must require all OSWI units and air
curtain incinerators subject to this
subpart as described in §60.2994(b) to
comply by December 16, 2010 or 3 years
after the effective date of State plan
approval, whichever is sooner. This ap-
pplies instead of the option for case-by-
case less stringent emission standards
and longer compliance schedules in §60.24(f).

(b) State plans developed to imple-
ment this subpart are required to in-
clude only one increment of progress
for the affected incineration units.
This increment is the final compliance
date in §60.21(h)(5). This applies instead
of the requirement of §60.24(e)(1).

§ 60.2989 Does this subpart directly af-
flect incineration unit owners and
operators in my State?

(a) No, this subpart does not directly
affect incineration unit owners and op-
erators in your State. However, unit
owners and operators must comply
with the State plan you develop to im-
plement the emission guidelines con-
tained in this subpart.

(b) If you do not submit an approv-
able 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

§ 60.2990 What Authorities are with-
held by EPA?

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

(1) Approval of alternatives to the
 emission limitations in table 2 of this
 subpart and operating limits estab-
lished under §60.3023 and table 3 of this
 subpart.

(2) Approval of petitions for specific
operating limits in §60.3024.

(3) Approval of major alternatives to
test methods.

(4) Approval of major alternatives to
monitoring.

(5) Approval of major alternatives to
recordkeeping and reporting.

(6) The status report requirements in
§60.3020(c)(2).

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

Your State plan must address all in-
cineration units in your State that
meet all the requirements specified in
paragraphs (a) through (c) of this sec-
tion.

(a) The incineration unit is an exist-
ing incineration unit as defined in
§60.2992.

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

(c) The incineration unit is not ex-
cluded under §60.2993.

§ 60.2992 What is an existing inciner-
ation unit?

An existing incineration unit is an
OSWI unit or air curtain incinerator
subject to this subpart that com-
enced construction on or before De-
cember 9, 2004, except as provided in
paragraph (a) of this section.

(a) If the owner or operator of an in-
cineration unit 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 Per-
formance Standards for Other Solid
Waste Incineration Units) and the
State plan no longer applies to that
unit.

(b) If the owner or operator of an ex-
sting incineration unit makes physical
or operational changes to the unit pri-
marily 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 recon-
structions under subpart EEEE of this
part.

§ 60.2993 Are any combustion units ex-
cluded from my State plan?

This subpart excludes the types of
units described in paragraphs (a) through (q) of this section, as long as
the owner/operator meets the require-
ments of this section.
(a) **Cement kilns.** The unit is excluded if it is regulated under subpart LLL of part 63 of this chapter (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry).

(b) **Co-fired combustors.** The unit, that would otherwise be considered a very small municipal waste combustion unit, is excluded if the owner/operator of the unit meets the five requirements specified in paragraphs (b)(1) through (5) of this section.

1. Has a Federally enforceable permit limiting the combustion of municipal solid waste to 30 percent of the total fuel input by weight.
2. Notifies the Administrator that the unit qualifies for the exclusion.
3. Provides the Administrator with a copy of the Federally enforceable permit.
4. Records the weights, each calendar quarter, of municipal solid waste and of all other fuels combusted.
5. Keeps each report for 5 years. These records must be kept on site for at least 2 years, but may be kept off site for the remaining 3 years.

(c) **Cogeneration facilities.** The unit is excluded if it meets the three requirements specified in paragraphs (c)(1) through (3) of this section.

1. The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).
2. The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.
3. The owner/operator of the unit notifies the Administrator that the unit meets all of these criteria.

(d) **Commercial and industrial solid waste incineration units.** The unit is excluded if it is regulated under subparts COCC or DDDD of this part or subpart III of part 62 and is required to meet the emission limitations established in those subparts.

(e) **Hazardous waste combustion units.** The unit is excluded if it meets either of the two criteria specified in paragraph (e)(1) or (2) of this section.

1. The owner/operator of the unit is required to get a permit for the unit under section 3005 of the Solid Waste Disposal Act.
3. **Hospital/medical/infectious waste incinerators.** The unit is excluded if it is regulated under subparts Ce or Ec of this part (New Source Performance Standards and Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators) or subpart HHH of part 62 (Federal Plan for Hospital/Medical/Infectious Waste Incinerators constructed on or before June 20, 1996).
4. **Incinerators and air curtain incinerators in isolated areas of Alaska.** The incineration unit is excluded if it is used at a solid waste disposal site in Alaska that is classified as a Class II or Class III municipal solid waste landfill, as defined in §60.3078.

(h) **Rural institutional waste incinerators.** The incineration unit is excluded if it is an institutional waste incinerator, as defined in §60.3078, and the application for exclusion described in paragraphs (h)(1) and (2) of this section has been approved by the Administrator.

1. Prior to 1 year before the final compliance date, an application and supporting documentation demonstrating that the institutional waste incineration unit meets the two requirements specified in paragraphs (h)(1)(i) and (ii) of this section must be submitted to the Administrator for approval.
   i. The unit is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area,
   ii. Alternative disposal options are not available or are economically infeasible.
2. The application described in paragraph (h)(1) of this section must be revised and resubmitted to the Administrator for approval every 5 years following the initial approval of the exclusion for your unit.
3. If you re-applied for an exclusion pursuant to paragraph (h)(2) of this section and were denied exclusion by the Administrator, you have 3 years from the expiration date of the current exclusion to comply with the emission standards.
limits and all other applicable requirements of this subpart.

(i) Institutional boilers and process heaters. The unit is excluded if it is regulated under 40 CFR part 63, subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters).

(j) Laboratory Analysis Units. The unit is excluded if it burns samples of materials only for the purpose of chemical or physical analysis.

(k) Materials recovery units. The unit is excluded if it combusts waste for the primary purpose of recovering metals. Examples include primary and secondary smelters.

(l) Pathological waste incineration units. The institutional waste incineration unit or very small municipal waste combustion unit is excluded from this subpart if it burns 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in §60.3078 and the owner/operator of the unit notifies the Administrator that the unit meets these criteria.

(m) Small or large municipal waste combustion units. The unit is excluded if it is regulated under subparts AAAA, BBBB, Ea, Eb, or Cb, of this part or subparts FFF or JJJ of part 62 and is required to meet the emission limitations established in those subparts.

(n) Small power production facilities. The unit is excluded if it meets the three requirements specified in paragraphs (n)(1) through (3) of this section.

(1) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) The owner/operator of the unit notifies the Administrator that the unit meets all of these criteria.

(o) Temporary-use incinerators and air curtain incinerators used in disaster recovery. The incineration unit is excluded if it is used on a temporary basis to combust debris from a disaster or emergency such as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism and you comply with the requirements in §60.3061.

(p) Units that combust contraband or prohibited goods. The incineration unit is excluded if it is owned or operated by a government agency such as police, customs, or agricultural inspection, or a similar agency to destroy only illegal or prohibited goods such as illegal drugs, or agricultural food products that can not be transported into the country or across state lines to prevent biocontamination. The exclusion does not apply to items either confiscated or incinerated by private, industrial, or commercial entities.

(q) Incinerators used for national security. Your incineration unit is excluded if it meets the requirements specified in either (q)(1) or (2) of this section.

(1) The incineration unit is used solely during military training field exercises to destroy national security materials integral to the field exercises.

(2) The incineration unit is used solely to incinerate national security materials, its use is necessary to safeguard national security, you follow the exclusion request requirements in paragraphs (q)(2)(i) and (ii) of this section, and the Administrator has approved your request for exclusion.

(i) The request for exclusion and supporting documentation must demonstrate both that the incineration unit is used solely to destroy national security materials and that a reliable alternative to incineration that ensures acceptable destruction of national security materials is unavailable, on either a permanent or temporary basis.

(ii) The request for exclusion must be submitted to the Administrator prior to 1 year before the final compliance date.

§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 subject to all requirements of this subpart, including the emission limitations specified in table 2 of this subpart.