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Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 62

[AD–FRL–6995–3]

RIN 2060–AJ46

Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 6, 2000, EPA adopted emission guidelines for existing small municipal waste combustion (MWC) units. Existing small MWC units are those units on which construction was commenced on or before August 30, 1999. Sections 111 and 129 of the Clean Air Act (CAA) require States with existing small MWC units subject to the emission guidelines to submit plans to EPA that implement and enforce the emission guidelines. Indian Tribes may submit, but are not required to submit, Tribal plans to implement and enforce the emission guidelines in Indian country. State plans are due from States with small MWC units subject to the emission guidelines on December 6, 2001. If a State or Tribe with existing small MWC units does not submit an approvable plan within 2 years after promulgation of the emission guidelines (December 6, 2002), sections 111(d) and 129 of the CAA require EPA to develop, implement, and enforce a Federal plan for small MWC units located in that State or Tribal jurisdiction. This action proposes a Federal plan to implement emission guidelines for small MWC units located in States and Indian country without EPA approved and effective State or Tribal plans. This Federal plan, when it is finalized, will be an interim action because on the effective date of an approved State or Tribal plan, the Federal plan will no longer apply to small MWC units covered by the State or Tribal plan.

DATES: *Comments.* Comments on the proposed small MWC Federal plan must be received on or before August 13, 2001.

Public hearing. A public hearing will be held if requests to speak are received by June 29, 2001. For additional information on the public hearing and requesting to speak, see the **SUPPLEMENTARY INFORMATION** section of this preamble. The hearing would take place approximately 30 days after June 14, 2001 and would begin at 10:00 a.m.

ADDRESSES: *Comments.* Submit comments (in duplicate, if possible) to: The Air and Radiation Docket and Information Center (MC–6102), Attention: Docket No. A–2000–39 (Federal plan for small municipal waste combustion units), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments and data may be filed electronically by following the instructions under the **SUPPLEMENTARY INFORMATION** section of this preamble.

Public Hearing. If EPA receives requests to speak, the hearing would take place in Research Triangle Park, North Carolina.

Docket. Docket No. A–2000–39 contains the supporting information for this proposal. Docket Nos. A–89–08, A–90–45, and A–98–18 contain the supporting information for the EPA's promulgation of emission guidelines for existing small MWC units. The dockets are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (Mail Code 6102), 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–7548. The docket is located in Room M–1500, Waterside Mall (ground floor, central mall). The fax number for the Center is (202) 260–4000 and the E-mail address is ''A-and-R-Docket@epa.gov''. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker at (919) 541–5420, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, email: banker.lalit@epa.gov. For information regarding implementation of this Federal plan, contact the appropriate Regional Office (table 1) as shown in **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

Comment Information. Comments may be submitted electronically via electronic mail (e-mail) or on disk. Electronic comments on this proposed rule may be filed via e-mail at most Federal Depository Libraries. Please submit E-mail comments to: ''A-and-R-Docket@epa.gov''. Electronic comments must be submitted as an American Standard Code for Information Interchange (ASCII) file avoiding the use of special characters or encryption, if possible. Comments and data will also be accepted on disks or as an e-mail attachment in WordPerfect 5.1, 6.1, or Corel 8.0 file format or ASCII file format. All comments and data for this proposal, whether in paper form or electronic forms such as through e-mail or on diskette, must be identified by Docket No. A–2000–39.

Persons wishing to submit proprietary information for consideration must clearly distinguish such information from other comments by clearly labeling it ''Confidential Business Information'' (CBI). Submit CBI directly to the following address, and not the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Mr. Roberto Morales, OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 740B, Durham, North Carolina 27701. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality is made with the submission, the submission may be made available to the public without further notice. No confidential business information should be submitted through e-mail.

Public Hearing. If timely requests to speak at a public hearing are received by June 29, 2001, a public hearing would be held in Research Triangle Park, NC. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed Federal plan. If you wish to speak at a public hearing, you should notify Ms. Christine Adams at (919) 541–5590.

Background Information. A list of combustion related rules is available on the Combustion Group website on the EPA Technology Transfer Network website (TTN Web) at http://www.epa.gov/ttn/uatw/combust/list.html. You may obtain **Federal Register** notices, supporting information, and docket indices for these combustion related rules.

Regional Office Contacts. For information regarding the implementation of the small MWC Federal plan, contact the appropriate EPA Regional Office as shown in table 1.

TABLE 1.—EPA REGIONAL CONTACTS FOR MUNICIPAL WASTE COMBUSTORS

Regional contact	Phone No.	Fax No.
John Courcier, U.S. EPA, Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), John F. Kennedy Federal Bldg. (CAP), 1 Congress Street, Suite 1100, Boston, MA 02114–2023	(617) 918–1659	(617) 918–1505
Ted Gardella, U.S. EPA, Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Air Program Branch/25th Floor, 290 Broadway, New York, NY 10007–1866	(212) 637–3892	
James B. Topsale, U.S. EPA, Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), 1650 Arch Street Philadelphia, PA 19103–2029	(215) 814–2190	(215) 814–2124
Scott Davis, U.S. EPA, Region IV, (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Atlanta Federal Center APTMD/12th Floor 61 Forsyth Street, SW, Atlanta, GA 30303–8960	(404) 562–9127	(404) 562–9095
Douglas Aburano (AR–18J)	(312) 353–6960	(312) 886–0617
Charles Hatten (AR–18J)	(312) 886–6031	(312) 886–0617
John Paskevicz (AR–18H), U.S. EPA, Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 77 W. Jackson Blvd. Chicago, IL 60604–3507	(312) 886–6084	(312) 886–5824
Kenneth Boyce, U.S. EPA, Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 1445 Ross Ave., Suite 1200, Dallas, TX 75202–2733	(214) 665–7259	(214) 665–7263
Wayne Kaiser, U.S. EPA, Region VII (Iowa, Kansas, Missouri, Nebraska), 901 N. 5th Street, Kansas City, KS 66101	(913) 551–7603	(913) 551–7065
Mike Owens, U.S. EPA, Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 999 18th Street, Suite 300, Denver, CO 80202–2466	(303) 312–6440	(303) 312–6064
Mae Wang, U.S. EPA, Region IX (American Samoa, Arizona, California, Guam, Hawaii, Northern Mariana Islands, Nevada) 75 Hawthorne Street, San Francisco, CA 94105	(415) 744–1200	(415) 744–1076
Tracy Oliver, U.S. EPA, Region X (Alaska, Idaho, Oregon, Washington), 1200 Sixth Ave. Seattle, WA 98101	(206) 553–1388	(206) 553–0110

Regulated Entities. Entities regulated by this action are existing small MWC units with capacities to combust 35 to 250 tons per day of municipal solid waste. The promulgation of this Federal plan would affect the following categories of sources:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry, Federal government, and State/ local/ tribal governments.	562213; 92411	4953; 9511	Solid waste combustors or incinerators at waste-to-energy facilities that generate electricity or steam from the combustion of garbage (typically municipal waste); and solid waste combustors or incinerators at facilities that combust garbage (typically municipal waste) and do not recover energy from the waste.

This list is not intended to be exhaustive, but rather provides a guide regarding the entities EPA expects to be regulated by this Federal plan. This small MWC Federal plan would primarily impact facilities in North American Industrial Classification System (NAICS) codes 562213 and 92411, formerly Standard Industrial Classification (SIC) codes 4953 and 9511, respectively. Not all facilities classified under these codes will be affected. To determine whether a facility will be regulated by this Federal plan, carefully examine the applicability criteria in §§ 62.15010 through 62.15035 of the proposed Federal plan. If you have any questions regarding the applicability of this action to your small MWC unit contact the Regional Office listed in Table 1.

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

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G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act

I. Background of MWC Regulations

On December 6, 2000, EPA promulgated emission guidelines for existing small municipal waste combustion units (40 CFR part 60, subpart BBBB). Existing small MWC units are those units on which construction was commenced on or before August 30, 1999. States with existing small MWC units subject to the emission guidelines are required to submit to EPA a plan that implements and enforces the subpart BBBB emission guidelines within 1 year after promulgation of the emission guidelines, or by December 6, 2001. Section 129(b)(3) of the CAA requires EPA to develop, implement, and enforce a Federal plan for small MWC units located in States that have not submitted an approvable plan within 2 years after promulgation of the guidelines, or by December 6, 2002. This action proposes a Federal plan for small MWC units that are not covered by an EPA approved and effective State or Tribal plan. The EPA intends to make this small MWC Federal plan effective December 6, 2002. The elements of the Federal plan are summarized in section II of this preamble.

On December 19, 1995, EPA promulgated emission guidelines (40 CFR part 60, subpart Cb) for large and small MWC units. In 1997, the U.S. Court of Appeals for the D.C. Circuit vacated the emission guidelines as they applied to small MWC units (Davis County Solid Waste Management and Recovery District v. EPA, 108 F. 3d 1454, D.C. Cir.1997). States or Tribes with existing large MWC units subject to the subpart Cb emission guidelines were required to submit to EPA a State or Tribal plan for those large units by December 19, 1996. To regulate large MWC units in areas without approved and currently effective State or Tribal plans, EPA promulgated a Federal plan for large units (40 CFR part 62, subpart FFF) on November 12, 1998. The subpart FFF Federal plan and previously submitted State plans apply to only large MWC units. A separate Federal plan and separate State plans must be prepared to implement the subpart BBBB emission guidelines for small MWC units.

II. What Are The Required Elements of the Proposed Small MWC Federal Plan?

Sections 111(d) and 129 of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(2), require States to develop and implement State plans for MWC units to implement and enforce the MWC emission guidelines. Subparts B and BBBB of 40 CFR part 60 require States to submit State plans that include specified elements. Because this Federal plan is being proposed in lieu of State plans, it includes the same essential elements: (1) Identification of legal authority; (2) identification of mechanisms for implementation; (3) inventory of affected facilities; (4) emission inventory; (5) emission limits; (6) compliance schedules; (7) public hearing requirements; (8) reporting and recordkeeping requirements; and (9) public progress reports. Each State plan element is summarized below as it relates to this proposed small MWC Federal plan. Table 2 lists each element and identifies where it is located or codified.

TABLE 2.—REQUIRED ELEMENTS OF THE SMALL MWC FEDERAL PLAN

Required element of the small MWC Federal plan	Location
Legal authority and enforcement mechanism	Section 129(b)(3) of the CAA
Inventory of Affected MWC Units	Docket A–2000–39
Inventory of Emissions	Docket A–2000–39
Emission Limits	40 CFR 62.15155 through 62.15165
Compliance Schedules	40 CFR 62.15040 through 62.15095
Record of Public Hearings	Docket A–2000–39
Testing, Monitoring, Recordkeeping, and Reporting	40 CFR 62.15170 through 62.15360
Progress Reports	Section II.H of this preamble

A. Legal Authority and Enforcement Mechanism

A State or Tribal plan must demonstrate that the State or Tribe has the legal authority to adopt and implement the emission guidelines. (See 40 CFR 60.26.) In its plan, the State or Tribe must identify the enforcement mechanism for implementing the emission guidelines, such as a State or Tribal rule.

1. EPA's Legal Authority in States

Section 301(a) of the CAA provides the EPA with broad authority to write regulations that carry out the functions of the CAA. Sections 111(d) and 129(b)(3) of the CAA require the EPA to develop a Federal plan for States that do not submit approvable State plans.

2. EPA's Legal Authority in Indian Country

Section 301(a) provides EPA with the authority to administer Federal programs in Indian country. Section 301(d)(4) of the CAA authorizes the Administrator to directly administer provisions of the CAA where Tribal implementation of those provisions is not appropriate or is not administratively feasible. See section VI of this preamble for a more detailed discussion of EPA's authority to administer the Federal plan for small MWC units in Indian country.

The EPA is proposing this Federal regulation under the legal authority of the CAA to implement the emission guidelines in those States and areas of Indian country that do not have an EPA approved and effective plan. As discussed in section VI of this document, implementation and enforcement of the Federal plan may be delegated to State or Tribal agencies when requested by a State or Tribal agency, and when EPA determines that such delegation is appropriate.

B. Inventory of Affected MWC Units

As a required element, a State plan must include a complete source inventory of small MWC units affected by the emission guidelines. Consistent

with the requirement for State plans to include an inventory of small MWC units, Docket No. A–2000–39 contains an inventory of small MWC units that may be covered by this proposed MWC Federal plan. The inventory includes all small MWC units because State plans have not been submitted yet. The inventory is contained in a memorandum entitled ''Inventory and Emission Estimates for Small Municipal Waste Combustor Units Covered by the Proposed Section 111(d)/129 Federal Plan.'' The memorandum serves both the small MWC unit inventory requirement and the small MWC unit emission inventory requirement, which will be discussed in the following section. The inventory is based on information available to EPA during development of the 2000 emission guidelines.

The list of small MWC units in the docket does not determine whether your combustion unit is covered by the proposed small MWC Federal plan. Sources subject to the small MWC Federal plan are not limited to the sources listed in docket A–2000–39. The Federal plan is likely to apply to only a subset of the units listed in the inventory because State plans covering some of these units will likely be approved and become effective before the Federal plan becomes effective. See §§ 62.15010 through 62.15035 of the proposed subpart JJJ to determine whether your combustion unit is covered.

C. Inventory of Emissions

As a required element, a State plan must include an emission inventory for MWC units subject to the emission guidelines. The pollutants to be inventoried include dioxins/furans, cadmium (Cd), lead (Pb), mercury (Hg), particulate matter (PM), hydrogen chloride (HCl), nitrogen oxides (NO_x), carbon monoxide (CO), and sulfur dioxide (SO_2). For this proposal, EPA has estimated the emissions from each small MWC unit that may be covered by the Federal plan for all pollutants regulated by the Federal plan. Pollutant emissions are expressed in megagrams per year (Mg/yr) for most pollutants and grams per year (g/yr) for dioxins. The emission inventory is based on information known about the combustor and uses emission factors contained in ''Compilation of Air Pollutant Emission Factors'' (AP–42). Refer to the emission estimates memorandum in Docket No. A–2000–39 for the complete emissions inventory and details on the calculations.

D. Emission Limits

As a required element, a State plan must include emission limits. Section 129(b)(2) requires these emission limits to be ''at least as protective as'' those in the emission guidelines. The emission limits in this proposed small MWC Federal plan are the same as those contained in the emission guidelines (40 CFR part 60, subpart BBBB). See Tables 2 through 5 of subpart JJJ.

Operator Training and Certification. The emission guidelines require American Society of Mechanical Engineers (ASME) or a comparable State program for operator certification for chief facility operators and shift supervisors, and an EPA or comparable State MWC operator training course for chief facility operators. In the Federal plan, ASME operator certification and the EPA MWC operator training course will be required. However, because State plans may be submitted after promulgation of the Federal plan, the proposed Federal plan includes the opportunity for States to submit a comparable State program for operator certification and comparable State MWC training courses if the State expects this information to be submitted as part of the State plan. If States submit this information to EPA before November 14, 2001, EPA intends to allow State certification and State operator training courses in the promulgated Federal plan for those States.

E. Compliance Schedules and Increments of Progress

As a required element, a State plan must include compliance schedules for retrofitting controls to comply with the emission limits specified in the emission guidelines. Because this proposed MWC Federal plan is implemented in lieu of State plans, the compliance schedule includes the same increments of progress as required in a State plan. The Federal plan increments of progress are consistent with the State plan requirements in 40 CFR 60.24 of subpart B and subpart BBBB. These increments of progress are required for compliance schedules that are longer than 12 months. The increments of progress in the proposed Federal plan (and any approved State plan) are the primary mechanism for ensuring progress toward final compliance. Each increment of progress has a specified date for achievement.

This proposed Federal plan includes five increments of progress for Class I units and two increments of progress for Class II units. A Class I small MWC unit has the capacity to combust 35 to less than or equal to 250 tons per day of municipal solid waste and is located at a MWC plant with an aggregate plant capacity of greater than 250 tons per day. A Class II small MWC unit is a MWC unit with the capacity to combust 35 to less than or equal to 250 tons per day of municipal solid waste and is located at a MWC plant with an aggregate plant capacity less than or equal to 250 tons per day.

The increments of progress to be measured for Class I units are: (1) Submitting a final control plan, (2) awarding contracts for control systems or process modifications or orders for purchase of components, (3) beginning on-site construction or installation of the air pollution control device(s) or process changes, (4) completing on-site construction or installation of the air pollution control device(s) or process changes, and (5) final compliance. For Class II units, dates for only the first and last increments are specified.

The MWC owner or operator is responsible for meeting each of the increments of progress for each MWC unit no later than the applicable compliance date. The owner or operator must notify EPA as each increment of progress is achieved (or missed). The notification must identify the increment and the date the achieved increment was met (or missed). For an increment achieved late, the notification must identify the increment and the date the increment was ultimately achieved. If the increment was not achieved, the reasons must be included in your notification.

The owner or operator must sign the notification and mail the (post-marked) notification to the applicable EPA Regional Office within 10 business days of the increment date specified in the Federal plan. (See table 1 under the ''Supplementary Information'' section of this document for a list of Regional Offices.) The definition of each increment of progress follows:

Submit a Final Control Plan (Class I and II units). To meet this increment, the owner or operator of each small MWC unit must submit a final control plan describing the air pollution control device(s) or process changes that will be employed so that each small MWC unit complies with the emission limits and other requirements.

Award Contract (Class I units only). To award a contract means the MWC owner or operator enters into legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the owner or operator. The EPA anticipates that the owner or operator may award a number of contracts to complete the retrofit. To meet this

increment of progress, the MWC owner or operator must award a contract or contracts to initiate and complete on-site construction, initiate and complete on-site installation of emission control equipment, and/or incorporate process changes. The owner or operator must mail a copy of the contract(s) to EPA within 10 business days of entering into the contract(s).

Initiate On-site Construction (Class I units only). To initiate on-site construction, installation of air pollution control device(s), or process changes means to initiate on-site construction and/or installation of emission control equipment and initiate the process changes outlined in the final control plan.

Complete On-site Construction (Class I units only). To complete on-site construction means that all necessary air pollution control device(s) or process changes identified in the final control plan are in place, on site, and ready for operation on the MWC unit.

Final Compliance (Class I and II units). To be in final compliance means to incorporate all process changes or complete retrofit construction as designed in the final control plan. The owner or operator must connect the air pollution control equipment or process changes with the affected facility identified in the final control plan such that if the affected facility is brought on line all necessary process changes or air pollution control equipment are operating as designed. Within 180 days after the date the facility is required to achieve final compliance, the initial performance test must be conducted. On or after the date the initial performance test is completed or is required to be completed, whichever is earlier, no pollutant may be discharged into the atmosphere from an affected facility in excess of the applicable emission limits.

F. Record of Public Hearings

As a required element of a State plan, a State must include opportunity for public participation in developing, adopting, and implementing the State plan. If requested, a public hearing will be held for this small MWC Federal plan in Research Triangle Park, NC. (See the **DATES** section of this preamble.) The hearing record will appear in Docket No. A–2000–39. Written public comments also are solicited. (See the **ADDRESSES** section of this document.) The EPA will review and consider the oral and written comments in developing the final small MWC Federal plan.

G. Testing, Monitoring, Recordkeeping, and Reporting

As a required element, a State plan must include the testing, monitoring, and recordkeeping and reporting requirements in 40 CFR part 60, subpart BBBB. The proposed small MWC Federal plan includes the same provisions.

H. Progress Reports

As a required element of a State plan, a State must submit to EPA annual reports on progress in the implementation of the emission guidelines. Emissions data will be reported to the Aerometric Emissions Information Retrieval System Facility Subsystem as specified in 40 CFR part 60, appendix D. If a State or Tribe has been delegated authority to implement and enforce the proposed Federal plan, the State or Tribe will submit annual progress reports to EPA, as required by 40 CFR 60.25(e) of subpart B. These reports can be combined with the State Implementation Plan report required by 40 CFR 51.32 of subpart Q, in order to avoid duplicative reporting. Each progress report must include compliance status, enforcement actions, information whether increments of progress have been met, identification of sources that have ceased operation or started operation, updated emission inventory and compliance information, and copies of technical reports on any performance testing and monitoring. For MWC units in States where authority has not been delegated, EPA intends to prepare annual progress reports.

III. Affected Facilities

A. Which MWC Units Will Be Affected by the Small MWC Federal Plan?

This Federal plan will affect existing small MWC units that are not regulated by an EPA approved and effective State or Tribal plan. In this proposed Federal plan, a small MWC unit is defined as any MWC unit with a combustion design capacity of 35 to 250 tons per day of municipal solid waste (MSW) that commenced construction on or before August 30, 1999. Each small MWC unit will be subject to this Federal plan if any of the following is true on the effective date of the Federal plan:

(1) An applicable State or Tribal plan has not become effective;[1]

(2) An applicable State or Tribal plan was in effect but was subsequently vacated in whole or in part; or

(3) An applicable State or Tribal plan was in effect but was subsequently revised such that it is no longer as protective as the emission guidelines.

Once an approved State or Tribal plan is in effect, the Federal plan will no longer apply to a small MWC unit covered by such plan. An approved State or Tribal plan is a plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart BBBB.

If a State or Tribe submits a State or Tribal plan and that State or Tribal plan is approved and becomes effective before the Federal plan becomes effective, the MWC Federal plan will not apply to small MWC units covered by that State or Tribal plan. Furthermore, promulgation of this MWC Federal plan does not preclude a State or Tribe from submitting a State or Tribal plan later. The EPA encourages States and Tribes to continue to submit State or Tribal plans for approval after the promulgation of the Federal plan. If a State or Tribe submits a State or Tribal plan after promulgation of the small MWC Federal plan, EPA will review and approve or disapprove the plan. Upon the effective date of EPA's approval of the State or Tribal plan, the Federal plan will no longer apply, except those Federal plan provisions that may have been incorporated by reference under the section 111(d)/129 State or Tribal plan, or delegated to the State by EPA.

B. How Do I Determine If my Small MWC Unit Is Covered by an EPA Approved and Currently Effective State or Tribal Plan?

Part 62 of Title 40 of the Code of Federal Regulations identifies the approval of section 111(d)/129 State or Tribal plans for designated pollutants and designated facilities in each State or area of Indian Country. However, part 62 is updated only once a year. Thus, if part 62 does not indicate that your State or Tribal area has an approved and effective plan, you should contact your State environmental agency's air director or your EPA Regional Office (Table 1) to determine if approval occurred since publication of the most recent version of part 62.

At the time of this proposal, no States have submitted State plans. State plans

[1] The effective date of a State or Tribal plan from EPA's perspective (a State and Tribal may have an earlier effective date) is 30 days after the State or Tribal plan final approval is published in the **Federal Register** if the final approval is via the regular regulatory procedure of proposal with opportunity for comment followed by promulgation. If the approval is by direct final rulemaking, the effective date of the State or Tribal plan is 60 days after the approval is published in the **Federal Register**, if no adverse comments are received.

are due December 6, 2001 and EPA expects States to submit State plans before that date.

IV. Summary of the Proposed Small MWC Federal Plan

The proposed small MWC Federal plan contains the same subcategories, emission limits, and other requirements as the emission guidelines promulgated on December 6, 2000 (65 FR 76378). Refer to the attached regulation, 40 CFR part 62, subpart JJJ for the entire set of requirements. The major requirements are summarized in the following sections.

A. What Are the Subcategories of Small MWC Units?

Within this proposed Federal plan, the small MWC unit population is subcategorized based on aggregate capacity of the plant where the individual small MWC unit is located. The resulting subcategories are as follows: Class I units are small MWC units located at plants with an aggregate plant capacity greater than 250 tons per day of MSW; Class II units are small MWC units located at plants with an aggregate plant capacity less than or equal to 250 tons per day of MSW.

B. What Does the Federal Plan Require?

The proposed Federal plan, which will implement the emission guidelines, includes emission limits, operating practice requirements, operator training and certification requirements, and compliance and performance testing requirements. The proposed Federal plan contains emission limits for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, sulfur dioxide, hydrogen chloride, nitrogen oxides, and carbon monoxide. The emission limits for Class I and Class II small MWC units are listed in Tables 2 through 5 of the proposal subpart JJJ. In addition to emission limits, EPA is proposing guidelines for unit operating load, flue gas temperature at the particulate matter control device inlet, and carbon feed rate as part of the required good combustion practices. The EPA is also proposing requirements for the control of fugitive ash emissions.

C. What Is the Compliance Schedule?

Class I and Class II small MWC units will be required to follow the generic compliance schedule in table 1 of proposed subpart JJJ, unless the State or owner/operator chooses to submit a site-specific compliance schedule. Under the generic compliance schedule, Class I units would be required to reach final compliance by November 6, 2005. Class II units would be required to reach final compliance by May 6, 2005.

The proposed Federal plan includes two options for establishing the compliance schedule. Under both options the increment dates are defined and are enforceable. The Federal plan could function with only a generic compliance schedule, but in order to provide flexibility, this proposal includes an alternative. As described in section II.E of this preamble and consistent with the emission guidelines, Class I units are required to meet five increments of progress and Class II units are required to meet two increments of progress.

The compliance schedule for facilities affected by this small MWC Federal plan can be established by option 1 (generic compliance schedule proposed by EPA) or option 2 (site-specific compliance schedule consistent with the draft State plan).

In cases where option 2 has not been exercised, the owner or operator of an affected facility will be subject to option 1 (generic schedule). However, if the State or the MWC owner or operator submits a schedule that EPA approves (option 2), the owner or operator will be subject to that alternative schedule. Under option 2, a State or an MWC owner operator will be required to submit a site-specific compliance schedule to EPA prior to November 14, 2001. Under option 2, EPA will review the schedule and approved schedules will be incorporated into the final Federal plan. The two options are discussed below.

Option 1. Generic Compliance Schedule. Option 1 is the generic default alternative. For MWC units covered by the Federal plan where State plans or compliance schedules have not been submitted, EPA is proposing a generic compliance schedule and increments of progress. Under option 1, a generic compliance schedule will apply to each Class I or Class II small MWC unit.

Option 2. Site-specific Compliance Schedules. Under option 2, a State or an MWC owner or operator may submit to EPA a site-specific compliance schedule as negotiated between the State and an MWC owner or operator to EPA before November 14, 2001. The State or MWC owner or operator can submit alternative dates for increments 2, 3, 4, and 5 for Class I units and an alternative increment 5 date for Class II units. The increment 1 date will be the same as option 1. The increment 5 final compliance date for Class I and Class II units cannot be later than December 6, 2005. States should submit the schedules to their respective Regional office contacts listed in Table 1 for Regional contacts.

The EPA recognizes that Class I units may need flexibility for the award contract date, the start construction date, and the finish construction date given facility-specific retrofit considerations and constraints. Also, there may be some unique site-specific circumstances where a Class I or Class II unit cannot complete retrofit by the generic schedule increment compliance date. Subpart B requires compliance as expeditiously as practicable, and section 129 specifies that the compliance date can be no later than 5 years after promulgation of the emission guidelines. Therefore, the site-specific final compliance date can be no later than December 6, 2005. Following review and approval of these site-specific schedules, EPA will add them to the Federal plan at promulgation. Offering this flexibility assures the Federal plan is fully consistent with State plans that are approved after the Federal plan is promulgated. For example, in some cases the State may have negotiated a retrofit schedule with the MWC owner or operator, determined what retrofit schedule is feasible for specific MWC units, held public hearings, and considered public comments in establishing the schedule.

The increment 1 date for Class I and Class II units under both options is the same. For several reasons, EPA believes that requiring owners or operators to submit a final control plan by August 6, 2003 for Class I units and September 6, 2003 for Class II units provides adequate time to prepare a final control plan: (1) Owners and operators have known about this requirement since 1995; (2) owners and operators have over 1 year to prepare the final control plan upon publication of this notice; and (3) the final control plan does not require detailed drawings or plans.

In summary, the proposed MWC Federal plan includes two options for defining the increment dates. The EPA believes the options maximize flexibility and increase regulatory efficiency. The EPA included a similar approach in the large MWC unit Federal plan. Commenters on the large MWC unit Federal plan supported EPA's approach. The EPA believes that this approach also makes sense for owners or operators of small MWC units.

D. How Did EPA Determine the Compliance Schedule?

The EPA determined the proposed Class II generic compliance schedule based on two case studies of retrofits at small MWC units at plants that have capacities of less than 250 tons per day.

Both plants retrofitted an acid gas/fabric filter/carbon injection system that can meet the emission limits for Class II units in the proposed small MWC Federal plan. The EPA also contacted a vendor of modular MWC units and add-on air pollution control equipment to obtain additional information on retrofit schedules for Class II units. The schedule is 6 months shorter than the schedule promulgated for large MWC units and proposed for Class I small MWC units because most Class II units can use control devices assembed from modular control components that do not need as much site-specific design, fabrication, and installation time. Memorandums that provide detail on the case studies, the discussion with the MWC vendor, and the basis of the Class I and Class II generic compliance schedules are located in Docket A–2000–39, items II–B–1 through II–B–5.

The proposed Class I generic compliance schedule is the same as the generic compliance schedule in the large MWC Federal plan. The generic compliance schedule for large MWC units is based on retrofit studies of large MWC units at three MWC plants (see Docket A–97–45, II–A–1 through II–A–4). The EPA is proposing the same compliance schedule for Class I MWC units as large MWC units on the basis of similarities in size and retrofit requirements. Class I small MWC units will need the same technology as large MWC units to meet the emission limits in the respective Federal plans (see Docket A–2000–39, item II–B–1).

For Class I units, the compliance schedule for dioxin and mercury depends on the date of the MWC unit's construction. The emission guidelines require Class I small MWC units that commenced construction, reconstruction, or modification after June 26, 1987 to achieve compliance with the mercury and dioxin limits within 1 year after State plan approval (or 1 year after a revised construction permit or a revised operating permit is issued, if a permit modification is required, whichever is later). The EPA is, therefore, proposing to require compliance with the mercury and dioxin limits within 1 year after the effective date of the MWC Federal plan, or 1 year after a revised construction permit or a revised operating permit is issued, if a permit modification is required, whichever is later. Final compliance must be achieved no later than the applicable final compliance date in the Federal plan, even if the date ''1 year after permit issuance'' exceeds the applicable final compliance date in the Federal plan.

E. How Do the Federal Plan Compliance Dates Interact With the State Plan Compliance Dates?

Before the Federal plan is in effect, a State may submit a State plan to EPA containing variable compliance dates. Although the increment dates can vary, they are subject to EPA's review and the final compliance date cannot be later than December 6, 2005.

After the Federal plan is in effect, a State may submit a State plan to EPA or receive approval for a State plan. However, if submitted or approved after the Federal plan is in effect, the compliance schedule dates in the State plan must be no later than the applicable generic compliance schedule dates in the promulgated Federal plan. The EPA is proposing and taking comment on EPA's position that State plans that are submitted to EPA after the Federal plan is in effect must contain the same or earlier incremental and final compliance dates as the Federal plan.

V. Implications for Closed Units, Units That Plan To Close, and Units That Plan To De-Rate

The emission guidelines (40 CFR part 60, subpart BBBB) require small MWC units to comply with the emission limits or cease operation within 3 years following approval of a State plan, but no later than 5 years after publication of the final emission guidelines (40 CFR part 60, subpart BBBB) in the **Federal Register**. The Federal plan requires owners or operators of a small MWC unit to either: (1) Come into compliance with the plan within 1 year after the effective date of the plan; or (2) meet increments of progress and come into compliance by the applicable final compliance date in the Federal plan. This section describes how this Federal plan addresses various categories of closed small MWC units and de-rated small MWC units, including:

- Dismantled small MWC units;
- Small MWC units that have ceased operation;
- Small MWC units that will cease operation rather than comply with the Federal plan;
- Small MWC units that will cease operation and plan to restart after the applicable final compliance date in the Federal plan; and
- Small MWC units that will de-rate (reduce capacity).

A. Dismantled Units

Units that are partially or fully dismantled are not required to be included in the small MWC unit inventory that is an element of a State plan or this Federal plan. Small MWC units are partially or fully dismantled if they have been physically altered so they cannot operate. Dismantled units cannot be restarted without extensive work; and if they were restarted, they would be considered a new unit and would be subject to the new source performance standard (40 CFR part 60, subpart AAAA) rather than to the State or Federal plan for existing units.

B. Units That Have Ceased Operation

Small MWC units that are known to have ceased operation (but are not known to be dismantled) are included in the inventory element of this proposed Federal plan. Such units must also be identified in any State plans submitted to EPA. If the owner or operator of these inactive small MWC units plans to restart these units before the applicable final compliance date in the Federal plan, the units would be required to achieve the same compliance schedule required for other small MWC units. In order to assure compliance by the required date, the owner or operator of units that have ceased operation, but who plans to restart the units before the applicable final compliance date in the Federal plan, must submit a final control plan and the units must comply with the increments of progress on the same generic schedule as other small MWC units subject to this Federal plan. (See section II.E for a discussion of compliance schedules and increments of progress.)

If inactive small MWC units will not be restarted until after the applicable final compliance date in the Federal plan, a control plan is not needed. However, the proposed Federal plan specifies that any units that have ceased operation and are planned to be restarted after the applicable final compliance date in the Federal plan, must complete retrofit and comply with the emission limits and operational requirements immediately upon restarting. Performance testing to demonstrate compliance will be required within 180 days after restarting. The dates for increments of progress that lead to final compliance (e.g., awarding contracts, initiating on-site construction, completing on-site construction) will not need to be specified for units that have ceased operation and plan to restart after the applicable final compliance date in the Federal plan, because these activities must occur before restart while the units are closed and have no emissions. If a unit is operated after the applicable final compliance date in the Federal plan without complying, it will be a violation of the Federal plan.

C. Units That Will Cease Operation Within 1 Year of the Effective Date of the Federal Plan

The owner or operator of currently operating small MWC units subject to this Federal plan who will cease operation of the units rather than comply with the emission limits will be required to notify EPA at the time that final control plans are due. The owner operator will specify whether the small MWC units will cease operation within 1 year or at a later date. If the owner or operator notifies EPA that the small MWC units will cease operation within 1 year of the effective date of this Federal plan, the owner or operator will not be required to enter into a legally enforceable cease operation agreement. However, if the owner or operator does not cease operation of the units by the date 1 year after the effective date, it will be a violation of the Federal plan.

D. Units That Will Cease Operation Later Than 1 Year After the Effective Date of the Federal Plan

The owner or operator of a small MWC unit that will cease operations more than 1 year after the effective date of the Federal plan will be required to notify EPA at the time the final control plan is due that the owner or operator will cease operation of the unit. The owner or operator of such a small MWC unit also will need to enter into a legally enforceable cease operation agreement with EPA by the date the final control plan is due. The cease operation agreement will include the date that operation will cease. The owner or operator of a Class I MWC unit that is ceasing operation more than 1 year after the effective date of this Federal plan will also submit data for dioxins/furans emission tests conducted during or after 1990 by the date the final control plan is due for your Class I MWC unit according to the schedule in Table 1 or Table 9 of subpart JJJ (see § 62.15095). The requirement to submit data for dioxins/furans emission tests is consistent with subpart BBBB. The cease operation agreement ensures that the small MWC unit will cease operation by an agreed-upon enforceable date. In all cases, this date will be no later than the applicable final compliance date in the Federal plan.

E. Units That Will Cease Operation and Plan To Restart After the Applicable Final Compliance Date in the Federal Plan

Small MWC units covered by this Federal plan that will cease operation within 1 year of the effective date of the Federal plan can be restarted after the applicable final compliance date in the Federal plan if the units achieve compliance upon restarting. The proposed Federal plan specifies that when a small MWC unit restarts after the applicable final compliance date in the Federal plan, it must comply with the Federal plan emission limits and operational requirements upon restarting. There will be no need to establish and meet specific dates for the remaining increments of progress (i.e., awarding contracts, initiating on-site construction, completing on-site construction, and final compliance) because these increments must be completed while the unit is closed and there are no emissions. The proposed Federal plan specifies that the unit must achieve final compliance with the Federal plan emission limits and operating requirements as soon as it is restarted. The performance test to demonstrate compliance will be required within 180 days after restarting.

F. Units That Plan To De-rate

The proposed Federal plan will allow the owner or operator of a small MWC unit to de-rate the capacity of a small MWC unit to below 35 tons per day. Therefore, the small MWC unit will no longer be subject to the small MWC Federal plan. De-rating means a permanent change that physically reduces the capacity of the small MWC unit to less than 35 tons per day of MSW. De-rating cannot be accomplished through a permit provision, nor can it be self-imposed operating restrictions such as limiting steam flow or the waste charge rate. De-rating must be a permanent physical restriction.

The owner or operator that plans to de-rate a small MWC unit would de-rate the unit on the same schedule and increments that the small MWC unit has to follow, if it were to be retrofitted to meet the emission limits. For example, the owner or operator of a Class II small MWC unit that is subject to the proposed generic compliance schedule will need to submit a plan describing the specific physical changes and schedule for accomplishing the de-rating on the date the final control plan is due. The owner or operator will need to complete the de-rating by the final compliance date for Class II units. Once the small MWC unit physically is unable to combust 35 tons per day or more, it will no longer be subject to the small MWC Federal plan.

VI. Implementation of the Federal plan and Delegation

A. Background of Authority

Under sections 111(d) and 129(b) of the CAA, EPA is required to adopt emission guidelines that are applicable to existing solid waste incineration sources. These emission guidelines are not enforceable until EPA approves a State or Tribal plan or adopts a Federal plan that implements and enforces them, and the State, Tribal, or Federal plan has become effective. As discussed above, the Federal plan regulates small MWC units in a State or Tribal area that does not have a EPA-approved plan currently in effect.

Congress has determined that the primary responsibility for air pollution prevention and control rests with State and local agencies. *See* section 101(a)(3) of the CAA. Consistent with that overall determination, Congress established sections 111 and 129 of the CAA with the intent that the States and local agencies take the primary responsibility for ensuring that the emission limitations and other requirements in the emission guidelines are achieved. Also, in section 111(d) of the CAA, Congress explicitly required that EPA establish procedures that are similar to those under section 110(c) for State Implementation Plans. Although Congress required EPA to propose and promulgate a Federal plan for States that fail to submit approvable State plans on time, States and Tribes may submit approvable plans after promulgation of the Federal plan. The EPA strongly encourages States that are unable to submit approvable plans to request delegation of the Federal plan so that they can have primary responsibility for implementing the emission guidelines, consistent with Congress' intent.

Approved and effective State plans or delegation of the Federal plan is EPA's preferred outcome since EPA believes that State and local agencies not only have the responsibility to carry out the emission guidelines, but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. For these reasons, EPA will do all that it can to expedite delegation of the Federal plan to State and local agencies, whenever possible.

The EPA also believes that Indian Tribes are the primary parties responsible for regulating air quality within Indian country, if they desire to do so. See EPA's Indian Policy (''Policy for Administration of Environmental Programs on Indian Reservations,'' signed by William D. Ruckelshaus, Administrator of EPA, dated November

4, 1984), reaffirmed in a 1994 memorandum (''EPA Indian Policy,'' signed by Carol M. Browner, Administrator of EPA, dated March 14, 1994).

B. Delegation of the Federal Plan and Retained Authorities

If a State or Indian Tribe intends to take delegation of the Federal plan, the State or Indian Tribe must submit to the appropriate EPA Regional Office a written request for delegation of authority. The State or Indian Tribe must explain how it meets the criteria for delegation. *See generally* ''Good Practices Manual for Delegation of NSPS and NESHAP'' (EPA, February 1983). In order to obtain delegation, an Indian Tribe must also establish its eligibility to be treated in the same manner as a State. The letter requesting delegation of authority to implement the Federal plan must demonstrate that the State or Tribe has adequate resources, as well as the legal and enforcement authority to administer and enforce the program. A memorandum of agreement between the State or Tribe and EPA will set forth the terms and conditions of the delegation, the effective date of the agreement, and will also serve as the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional Office will publish an approval notice in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a State or Indian Tribe, EPA will implement the Federal plan. Also, if a State or Tribe fails to properly implement a delegated portion of the Federal plan, EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the State or Tribe even when a State or Tribe has received delegation of the Federal plan. In all cases where the Federal plan is delegated, EPA will retain and will not transfer authority to a State or Tribe certain authorities which could change the stringency of the underlying standard, which are likely to be nationally significant, or which may require a national rulemaking and subsequent **Federal Register** notice. The following authorities may not be delegated to State, Tribal or local agencies: approval of alternative non-opacity emission standards, approval of alternative opacity standard, approval of major alternatives to test methods, approval of major alternatives to monitoring, waiver of recordkeeping, and approval of exemption to operating practice requirements in § 62.15145(e)(5).

C. Mechanisms for Transferring Authority

There are two mechanisms for transferring implementation authority to State or Tribal agencies: (1) When EPA approves a State or Tribal plan after the Federal plan is in effect; and (2) if a State or Tribe does not submit or obtain approval of its own plan, EPA may delegate to a State or Tribe the authority to implement the Federal plan. Both of these options are described in more detail below.

1. State or Tribe Submits a Plan After Small MWC Units Located in the Area Are Subject to the Federal Plan

After small MWC units in a State or Tribal area become subject to the Federal plan, the State or Tribal agency may still adopt and submit a plan to EPA. If EPA determines that the State or Tribal plan is as protective as the emission guidelines, EPA will approve the State or Tribal plan. If EPA determines that the plan is not as protective as the emission guidelines, EPA will disapprove the plan and the small MWC units proposed to be covered in the State or Tribal plan will remain subject to the Federal plan until a State or Tribal plan covering those small MWC units is approved and effective.

Upon the effective date of a State or Tribal plan, the Federal plan will no longer apply to small MWC units covered by such a plan and the State or Tribal agency will implement and enforce the State or Tribal plan in lieu of the Federal plan. When an EPA Regional Office approves a State or Tribal plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State Takes Delegation of the Federal Plan

The EPA, in its discretion, may delegate to State or Tribal agencies the authority to implement the Federal plan. As discussed above, EPA believes that it is advantageous and the best use of resources for State agencies to agree to undertake, on EPA's behalf, the administrative and substantive role in implementing the Federal plan to the extent EPA decides it is appropriate and where authorized by State law. If a State requests delegation, EPA will generally delegate the entire Federal plan to the State agency. These functions include administration and oversight of compliance reporting and recordkeeping requirements, small MWC inspections, and preparation of draft notices of violation and enforcement. Enforcement authority can be delegated to State and Tribal agencies, but EPA always retains Federal enforcement authority. The EPA also believes that it is the best use of resources for Tribal agencies to undertake a role in the implementation of the Federal plan. The Tribal Authority Rule (TAR) issued on February 12, 1998 (63 FR 7254) provides Tribes the opportunity to develop and implement Clean Air Act programs. However, due to resource constraints and other factors unique to Tribal governments, it leaves to the discretion of the Tribe whether to develop these programs and which elements of a program they will adopt. Consistent with the approach of the TAR, EPA may choose to delegate a partial Federal plan (i.e., to delegate authority for some functions needed to carry out the plan) in appropriate circumstances and where authorized by Tribal law. Both States, or Tribal agencies, that have taken delegation, as well as EPA, will have responsibility for bringing enforcement actions against sources violating Federal plan provisions. However, EPA recognizes that Tribes have limited criminal enforcement authority, and EPA will address in the delegation agreement with the Tribe how criminal enforcement issues are referred to EPA.

VII. Title V Operating Permits

Sources subject to this small MWC Federal plan must obtain title V operating permits. These title V operating permits must assure compliance with all applicable requirements for these sources, including all applicable requirements of this Federal plan. *See* 40 CFR 70.6(a)(1), 70.2, 71.6(a)(1) and 71.2.

Owners or operators of section 129 sources (including small MWC units) subject to standards and regulations under sections 111 and 129 must operate pursuant to a title V permit not later than 36 months after promulgation of emission guidelines under section 129 or by the effective date of the State, Tribal, or Federal title V operating permits program that covers the area in which the unit is located, whichever is later.[2] The EPA has interpreted section 129(e) to be consistent with section 503(d) of the CAA and 40 CFR 70.7(b) and 71.7(b). (See, e.g., the final Federal plan for Hospital/Medical/Infectious Waste Incinerators, August 15, 2000 (65 FR 49868, 49878)). Section 503(d) of the

[2] As of today's proposal, all areas in the country are covered by title V programs, including the Outer Continental Shelf. See 40 CFR 55.6. As a result, the relevant section 129(e) date for small MWC units is 36 months following promulgation of 40 CFR part 60, subpart BBBB (December 6, 2003).

CAA and 40 CFR 70.7(b) and 71.7(b) allow a source to operate without being in violation of title V once the source has submitted a timely and complete permit application, even if the source has not yet received a final title V operating permit from the permitting authority. Therefore, a title V application should be submitted early enough for the permitting authority to find the application either complete or incomplete before the title V application deadline. In the event the application is found incomplete by the permitting authority, the source must submit the information needed to make the application complete by the application deadline in order to obtain the application shield. *See* 40 CFR 62.15400(c) and 40 CFR 70.5(a)(2) and 71.5(a)(2). The above interpretation is important because in the absence of such an interpretation, a section 129 source may be required to prepare and submit a complete title V application and have the permit issued in a very short period of time after becoming subject to a title V program.[3]

Consequently, if an owner or operator of a small MWC unit is required to obtain a title V permit for the first time by virtue of being subject to this Federal plan, the owner or operator must submit a complete title V permit application by not later than 36 months after promulgation of 40 CFR part 60, subpart BBBB (December 6, 2003).

The above permit application deadline, however, reflects the latest possible date by which complete applications for existing small MWC units can be submitted in order for such applications to be considered timely. It is important to note that if an earlier application deadline applies to an existing small MWC unit, then this deadline must be met in order for the unit to be in compliance with section 502(a). To determine when an application is due for an existing small MWC unit, section 129(e) of the CAA must be read in conjunction with section 503(c) of the CAA. As stated in section 503(c), a source has up to 12 months to apply for a title V permit once it becomes subject to a title V permitting program.[4] For example, if an existing small MWC unit becomes subject to a title V permitting program for the first time on the effective date of this Federal plan, then the source must apply for a title V permit within 12 months of the effective date of the Federal plan in order to operate after this date in compliance with Federal law.

An application deadline earlier than either of the two dates noted above, i.e., not later than 36 months after the promulgation of subpart BBBB or not later than 12 months after the effective date of this Federal plan, may apply to an existing small MWC unit if it is subject to title V for more than one reason. For example, an existing small MWC unit may already be subject to title V as a result of being a major source under one or more of three major source definitions in title V—section 112, section 302, or part D of title I of the CAA. *See* 40 CFR 70.3(a)(1) and 71.3(a)(1) (subjecting major sources to title V permitting) and 40 CFR 70.2 and 71.2 (defining major source for purposes of title V). Additionally, an existing small MWC unit may already be subject to title V if it is subject to some other earlier promulgated standard under section 111 or 112 of the CAA. *See* 40 CFR 70.3(a) and (b) and 71.3(a) and (b) for a list of the applicability criteria which trigger the requirement to apply for a title V permit.

If your unit is not subject to an earlier permit application deadline, a complete title V permit application for an existing small MWC unit must be submitted not later than 36 months after promulgation of subpart BBBB (December 6, 2003). For any existing small MWC unit subject to the requirements of this Federal plan and not subject to an earlier application deadline, this final application deadline applies regardless of when this Federal plan is effective. For any existing small MWC unit subject to the requirements of an EPA approved and effective section 111(d)/129 State plan for small MWC units and not subject to an earlier application deadline, this final application deadline applies regardless of when the EPA approved section 111(d)/129 State plan is effective.

If an owner or operator is already subject to title V by virtue of some requirement other than this Federal plan and has submitted a timely and complete permit application, but the draft title V permit has not yet been released by the permitting authority, then the owner or operator must supplement the title V application by including the applicable requirements of this Federal plan in accordance with 40 CFR 70.5(b) or 71.5(b). If an owner or operator of an existing small MWC unit is already subject to title V by virtue of some requirement other than this Federal plan and already possesses a title V permit with a remaining term of 3 or more years on the effective date of this Federal plan, then the owner or operator will receive from the permitting authority a notice of intent to reopen the title V permit to include the requirements of this Federal plan in accordance with the procedures established in 40 CFR 70.7(f) or 71.7(f). An owner or operator of an existing small MWC unit with a title V permit having a remaining term of less than 3 years on the effective date of this Federal plan need not have the title V permit reopened, as a matter of Federal law, to include the Federal plan requirements.[5] However, the owner or operator remains subject to, and must act in compliance with, these Federal plan requirements and all other applicable requirements to which the source is subject. See 40 CFR 70.6(a)(1), 70.2, 71.6(a)(1) and 71.2.

VIII. Units Subject to the Federal Plan and New Source Performance Standards

This section describes the relationship between the Federal plan and the three NSPS in terms of applicability and emission limits. The MWC emission guidelines apply and this proposed Federal plan will apply to MWC units 35 tons per day or more and less than or equal to 250 tons per day in combustion capacity that commenced construction before August 30, 1999. There are also three new source

[3] For example, in the absence of such an interpretation, if a final Federal plan were to become effective more than 24 months after the promulgation of emission guidelines applicable to a section 129 source, that source would have less than 12 months to prepare and submit a complete title V permit application and to have the permit issued. The later such a Federal plan becomes effective, the less time a source would have to complete the permitting process. Moreover, to read section 129(e) as inconsistent with section 503(d) and 40 CFR 70.7(b) and 71.7(b) would be in conflict with the requirements of section 503(c), which require sources to submit title V applications not later than 12 months after becoming subject to a title V permits program. Such a reading could require some section 129 sources to have been issued final title V permits in potentially much less time than allotted for non-section 129 sources to submit their title V applications.

[4] If a source is subject to title V for more than one reason, the 12-month time frame for submitting a title V application is triggered by the requirement which first causes the source to become subject to title V. As provided in section 503(c) of the CAA, permitting authorities may establish permit application deadlines earlier than the 12-month deadline.

[5] *See* CAA section 502(b)(6); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i). Permitting authorities are required to reopen title V permits to incorporate additional applicable requirements when 3 or more years remain on a major part 70 or part 71 source's permit term. Reopenings required by 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i) must be completed not later than 18 months after promulgation of the applicable requirement. Owners or operators of small MWC units, which have been permitted and are subject to this Federal plan, may wish to consult their operating permits program regulations or permitting authorities to determine whether their permits must be reopened to incorporate the requirements of this Federal plan.

performance standards (NSPS) that apply to MWC units.

The first NSPS for MWC units, 40 CFR part 60 subpart E, was promulgated in 1971. It applies to incinerators combusting more than 45 Mg per day (50 tons per day) of MSW that were constructed or modified after August 17, 1971. The only pollutant regulated by subpart E is particulate matter (PM), and the PM limit is higher than the limit in the proposed Federal plan. Thus, small MWC units complying with the Federal plan PM limit would also comply with the subpart E NSPS emission limit for PM.

The second NSPS, subpart Ea, was promulgated on February 11, 1991 and revised on December 19, 1995. This NSPS applies to MWC units with capacities to combust greater than 250 tons per day, and therefore, will not apply to units subject to this small MWC Federal plan (MWC units with design combustion capacity less than or equal to 250 tons per day).

The third NSPS, subpart AAAA, applies to small MWC units that: 1) commence construction after August 30, 1999, or 2) commence modification or reconstruction 6 months after promulgation of subpart AAAA. There is no overlap between the proposed Federal plan and the subpart AAAA NSPS—sources are not subject to both rules.

IX. Amendments to Subpart A of 40 CFR Part 62

The EPA is amending part 62 to clarify that the part 60 general provisions apply to State and Federal plans. The part 60 general provisions apply to the emission guidelines; however, the emission guidelines are not implemented and enforced until a State or Federal plan is developed and codified in part 62. Because part 62 does not specifically state that the part 60 general provisions apply, EPA is amending part 62 to clarify that they apply to State and Federal plans.

The general provisions of part 60 and its appendices contain important addresses, definitions, testing and monitoring requirements, and incorporations by reference. In addition, the general provisions allow owners or operators to apply to the Administrator for flexibility in demonstrating compliance. For example, owners and operators may apply to the Administrator for approval of alternative or equivalent test methods, alternative reporting, or alternative monitoring requirements. The amendment to part 62 contained in this rulemaking also clarifies that the part 60 general provisions apply except where special provisions set forth under an applicable subpart of part 62 supersede any conflicting provisions.

X. Administrative Requirements

This section addresses the following administrative requirements: Federalism; Consultation and Coordination with Indian Tribal Governments; Protection of Children from Environmental Health Risks and Safety Rules; Unfunded Mandates Reform Act; Regulatory Flexibility Act/ Small Business Regulatory Enforcement Fairness Act of 1996; Paperwork Reduction Act; and National Technology Transfer and Advancement Act. Many of these administrative requirements were addressed in the preamble to the small MWC emission guidelines (65 FR 76378). Since this proposed Federal plan would merely implement the emission guidelines promulgated on December 6, 2000, and does not impose any new requirements, many of the administrative requirements refer to the administrative requirements in the preamble to the small MWC emission guidelines.

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant,'' and therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this proposed Federal plan is not a ''significant regulatory action.'' The Federal plan proposed today is projected to have an impact of approximately $68 million annually (Docket No. A–98–18). Therefore, it has been determined that this proposed Federal plan is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless EPA consults with State and local officials early in the process of developing the proposed regulation.

This proposed Federal plan 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, as specified in Executive Order 13132. The States have the primary responsibility for negotiating compliance schedules and incorporating the emission limits into a State plan. Since sources are only covered by a Federal plan if an EPA approved and currently effective State plan is not in place, the Federal plan does not add substantial additional costs. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed Federal plan.

C. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that

imposes substantial direct compliance costs on those communities unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This proposed Federal plan does not significantly or uniquely affect the communities of Indian tribal governments. The EPA is not aware of any small MWC units located in Indian territory. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed Federal plan.

D. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed Federal plan is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because it is based on technology performance and not on health and safety risks.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, or tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this Federal plan does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The proposed Federal plan merely implements the small MWC emission guidelines and does not impose any new requirements. The Environmental Impact Assessment (EIA) for the small municipal waste combustor emission guidelines (Docket No. A–98–18) shows that the total annual costs of the emission guidelines is about $68 million per year (in 1997 dollars), starting on the fifth year after the emission guidelines are promulgated. The proposed Federal plan will apply to only a small subset of the units considered in the EIA for the emission guidelines. Thus, this proposed Federal plan is not subject to the requirements of sections 202 and 205 of the UMRA. Although the emission guidelines were not subject to UMRA, EPA prepared a cost-benefit analysis under section 202 of the UMRA for the 1995 emission guidelines. For a discussion of how EPA complied with the UMRA for the 1995 emission guidelines, including its extensive consultations with State and local governments, see the preamble to the 1995 emission guidelines (60 FR 65405–65412, December 19, 1995). Because the emission guidelines are equivalent to the 1995 emission guidelines, no additional consultations were necessary during the reestablishment of emission guidelines for small MWC units.

F. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the emission guidelines on small entities, a small entity is defined as: (1) A small business in this industry that has a gross annual revenue less than $6 million; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed Federal plan on small entities, I certify that this action will not have a significant economic impact on a substandard number of small entities. The EPA expects State plans to affect most small MWC units before the final small MWC Federal plan is promulgated. As State plans are submitted and become effective, the Federal plan no longer applies. Therefore, the impact of this proposed Federal plan is expected to be less than the impact identified in developing the small MWC emission guidelines.

EPA's analysis indicates eight existing small MWC units (operated by one small business and seven small governments) would be subject to the emission guidelines. In the analysis for the MWC units that are considered small entities, EPA calculated compliance costs as a percentage of sales for business and a percentage of income (total household income) for governments. The average estimated annual compliance cost as a percentage of income is 0.03 percent for the seven small government entities and 39 percent for the one small business. Among the seven potentially affected government entities, the maximum compliance cost was 0.25 percent.

Although this proposed Federal plan will not have a significant economic impact on a substantial number of small entities, EPA has tried to reduce the impact of the emission guidelines and this proposed Federal plan on small entities by establishing different requirements for Class I and Class II MWC units and establishing provisions for less frequent testing for small Class II units. In addition, EPA involved representatives of small entities in the development of the emission guidelines. For a summary of the actions that EPA took to involve small entities and their representatives in the development of the emission guidelines, refer to the discussion of the Unfunded Mandates Reform Act in section VIII.E above.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements in the emission guidelines under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq* and has assigned OMB control number 2060–0424.

The information will be used to ensure that the small MWC unit Federal plan requirements are implemented properly and are complied with on a continuous basis. Records and reports are necessary to identify small MWC units that might not be in compliance with the small MWC unit Federal plan. Based on reported information, the implementing agency will decide which small MWC units should be inspected and what records or processes should be inspected. Records that owners and operators of small MWC units maintain indicate whether personnel are operating and maintaining control equipment properly.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

The emission guidelines are projected to affect approximately 90 small MWC units located at 41 plants. The estimated average annual burden for industry for the first 3 years after implementation of the emission guidelines would be 1,297 person-hours annually. There will be no capital costs for monitoring or recordkeeping during the first 3 years. The estimated average annual burden, over the first 3 years, for the implementing agency would be 773 hours with a cost of $30,869 (including travel expenses) per year. The proposed Federal plan will apply to only a small subset of the units expected to be affected by the emission guidelines.

Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The EPA is amending the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information collection requirments contained in this proposed Federal plan.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget (OMB), with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed Federal plan involves technical standards. The EPA proposes in this plan to use EPA Methods 1, 3, 3A, 5, 5D, 9, 10, 22, 23, 26, 26A, 29, and Performance Specifications (PS) 1, 2, 3, and 4A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods/performance specifications. No applicable voluntary consensus standards were identified for EPA Methods 9, 22, PS 3, and PS 4A. The search and review results have been documented and are placed in the docket No. A–2000–39 for this proposed plan.

Two voluntary consensus standards were identified as applicable and EPA proposes to use them in this plan. One voluntary consensus standard was identified as applicable to PS 1. The standard ASTM D6216 (1998), ''Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications,'' has been incorporated by reference into PS 1. The PS 1 rule was published in the **Federal Register** on August 10, 2000.

Another voluntary consensus standard, ASTM D4536–96 ''Particulate (Matter) Modified High Volume,'' is being proposed as an alternative to the sampling equipment and procedures in Methods 5 or 17 in conducting emissions testing of positive pressure fabric filter control devices. The ASTM D4536–96 equipment and procedures would be used in conjunction with the sample traverse and calculations as described in Method 5D for this application. We invite comments on whether including this ASTM standard method is appropriate for this or other applications.

Three voluntary consensus standards have already been incorporated by reference into § 60.17. One consensus standard by the American Society of Mechanical Engineers (ASME) was identified for potential use in this plan for the measurement of MWC unit load level (steam output). The EPA believes this standard is practical to use in this plan as the method to measure MWC unit load. The EPA has already incorporated by reference (IBR) ''ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code

4.1—1964 (R1991)'' in 60.17 paragraph (h)(1), (h)(2), and (h)(3).

A second consensus standard by ASME was identified for potential use in this plan for designing, constructing, installing, calibrating, and using nozzles and orifices. The EPA believes this standard is practical to use for the design, construction, installation, calibration, and use of nozzles and orifices. The EPA has already incorporated by reference (IBR) ''American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)'' in § 60.17 paragraph (h)(1), (h)(2), and (h)(3).

A third consensus standard by ASME (QRO–1–1994) was identified for potential use for MWC plant operator certification requirements instead of developing new operator certification procedures. The EPA believes this standard is practical to use in the emission guidelines that require a chief facility operator and shift supervisor to successfully complete the operator certification procedures developed by ASME. The EPA has already IBR (QRO–1–1994) in § 60.17 paragraph (h)(1), (h)(2), and (h)(3).

In addition to the voluntary consensus standards EPA proposes to use in this plan, this search for emission measurement procedures identified 21 other voluntary consensus standards. The EPA determined that 17 of these 21 standards were impractical alternatives to EPA test methods/performance specifications for the purposes of this proposed Federal plan. Therefore, EPA does not propose to adopt these standards today. The reasons for this determination for the 17 methods are discussed below.

The European standard EN 1911–1,2,3 (1998), ''Stationary Source Emissions-Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text,'' is impractical as an alternative to EPA Methods 26 and 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

Three standards: ASTM D4358–94 (1999), ''Standard Test Method for Lead and Chromium in Air Particulate Filter Samples of Lead Chromate Type Pigment Dusts by Atomic Absorption Spectroscopy;'' ASTM E1741–95 (1995), ''Standard Practice for Preparation of Airborne Particulate Lead Samples Collected During Abatement and Construction Activities for Subsequent Analysis by Atomic Spectrometry;'' and ASTM E1979–98 (1998), ''Standard Practice for Ultrasonic Extraction of Paint, Dust, Soil, and Air Samples for Subsequent Determination of Lead,'' are impractical as alternatives to EPA Methods 12 and 29 in this proposed Federal plan. These ASTM standards do not require the use of glass fiber filters as in EPA Method 12 and require the use of significantly different digestion procedures that appear to be more mild than the EPA Method 12 digestion procedure. For these reasons, these ASTM standards cannot be considered equivalent to EPA Method 12. Also, the subject ASTM standards do not require the use of hydrogen fluoride (HF) as in EPA Method 29 and, therefore, they cannot be used for the preparation, digestion, and analysis of Method 29 samples. Additionally, Method 29 requires the use of a glass fiber filter, whereas these three ASTM standards require cellulose filters and other probable nonglass fiber media which cannot be considered equivalent to EPA Method 29.

The following nine methods are impractical alternatives to EPA test methods/performance specifications for the purposes of this plan because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–91 (1995), ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' for EPA Methods 1, 2, 3B, and 4; ASME C00031 or PTC 19–10–1981—Part 10, ''Flue and Exhaust Gas Analyses,'' for EPA Method 3; ASTM D5835–95, ''Standard Practice for Sampling Stationary Source Emissions, for Automated Determination of Gas Concentration,'' for EPA Method 3A; ISO 10396:1993, ''Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations,'' for EPA Method 3A; CAN/CSA Z223.2–M86(1986), ''Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams,'' for EPA Method 3A; CAN/CSA Z223.21–M1978, ''Method for the Measurement of Carbon Monoxide: 3—Method of Analysis by Non-Dispersive Infrared Spectrometry,'' for EPA Methods 10 and 10A; European Committee for Standardization (CEN) EN 1948–3 (1997), ''Determination of the Mass Concentration of PCDD'S/PCDF'S—Part 3: Identification and Quantification,'' for EPA Method 23; ISO 7935:1992, ''Stationary Source Emissions—Determination of the Mass Concentration of Sulfur Dioxide—Performance Characteristics of Automated Measuring Methods,'' for EPA Performance Specification 2 (sulfur dioxide portion only); and ISO 10849:1996, ''Determination of the Mass Concentration of Nitrogen Oxides—Performance Characteristics of Automated Measuring Systems,'' for EPA Performance Specification 2 (nitrogen oxide portion only).

The following four methods are impractical alternatives to EPA test methods for the purposes of this plan because they lack sufficient quality assurance and quality control requirements necessary for EPA compliance assurance requirements: ASME PTC–38–80 R85 or C00049, ''Determination of the Concentration of Particulate Matter in Gas Streams,'' for EPA Method 5; ASTM D3685/D3685M–98, ''Test Methods for Sampling and Determination of Particulate Matter in Stack Gases,'' for EPA Method 5; ISO 9096:1992, ''Determination of Concentration and Mass Flow Rate of Particulate Matter in Gas Carrying Ducts—Manual Gravimetric Method,'' for EPA Method 5; and CAN/CSA Z223.26–M1987, ''Measurement of Total Mercury in Air Cold Vapour Atomic Absorption Spectrophotometeric Method,'' for EPA Method 29.

The following four of the 21 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this proposed plan because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 1 (and possibly 2); ISO/DIS 12039, ''Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods,'' for EPA Method 3A; PREN 13211 (1998), ''Air Quality—Stationary Source Emissions—Determination of the Concentration of Total Mercury,'' for EPA Methods 101, 101A, 29 (portion for mercury only); and ASTM Z6590Z, ''Manual Method for Both Speciated and Elemental Mercury,'' for EPA Methods 101A and 29 (portion for mercury only). While we are not proposing to include these four voluntary consensus standards in

today's proposal, the EPA will consider the standards when final.

The EPA takes comment on the compliance demonstration requirements proposed in this Federal plan and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this plan should adopt these voluntary consensus standards in lieu of or in addition to EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, Appendix A was used).

Tables 6, 7, and 8 of Subpart JJJ list the EPA testing methods/performance specifications included in the emission Federal Plan Requirements for Small Waste Combustion Units. Under § 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods/performance specifications.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

40 CFR Part 62

Environmental protection, Air pollution control, Municipal waste combustion.

Dated: June 5, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—[AMENDED]

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

Authority: 42 U.S.C. 7401–7601.

2. Section 60.17 is amended by revising paragraphs (h)(1) through (h)(3) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(h) * * *

(1) ASME QRO–1–1994. Standard for the Qualification and Certification of Resource Recovery Facility Operators, IBR approved for §§ 60.56a, 60.54b(a), 60.54b(b), 62.15130(a), 62.15130(c)(2) of this chapter.

(2) ASME PTC 4.1–1964 (Reaffirmed 1991), Power Test Codes: Test Code for Steam Generating Units (with 1968 and 1969 Addenda), IBR approved for §§ 60.46b, 60.58a(h)(6)(ii), 60.58b(i)(6)(ii), 62.15265(a)(3) of this chapter.

(3) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th Edition (1971), IBR approved for §§ 60.58a(h)(6)(ii), 60.58b(i)(6)(ii), 62.15265(a)(4) of this chapter.

PART 62—[AMENDED]

3. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

4. Amend § 62.02 by revising paragraph (b) to read as follows:

§ 62.02 Introduction.

* * * * *

(b)(1) If a State does not submit a complete, approvable plan, the Administrator may then promulgate a substitute plan or part of a plan. The promulgated provision, plus the approved parts of the State plan, constitute the applicable plan for purposes of the act.

(2) The part 60 subpart A of this chapter general provisions and appendices to part 60 apply to part 62, except as follows: 40 CFR 60.7(a)(1), 60.7(a)(3), and 60.8(a) and where special provisions set forth under the applicable subpart of this part shall apply instead of any conflicting provisions.

* * * * *

5. Amend § 62.13 by adding paragraphs (d) and (e) to read as follows:

§ 62.13 Federal plans.

* * * * *

(d) Commercial and industrial solid waste incineration units Federal plan. [Reserved]

(e) The substantive requirements of the small municipal waste combustion unit Federal plan are contained in subpart JJJ of this part. These requirements include emission limits, compliance schedules, testing, monitoring, and reporting and recordkeeping requirements.

6. Amend part 62 by adding subpart JJJ to read as follows:

Subpart JJJ—Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999

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Sec.
62.15000 What is the purpose of this subpart?
62.15005 What are the principal components of this subpart?

Applicability of this Subpart

62.15010 Is my municipal waste combustion unit covered by this subpart?
62.15015 Can my small municipal waste combustion unit be covered by both a State plan and this subpart?
62.15020 Can my small municipal waste combustion unit be exempt from this subpart?
62.15025 How do I determine if my small municipal waste combustion unit is covered by an approved and currently effective State or Tribal plan?
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Compliance Schedule and Increments of Progress

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62.15105 Who must complete the operator training course? By when?
62.15110 Who must complete the plant-specific training course?
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Good Combustion Practices: Operator Certification

62.15130 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?
62.15135 After the required date for operator certification, who may operate the municipal waste combustion unit?
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62.15155 What pollutants are regulated by this subpart?
62.15160 What emission limits must I meet?
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62.15170 What types of continuous emission monitoring must I perform?
62.15175 What continuous emission monitoring systems must I install for gaseous pollutants?
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62.15195 What is my schedule for evaluating continuous emission monitoring systems?
62.15200 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?
62.15205 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is this requirement enforceable?
62.15210 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?
62.15215 What is required for my continuous opacity monitoring system and how are the data used?
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62.15230 What types of stack tests must I conduct?
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62.15265 How do I monitor the load of my municipal waste combustion unit?
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62.15315 What reports must I submit and in what form?
62.15320 What are the appropriate units of measurement for reporting my data?
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62.15365 What is an air curtain incinerator?
62.15370 What is yard waste?
62.15375 What are the emission limits for air curtain incinerators that burn 100 percent yard waste?
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62.15390 What equations must I use?

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62.15395 Does this subpart require me to obtain an operating permit under title V of the Clean Air Act?
62.15400 When must I submit a title V permit application for my existing small MWC unit?

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Tables

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Table 7 of Subpart JJJ—Requirements for Continuous Emission Monitoring Systems (CEMS)
Table 8 of Subpart JJJ—Requirements for Stack Tests
Table 9 of Subpart JJJ—Site-specific Compliance Schedules and Increments of Progress

Subpart JJJ—Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999

Introduction

§ 62.15000 What is the purpose of this subpart?

(a) This subpart establishes emission requirements and compliance schedules for the control of emissions from existing small municipal waste combustion units that are not covered by an EPA approved and currently effective State plan. The pollutants addressed by these emission requirements are listed in tables 2, 3, 4, and 5 of this subpart. These emission requirements are developed in accordance with sections 111(d) and 129 of the Clean Air Act and subpart B of 40 CFR part 60.

(b) In this subpart, *you* means the owner or operator of a small municipal waste combustion unit.

§ 62.15005 What are the principal components of this subpart?

This subpart contains five major components:

(a) Increments of progress toward compliance.

(b) Good combustion practices.

(1) Operator training.

(2) Operator certification.

(3) Operating requirements.

(c) Emission limits.

(d) Monitoring and stack testing.

(e) Recordkeeping and reporting.

Applicability of This Subpart

§ 62.15010 Is my municipal waste combustion unit covered by this subpart?

(a) This subpart applies to your small municipal waste combustion unit if the unit meets the criteria in paragraphs (a)(1) and (a)(2) and the criteria in either paragraph (a)(3) or (a)(4) of this section:

(1) Your municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste or refuse-derived fuel but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(2) Your municipal waste combustion unit commenced construction on or before August 30, 1999.

(3) Your municipal waste combustion unit is not regulated by an EPA approved and currently effective State or Tribal plan.

(4) Your municipal waste combustion unit is located in any State whose approved State plan is subsequently vacated in whole or in part, or the municipal waste combustion unit is located in Indian country if the approved Tribal plan for that area is subsequently vacated in whole or in part.

(b) If you make a change to your municipal waste combustion unit that meets the definition of modification or reconstruction after June 6, 2001, your municipal waste combustion unit becomes subject to subpart AAAA of 40 CFR part 60 (New Source Performance Standards for Small Municipal Waste Combustion Units) and this subpart no longer applies to your unit.

(c) If you make physical or operational changes to your existing municipal waste combustion unit primarily to comply with this subpart, then subpart AAAA of 40 CFR part 60 (New Source Performance Standards for Small Municipal Waste Combustion Units) does not apply to your unit. Such changes do not constitute modifications or reconstructions under subpart AAAA of 40 CFR part 60.

(d) Upon approval of the State or Tribal plan, this subpart will no longer apply, except for the provisions of this subpart that may have been incorporated by reference under the State or Tribal plan, or delegated to the State by the Administrator.

§ 62.15015 Can my small municipal waste combustion unit be covered by both a State plan and this subpart?

(a) If your municipal waste combustion unit is located in a State that has a State plan that has not been approved by the EPA or has not become effective, then this subpart applies and the State plan would not apply to your municipal waste combustion unit. However, the State could enforce the requirements of a State regulation while your municipal waste combustion unit is still subject to this subpart.

(b) After the State plan is approved by the EPA and becomes effective, your municipal waste combustion unit is no longer subject to this subpart and will only be subject to the approved and effective State plan.

§ 62.15020 Can my small municipal waste combustion unit be exempt from this subpart?

(a) *Small municipal waste combustion units that combust less than 11 tons per day.* Your unit is exempt from this subpart if four requirements are met:

(1) Your municipal waste combustion unit is subject to a federally enforceable permit limiting municipal solid waste combustion to less than 11 tons per day.

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You submit to the Administrator a copy of the federally enforceable permit.

(4) You keep daily records of the amount of municipal solid waste combusted.

(b) *Small power production units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your 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) Your unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You submit to the Administrator documentation that the unit qualifies for this exemption.

(c) *Cogeneration units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) Your unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You submit to the Administrator documentation that the unit qualifies for this exemption.

(d) *Municipal waste combustion units that combust only tires.* Your unit is exempt from this subpart if three requirements are met:

(1) Your municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(2) You notify the Administrator that the unit qualifies for this exemption.

(3) You provide the Administrator documentation that the unit qualifies for this exemption.

(e) *Hazardous waste combustion units.* Your unit is exempt from this subpart if the unit has received a permit under section 3005 of the Solid Waste Disposal Act.

(f) *Materials recovery units.* Your unit is exempt from this subpart if the unit combusts waste mainly to recover metals. Primary and secondary smelters may qualify for this exemption.

(g) *Cofired units.* Your unit is exempt from this subpart if four requirements are met:

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

(2) You notify the Administrator that the unit qualifies for this exemption.

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

(4) You record the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(h) *Plastics/rubber recycling units.* Your unit is exempt from this subpart if four requirements are met:

(1) Your pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined under ''Definitions'' (§ 62.15405).

(2) You record the weight, each quarter, of plastics, rubber, and rubber tires processed.

(3) You record the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(4) You keep the name and address of the purchaser of the feed stocks.

(i) *Units that combust fuels made from products of plastics/rubber*

recycling plants. Your unit is exempt from this subpart if two requirements are met:

(1) Your unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(2) Your unit does not combust any other municipal solid waste.

(j) *Cement kilns.* Your unit is exempt from this subpart if your cement kiln combusts municipal solid waste.

(k) *Air curtain incinerators.* If your air curtain incinerator (see § 62.15405 for definition) combusts 100 percent yard waste, then you must meet only the requirements under ''Air Curtain Incinerators That Burn 100 Percent Yard Waste'' (§§ 62.15365 through 62.15385).

§ 62.15025 How do I determine if my small municipal waste combustion unit is covered by an approved and currently effective State or Tribal Plan?

This part (40 CFR part 62) contains a list of all States and Tribal areas with approved Clean Air Act section 111(d) and section 129 plans in effect. However, this part is only updated once per year. Thus, if this part does not indicate that your State or Tribal area has an approved and effective plan, you should contact your State environmental agency's air director or your EPA Regional Office to determine if approval has occurred since publication of the most recent version of this part.

§ 62.15030 What are my obligations under this subpart if I reduce my small municipal waste combustion unit's combustion capacity to less than 35 tons per day?

If you reduce your small municipal waste combustion unit's combustion capacity to less than 35 tons per day by the final compliance date, you must comply only with the following requirements:

(a) You must submit a final control plan according to the schedule in table 1 of this subpart and comply with § 62.15065(b).

(b) The final control plan must, at a minimum, include two items:

(1) A description of the physical changes that will be made to accomplish the reduction in combustion capacity. A permit restriction or a change in the method of operation does not qualify as a reduction in combustion capacity.

(2) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified under § 62.15390(d) and (e) to calculate the combustion capacity of a municipal waste combustion unit.

(c) You must complete the physical changes to accomplish the reduction in combustion capacity by the final compliance date specified in table 1 of this subpart.

(d) If you comply with all of the requirements specified in paragraphs (a),(b), and (c) of this section, you are no longer subject to this subpart.

(e) You must comply with the requirements specified in § 62.15395 and § 62.15400 regarding title V permitting. If you comply with all of the requirements specified in paragraphs (a), (b), and (c) of this section, you are no longer subject to title V permitting requirements as a result of this subpart. You will remain subject to title V permitting requirements, however, if you are subject as a result of one or more of the applicability criteria in 40 CFR 70.3(a) and (b) or 71.3(a) and (b).

§ 62.15035 Is my small municipal waste combustion unit subject to different requirements based on plant capacity?

This subpart specifies different requirements for different subcategories of municipal waste combustion units. These two subcategories are based on aggregate capacity of the municipal waste combustion plant as defined in paragraphs (a) and (b) of this section.

(a) *Class I units.* These are small municipal waste combustion units that are located at municipal waste combustion plants with aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. (See the definition of municipal waste combustion plant capacity in § 62.15410 for specification of which units at a plant are included in the aggregate capacity calculation.)

(b) *Class II units.* These are small municipal waste combustion units that are located at municipal waste combustion plants with aggregate plant combustion capacity of no more than 250 tons per day of municipal solid waste. (See the definition of municipal waste combustion plant capacity in § 62.15410 for specification of which units at a plant are included in the aggregate capacity calculation.)

Compliance Schedule and Increments of Progress

§ 62.15040 What are the requirements for meeting increments of progress and achieving final compliance?

(a) *Class I units.* If you plan to achieve compliance more than 1 year following the effective date of this subpart and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, you must meet five increments of progress:

(1) Submit a final control plan.

(2) Submit a notification of retrofit contract award.

(3) Initiate onsite construction.

(4) Complete onsite construction.

(5) Achieve final compliance.

(b) *Class II units.* If you plan to achieve compliance more than 1 year following the effective date of this subpart and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operation permit if a permit modification is required, you must meet two increments of progress:

(1) Submit a final control plan.

(2) Achieve final compliance.

§ 62.15045 When must I complete each increment of progress?

(a) You must complete each increment of progress according to the compliance schedule in table 1 of this subpart for Class I and II units. If your Class I or Class II unit is listed in table 9 of this subpart, then you must complete each increment of progress according to the schedule in table 9 of this subpart. (See § 62.15410 for definitions of classes.)

(b) For Class I units (see definition in § 62.15410) that must meet the five increments of progress, you must submit dioxins/furans stack test results for at least one test conducted during or after 1990. The stack tests must have been conducted according to the procedures specified under § 62.15245 and you must submit the stack test results when the final control plan is due for your Class I MWC unit according to the schedule in table 1 or table 9 of this subpart.

§ 62.15050 What must I include in the notifications of achievement of my increments of progress?

Your notification of achievement of increments of progress must include three items:

(a) Notification that the increment of progress has been achieved.

(b) Any items required to be submitted with the increment of progress (§§ 62.15065 through 62.15085).

(c) The notification must be signed by the owner or operator of the municipal waste combustion unit.

§ 62.15055 When must I submit the notifications of achievement of increments of progress?

Notifications of the achievement of increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

§ 62.15060 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the specified date in table 1 of this subpart for achieving that increment of progress. This notification must inform the Administrator that you did not meet the increment. You must include in the notification an explanation of why the increment of progress was not met and your plan for meeting the increment as expeditiously as possible. You must continue to submit reports each subsequent month until the increment of progress is met.

§ 62.15065 How do I comply with the increment of progress for submittal of a final control plan?

For your final control plan increment of progress, you must complete two items:

(a) Submit the final control plan describing the devices for air pollution control and process changes that you will use to comply with the emission limits and other requirements of this subpart. If you plan to reduce your small municipal waste combustion unit's combustion capacity to less than 35 tons per day by the final compliance date see § 62.15030.

(b) You must maintain an onsite copy of the final control plan.

§ 62.15070 How do I comply with the increment of progress for awarding contracts?

You must submit a signed copy of the contracts awarded to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporate process changes. Submit the copy of the contracts with the notification that this increment of progress has been achieved. You do not need to include documents incorporated by reference or the attachments to the contracts.

§ 62.15075 How do I comply with the increment of progress for initiating onsite construction?

You must initiate onsite construction and installation of emission control equipment and initiate the process changes outlined in the final control plan.

§ 62.15080 How do I comply with the increment of progress for completing onsite construction?

You must complete onsite construction and installation of emission control equipment and complete process changes outlined in the final control plan.

§ 62.15085 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete two items:

(a) Complete all process changes and complete retrofit construction as specified in the final control plan.

(b) Connect the air pollution control equipment with the municipal waste combustion unit identified in the final control plan and complete process changes to the municipal waste combustion unit so that if the affected municipal waste combustion unit is brought online, all necessary process changes and air pollution control equipment are operating as designed.

§ 62.15090 What must I do if I close my municipal waste combustion unit and then restart my municipal waste combustion unit?

(a) If you close your municipal waste combustion unit but will reopen it prior to the applicable final compliance date in table 1 of this subpart, you must meet the increments of progress specified in § 62.15040.

(b) If you close your municipal waste combustion unit but restart it after the applicable final compliance date in table 1 of this subpart, you must complete the emission control retrofit and meet the emission limits and good combustion practices on the date your municipal waste combustion unit restarts operation.

§ 62.15095 What must I do if I plan to permanently close my municipal waste combustion unit and not restart it?

(a) If you plan to close your municipal waste combustion unit rather than comply with this subpart, you must submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

(b) If the closure date is later than 1 year after the effective date of this subpart, you must enter into a legally binding closure agreement with the Administrator by the date your final control plan is due. The agreement must include two items.

(1) The date by which operation will cease. The closure date can be no later than the applicable final compliance date in table 1 of this subpart.

(2) For Class I units only, dioxins/furans stack test results for at least one test conducted during or after 1990. The stack tests must have been conducted according to the procedures specified under § 62.15245.

Good Combustion Practices: Operator Training

§ 62.15100 What types of training must I do?

There are two types of required training:

(a) Training of operators of municipal waste combustion units using the EPA or a State-approved training course.

(b) Training of plant personnel using a plant-specific training course.

§ 62.15105 Who must complete the operator training course? By when?

(a) Three types of employees must complete the EPA or State-approved operator training course:

(1) Chief facility operators.

(2) Shift supervisors.

(3) Control room operators.

(b) These employees must complete the operator training course by the later of three dates:

(1) One year after the effective date of this subpart.

(2) Six months after your municipal waste combustion unit starts up.

(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) The requirement in paragraph (a) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of this subpart.

(d) You may request that the EPA Administrator waive the requirement in paragraph (a) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of this subpart.

§ 62.15110 Who must complete the plant-specific training course?

All employees with responsibilities that affect how a municipal waste combustion unit operates must complete the plant-specific training course. Include at least six types of employees:

(a) Chief facility operators.

(b) Shift supervisors.

(c) Control room operators.

(d) Ash handlers.

(e) Maintenance personnel.

(f) Crane or load handlers.

§ 62.15115 What plant-specific training must I provide?

For plant-specific training, you must do four things:

(a) For training at a particular plant, develop a specific operating manual for that plant by the later of two dates:

(1) Six months after your municipal waste combustion unit starts up.

(2) One year after the effective date of this subpart.

(b) Establish a program to review the plant-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustion unit. Complete the initial review by the later of three dates:

(1) One year after the effective date of this subpart.

(2) Six months after your municipal waste combustion unit starts up.

(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) Update your manual annually.

(d) Review your manual with staff annually.

§ 62.15120 What information must I include in the plant-specific operating manual?

You must include 11 items in the operating manual for your plant:

(a) A summary of all applicable standards in this subpart.

(b) A description of the basic combustion principles that apply to municipal waste combustion units.

(c) Procedures for receiving, handling, and feeding municipal solid waste.

(d) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustion unit.

(e) Procedures for maintaining a proper level of combustion air supply.

(f) Procedures for operating the municipal waste combustion unit within the standards contained in this subpart.

(g) Procedures for responding to periodic upset or off-specification conditions.

(h) Procedures for minimizing carryover of particulate matter.

(i) Procedures for handling ash.

(j) Procedures for monitoring emissions from the municipal waste combustion unit.

(k) Procedures for recordkeeping and reporting.

§ 62.15125 Where must I keep the plant-specific operating manual?

You must keep your operating manual in an easily accessible location at your plant. It must be available for review or inspection by all employees who must review it and by the Administrator.

Good Combustion Practices: Operator Certification

§ 62.15130 What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?

(a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers (QRO–1–1994 (incorporated by reference in § 60.17 of subpart A of 40 CFR part 60)) or a current provisional operator certification from your State certification program.

(b) Each chief facility operator and shift supervisor must obtain a provisional certification by the later of three dates:

(1) For Class I units, 12 months after the effective date of this subpart. For Class II units, 18 months after the effective date of this subpart.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

(c) Each chief facility operator and shift supervisor must take one of three actions:

(1) Obtain a full certification from the American Society of Mechanical Engineers or a State certification program in your State.

(2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO–1–1994 (incorporated by reference in § 60.17 of subpart A of 40 CFR part 60)).

(3) Schedule a full certification exam with your State certification program.

(d) The chief facility operator and shift supervisor must obtain the full certification or be scheduled to take the certification exam by the later of the following dates:

(1) For Class I units, 12 months after the effective date of this subpart. For Class II units, 18 months after the effective date of this subpart.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

§ 62.15135 After the required date for operator certification, who may operate the municipal waste combustion unit?

After the required date for full or provisional certification, you must not operate your municipal waste combustion unit unless one of four employees is on duty:

(a) A fully certified chief facility operator.

(b) A provisionally certified chief facility operator who is scheduled to take the full certification exam.

(c) A fully certified shift supervisor.

(d) A provisionally certified shift supervisor who is scheduled to take the full certification exam.

§ 62.15140 What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor is away, you must meet one of three criteria:

(a) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator.

(b) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include this information in the annual report as specified under § 62.15340(l).

(c) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the Administrator. However, you must take two actions:

(1) Notify the Administrator in writing. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite.

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks following the initial notification. If the Administrator notifies you that your status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are

taken in the 90-day period such that the Administrator withdraws the disapproval, municipal waste combustion unit operation may continue.

Good Combustion Practices: Operating Requirements

§ 62.15145 What are the operating practice requirements for my municipal waste combustion unit?

(a) You must not operate your municipal waste combustion unit at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustion unit (4-hour block average), as specified under ''Definitions'' (§ 62.15410).

(b) You must not operate your municipal waste combustion unit so that the temperature at the inlet of the particulate matter control device exceeds 17°C above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified under ''Definitions'' (§ 62.15410).

(c) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must maintain an 8-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins/furans or mercury test.

(d) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must evaluate total carbon usage for each calendar quarter. The total amount of carbon purchased and delivered to your municipal waste combustion plant must be at or above the required quarterly usage of carbon. At your option, you may choose to evaluate required quarterly carbon usage on a municipal waste combustion unit basis for each individual municipal waste combustion unit at your plant. Calculate the required quarterly usage of carbon using the appropriate equation in § 62.15390.

(e) Your municipal waste combustion unit is exempt from limits on load level, temperature at the inlet of the particulate matter control device, and carbon feed rate during any of five situations:

(1) During your annual tests for dioxins/furans.

(2) During your annual mercury tests (for carbon feed rate requirements only).

(3) During the 2 weeks preceding your annual tests for dioxins/furans.

(4) During the 2 weeks preceding your annual mercury tests (for carbon feed rate requirements only).

(5) Whenever the Administrator permits you to do any of five activities:

(i) Evaluate system performance.

(ii) Test new technology or control technologies.

(iii) Perform diagnostic testing.

(iv) Perform other activities to improve the performance of your municipal waste combustion unit.

(v) Perform other activities to advance the state of the art for emission controls for your municipal waste combustion unit.

§ 62.15150 What happens to the operating requirements during periods of startup, shutdown, and malfunction?

(a) The operating requirements of this subpart apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

Emission Limits

§ 62.15155 What pollutants are regulated by this subpart?

Eleven pollutants, in four groupings, are regulated:

(a) *Organics.* Dioxins/furans.

(b) *Metals.*

(1) Cadmium.

(2) Lead.

(3) Mercury.

(4) Opacity.

(5) Particulate matter.

(c) *Acid gases.*

(1) Hydrogen chloride.

(2) Nitrogen oxides.

(3) Sulfur dioxide.

(d) *Other.*

(1) Carbon monoxide.

(2) Fugitive ash.

§ 62.15160 What emission limits must I meet?

(a) After the date the initial stack test and continuous emission monitoring system evaluation are required or completed (whichever is earlier), you must meet the applicable emission limits specified in the four tables of this section:

(1) For Class I units, see tables 2 and 3 of this subpart.

(2) For Class II units, see table 4 of this subpart.

(3) For carbon monoxide emission limits for both classes of units, see table 5 of this subpart.

(b) If your Class I municipal waste combustion unit began construction, reconstruction, or modification after June 26, 1987, then you must comply with the dioxins/furans and mercury emission limits specified in table 2 of this subpart as applicable by the later of the following two dates:

(1) One year after the effective date of this subpart.

(2) One year after the issuance of a revised construction or operating permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than November 6, 2005, even if the date one year after the issuance of a revised construction or operating permit is later than November 6, 2005.

§ 62.15165 What happens to the emission limits during periods of startup, shutdown, and malfunction?

(a) The emission limits of this subpart apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

(c) A maximum of 3 hours of test data can be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

(d) During startup, shutdown, or malfunction periods longer than 3 hours, emissions data cannot be discarded from compliance calculations and all provisions under § 60.11(d) of subpart A of 40 CFR part 60 apply.

Continuous Emission Monitoring

§ 62.15170 What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform four tasks:

(a) Install continuous emission monitoring systems for certain gaseous pollutants.

(b) Make sure your continuous emission monitoring systems are operating correctly.

(c) Make sure you obtain the minimum amount of monitoring data.

(d) Install a continuous opacity monitoring system.

§ 62.15175 What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for oxygen (or carbon dioxide), sulfur dioxide, and carbon monoxide. If you operate a Class I municipal waste combustion unit, also install, calibrate, maintain, and operate a continuous emission monitoring system for nitrogen oxides. Install the continuous emission monitoring system for sulfur dioxide, nitrogen oxides, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) You must install, evaluate, and operate each continuous emission monitoring system according to the ''Monitoring Requirements'' in § 60.13 of subpart A of 40 CFR part 60.

(c) You must monitor the oxygen (or carbon dioxide) concentration at each

location where you monitor sulfur dioxide and carbon monoxide. Additionally, if you operate a Class I municipal waste combustion unit, you must also monitor the oxygen (or carbon dioxide) concentration at the location where you monitor nitrogen oxides.

(d) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required and you must follow the requirements in § 62.15200.

(e) If you choose to demonstrate compliance by monitoring the percent reduction of sulfur dioxide, you must also install a continuous emission monitoring system for sulfur dioxide and oxygen (or carbon dioxide) at the inlet of the air pollution control device.

(f) If you prefer to use an alternative sulfur dioxide monitoring method, such as parametric monitoring, or cannot monitor emissions at the inlet of the air pollution control device to determine percent reduction, you can apply to the Administrator for approval to use an alternative monitoring method under § 60.13(i) of subpart A of 40 CFR part 60.

§ 62.15180 How are the data from the continuous emission monitoring systems used?

You must use data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in tables 2, 3, 4, and 5 of this subpart. To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see § 62.15235.

§ 62.15185 How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide.

(b) Complete your initial evaluation of the continuous emission monitoring systems within 180 days after your final compliance date.

(c) For initial and annual evaluations, collect data concurrently (or within 30 to 60 minutes) using your oxygen (or carbon dioxide) continuous emission monitoring system, your sulfur dioxide, nitrogen oxides, or carbon monoxide continuous emission monitoring systems, as appropriate, and the appropriate test methods specified in table 6 of this subpart. Collect these data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in appendix B of 40 CFR part 60. Table 7 of this subpart shows the performance specifications that apply to each continuous emission monitoring system.

(d) Follow the quality assurance procedures in Procedure 1 of appendix F of 40 CFR part 60 for each continuous emission monitoring system. These procedures include daily calibration drift and quarterly accuracy determinations.

§ 62.15190 Am I exempt from any 40 CFR part 60 appendix B or appendix F requirements to evaluate continuous emission monitoring systems?

Yes, the accuracy tests for your sulfur dioxide continuous emission monitoring system require you to also evaluate your oxygen (or carbon dioxide) continuous emission monitoring system. Therefore, your oxygen (or carbon dioxide) continuous emission monitoring system is exempt from two requirements:

(a) Section 2.3 of Performance Specification 3 in appendix B of 40 CFR part 60 (relative accuracy requirement).

(b) Section 5.1.1 of appendix F of 40 CFR part 60 (relative accuracy test audit).

§ 62.15195 What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual evaluations of your continuous emission monitoring systems no more than 13 months after the previous evaluation was conducted.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in appendix F of 40 CFR part 60.

§ 62.15200 What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring system. You may reestablish the relationship during annual evaluations. To establish the relationship use three procedures:

(a) Use EPA Reference Method 3A or 3B in Appendix A of 40 CFR part 60 to determine oxygen concentration at the location of your carbon dioxide monitor.

(b) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(c) Use the fuel-factor equation in EPA Reference Method 3B to determine the relationship between oxygen and carbon dioxide.

§ 62.15205 What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is this requirement enforceable?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide are in parts per million by dry volume at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level).

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. Section 60.13(e)(2) of subpart A of 40 CFR part 60 requires your continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of this data collection requirement regardless of the emission level monitored, and you must notify the Administrator according to § 62.15340(e).

(e) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations and percent reductions in accordance with § 62.15210.

§ 62.15210 How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

(a) Use the equation in § 62.15390(a) to calculate emissions at 7 percent oxygen.

(b) Use EPA Reference Method 19 in Appendix A of 40 CFR part 60, section 4.3, to calculate the daily geometric average concentrations of sulfur dioxide emissions. If you are monitoring the percent reduction of sulfur dioxide, use

EPA Reference Method 19, section 5.4, to determine the daily geometric average percent reduction of potential sulfur dioxide emissions.

(c) If you operate a Class I municipal waste combustion unit, use EPA Reference Method 19, section 4.1, to calculate the daily arithmetic average for concentrations of nitrogen oxides.

(d) Use EPA Reference Method 19, section 4.1, to calculate the 4-hour or 24-hour daily block averages (as applicable) for concentrations of carbon monoxide.

§ 62.15215 What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to § 60.13 of subpart A 40 CFR part 60.

(c) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in appendix B of 40 CFR part 60. Complete this evaluation by 180 days after your final compliance date.

(d) Complete each annual evaluation of your continuous opacity monitoring system no more than 13 months after the previous evaluation.

(e) Use tests conducted according to EPA Reference Method 9, as specified in § 62.15245, to determine compliance with the applicable opacity limit in tables 2 or 4 of this subpart. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§ 62.15220 What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

Use the required span values and applicable performance specifications in table 8 of this subpart.

§ 62.15225 What must I do if my continuous emission monitoring system is temporarily unavailable to meet the data collection requirements?

Refer to table 8 of this subpart. It shows alternate methods for collecting data when these systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data.

Stack Testing

§ 62.15230 What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§ 62.15235 How are the stack test data used?

You must use results of stack tests for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in tables 2 and 4 of this subpart. To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see § 62.15180.

§ 62.15240 What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for the pollutants listed in § 62.15230 by 180 days after your final compliance date.

(b) Conduct annual stack tests for these pollutants after the initial stack test. Conduct each annual stack test no later than 13 months after the previous stack test.

§ 62.15245 What test methods must I use to stack test?

(a) Follow table 8 of this subpart to establish the sampling location and to determine pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.

(b) Make sure that stack tests for all these pollutants consist of at least three test runs, as specified in § 60.8 (Performance Tests) of subpart A of 40 CFR part 60. Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in tables 2 and 4 of this subpart.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in § 62.15175.

(d) Use the equations in § 62.15390(a) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. See the individual test methods in table 6 of this subpart for other required equations.

(e) You can apply to the Administrator for approval under § 60.8(b) of subpart A of 40 CFR part 60 to

(1) Use a reference method with minor changes in methodology;

(2) Use an equivalent method;

(3) Use an alternative method the results of which the Administrator has determined are adequate for demonstrating compliance;

(4) Waive the requirement for a performance test because you have demonstrated by other means that you are in compliance; or

(5) use a shorter sampling time or smaller sampling volume.

§ 62.15250 May I conduct stack testing less often?

(a) You may test less often if you own or operate a Class II municipal waste combustion unit and if all stack tests for a given pollutant over 3 consecutive years show you comply with the emission limit. In this case, you are not required to conduct a stack test for that pollutant for the next 2 years. However, you must conduct another stack test within 36 months of the anniversary date of the third consecutive stack test that shows you comply with the emission limit. Thereafter, you must perform stack tests every third year but no later than 36 months following the previous stack tests. If a stack test shows noncompliance with an emission limit, you must conduct annual stack tests for that pollutant until all stack tests over 3 consecutive years show compliance with the emission limit for that pollutant. This provision applies to all pollutants subject to stack testing requirements: dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(b) You can test less often for dioxins/furans emissions if you own or operate a municipal waste combustion plant that meets two conditions. First, you have multiple municipal waste combustion units onsite that are subject to this subpart. Second, all these municipal waste combustion units have demonstrated levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years. In this case, you may choose to conduct annual stack tests on only one municipal waste combustion unit per year at your plant. This provision only applies to stack testing for dioxins/furans emissions.

(1) Conduct the stack test no more than 13 months following a stack test on any municipal waste combustion unit subject to this subpart at your plant. Each year, test a different municipal waste combustion unit subject to this subpart and test all municipal waste combustion units subject to this subpart in a sequence that you determine. Once you determine a testing sequence, it

must not be changed without approval by the Administrator.

(2) If each annual stack test shows levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, you may continue stack tests on only one municipal waste combustion unit subject to this subpart per year.

(3) If any annual stack test indicates levels of dioxins/furans emissions greater than 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, conduct subsequent annual stack tests on all municipal waste combustion units subject to this subpart at your plant. You may return to testing one municipal waste combustion unit subject to this subpart per year if you can demonstrate dioxins/furans emission levels less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for all municipal waste combustion units at your plant subject to this subpart for 2 consecutive years.

§ 62.15255 May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

You may not deviate from the 13-month testing schedules specified in §§ 62.15240(b) and 62.15250(b)(1) unless you apply to the Administrator for an alternative schedule, and the Administrator approves your request for alternate scheduling prior to the date on which you would otherwise have been required to conduct the next stack test.

Other Monitoring Requirements

§ 62.15260 Must I meet other requirements for continuous monitoring?

You must also monitor three operating parameters:

(a) Load level of each municipal waste combustion unit.

(b) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(c) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§ 62.15265 How do I monitor the load of my municipal waste combustion unit?

(a) If your municipal waste combustion unit generates steam, you must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) in kilograms per hour (or pounds per hour).

(2) Calculate your steam (or feed water) flow in 4-hour block averages.

(3) Calculate the steam (or feed water) flow rate using the method in ''American Society of Mechanical Engineers (ASME PTC 4.1—1964): Test Code for Steam Generating Units, Power Test Code 4.1—1964 (R1991),'' section 4 (incorporated by reference in § 60.17 of subpart A of 40 CFR part 60).

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in ''American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters'', 6th Edition (1971), chapter 4 (incorporated by reference in § 60.17 of subpart A of 40 CFR part 60).

(5) Before each dioxins/furans stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

(b) If your municipal waste combustion unit does not generate steam, or, if your municipal waste combustion units have shared steam systems and steam load cannot be estimated per unit, you must determine, to the satisfaction of the Administrator, one or more operating parameters that can be used to continuously estimate load level (for example, the feed rate of municipal solid waste or refuse-derived fuel). You must continuously monitor the selected parameters.

§ 62.15270 How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

§ 62.15275 How do I monitor the injection rate of activated carbon?

If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(a) Select a carbon injection system operating parameter that can be used to calculate carbon feed rate (for example, screw feeder speed).

(b) During each dioxins/furans and mercury stack test, determine the average carbon feed rate in kilograms (or pounds) per hour. Also, determine the average operating parameter level that correlates to the carbon feed rate. Establish a relationship between the operating parameter and the carbon feed rate in order to calculate the carbon feed rate based on the operating parameter level.

(c) Continuously monitor the selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. When calculating the 8-hour block average, do two things:

(1) Exclude hours when the municipal waste combustion unit is not operating.

(2) Include hours when the municipal waste combustion unit is operating but the carbon feed system is not working correctly.

§ 62.15280 What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is this requirement enforceable?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for three parameters:

(1) Load level of the municipal waste combustion unit.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in paragraphs (a) through (c) of this section, you are in violation of this data collection requirement and you must notify the Administrator according to § 62.15340(e).

Recordkeeping

§ 62.15285 What records must I keep?

You must keep four types of records:

(a) Operator training and certification.

(b) Stack tests.

(c) Continuously monitored pollutants and parameters.

(d) Carbon feed rate.

§ 62.15290 Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the Administrator approves another format.

(b) Keep all records on each municipal waste combustion unit for at least 5 years.

(c) Make all records available for submittal to the Administrator, or for onsite review by an inspector.

§ 62.15295 What records must I keep for operator training and certification?

You must keep records of six items:

(a) *Records of provisional certifications.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(2) Dates of the initial provisional certifications.

(3) Documentation showing current provisional certifications.

(b) *Records of full certifications.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent State-approved certification program.

(2) Dates of initial and renewal full certifications.

(3) Documentation showing current full certifications.

(c) *Records showing completion of the operator training course.* Include three items:

(1) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who have completed the EPA or State municipal waste combustion operator training course.

(2) Dates of completion of the operator training course.

(3) Documentation showing completion of operator training course.

(d) *Records of reviews for plant-specific operating manuals.* Include three items:

(1) Names of persons who have reviewed the operating manual.

(2) Date of the initial review.

(3) Dates of subsequent annual reviews.

(e) *Records of when a certified operator is temporarily offsite.* Include two main items:

(1) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours but for 2 weeks or less and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(2) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) Your notice that all certified persons are offsite.

(ii) The conditions that cause these people to be offsite.

(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite.

(f) *Records of calendar dates.* Include the calendar date on each record.

§ 62.15300 What records must I keep for stack tests?

For stack tests required under § 62.15230, you must keep records of four items:

(a) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in tables 2 or 4 of this subpart:

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) Test reports including supporting calculations that document the results of all stack tests.

(c) The maximum demonstrated load of your municipal waste combustion units and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(d) The calendar date of each record.

§ 62.15305 What records must I keep for continuously monitored pollutants or parameters?

You must keep records of eight items.

(a) *Records of monitoring data.* Document six parameters measured using continuous monitoring systems:

(1) All 6-minute average levels of opacity.

(2) All 1-hour average concentrations of sulfur dioxide emissions.

(3) For Class I municipal waste combustion units only, all 1-hour average concentrations of nitrogen oxides emissions.

(4) All 1-hour average concentrations of carbon monoxide emissions.

(5) All 1-hour average load levels of your municipal waste combustion unit.

(6) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(b) *Records of average concentrations and percent reductions.* Document five parameters:

(1) All 24-hour daily block geometric average concentrations of sulfur dioxide emissions or average percent reductions of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, all 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(3) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions.

(4) All 4-hour block arithmetic average load levels of your municipal waste combustion unit.

(5) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(c) *Records of exceedances.* Document three items:

(1) Calendar dates whenever any of the five pollutants or parameter levels recorded in paragraph (b) of this section or the opacity level recorded in paragraph (a)(1) of this section did not meet the emission limits or operating levels specified in this subpart.

(2) Reasons you exceeded the applicable emission limits or operating levels.

(3) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(d) *Records of minimum data.* Document three items:

(1) Calendar dates for which you did not collect the minimum amount of data required under §§ 62.15205 and 62.15280. Record these dates for five types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of your municipal waste combustion unit.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to obtain the required amount of data.

(e) *Records of exclusions.* Document each time you have excluded data from your calculation of averages for any of the following five pollutants or parameters and the reasons the data were excluded:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load levels of your municipal waste combustion unit.

(5) Temperatures of the flue gases at the inlet of the particulate matter control device.

(f) *Records of drift and accuracy.* Document the results of your daily drift tests and quarterly accuracy determinations according to Procedure 1 of appendix F of 40 CFR part 60. Keep these records for the sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide continuous emissions monitoring systems.

(g) *Records of the relationship between oxygen and carbon dioxide.* If you chose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

(h) *Records of calendar dates.* Include the calendar date on each record.

§ 62.15310 What records must I keep for municipal waste combustion units that use activated carbon?

For municipal waste combustion units that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of five items:

(a) *Records of average carbon feed rate.* Document five items:

(1) Average carbon feed rate (in kilograms or pounds per hour) during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(2) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(3) All 8-hour block average carbon feed rates in kilograms (pounds) per hour calculated from the monitored operating parameter.

(4) Total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include supporting documentation.

(5) Required quarterly usage of carbon for the municipal waste combustion plant, calculated using the appropriate equation in § 62.15390(f). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant. Include supporting calculations.

(b) *Records of low carbon feed rates.* Document three items:

(1) The calendar dates when the average carbon feed rate over an 8-hour block was less than the average carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions (whichever has a higher feed rate).

(2) Reasons for the low carbon feed rates.

(3) Corrective actions you took or are taking to meet the 8-hour average carbon feed rate requirement.

(c) *Records of minimum carbon feed rate data.* Document three items:

(1) Calendar dates for which you did not collect the minimum amount of carbon feed rate data required under § 62.15280.

(2) Reasons you did not collect the minimum data.

(3) Corrective actions you took or are taking to get the required amount of data.

(d) *Records of exclusions.* Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(e) *Records of calendar dates.* Include the calendar date on each record.

Reporting

§ 62.15315 What reports must I submit and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this subpart.

(b) Submit all reports on paper, postmarked on or before the submittal dates in §§ 62.15325, 62.15335, and 62.15350. If the Administrator agrees, you may submit electronic reports.

(c) Keep a copy of all reports required by §§ 62.15330, 62.15340, and 62.15355 onsite for 5 years.

§ 62.15320 What are the appropriate units of measurement for reporting my data?

See tables 2, 3, 4 and 5 of this subpart for appropriate units of measurement.

§ 62.15325 When must I submit the initial report?

As specified in § 60.7(c) of subpart A of 40 CFR part 60, submit your initial report by 180 days after your final compliance date.

§ 62.15330 What must I include in the initial report?

You must include seven items:

(a) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following five pollutants or parameters as recorded in accordance with § 62.15305(b).

(1) The 24-hour daily geometric average concentration of sulfur dioxide emissions or the 24-hour daily geometric percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, the 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(3) The 4-hour block or 24-hour daily arithmetic average concentration of carbon monoxide emissions.

(4) The 4-hour block arithmetic average load level of your municipal waste combustion unit.

(5) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(b) The results of the initial stack tests for eight pollutants or parameters (use appropriate units as specified in tables 2 or 4 of this subpart):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead.

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(c) The test report that documents the initial stack tests including supporting calculations.

(d) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in appendix B of 40 CFR part 60 in conducting the evaluation.

(e) The maximum demonstrated load of your municipal waste combustion unit and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(f) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the average carbon feed rates that you recorded during the initial stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in § 62.15310(a)(1) and (2).

(g) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

§ 62.15335 When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. (As with all other requirements in this subpart, the requirement to submit an annual report does not modify or replace the operating permits requirements of 40 CFR parts 70 and 71.)

§ 62.15340 What must I include in the annual report?

Summarize data collected for all pollutants and parameters regulated under this subpart. Your summary must include twelve items:

(a) The results of the annual stack test, using appropriate units, for eight pollutants, as recorded under § 62.15300(a):

(1) Dioxins/furans.

(2) Cadmium.

(3) Lead

(4) Mercury.

(5) Opacity.

(6) Particulate matter.

(7) Hydrogen chloride.

(8) Fugitive ash.

(b) A list of the highest average emission levels recorded, in the appropriate units. List these values for five pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(c) The highest 6-minute opacity level measured. Base this value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§ 62.15305(a)(1)).

(d) For municipal waste combustion units that use activated carbon for controlling dioxins/furans or mercury emissions, include four records:

(1) The average carbon feed rates recorded during the most recent dioxins/furans and mercury stack tests.

(2) The lowest 8-hour block average carbon feed rate recorded during the year.

(3) The total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant.

(4) The required quarterly carbon usage of your municipal waste combustion plant calculated using the appropriate equation in § 62.15390(f). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant.

(e) The total number of days that you did not obtain the minimum number of hours of data for six pollutants or parameters. Include the reasons you did not obtain the data and corrective actions that you have taken to obtain the data in the future. Include data on:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(f) The number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for six pollutants or parameters:

(1) Sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(3) Carbon monoxide emissions.

(4) Load level of the municipal waste combustion unit. (5) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(6) Carbon feed rate.

(g) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if you are eligible for alternative scheduling (§ 62.15250(a) or (b)).

(h) A notice of your intent to begin a reduced stack testing schedule for other pollutants during the following calendar year if you are eligible for alternative scheduling (§ 62.15250(a)).

(i) A summary of any emission or parameter level that did not meet the limits specified in this subpart.

(j) A summary of the data in paragraphs (a) through (d) of this section from the year preceding the reporting year. This summary gives the Administrator a summary of the performance of the municipal waste combustion unit over a 2-year period.

(k) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in § 62.15200.

(l) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§ 62.15345 What must I do if I am out of compliance with these standards?

You must submit a semiannual report on any recorded emission or parameter level that does not meet the requirements specified in this subpart.

§ 62.15350 If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§ 62.15355 What must I include in the semiannual out-of-compliance reports?

You must include three items in the semiannual report:

(a) For any of the following six pollutants or parameters that exceeded the limits specified in this subpart, include the calendar date they exceeded the limits, the averaged and recorded data for that date, the reasons for exceeding the limits, and your corrective actions:

(1) Concentration or percent reduction of sulfur dioxide emissions.

(2) For Class I municipal waste combustion units only, concentration of nitrogen oxides emissions.

(3) Concentration of carbon monoxide emissions.

(4) Load level of your municipal waste combustion unit.

(5) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.

(6) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

(b) If the results of your annual stack tests (as recorded in § 62.15300(a)) show emissions above the limits specified in table 2 or 4 of this subpart as applicable for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a copy of the test report that documents the emission levels and your corrective actions.

(c) For municipal waste combustion units that apply activated carbon to control dioxins/furans or mercury emissions, include two items:

(1) Documentation of all dates when the 8-hour block average carbon feed rate (calculated from the carbon injection system operating parameter) is

less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test (as specified in § 62.15310(a)(1)). Include four items:

(i) Eight-hour average carbon feed rate.

(ii) Reasons for these occurrences of low carbon feed rates.

(iii) The corrective actions you have taken to meet the carbon feed rate requirement.

(iv) The calendar date.

(2) Documentation of each quarter when total carbon purchased and delivered to the municipal waste combustion plant is less than the total required quarterly usage of carbon. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include five items:

(i) Amount of carbon purchased and delivered to the plant.

(ii) Required quarterly usage of carbon.

(iii) Reasons for not meeting the required quarterly usage of carbon.

(iv) The corrective actions you have taken to meet the required quarterly usage of carbon.

(v) The calendar date.

§ 62.15360 Can reporting dates be changed?

(a) If the Administrator agrees, you may change the semiannual or annual reporting dates.

(b) See § 60.19(c) in subpart A of 40 CFR part 60 for procedures to seek approval to change your reporting date.

Air Curtain Incinerators That Burn 100 Percent Yard Waste

§ 62.15365 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

§ 62.15370 What is yard waste?

Yard waste is grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(a) Construction, renovation, and demolition wastes that are exempt from the definition of ''municipal solid waste'' in § 62.15405.

(b) Clean wood that is exempt from the definition of ''municipal solid waste'' in § 62.15405 of this subpart.

§ 62.15375 What are the emission limits for air curtain incinerators that burn 100 percent yard waste?

If your air curtain incinerator combusts 100 percent yard waste, you must meet only the emission limits in this section.

(a) By 180 days after your final compliance date, you must meet two limits:

(1) The opacity limit is 10 percent (6-minute average) for air curtain incinerators that can combust at least 35 tons per day of municipal solid waste and no more than 250 tons per day of municipal solid waste.

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Except during malfunctions, the requirements of this subpart apply at all times. Each malfunction must not exceed 3 hours.

§ 62.15380 How must I monitor opacity for air curtain incinerators that burn 100 percent yard waste?

(a) Use EPA Reference Method 9 in Appendix A of 40 CFR part 60 to determine compliance with the opacity limit.

(b) Conduct an initial test for opacity as specified in § 60.8 of subpart A of 40 CFR part 60.

(c) After the initial test for opacity, conduct annual tests no more than 13 calendar months following the date of your previous test.

§ 62.15385 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent yard waste?

(a) Provide a notice of construction that includes four items:

(1) Your intent to construct the air curtain incinerator.

(2) Your planned initial startup date.

(3) Types of fuels you plan to combust in your air curtain incinerator.

(4) The capacity of your incinerator, including supporting capacity calculations, as specified in § 62.15390(d) and (e).

(b) Keep records of results of all opacity tests onsite in either paper copy or electronic format unless the Administrator approves another format.

(c) Keep all records for each incinerator for at least 5 years.

(d) Make all records available for submittal to the Administrator or for onsite review by an inspector.

(e) Submit the results (each 6-minute average) of the opacity tests by February 1 of the year following the year of the opacity emission test.

(f) Submit reports as a paper copy on or before the applicable submittal date. If the Administrator agrees, you may submit reports on electronic media.

(g) If the Administrator agrees, you may change the annual reporting dates (see § 60.19(c) in subpart A of 40 CFR part 60).

(h) Keep a copy of all reports onsite for a period of 5 years.

Equations

§ 62.15390 What equations must I use?

(a) *Concentration correction to 7 percent oxygen.* Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

$$C_{7\%} = C_{unc} * (13.9) * \left(1/\left(20.9 - CO_2\right)\right) \qquad \text{(Eq. 1)}$$

Where:

$C_{7\%}$ = concentration corrected to 7 percent oxygen.

C_{unc} = uncorrected pollutant concentration.

CO_2 = concentration of oxygen (%).

(b) *Percent reduction in potential mercury emissions.* Calculate the percent reduction in potential mercury emissions ($\%P_{Hg}$) using equation 2 of this section:

$$\%P_{Hg} = \left(E_i - E_o\right) * \left(100 / E_i\right) \qquad \text{(Eq. 2)}$$

Where:

$\%P_{Hg}$ = percent reduction of potential mercury emissions

E_i = mercury emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = mercury emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(c) *Percent reduction in potential hydrogen chloride emissions.* Calculate the percent reduction in potential hydrogen chloride emissions ($\%P_{HCl}$) using equation 3 of this section:

$$\%P_{HCl} = \left(E_i - E_o\right) * \left(100/E_i\right) \qquad \text{(Eq. 3)}$$

Where

$\%P_{HCl}$ = percent reduction of the potential hydrogen chloride emissions

E_i = hydrogen chloride emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = hydrogen chloride emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(d) *Capacity of a municipal waste combustion unit.* For a municipal waste combustion unit that can operate continuously for 24-hour periods, calculate the capacity of the municipal waste combustion unit based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods:

(1) For municipal waste combustion units with a design based on heat input capacity, calculate the maximum charging rate based on this maximum heat input capacity and one of two heating values:

(i) If your municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).

(ii) If your municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(2) For municipal waste combustion units with a design not based on heat input capacity, use the maximum designed charging rate.

(e) *Capacity of a batch municipal waste combustion unit.* Calculate the capacity of a batch municipal waste combustion unit as the maximum design amount of municipal solid waste they can charge per batch multiplied by the maximum number of batches they can process in 24 hours. Calculate this maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the municipal waste combustion unit can combust 24/16, or 1.5 batches, in 24 hours.

(f) *Quarterly carbon usage.* If you use activated carbon to comply with the dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 4 or 5 of this section for plant basis or unit basis:

(1) Plant basis.

$$C = \sum_{i=1}^{n} f_i * h_i \qquad \text{(Eq. 4)}$$

Where:

C = required quarterly carbon usage for the plant in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. This is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

n = number of municipal waste combustion units, i, located at your plant.

(2) Unit basis.

$$C = f * h \qquad \text{(Eq. 5)}$$

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).

f = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. This is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

Title V Requirements

§ 62.15395 Does this subpart require me to obtain an operating permit under title V of the Clean Air Act?

Yes. If you are subject to this subpart on the effective date of this subpart or any time thereafter, you are required to apply for and obtain a title V operating permit.

§ 62.15400 When must I submit a title V permit application for my existing small MWC unit?

(a) You must submit a complete title V permit application within 12 months of when your source first becomes subject to a title V permitting program. *See* 40 CFR 70.3(a) and (b), 70.5(a)(1), 71.3(a) and (b), and 71.5(a)(1). As provided in section 503(c) of the Clean Air Act, permitting authorities may establish permit application deadlines earlier than the 12-month deadline.

(b) If your existing small MWC unit is not subject to an earlier permit application deadline, a complete title V permit application must be submitted not later than the date 36 months after promulgation of 40 CFR Part 60, subpart BBBB, or by the effective date of the applicable State, Tribal, or Federal operating permits program, whichever is later. For any existing small MWC unit not subject to an earlier application deadline, this final application deadline applies regardless of when this Federal plan, or the relevant EPA approved State or Tribal plan, is effective.

(c) A ''complete'' title V permit application is one that has been determined or deemed complete by the relevant permitting authority under section 503(d) of the Clear Air Act and 40 CFR 70.5(a)(2) or 71.5(a)(2). You must submit a complete permit application by the relevant application deadline in order to operate after this date in compliance with Federal law. *See* sections 503(d) and 502(a); 40 CFR 70.7(b) and 71.7(b).

Delegation of Authority

§ 62.15405 What authorities are retained by the Administrator?

These authorities are retained by the EPA Administrator and not transferred to the State upon delegation of authority to the State to implement and enforce this subpart.

(a) Approval of alternative non-opacity emission standard;

(b) Approval of alternative opacity standard;

(c) Approval of major alternatives to test methods;

(d) Approval of major alternatives to monitoring;

(e) Waiver of recordkeeping; and

(f) approval of exemption to operating practice requirements in § 62.15145(e)(5).

Definitions

§ 62.15410 What definitions must I know?

Terms used but not defined in this section are defined in the Clean Air Act and in subparts A and B of 40 CFR part 60.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or the Administrator of a State Air Pollution Control Agency.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Batch municipal waste combustion unit means a municipal waste combustion unit designed so it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

Calendar quarter means three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

Calendar year means 365 consecutive days (or 366 consecutive days in leap years) starting on January 1 and ending on December 31.

Chief facility operator means the person in direct charge and control of

the operation of a municipal waste combustion unit. This person is responsible for daily onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit.

Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of ''municipal waste combustion plant capacity'' for specification of which units at a plant site are included in the aggregate capacity calculation.

Class II units mean small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of ''municipal waste combustion plant capacity'' for specification of which units at a plant site are included in the aggregate capacity calculation.

Clean wood means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(1) ''Yard waste'', which is defined in this section.

(2) Construction, renovation, or demolition wastes (for example, railroad ties and telephone poles) that are exempt from the definition of municipal solid waste in this section.

Cofired combustion unit means a unit that combusts municipal solid waste with nonmunicipal solid waste fuel (for example, coal, industrial process waste). To be considered a cofired combustion unit, the unit must be subject to a federally enforceable permit that limits it to combusting a fuel feed stream which is 30 percent or less (by weight) municipal solid waste as measured each calendar quarter.

Continuous burning means the continuous, semicontinuous, or batch feeding of municipal solid waste to dispose of the waste, produce energy, or provide heat to the combustion system in preparation for waste disposal or energy production. Continuous burning does not mean the use of municipal solid waste solely to thermally protect the grate or hearth during the startup period when municipal solid waste is not fed to the grate or hearth.

Continuous emission monitoring system means a monitoring system that continuously measures the emissions of a pollutant from a municipal waste combustion unit.

Contract means a legally binding agreement or obligation that cannot be canceled or modified without substantial financial loss.

De-rate means to make a permanent physical change to the municipal waste combustor unit that reduces the maximum combustion capacity of the unit to less than or equal to 35 tons per day of municipal solid waste. A permit restriction or a changes in the method of operation does not qualify as de-rating.

Dioxins/furans mean tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

Effective date of State plan approval means the effective date that the EPA approves the State plan. The **Federal Register** specifies this date in the notice that announces EPA's approval of the State plan.

Eight-hour block average means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of three 8-hour periods of time:

(1) 12:00 midnight to 8:00 a.m.

(2) 8:00 a.m. to 4:00 p.m.

(3) 4:00 p.m. to 12:00 midnight.

EPA-approved State plan means a State plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60 subpart B to implement and enforce 40 CFR part 60, subpart BBBB. An approved State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval.

Federally enforceable means all limits and conditions the Administrator can enforce (including the requirements of 40 CFR parts 60, 61, and 63), requirements in a State's implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

First calendar half means the period that starts on January 1 and ends on June 30 in any year.

Fluidized bed combustion unit means a unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

Four-hour block average or *4-hour block average* means the average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of six 4-hour periods:

(1) 12:00 midnight to 4 a.m.

(2) 4 a.m. to 8 a.m.

(3) 8 a.m. to 12:00 noon.

(4) 12:00 noon to 4 p.m.

(5) 4 p.m. to 8 p.m.

(6) 8 p.m. to 12:00 midnight.

Mass burn refractory municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

Mass burn rotary waterwall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

Mass burn waterwall municipal waste combustion unit means a field-erected municipal waste combustion unit that combusts municipal solid waste in a waterwall furnace.

Maximum demonstrated load of a municipal waste combustion unit means the highest 4-hour block arithmetic average municipal waste combustion unit load achieved during 4 consecutive hours in the course of the most recent dioxins/furans stack test that demonstrates compliance with the applicable emission limit for dioxins/furans specified in this subpart.

Maximum demonstrated temperature of the particulate matter control device means the highest 4-hour block arithmetic average flue gas temperature measured at the inlet of the particulate matter control device during 4 consecutive hours in the course of the most recent stack test for dioxins/furans emissions that demonstrates compliance with the limits specified in this subpart.

Medical/infectious waste means any waste meeting the definition of medical/infectious waste contained in 40 CFR 60.51c of subpart Ec.

Mixed fuel-fired (pulverized coal/refuse-derived fuel) combustion unit means a combustion unit that combusts coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is combusted in suspension. This includes both conventional pulverized coal and micropulverized coal.

Modification or *modified municipal waste combustion unit* means a municipal waste combustion unit you have changed later than June 6, 2001, and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the unit (not including the cost of land) updated to current costs.

(2) Any physical change in the municipal waste combustion unit or change in the method of operating it that increases the emission level of any air pollutant for which standards have been established under section 129 or section 111 of the Clean Air Act. Increases in the emission level of any air pollutant are determined when the municipal waste combustion unit operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be considered in this determination.

Modular excess-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular starved-air municipal waste combustion unit means a municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Municipal solid waste or *municipal-type solid waste* means household, commercial/retail, or institutional waste. Household waste includes material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (nonmedical), by nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste and refuse-derived fuel. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which include railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

Municipal waste combustion plant means one or more municipal waste combustion units at the same location as specified under ''Applicability of State Plans'' (§ 62.15010(a)).

Municipal waste combustion plant capacity means the aggregate municipal waste combustion capacity of all municipal waste combustion units at the plant that are not subject to subparts Ea, Eb, or AAAA of 40 CFR part 60.

Municipal waste combustion unit means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved-air or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define these municipal waste combustion units:

(1) Municipal waste combustion units do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under § 62.15020(h) and (i). Municipal waste combustion units do not include cement kilns that combust municipal solid waste as specified under § 62.15020(j). Municipal waste combustion units also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(2) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(i) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(ii) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

Particulate matter means total particulate matter emitted from municipal waste combustion units as measured by EPA Reference Method 5 in Appendix A of 40 CFR part 60 and the procedures specified in § 62.15245.

Plastics or rubber recycling unit means an integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). These materials are processed and marketed to become input feed stock for chemical plants or petroleum refineries. The following three criteria further define a plastics or rubber recycling unit:

(1) Each calendar quarter, the combined weight of the feed stock that a plastics or rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that recycling unit processes.

(2) The plastics, rubber, or rubber tires fed to the recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from municipal or industrial solid waste. These feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(3) The plastics, rubber, and rubber tires fed to the recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles or metal rings on plastic bottle caps).

Potential hydrogen chloride emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

Potential mercury emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without controls for mercury emissions.

Potential sulfur dioxide emissions means the level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

Pyrolysis/combustion unit means a unit that produces gases, liquids, or solids by heating municipal solid waste.

The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

Reconstruction means rebuilding a municipal waste combustion unit and meeting two criteria:

(1) The reconstruction begins on or after June 6, 2001.

(2) The cumulative cost of the construction over the life of the unit exceeds 50 percent of the original cost of building and installing the municipal waste combustion unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the municipal waste combustion unit used to calculate these costs, see the definition of ''municipal waste combustion unit'' in this section.

Refractory unit or *refractory wall furnace* means a municipal waste combustion unit that has no energy recovery (such as through a waterwall) in the furnace of the municipal waste combustion unit.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Same location means the same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (for example, a public utility district or regional authority for waste disposal).

Second calendar half means the period that starts on July 1 and ends on December 31 in any year.

Shift supervisor means the person who is in direct charge and control of operating a municipal waste combustion unit and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit during an assigned shift.

Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit means a municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

Standard conditions when referring to units of measure mean a temperature of 20 °C and a pressure of 101.3 kilopascals.

Startup period means the period when a municipal waste combustion unit begins the continuous combustion of municipal solid waste. It does not include any warmup period during which the municipal waste combustion unit combusts fossil fuel or other solid waste fuel but receives no municipal solid waste.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) and section 129(b)(2) of the Clean Air Act and 40 CFR part 60, subpart B, that implements and enforces 40 CFR part 60, subpart BBBB.

Stoker (refuse-derived fuel) combustion unit means a steam generating unit that combusts refuse-derived fuel in a semisuspension combusting mode, using air-fed distributors.

Total mass dioxins/furans or *total mass* means the total mass of tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans as determined using EPA Reference Method 23 in Appendix A of 40 CFR part 60 and the procedures specified in § 62.15245.

Tribal plan means a plan submitted by a Tribal Authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 that implements and enforces 40 CFR part 60 subpart BBBB.

Twenty-four hour daily average or *24-hour daily average* means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the municipal waste combustion unit operates and combusts municipal solid waste measured during the 24 hours between 12:00 midnight and the following midnight.

Untreated lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

Waterwall furnace means a municipal waste combustion unit that has energy (heat) recovery in the furnace (for example, radiant heat transfer section) of the combustion unit.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of ''municipal solid waste'' in this section.

(2) Clean wood that is exempt from the definition of ''municipal solid waste'' in this section.

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Table 1 of Subpart JJJ — Generic Compliance Schedules and Increments of Progress

Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin onsite construction)	Increment 4 (Complete onsite construction)	Increment 5 (Final compliance)
1. Class I units[a,b]	August 6, 2003	April 6, 2004	October 6, 2004	October 6, 2005	November 6, 2005
2. Class II units [c]	September 6, 2003	Not applicable	Not applicable	Not applicable	May 6, 2005

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] For Class I units that began construction, reconstruction, or modification after June 26, 1987, comply with the dioxins/furans and mercury limits by the later of two dates:

1. One year after the effective date of this subpart.
2. One year after the issuance of a revised construction or operation permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than the Class I final compliance date, even if the date one year after the issuance of a revised construction or operation permit exceeds the Class I final compliance date.

[c] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

Table 2 of Subpart JJJ — Class I Emission Limits for Existing Small Municipal Waste Combustion Units[a]

For these pollutants	You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
1. Organics			
Dioxins/furans (total mass basis)	30 nanograms per dry standard cubic meter for municipal waste combustion units that do not employ an electrostatic precipitator-based emission control system -or- 60 nanograms per dry standard cubic meter for municipal waste combustion units that employ an electrostatic precipitator-based emission control system	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals			
Cadmium	0.040 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Lead	0.490 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
Opacity	10 percent	Thirty 6-minute averages	Stack test
Particulate Matter	27 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

Table 2 of Subpart JJJ — Class I Emission Limits For Existing Small Municipal Waste Combustion Units (Continued)

For these pollutants	You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
3. Acid gases			
Hydrogen Chloride	31 parts per million by dry volume -or- 95 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
Sulfur Dioxide	31 parts per million by dry volume -or - 75 percent reduction of potential sulfur dioxide emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other			
Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

Table 3 of Subpart JJJ — Class I Nitrogen Oxides Emission Limits for Existing Small Municipal Waste Combustion Units[a,b,c]

Municipal Waste Combustion Technology	Limits for Class I Municipal Waste Combustion Units
1. Mass burn waterwall	200 parts per million by dry volume
2. Mass burn rotary waterwall	170 parts per million by dry volume
3. Refuse-derived fuel	250 parts per million by dry volume
4. Fluidized bed	220 parts per million by dry volume
5. Mass burn refractory	350 parts per million by dry volume
6. Modular excess air	190 parts per million by dry volume
7. Modular starved air	380 parts per million by dry volume

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] Nitrogen oxides limits are corrected to 7 percent oxygen, dry basis.

[c] All limits are 24-hour daily block arithmetic average concentration. Compliance is determined for Class I units by continuous emission monitoring systems.

Table 4 of Subpart JJJ — Class II Emission Limits for Existing Small Municipal Waste Combustion Units[a]

For these pollutants		You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
1. Organics				
	Dioxins/furans (total mass basis)	125 nanograms per dry standard cubic meter	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals				
	Cadmium	0.10 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
	Lead	1.6 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
	Mercury	0.080 milligrams per dry standard cubic meter -or- 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
	Opacity	10 percent	Thirty 6-minute averages	Stack test
	Particulate Matter	70 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid gases				
	Hydrogen Chloride	250 parts per million by volume -or- 50 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test

[a] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) measured at 7 percent oxygen.

Table 4 of Subpart JJJ — Class II Emission Limits for Existing Municipal Small Waste Combustion Units[a] (Continued)

For these pollutants		You must meet these emission limits[b]	Using these averaging times	And determine compliance by these methods
3. Acid gases				
	Nitrogen Oxides	500 parts per million by dry volume	See footnote c	See footnote c
	Sulfur Dioxide	77 parts per million by dry volume -or - 50 percent reduction of potential sulfur dioxides emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other				
	Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a] Class II units mean all small municipal combustion units subject to this subpart that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §62.15410 for definitions.

[b] All emission limits (except for opacity) are measured at 7 percent oxygen.

[c] No monitoring, testing, recordkeeping or reporting is required to demonstrate compliance with the nitrogen oxides limit for Class II units.

Table 5 of Subpart JJJ — Carbon Monoxide Emission Limits for Existing Small Municipal Waste Combustion Units

For these municipal waste combustion units	You must meet the carbon monoxide limits[a]	Using these averaging times[b]
1. Fluidized bed	100 parts per million by dry volume	4-hour
2. Fluidized bed, mixed fuel, (wood/refuse-derived fuel)	200 parts per million by dry volume	24-hour[c]
3. Mass burn rotary refractory	100 parts per million by dry volume	4-hour
4. Mass burn rotary waterwall	250 parts per million by dry volume	24-hour
5. Mass burn waterwall and refractory	100 parts per million by dry volume	4-hour
6. Mixed fuel-fired, (pulverized coal/refuse-derived fuel)	150 parts per million by dry volume	4-hour
7. Modular starved-air and excess air	50 parts per million by dry volume	4-hour
8. Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel)	200 parts per million by dry volume	24-hour daily
9. Stoker, refuse-derived fuel	200 parts per million by dry volume	24-hour daily

[a] All emission limits (except for opacity) are measured at 7 percent oxygen. Compliance is determined by continuous emission monitoring systems.

[b] Block averages, arithmetic mean. See §62.15410 for definitions.

[c] 24-hour block average, geometric mean.

Table 6 of Subpart JJJ — Requirements for Validating Continuous Emission Monitoring Systems (CEMS)

For these continuous monitoring systems	Use these methods to validate pollutant concentration levels[a]	Use these methods to measure oxygen (or carbon dioxide)[a]
1. Nitrogen oxides (Class I units only)[b]	Method 7, 7A, 7B, 7C, 7D, or 7E	Method 3 or 3A
2. Sulfur dioxide	Method 6 or 6C	Method 3 or 3A
3. Carbon monoxide	Method 10, 10A, or 10B	Method 3 or 3A

[a] Methods are in Appendix A of 40 CFR part 60.

[b] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.

Table 7 of Subpart JJJ — Requirements for Continuous Emission Monitoring Systems (CEMS)[a]

For these pollutants	Use these span values for your CEMS	Use these performance specifications for your CEMS (from appendix B in 40 CFR part 60)	If needed to meet minimum data requirements, use these alternate methods to collect data
1. Opacity	100 percent opacity	P.S. 1	Method 9
2. Nitrogen oxides (Class I units only)	**Control device outlet:** 125 percent of the maximum expected hourly potential nitrogen oxides emissions of the municipal waste combustion unit	P.S. 2	Method 7E
3. Sulfur dioxide	**Inlet to control device:** 125 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit **Control device outlet:** 50 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit	P.S. 2	Method 6C
4. Carbon monoxide	125 percent of the maximum expected hourly potential carbon monoxide emissions of the municipal waste combustion unit	P.S. 4A	Method 10 with alternative interference trap
5. Oxygen or carbon dioxide	25 percent oxygen or 25 percent carbon dioxide	P.S. 3	Method 3A or 3B

[a] Methods are in Appendix A of 40 CFR part 60.

Table 8 of Subpart JJJ — Requirements for Stack Tests

To measure these pollutants	Use these methods to determine the sampling location[a]	Use these methods to measure pollutant concentration[a]	Also note the following additional information
1. Organics			
Dioxins/furans	Method 1	Method 23[b]	The minimum sampling time must be 4 hours per test run while the municipal waste combustion unit is operating at full load.
2. Metals			
Cadmium	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Lead	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Mercury	Method 1	Method 29[b]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load.
Opacity	Method 9	Method 9	Use Method 9 to determine compliance with opacity limits. 3-hour observation period (thirty 6-minute averages).
Particulate matter	Method 1	Method 5 or 29[b]	The minimum sample volume must be 1.0 cubic meters. The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no greater than 160 ±14 °C. The minimum sampling time is 1 hour.

[a] Mehods are in Appendix A of 40 CFR part 60.
[b] Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B.
[c] Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for Appendix F quality assurance requirements.

Table 8 of Subpart JJJ — Federal Plan Requirements for Stack Tests (Continued)

To measure these pollutants	Use these methods to determine the sampling location[a]	Use these methods to measure pollutant concentration[a]	Also note the following additional information
3. Acid gases[c]			
Hydrogen chloride	Method 1	Method 26 or 26A[b]	Test runs must be at least 1 hour long while the municipal waste combustion unit is operating at full load.
4. Other[c]			
Fugitive ash	Not applicable	Method 22 (visible emissions)	The three 1-hour observation period must include periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks.

[a] Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B.
[b] Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for Appendix F quality assurance requirements.

Table 9 of Subpart JJJ — Site-specific Compliance Schedules and Increments of Progress

Class I[a,b] units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin onsite construction)	Increment 4 (Complete onsite construction)	Increment 5 (Final compliance)
To be determined	August 6, 2003	To be determined	To be determined	To be determined	To be determined

[a] Class I units mean small municipal waste combustion units subject to this subpart that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §62.15410 for definitions.
[b] For Class I units that began construction, reconstruction, or modification after June 26, 1987, comply with the dioxins/furans and mercury limits by the later of two dates:
1. One year after the effective date of this subpart.
2. One year after the issuance of a revised construction or operation permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than the Class I final compliance date, even if the date one year after the issuance of a revised construction or operation permit exceeds the Class I final compliance date.

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