

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 60**

[AD-FRL-5879-6]

RIN 2016-AD04

**Emission Guidelines for Existing Sources and Standards of Performance for New Stationary Sources: Large Municipal Waste Combustion Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act, EPA promulgated emission guidelines applicable to existing municipal waste combustor (MWC) units and new source performance standards applicable to new MWC units. The guidelines and standards are codified at 40 CFR Part 60, subparts Cb and Eb, respectively. See 60 FR 65387. On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subparts Cb and Eb as they apply to MWC units with the capacity to combust less than or equal to 250 tons per day of municipal solid waste (MSW), and all cement kilns combusting MSW, consistent with their opinion in *Davis County Solid Waste Management and Recovery District v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996), as amended, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Cb and Eb apply only to MWC units with the capacity to combust more than 250 tons per day of MSW per unit (large MWC units).

This document amends the guidelines and the standards for MWC units to make them consistent with the *Davis* decision and subsequent court vacatur order. The guidelines and standards being amended have remained in effect for large MWC units since December 19, 1995 because the court did not vacate or stay the rules as they apply to these units.

The amended guidelines and standards result in the 1995 rule being applicable only to MWC units with the capacity to combust greater than 250 tons per day of MSW per unit. In this document, these units are referred to as large MWC units or large MWC's.

The amendments affect the applicability of the guidelines and standards, and add supplemental emission limits for four pollutants (hydrogen chloride, sulfur dioxide, nitrogen oxides, and lead) to the guidelines. The amendments do not add

any additional emission limits to the standards.

The 1995 guidelines and standards applied to MWC units at plants greater than 35 megagrams per day combustion capacity (approximately 39 tons per day). Because the amendments restrict coverage of the 1995 guidelines and standards to only MWC units with combustion capacities greater than 250 tons per day consistent with the *Davis* decision, and because no petitions to review the 1995 rules as they applied to large MWC units were filed, the Agency does not anticipate receiving adverse comments on these amendments.

**DATES:** The amendments to the guidelines (subpart Cb) and standards (subpart Eb) are effective October 24, 1997 unless significant material adverse comments are received by September 24, 1997. If significant material adverse comments are received on the amendments to either the guidelines or the standards, the direct final rule receiving comment will be withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walter Stevenson at (919) 541-5264, Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** A companion proposal to this direct final rule is being published in today's **Federal Register** and is identical to this direct final rule. Any comments on the amendments should address the proposal. If significant material adverse comments are received by the date specified in the proposed amendments, this direct final rule will be withdrawn and the comments on the proposed amendments will be addressed by EPA in a subsequent final rule. If no significant material adverse comments are received on any provision of this direct final rule, then no further action will be taken on the companion proposal and these amendments will become effective October 24, 1997.

Also being published in today's **Federal Register** are technical amendments to the guidelines and standards. The technical amendments are being published in a similar format to these court-related amendments, with a direct final rule and a companion proposal.

**I. Background**

On December 20, 1989, under the authority of section 111(b) of the Clean Air Act of 1977, EPA proposed guidelines and standards for MWC units (40 CFR part 60, subparts Ca and Ea, respectively). The subpart Ca guidelines and subpart Ea standards were

promulgated on February 11, 1991. The 1990 Amendments to the Clean Air Act included a new section 129 applicable to MWC units, which required EPA to review the subpart Ca guidelines and subpart Ea standards and determine if they were fully consistent with the requirements of the new section. The EPA reviewed the subpart Ca guidelines and subpart Ea standards and concluded that they were not fully consistent with the requirements of the new section 129. The EPA proposed revised guidelines (subpart Cb) and standards (subpart Eb) on September 20, 1994 to make the guidelines and standards consistent with the requirements of section 129. The revised guidelines and standards were adopted as final on December 19, 1995.

The 1995 rules subcategorized the MWC population into two categories of MWC units based on the total capacity of the MWC plants at which the MWC units were located. The large category included all MWC units located at MWC plants with aggregate plant combustion capacities greater than 250 tons per day (actually 225 megagrams per day, which is approximately 249 tons per day); the small category was comprised of all MWC units located at MWC plants with aggregate plant combustion capacities equal to or less than 250 tons per day but larger than 39 tons per day.

Following promulgation, two petitions for review were filed with the U.S. Court of Appeals for the District of Columbia Circuit regarding use of aggregate plant capacity as the basis for initial categorization in the 1995 promulgation. In addition, another petition was filed which challenged the applicability of the rules to cement kilns firing MSW. An initial opinion was issued by the District Court on December 6, 1996. *Davis County Solid Waste Management and Recovery District v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996). The EPA filed a petition for rehearing on February 4, 1997, requesting that the court reconsider the remedy portion of its opinion and vacate the guidelines and standards only as they apply to small MWC units (those units with individual units capacity less than or equal to 250 tons per day) and all cement kilns. The court granted EPA's petition in full and issued a revised opinion on March 21, 1997. *Davis County Solid Waste Management and Recovery District v. EPA*, 108 F.3d 1454 (D.C. Cir. 1997). On April 8, 1997 the court issued an order implementing its opinion. The final opinion and order, to which this direct final rule responds, remanded to EPA the MWC guidelines and standards for the large category for amendment and vacated the guidelines

and standards as they applied to small units and all cement kilns. The 1995 guidelines have remained in effect since December 19, 1995 and will remain in effect for large MWC units during the amendment of the 1995 rules.

The remand required EPA to recalculate the maximum achievable control technology (MACT) floors for large MWC units consistent with the court's opinion. For existing sources, because the large category now includes only MWC units with combustion capacities greater than 250 tons per day, EPA must remove from the 1995 large category a total of 45 MWC units that have individual unit capacities of less than or equal to 250 tons per day, but that are co-located with other MWC units at MWC plants that have aggregate capacities greater than 250 tons per day. These 45 units are commonly referred to as the Davis class (referencing the name of the Court's opinion that clarifies that EPA must categorize these units as small MWC units). The removal of the Davis class units from the large MWC database used in 1995 to determine the MACT floors results in slightly modified emission guidelines for four pollutants; the other emission guideline limits are unaffected. For new sources, the change in applicability does not affect the calculation of the MACT floors or the resulting standards.

## II. Summary of Amendments

### A. Change in Applicability

As amended today, the guidelines and standards codified in subparts Cb and Eb, respectively, apply only to MWC units with combustion capacities greater than 250 tons per day per unit. This class of MWC units are referred to as the "large category" and the individual units are referred to as "large MWC units" or "large MWC's." This applicability requirement is different from the 1995 rule, which applied to all MWC units at plants with aggregate plant combustion capacities greater than 39 tons per day.

The amended guidelines and standards cover approximately 87 percent of the MWC capacity covered by the 1995 rule. Consistent with the *Davis* decision and court order, small MWC units (those with unit capacities less than or equal to 250 tons per day) are not covered by the amended rules and will be addressed in a separate rulemaking. Also consistent with the *Davis* decision and court order, the amended rules further exclude cement

kilns firing MSW from coverage while EPA reassesses this issue. Should EPA conclude that a rulemaking under section 129 is appropriate for cement kilns combusting MSW, it will propose such regulations in a separate rulemaking.

Although the 1995 rules referred to "225 megagrams per day," which is equivalent to 248 tons per day, the rules as amended by this action refer only to 250 tons per day capacity with no metric conversion to be fully consistent with the language in the court's decision and sections 129(a)(1) (B) and (C) of the Clean Air Act.

These applicability changes amend §§ 60.32b, 60.50b, and 60.59b. Associated with these changes, references to large and small plants have been removed throughout subpart Cb to clarify the amended guidelines.

### B. Emission Limits

#### 1. Emission Guidelines (Subpart Cb)

As a result of the recalculation of the MACT floors, emission limits have been revised slightly from the 1995 promulgation. For a detailed discussion of the MACT floor analysis methodology, refer to the 1994 proposal preamble (59 FR 48228), the September 1995 report "Municipal Waste Combustion: Background Information Document for Promulgated Standards and Guidelines—Public Comments and Responses" (EPA-453/R-95-013b), and docket A-90-45.

In the 1995 promulgation, the MACT floors for each pollutant were based on the average emission limitation achieved by the best-performing 25 MWC units (12 percent of the 209 units in the 1995 large category). In the 1995 promulgated emission guidelines, EPA established MACT standards for eight pollutants (60 FR 65401 and 65402). As discussed in the preamble to the proposed and promulgated guidelines, the MACT standards for three pollutants—dioxins/furans, mercury, and cadmium—were more stringent than their respective MACT floors (59 FR 48246, and 60 FR 65401 and 65406), and the MACT standards for five pollutants—lead, particulate matter, sulfur dioxide, hydrogen chloride, and nitrogen oxides—were set at their respective MACT floors (59 FR 48246, and 60 FR 65401 and 65402).

Of the 209 MWC units in the 1995 promulgated large category, as noted previously, 45 are MWC units that are directly affected by the Court's decision

(i.e., there currently are 45 MWC units with individual unit capacity less than or equal to 250 tons per day that are located at plants with aggregate capacities greater than 250 tons per day). The Court held that these 45 units must be placed in the small unit category and the large category must be reexamined based on this change. This results in the revised large category containing 164 MWC units (209 - 45 = 164). The MACT floors for each pollutant for the large category, therefore, must now be based on the average emission limitation achieved by the best-performing 20 MWC units in the large category (12 percent of 164), rather than the 25 units used in the 1995 guidelines.

The EPA calculated the revised MACT floors based on the best-performing 20 units and determined that the MACT floors for seven pollutants have become more stringent than the 1995 MACT floors. However, after comparing the MACT floors for the revised large category to the 1995 emission guideline levels for MWC units at large plants, it was determined that the MACT emission limits would need to change for only four pollutants. The MACT emission limits for the other pollutants do not change as a result of the change in the large category, either because the MACT floor does not change and the emission limit was set at the MACT floor (i.e., particulate matter), or because the 1995 emission limit is more stringent than either the 1995 MACT floor or the revised MACT floor (i.e., mercury, cadmium, dioxins/furans).

The revised MACT floors have led to slightly more stringent MACT limits for lead, sulfur dioxide, hydrogen chloride limits, and the fluidized bed combustor nitrogen oxides limit. These additional limits are being added to the guidelines as supplemental limits, and compliance with the supplemental limits can be no later than 5 years after publication or 3 years after EPA's approval of a State plan incorporating these supplemental limits, whichever is first. The original 1995 limits for these pollutants remain in the guidelines for large MWC units, and compliance with them remains December 19, 2000 or 3 years after EPA's approval of a State plan implementing these guidelines, whichever is first. The supplemental emission limits and their associated compliance dates are as follows:

AMENDED LIMITS FOR SUBPART Cb (GUIDELINES)

Pollutant	Compliance by 2000 <sup>a</sup>	Compliance by 2002 <sup>b</sup>
Lead (mg/dscm) .....	0.49	0.44
Sulfur Dioxide (ppmv) .....	31	29
Hydrogen Chloride (ppmv) .....	31	29
Nitrogen Oxides from Fluidized Bed Combustors (ppmv) .....	240	180

<sup>a</sup> These limits and all other limits in the 1995 guidelines have remained in force since December 19, 1995, and compliance with them is required by December 19, 2000 or 3 years after approval of a State plan, whichever is first.

<sup>b</sup> These supplemental limits are being added to the guidelines and compliance with them is required by 5 years after promulgation of these amendments or 3 years after approval of a revised State plan incorporating these amendments, whichever is first.

In addition to the more stringent limits described above, the revised MACT floors for nitrogen oxides have led to a slightly less stringent limit for mass-burn waterwall combustors. EPA will approve State plans that include the less restrictive nitrogen oxide limit of 205 ppmv for mass burn waterwall combustors prior to the effective date of these amendments, consistent with the *Davis* decision. Also, the "other" combustor type subcategory for nitrogen oxides that was included in the 1995 guidelines was determined to be unnecessary because all known existing large MWC units fit into the first five subcategories (i.e., mass burn waterwall, mass burn rotary waterwall, refuse-derived fuel, fluidized bed, or mass burn refractory combustors).

The revised emission limits for all four pollutants can be achieved using the same types of air pollution control technology that served as the basis of the 1995 promulgated limits: spray dryer/electrostatic precipitator/carbon injection or spray dryer/fabric filter/carbon injection, and selective noncatalytic reduction for non-refractory combustor types.

2. Standards of Performance (Subpart Eb)

Since no *Davis* class units were used as the basis for the emission limits in the standards for the large category in the 1995 rules, there is no change to the MACT floor, the technology determined to be MACT, or the MACT emission limits that were established in the 1995 promulgation of the standards.

C. Compliance Times and State Plan Revisions for Existing MWC units

Under section 129(b)(2), emission guidelines are not directly enforceable; rather, States must develop section 111(d)/129 State plans that implement and enforce the guidelines. The State plans implementing the 1995 guidelines for large MWC units were due December 1996. State plans adding the supplemental limits discussed above are due within 1 year after promulgation of these amendments.

All large MWC units must be in compliance with the 1995 emission limits within 3 years of State plan approval or by December 19, 2000, whichever is first, and must be in compliance with the supplemental emission limits promulgated today no later than August 26, 2002 or 3 years after EPA approval of a State plan implementing these limits, whichever is first, consistent with sections 129(b) (2) and (3) of the Clean Air Act.

D. Definitions

The definition of MWC plant in § 60.51b of the 1995 standards referred to units that were "constructed, modified, or reconstructed after September 20, 1994" which contradicts the applicability dates for modified or reconstructed units specified in the applicability section. Under the applicability section, the date of September 20, 1994 is used to determine applicability of the standards to newly constructed units and the date of June 19, 1996 is used to determine applicability of the standards to modified/reconstructed units, consistent with sections 129 (f)(1), (g)(2), and (g)(3) of the Clean Air Act. To correct this, the amended MWC plant definition (§ 60.51b) now refers only to "affected facilities" and directs the reader to the applicability section (§ 60.50b) to determine what constitutes an affected facility. A similar change was made to § 60.31b of the guidelines. The definition of MWC unit in § 60.51b was amended to add language exempting all cement kilns firing MSW, consistent with the *Davis* decision.

E. Other Changes

The heading of subpart Cb was revised to include the date of September 20, 1994. This change was made to correct the subpart Cb heading listed in the introduction to part 60 which erroneously included the date of December 19, 1995. The heading of subpart Eb and the language of § 60.52b(c)(1) were amended to avoid confusion regarding the applicability to modified or reconstructed units.

III. Judicial Review

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by these amendments only is available on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this action. Under section 307(b)(2) of the Clean Air Act, the requirements that are subject to today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under section 307(d)(7) of the Clean Air Act, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment or public hearing may be raised during judicial review. Public comments on the notice proposing these amendments must be submitted to docket A-90-45/Section VIII-D (see DATES, ADDRESSES, and SUPPLEMENTARY INFORMATION of the proposal notice published elsewhere in today's **Federal Register** for more details). As discussed under the SUPPLEMENTARY INFORMATION section of this direct final rule and also as discussed in the proposal notice, if significant material adverse comments are received on the companion proposal, this direct final rule will be withdrawn and the comments received on the proposal will be addressed in a separate rulemaking.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review material. The docket number for this rulemaking is A-90-45. Docket No. A-89-08 also includes background information for this rulemaking and supported the proposal and

promulgation of the subpart Ca guidelines and subpart Ea standards. Docket No. A-89-08 has been incorporated by reference. Refer to the companion proposal in this **Federal Register** for docket address information.

**B. Paperwork Reduction Act**

Today's action does not impose any new information collection burden. Today's action reduces the coverage of the 1995 standards and the burden of the 1995 standards. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in these regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0210 (EPA ICR 1506.07). Copies of the ICR document(s) may be obtained from Sandy Farmer, OPPE, Regulatory Information Division; EPA; 401 M St., SW. (mail code 2137); Washington, DC 20460 or by calling (202) 260-2740. Include the ICR and/or OMB number in any correspondence.

**C. Executive Order 12866**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The EPA considered the 1995 guidelines and standards to be significant and the rules were reviewed by OMB in 1995 (see 60 FR 65405). The amendments issued today do not result in any additional control requirements and this regulatory action is considered "not significant" under Executive Order 12866.

**D. Unfunded Mandates Act**

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector will be \$100 million or more in any 1 year. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. An unfunded mandates statement was prepared and published in the 1995 promulgation notice (see 60 FR 65405 to 65412).

The EPA has determined that these amendments do not include any new Federal mandates. Therefore, the requirements of the Unfunded Mandates Act do not apply to this direct final rule.

**E. Regulatory Flexibility Act**

Section 605 of the RFA requires Federal agencies to give special consideration to the impacts of regulations on small entities, which are small businesses, small organizations, and small governments. During the 1995 rulemaking, EPA estimated that few, if any, small entities would be affected by the promulgated guidelines and standards and, therefore, a regulatory flexibility analysis was not required (see 60 FR 65413). The rules as amended today do not establish any new requirements; therefore, pursuant to the provisions of 5 U.S.C. 605(b), EPA certifies that the amendments to the guidelines and standards will not have a significant impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

**F. Submission to Congress and the Comptroller General**

Under 5 U.S.C. § 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, EPA submitted a report containing these amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of these rules in today's **Federal Register**. These amendments are not a "major rule" as defined by 5 U.S.C. 804(2) and a SBREFA analysis is not required.

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

Environmental Protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 15, 1997.

**Carol M. Browner,**  
*Administrator.*

For reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 60—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Revise the heading for subpart Cb to read as follows:

**Subpart Cb—Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994**

3. In § 60.31b revise the definition of "Municipal waste combustor plant" to read as follows:

**§ 60.31b Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

4. Amend § 60.32b as follows:  
a. In paragraph (b)(2) remove the words "10 megagrams" and add, in their place, the words "11 tons";  
b. Revise paragraph (a) and the introductory text of paragraph (b), and add new paragraph (m) to read as follows:

**§ 60.32b Designated facilities.**

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

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

\* \* \* \* \*

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

5. Amend § 60.33b as follows:  
a. In paragraphs (a)(1)(i), (a)(2)(i), (a)(2)(iii), (b)(1)(i), (b)(2)(i), and (c)(1) introductory text remove the phrase "located within a large municipal waste combustor plant";  
b. In paragraphs (a)(1)(iii) and (a)(3) remove the phrase "located within a small or large municipal waste combustor plant";  
c. Remove and reserve paragraphs (a)(1)(ii), (a)(2)(ii), (a)(2)(iv), (b)(1)(ii), (b)(2)(ii), and (c)(2);

d. In paragraph (d) introductory text remove the phrase "located within large municipal waste combustor plants";

e. In table 1, referenced in paragraph (d) introductory text, remove the phrase "AT LARGE MUNICIPAL WASTE COMBUSTOR PLANTS" from the title; remove the mass burn waterwall nitrogen oxides emission limit of "200" and add, in its place, the emission limit of "205"; remove the last line of the table "Other<sup>b</sup> 200"; and remove the footnote "<sup>b</sup> Excludes mass burn refractory municipal waste combustors.";

f. In paragraph (d)(1)(i) remove the phrase "An owner or operator of a large

municipal” and add, in its place, the phrase “The owner or operator of a municipal”;

g. In table 2, referenced in paragraph (d)(1)(iii), remove the title “NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT LARGE MUNICIPAL WASTE COMBUSTOR PLANTS” and add, in its place, the title “NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT<sup>a</sup>”; remove the mass burn waterwall nitrogen oxides emission limit of “180” and add, in its place, the emission limit of “185”; remove the superscript “a” from the end of the heading of the second column and add, in its place, the superscript “b”; remove the line “Other<sup>b</sup> 180” from the table; remove footnote b; redesignate footnote “a” as “b”; and add the footnote “a mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.”; and

h. Revise paragraph (d)(1)(i)(B), and add paragraphs (a)(4), (b)(3), and (d)(3) to read as follows:

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

(a) \* \* \*

(4) For approval, a State plan shall be submitted by August 25, 1998 and shall include an emission limit for lead at least as protective as the emission limit for lead specified in this paragraph. The emission limit for lead contained in the gases discharged to the atmosphere from a designated facility is 0.44 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) \* \* \*

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

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

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

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) \* \* \*

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

\* \* \* \* \*

(3) For approval, a State plan shall be submitted by August 25, 1998 and shall include emission limits for nitrogen oxides from fluidized bed combustors at least as protective as the emission limits listed in paragraphs (d)(3)(i) and (d)(3)(ii) of this section.

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

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

**§ 60.34b [Amended]**

6. In § 60.34b(a) remove the phrase “located within a small or large municipal waste combustor plant”.

**§ 60.35b [Amended]**

7. In § 60.35b remove the phrase “located within small or large municipal waste combustor plants”.

**§ 60.38b [Amended]**

8. In § 60.38b remove the phrase “at large municipal waste combustor plants” from paragraph (b), and remove and reserve paragraph (c).

9. Amend § 60.39b as follows:

a. In paragraphs (c)(1) introductory text and (c)(4)(ii) remove the phrase “located within large municipal waste combustor plants”;

b. In paragraph (c)(2) remove the phrase “located within a large municipal waste combustor plant”;

c. Remove and reserve paragraphs (c)(3) and (c)(4)(i);

d. In paragraph (c)(4)(iii) introductory text remove the phrase “located within small or large municipal waste combustor plants”;

e. In paragraph (c)(5) remove the phrase “that are located within a large municipal waste combustor plant”;

f. Revise the first sentence of paragraph (b), revise paragraph (d), and add paragraphs (e) and (f) to read as follows:

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

\* \* \* \* \*

(b) Not later than December 19, 1996, each State in which a designated facility is located shall submit to the EPA Administrator a plan to implement and enforce all provisions of this subpart except those specified under § 60.33b (a)(4), (b)(3), and (d)(3). \* \* \*

\* \* \* \* \*

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

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

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

10. Revise the heading for subpart Eb to read as follows:

**Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996**

11. Amend § 60.50b as follows:

a. In paragraph (b)(2) remove the words “10 megagrams” and add, in their place, the words “11 tons”;

b. Revise paragraphs (a) and (b) introductory text, and add paragraph (p) to read as follows:

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

(a) The affected facility to which this subpart applies is each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction is commenced after September 20, 1994 or for which modification or reconstruction is commenced after June 19, 1996.

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

\* \* \* \* \*

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

12. Amend § 60.51b to revise paragraph (1) of the "Municipal waste combustor, MWC, or municipal waste combustor unit" definition and to revise the "Municipal waste combustor plant" definition to read as follows:

**§ 60.51b Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

13. In § 60.52b(c)(1) revise the first sentence to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

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

\* \* \* \* \*

\* \* \* \* \*

**§ 60.59b [Amended]**

14. In § 60.59b paragraphs (a) introductory text and (b) introductory text remove the phrase "located at a municipal waste combustor plant", and remove the words "35 megagrams" and add, in their place, the words "250 tons".

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