§ 60.2120 What happens during periods of startup, shutdown, and malfunction?

(a) The emission limitations and operating limits apply at all times except during CISWI unit startups, shutdowns, or malfunctions.

(b) Each malfunction must last no longer than 3 hours.

PERFORMANCE TESTING

Effective Date Note: At 76 FR 15452, Mar. 21, 2011, § 60.2120 was revised, effective May 20, 2011. At 76 FR 28661, May 18, 2011 the amendment was delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 60.2120 Affirmative Defense for Exceedance of an Emission Limit During Malfunction.

In response to an action to enforce the standards set forth in paragraph § 60.2105, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined at 40 CFR 60.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(a) To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(1) The excess emissions:

(i) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner; and

(ii) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(iii) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(iv) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(2) Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(3) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(4) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(5) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health; and

(6) All emissions and/or parameter monitoring and systems, as well as control systems, were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(7) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(8) At all times, the facility was operated in a manner consistent with good practices for minimizing emissions; and

(9) A written root cause analysis has been prepared, the purpose of which is to determine the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(b) Notification. The owner or operator of the facility experiencing an exceedance of its emission limit(s) during a malfunction shall notify the Administrator by telephone or facsimile (FAX) transmission as soon as possible, but no later than two business days after the initial occurrence of the malfunction, if it wishes to avail itself of an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense shall also submit a written report to the Administrator within 45 days of the initial occurrence of
the exceedance of the standard in §60.2105 to demonstrate, with all necessary supporting documentation, that it has met the requirements set forth in paragraph (a) of this section. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

§ 60.2125 How do I conduct the initial and annual performance test?

(a) All performance tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) You must document that the waste burned during the performance test is representative of the waste burned under normal operating conditions by maintaining a log of the quantity of waste burned (as required in §60.2175(b)(1)) and the types of waste burned during the performance test.

(c) All performance tests must be conducted using the minimum run duration specified in table 1 of this subpart.

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

(e) Method 3A or 3B of appendix A of this part must be used for gas composition analysis, including measurement of oxygen concentration. Method 3A or 3B of appendix A of this part must be used simultaneously with each method.

(f) All pollutant concentrations, except for opacity, must be adjusted to 7 percent oxygen using Equation 1 of this section:

\[ C_{adj} = \frac{C_{meas} \times (20.9-7)}{20.9} \quad \text{(Eq. 1)} \]

Where:

- \( C_{adj} \) = pollutant concentration adjusted to 7 percent oxygen;
- \( C_{meas} \) = pollutant concentration measured on a dry basis;
- 20.9 = oxygen concentration in air, percent; and
- \( %O_2 \) = oxygen concentration measured on a dry basis, percent.

(g) You must determine dioxins/furans toxic equivalency by following the procedures in paragraphs (g)(1) through (3) of this section.

(1) Measure the concentration of each dioxin/furan tetra-through octachlorinated-congener emitted using EPA Method 23.

(2) For each dioxin/furan (tetra-through octachlorinated) congener measured in accordance with paragraph (g)(1) of this section, multiply the congener concentration by its corresponding toxic equivalency factor specified in table 3 of this subpart.

(3) Sum the products calculated in accordance with paragraph (g)(2) of this section to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

EFFECTIVE DATE NOTE: At 76 FR 15453, Mar. 21, 2011, §60.2125 was amended by revising paragraph (c); revising paragraphs (g)(1) and (g)(2); adding paragraphs (h) and (i), effective May 20, 2011. At 76 FR 28661, May 18, 2011 the amendment was delayed indefinitely. For the convenience of the user, the added and revised text is set forth as follows:

§ 60.2125 How do I conduct the initial and annual performance test?

* * * * *

(c) All performance tests must be conducted using the minimum run duration specified in table 1 of this subpart or tables 5 through 8 of this subpart.

* * * * *

(g) * * *

(1) Measure the concentration of each dioxin/furan tetra-through octa-chlorinated isomer emitted using EPA Method 23 at 40 CFR part 60, appendix A–7.

(2) For each dioxin/furan (tetra-through octa-chlorinated) isomer measured in accordance with paragraph (g)(1) of this section, multiply the isomer concentration by its corresponding toxic equivalency factor specified in table 3 of this subpart.

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(h) Method 22 at 40 CFR part 60, appendix A–7 of this part must be used to determine compliance with the fugitive ash emission limit in table 1 of this subpart or tables 5 through 8 of this subpart.

(i) If you have an applicable opacity operating limit, you must determine compliance with the opacity limit using Method 9 at 40 CFR part 60, appendix A–4 of this part, based