

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-7010-3]

RIN A2060-AJ51

Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed On or Before September 20, 1994

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendment.

SUMMARY: We are amending the standards of performance for large municipal waste combustors by expanding the definition of mass burn rotary waterwall municipal waste combustors (MWC) to include mass burn tumbling-tile grate waterwall municipal waste combustors. This change ensures that the same emission limit is established for both types of MWC designs since they exhibit similar combustion characteristics. Since the emissions guidelines for large municipal waste combustors reference the definitions included in the standards of performance, this amendment to the standards has the effect of amending both the standards and the guidelines.

DATES: This direct final rule will be effective on September 10, 2001, without further notice, unless significant adverse comments are received by August 13, 2001.

If significant material adverse comments are received by August 13, 2001, this direct final rule will be withdrawn and the comments addressed in a subsequent final rule based on the proposal. If no significant material adverse comments are received, no further action will be taken on the proposal and this direct final rule will become effective on September 10, 2001.

ADDRESSES: By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-90-45, Subcategory IX-D, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-90-45, Subcategory IX-D, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541-5251, e-mail: porter.fred@epa.gov.

SUPPLEMENTARY INFORMATION: *Comments.* We are publishing this direct final rule without prior proposal because we view this as a noncontroversial amendment and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that

will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket. The docket is an organized and complete file of information compiled by EPA in development of this direct final rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the docket contains the record in the case of judicial review. The docket number for this rulemaking is A-90-45, Subcategory IX-D.

World Wide Web (WWW). In addition to being available in the docket, electronic copies of this action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page <http://www.epa.gov/ttn/caaa>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Regulated Entities. The regulated categories and entities that potentially will be affected by this amendment include the following:

Category	NAICS Codes	SIC Codes	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 table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine

the applicability criteria in §§ 60.50b and 60.32b of the rules. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the action taken by this direct final rule is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of

Columbia Circuit by September 10, 2001. Under section 307(b)(2) of the CAA, the requirements that are subject to today's action may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under section 307(d)(7) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment or

public hearing may be raised during judicial review.

I. Background

On December 19, 1995, we promulgated standards of performance (60 FR 65382) and emissions guidelines (60 FR 65387) for large municipal waste combustors. These standards and guidelines establish maximum achievable control technology (MACT) emission limits for nine pollutants for all design types of municipal waste combustors. The emission control technology upon which these MACT emission limits are based varies somewhat, depending on the specific emission limit. For carbon monoxide (CO), the emission control technology upon which the MACT emission limits are based is good combustion. As outlined in the proposed and final standards and guidelines, good combustion consists of several elements: trained operators, waste feed control, combustion air control, combustion air preheat, and the use of auxiliary fuel burners.

The magnitude of CO emissions from a combustor are determined primarily by the combustion conditions which exist within the combustor. While good combustion minimizes CO emissions, it cannot achieve the same level of emission reductions for each type of combustor design since combustion conditions inherently vary from one type of combustor design to another. As a result, the MACT CO emission limits in the standards and guidelines vary by type of combustor design.

The MACT CO emission limits for mass burn rotary waterwall combustors, for example, are different (i.e., less stringent) than those for mass burn waterwall combustors. A mass burn rotary waterwall combustor is essentially an inclined rotating waterwall cylinder. Waste enters at the elevated end of the cylinder, ignites, and then slowly moves down the cylinder as it rotates. As the municipal waste burns, the rotation of the cylinder tends to carry the waste partially up the wall in the direction of rotation, until it tumbles and falls over on itself. When this happens, a large amount of fresh, unburned surface area is suddenly exposed to combustion, and this leads to substantial fluctuations in CO emission levels.

Most mass burn waterwall municipal waste combustors do not use an inclined rotating cylinder, but use an inclined reciprocating grate to burn the municipal waste. Viewed from the side, this inclined grate looks like a long set of stair steps. In most cases, every other grate step can move back and forth or

reciprocate. The waste enters on the top step, ignites, and then is slowly pushed down the grate, from one step to another, by the reciprocating steps. While the action of moving from step to step serves to expose some fresh, unburned surface area to combustion, the transition is smoother and less abrupt than that in a rotary combustor. As a result, the fluctuations in CO emission levels are less extreme and, as mentioned above, the MACT emission limits in the standards and guidelines for CO are more stringent for mass burn waterwall combustors than for mass burn rotary waterwall combustors.

Recently, we have learned that there is one other type of mass burn waterwall municipal waste combustor design, which is referred to as a tumbling-tile grate combustor. Only one large municipal waste combustor of this type of design exists in the United States (i.e., Savannah Energy Systems located in Savannah, Georgia) and, until the owner/operator of this combustor brought this to our attention, we were not aware of it. This type of combustor design uses a grate to burn municipal waste but, because of the unique design of the grate, the combustion conditions within the combustor are similar to those within a mass burn rotary waterwall combustor.

When viewed from the side, the grate within this combustor looks like a long set of stair steps. However, every third step, which is referred to as a "tumbling-tile," is hinged at one end with the other end attached to a vertical ram beneath the step. As waste moves down the grate, the ram rises, rotating the step around the hinged end. This action causes the waste to tumble and fall over on itself exposing a large amount of fresh, unburned surface area to combustion.

The overall effect creates combustion conditions similar to those which exist within a rotating combustor. As the waste burns, periodically a large amount of fresh, unburned surface area is suddenly and abruptly exposed to combustion, and this leads to substantial fluctuations in CO emission levels. Good combustion reduces CO emission levels from a tumbling-tile grate waterwall combustor to the level achieved at rotary waterwall combustors, but cannot reduce CO emissions to the level achieved at mass burn waterwall combustors. Thus, the MACT emission limits for CO for mass burn tumbling-tile grate waterwall combustors and mass burn rotary waterwall combustors should be the same.

This direct final rule amendment, therefore, expands the definition of

mass burn rotary waterwall municipal waste combustor to include mass burn tumbling-tile grate waterwall municipal waste combustor. This action ensures that the same MACT CO emission limit is established for both types of municipal waste combustor designs since they exhibit similar combustion conditions.

All terms used but not defined in the guidelines (Subpart Cb—Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed on or Before September 20, 1994) have the meaning given them in the standards (Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996). As a result, this action has the effect of amending both the standards and the guidelines by amending the definition of mass burn rotary waterwall municipal waste combustor in the standards.

II. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) 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.

It has been determined that this direct final rule does not qualify as a "significant regulatory action" under the terms of Executive Order 12866 and, therefore, is not subject to review by OMB.

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 the Agency consults with State and local officials early in the process of developing the proposed regulation.

This direct final rule 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. Thus, the requirements of section 6 of the Executive Order do not apply to this direct final rule.

C. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and

responsibilities between the Federal government and Indian tribes."

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this direct final rule.

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, the 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 direct final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Also, this direct final rule is not "economically significant."

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and 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, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 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 objective 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 direct final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The EPA has determined that this direct final rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures 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 today's direct final rule on small entities, small entity is defined as: (1) A small business in the regulated 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 direct final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This direct final rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

G. Paperwork Reduction Act

The Office of Management and Budget had previously approved the information collection requirements contained in the standards and guidelines for large municipal waste combustors under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., at the time the rules were promulgated on December 19, 1995.

The amendment contained in this direct final rule results in no changes to the information collection requirements of the standards or guidelines and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB during the development of the standards and guidelines. Therefore, the information collection requests have not been revised.

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 40 CFR chapter 15.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This direct final rule amendment does not involve technical standards. The EPA's compliance with the NTTAA has

been addressed in the preamble of the standards of performance (60 FR 65382) and emissions guidelines (60 FR 65387) promulgated on December 19, 1995.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this direct final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this direct final rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

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

Dated: July 3, 2001.

Christine Todd Whitman, Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

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

Authority: 42 U.S.C. 7401 et seq.

Subpart Eb—[Amended]

2. Section 60.51b is amended by revising the definition of Mass burn rotary waterwall municipal waste combustor and adding the definition of Tumbling-tile as follows:

§ 60.51b Definitions.

* * * * *

Mass burn rotary waterwall municipal waste combustor means a field-erected combustor that combusts municipal solid waste in a cylindrical rotary waterwall furnace or on a tumbling-tile grate.

* * * * *

Tumbling-tile means a grate tile hinged at one end and attached to a ram at the other end. When the ram extends,

the grate tile rotates around the hinged end.

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[FR Doc. 01-17330 Filed 7-11-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket#: AK-01-002; FRL-7010-6]

Finding of Attainment for Carbon Monoxide (CO); Anchorage CO Nonattainment Area, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finding that the Anchorage CO nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for CO by the deadline required by the Clean Air Act (CAA), December 31, 2000.

EFFECTIVE DATE: August 13, 2001.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality Mail Code OAQ-107, EPA Region 10, 1200 Sixth Avenue, Seattle Washington, 98101, (206) 553-1086.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" is used we mean EPA.

I. Background

EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date. In this case the EPA was required to make determinations concerning whether serious CO nonattainment areas attained the NAAQS by their December 31, 2000, attainment date. Pursuant to the CAA, the EPA is required to make attainment determinations for these areas by June 30, 2001, no later than six months following the attainment date for the areas. This proposal was based on all available, quality-assured data collected from the CO monitoring sites, which has been entered into the Aerometric Information Retrieval System (AIRS). This data was reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50.8, and in accordance with EPA policy and guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," dated June 18, 1990.