(4) If the violation 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 violation on ambient air quality, the environment, and human health; and

(6) All emissions monitoring and 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 violation were documented by properly signed, contemporaneous operating logs; and

(8) At all times, the affected CISWI unit 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, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(b) Report. The owner or operator seeking to assert an affirmative defense shall submit a written report to the Administrator with all necessary supporting documentation, that it has met the requirements set forth in paragraph (a) of this section. This affirmative defense report shall be included in the first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.

[78 FR 9197, Feb. 7, 2013]
§ 60.2695  How are the performance test data used?

You use results of performance tests to demonstrate compliance with the emission limitations in table 2 of this subpart or tables 6 through 9 of this subpart.

[76 FR 15773, Mar. 21, 2011]

MODEL RULE—INITIAL COMPLIANCE REQUIREMENTS

§ 60.2700  How do I demonstrate initial compliance with the amended emission limitations and establish the operating limits?

You must conduct a performance test, as required under §§60.2690 and 60.2670, to determine compliance with the emission limitations in §60.2675, and to establish operating limits using the procedures in §60.2675 or §60.2690. The performance test must be conducted using the test methods listed in table 2 of this subpart and tables 6 through 9 of this subpart.

[76 FR 15773, Mar. 21, 2011]

§ 60.2705  By what date must I conduct the initial performance test?

(a) 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.

(b) If you commence or recommence combusting a solid waste at an existing combustion unit at any commercial or industrial facility and you conducted a test consistent with the provisions of this subpart while combusting the given solid waste within the 6 months preceding the reintroduction of that