AFTER**

**PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, within 60 days after the date of completing the initial opacity test and each annual opacity test required by this subpart, you must submit the results of the opacity test following the procedures specified in §60.3056(b)(1) through (3).

\* \* \* \* \*

105. Subpart FFFF of part 60 is amended by removing section 60.3069.

**§60.3069 [Removed]**

106. Section 60.3076 is amended by revising parameters “E<sub>a</sub>” and “E<sub>hj</sub>” of Equation 2 in paragraph (d) to read as follows:

**§60.3076 What equations must I use?**

\* \* \* \* \*

(d) \* \* \*

- E<sub>a</sub> = Average carbon monoxide pollutant rate for the 12-hour period, ppm corrected to 7 percent O<sub>2</sub>. Note that a 12-hour period may include CEMS data during startup and shutdown, as defined in the subpart, in which case the period will not consist entirely of data that have been corrected to 7 percent O<sub>2</sub>.
- E<sub>hj</sub> = Hourly arithmetic average pollutant rate for hour “j,” ppm corrected to 7 percent O<sub>2</sub>. CEMS data during startup and shutdown, as defined in the subpart, are not corrected to 7 percent oxygen, and are measured at stack oxygen content.

107. Section 60.3078 is amended by:

- a. Revising the definition for “Administrator”;
- b. Adding in alphabetical order a definition for “CEMS data during startup and shutdown”;
- c. Removing the definition for “Collected from”;

d. Revising the definitions for “Deviation,” “Low-level radioactive waste,” “Municipal waste combustion unit,” and “Particulate Matter”; and

e. Adding in alphabetical order a definition for “Small OSWI unit” and “Waste profile.”

The revisions and additions read as follows:

**§60.3078 What definitions must I know?**

*Administrator* means:

(1) For approved and effective state section 111(d)/129 plans, the Director of the state air pollution control agency, or his or her delegatee;

(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.

\* \* \* \* \*

*CEMS data during startup and shutdown* means CEMS data collected during the first hours of a OSWI startup from a cold start until waste is fed to the unit and the hours of operation following the cessation of waste material being fed to the OSWI during a unit shutdown. For each startup event, the length of time that CEMS data may be claimed as being CEMS data during startup must be 48 operating hours or less. For each shutdown event, the length of time that CEMS data may be claimed as being CEMS data during shutdown must be 24 operating hours or less.

\* \* \* \* \*

*Deviation* means any instance in which a unit that meets the requirements in §60.2991, 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, operating limit, or operator qualification and accessibility requirements; and

(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 unit that meets requirements in §60.2991 and is required to obtain such a permit.

\* \* \* \* \*

*Low-level radioactive waste* means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

\* \* \* \* \*

*Municipal waste combustion unit* means, for the purpose of this subpart and subpart EEEE, any setting or equipment that combusts municipal solid waste (as defined in this subpart) including, but not limited to, field-erected, modular, cyclonic burn barrel, and custom built incineration units (with or without energy recovery) operating with starved or excess air, boilers, furnaces, and air curtain incinerators (except those air curtain incinerators listed in §60.2994(b)).

\* \* \* \* \*



*Particulate matter* means total particulate matter emitted from OSWI units as measured by EPA Method 5 or EPA Method 29 of appendix A of this part.

\* \* \* \*

*Small OSWI unit* means OSWI units with capacities less than or equal to 10 tons per day.

\* \* \* \*

*Waste profile* means for a small OSWI unit the amount of each waste category burned as a percentage of total waste burned on a mass basis.

\* \* \* \*

108. Table 1 to subpart FFFF of part 60 is revised to read as follows:

**Table 1 to Subpart FFFF of Part 60—Model Rule—Compliance Schedule**

As stated in §60.3000, you must comply with the following:

For units as defined in...	Complete this action	By this date <sup>a</sup>
§60.2992(a)(1)	Final compliance <sup>b</sup>	(Dates to be specified in State plan) <sup>c</sup> .
§60.2992(a)(2) and (a)(3), as applicable	Final compliance <sup>b</sup>	(Dates to be specified in State plan) <sup>d</sup> .

<sup>a</sup>Site-specific schedules can be used at the discretion of the state.

<sup>b</sup>Final compliance means that you complete all process changes and retrofit of control devices so that, when the incineration unit is brought on line, all process changes and air pollution control devices necessary to meet the emission limitations operate as designed.

<sup>c</sup>The date can be no later than 3 years after the effective date of State plan approval or December 16, 2010, whichever is earlier.

<sup>d</sup>The date can be no later than 3 years after the effective date of State plan approval or **[DATE 5 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, whichever is earlier.

109. Table 2 to subpart FFFF of part 60 is amended by revising the title, rows 7, 8, and 10, and footnote “a” to read as follows:

**Table 2 to Subpart FFFF of Part 60—Model Rule—Emission Limitations for OSWI Units**

\* \* \* \* \*

<b>For the air pollutant</b>	<b>You must meet this emission limitation<sup>a</sup></b>	<b>Using this averaging time</b>	<b>And determining compliance using this method</b>
* * * * *			
7. Opacity	10 percent	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages)	<p>Method 9 of appendix A of this part, or ASTM D7520-16 (incorporated by reference (IBR), see §60.17(h)), if the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).</li> <li>2. You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16.</li> <li>3. You must follow the recordkeeping procedures outlined in §63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.</li> <li>4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of anyone reading and the average error must not exceed 7.5 percent opacity.</li> </ol>
8. Oxides of nitrogen	103 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Methods 7 and 7C only.

This document is a prepublication version, signed by EPA Administrator, Andrew R. Wheeler on 08/10/2020. We have taken steps to ensure the accuracy of this version, but it is not the official version.

* * * * *			
10. Sulfur dioxide	3.1 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 6 only.

<sup>a</sup>All emission limitations (except for opacity and CEMS data during startup and shutdown) are measured at 7 percent oxygen, dry basis at standard conditions. CEMS data during startup and shutdown are measured at stack oxygen content.

\* \* \* \* \*

110. Table 2b to subpart FFFF of part 60 is added to read as follows:

**Table 2b to Subpart FFFF of Part 60—Model Rule—Emission Limitations That Apply to Small OSWI Units On or After [DATE TO BE SPECIFIED IN STATE PLAN]<sup>a</sup>**

As stated in §60.3022, you must comply with the following:

<b>For the air pollutant</b>	<b>You must meet this emission limitation<sup>b</sup></b>	<b>Using this averaging time</b>	<b>And determining compliance using this method</b>
1. Cadmium	2,000 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
2. Carbon monoxide	220 parts per million by dry volume	3-run average (1 hour minimum sample time per run during performance test), and 12-hour rolling averages measured using CEMS <sup>c</sup>	Method 10, 10A, or 10B of appendix A of this part and CEMS.
3a. Dioxins/furans (total mass basis) <sup>d</sup>	4,700 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 23 of appendix A of this part.
3b. Dioxins/furans (toxic equivalency basis) <sup>d</sup>	86 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 23 of appendix A of this part.
4. Hydrogen chloride	500 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 26A of appendix A of this part.
5. Lead	32,000	3-run average (1 hour	Method 29 of appendix A of this

	micrograms per dry standard cubic meter	minimum sample time per run)	part.
6. Mercury	69 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of appendix A of this part.
7. Opacity	10 percent	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages)	<p>Method 9 of appendix A of this part, or ASTM D7520-16 (IBR, see §60.17(h)), if the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520-16, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).</li> <li>2. You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520-16.</li> <li>3. You must follow the recordkeeping procedures outlined in §63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.</li> <li>4. You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any</li> </ol>

			one reading and the average error must not exceed 7.5 percent opacity.
8. Oxides of nitrogen	210 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Methods 7 and 7C only.
9. Particulate matter	280 milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 5 or 29 of appendix A of this part.
10. Sulfur dioxide	130 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of appendix A of this part, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 6 only.

<sup>a</sup>The date can be no later than 3 years after the effective date of State plan approval or **[DATE 5 YEARS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, whichever is earlier.

<sup>b</sup>All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions. CEMS data during startup and shutdown are measured at stack oxygen content.

<sup>c</sup>Calculated each hour as the average of the previous 12 operating hours.

<sup>d</sup>For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.

111. Table 3 to subpart FFFF of part 60 is revised to read as follows:

**Table 3 to Subpart FFFF of Part 60—Model Rule—Operating Limits for Incinerators**

As stated in §60.3023, you must comply with the following:

For these operating parameters	You must establish operating limits	And monitoring using these minimum frequencies		
		Data measurement	Data recording	Averaging time
1. Charge rate	Maximum charge rate	Periodic	For batch, each batch. For continuous or intermittent, every hour	Daily for batch units or small OSWI units complying with §60.3033(d). 3-hour rolling for continuous and intermittent units. <sup>a</sup>

2. Combustion temperature	Minimum combustion chamber operating temperature	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
3. Pressure drop across the wet scrubber or amperage to wet scrubber	Minimum pressure drop or amperage	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
4. Wet scrubber liquor flow rate	Minimum flow rate at inlet to the scrubber	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
5. Wet scrubber liquor pH	Minimum pH at scrubber outlet	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
6. Dry scrubber sorbent injection	Minimum injection rate of each sorbent	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
7. Electrostatic precipitator secondary electric power	Minimum secondary electric power, calculated from the secondary voltage and secondary current	Continuous	Every 15 minutes	3-hour rolling <sup>a</sup> .
8. Bag leak detection system alarm time	Alarm time < 5 percent of the operating time during a 6-month period.	Continuous	Each date and time of alarm start and stop	Calculate alarm time as specified in §60.3023(f).
9. Waste profile	The amount of each waste category burned as a percentage of total waste burned on a mass basis.	Periodic	For batch, each batch. For continuous or intermittent, every hour.	Weekly

<sup>a</sup>Calculated each hour as the average of the previous 3 operating hours.

112. Table 4 to subpart FFFF of part 60 is amended by revising row 2 to read as follows:

**Table 4 to Subpart FFFF of Part 60—Model Rule—Requirements for Continuous Emission Monitoring Systems (CEMS)**

\* \* \* \* \*

For the following pollutants	Use the following span values for your CEMS	Use the following performance specifications (P.S.) in	If needed to meet minimum data requirements, use the following alternate methods
------------------------------	---------------------------------------------	--------------------------------------------------------	----------------------------------------------------------------------------------

		<b>appendix B of this part for your CEMS</b>	<b>in appendix A of this part to collect data</b>
* * * * *			
2. Oxygen	25 percent oxygen	P.S.3	Method 3A or 3B, or ANSI/ASME PTC 19.10-1981 (IBR, see §60.17(g)) in lieu of Method 3B only.

113. Table 5 to subpart FFFF of part 60 is amended by revising rows 3.a.vii and 3.a.ix and adding row 3.a.xi to read as follows:

**Table 5 to Subpart FFFF of Part 60—Model Rule—Summary of Reporting Requirements**

* * * * *			
<b>Report</b>	<b>Due date</b>	<b>Contents</b>	<b>Reference</b>
* * * * *			
		vii. Information for deviations or malfunctions recorded under §60.3046(b)(6) and (c) through (e);	§§60.3050 and 60.3051.
* * * * *			
		ix. If a performance test was not conducted during the reporting period, a statement that the requirements of §60.3035(a) or (b) were met; and	§§60.3050 and 60.3051.
* * * * *			
		xi. For each small OSWI unit for which you demonstrate continuous compliance according to §60.3033(d), if no deviations from the percentages established for each waste category according to the waste profile required in §60.3033(d)(1) and the OSWI unit has been operated within the operating	§§60.3050 and 60.3051.

		parameter limits, a statement that there were no deviations from the weekly waste profile requirements and the OSWI unit has been operated within the operating parameter limits.	
*	*	*	*

\* \* \* \*