

works that were created on or after January 1, 1978.

**B. Interpretation.** Are the grants of transfers or licenses discussed above terminable under Title 17 as currently codified? If so, under which provision? What is the basis for your determination? Are there state or federal laws other than copyright that are relevant? Is delivery of the work by the grantor to the grantee relevant to the question of termination? Is publication relevant?

**C. Recommendations.** Do you have any recommendations with respect to the grants of transfers or licenses illustrated above?

**D. Other Issues.** Are there other issues with respect to the application or exercise of termination provisions that you would like to bring to our attention for future consideration?

Dated: May 11, 2010.

**Maria Pallante,**

*Associate Register for Policy & International Affairs, U.S. Copyright Office.*

[FR Doc. 2010-11619 Filed 5-13-10; 8:45 am]

**BILLING CODE 1410-30-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[EPA-HQ-OAR-2006-0534; FRL-9151-4]

RIN 2060-AQ24

#### Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; amendments.

**SUMMARY:** On October 6, 2009, EPA promulgated its response to the remand of the new source performance standards and emissions guidelines for hospital/medical/infectious waste incinerators by the U.S. Court of Appeals for the District of Columbia Circuit and satisfied the Clean Air Act Section 129(a)(5) requirement to conduct a review of the standards every five years. This action proposes to amend the new source performance standards in order to correct inadvertent drafting errors in the emissions limits for nitrogen oxides and sulfur dioxide promulgated for large hospital/medical/infectious waste incinerators, which did not correspond to our description of our standard-setting process. This action will also correct erroneous cross-

references in the reporting and recordkeeping requirements.

**DATES:** *Comments.* Comments must be received on or before June 28, 2010. Because of the need to revise the new source performance standards (NSPS) emissions limits and reporting and recordkeeping requirements in a timely manner, EPA will not grant requests for extensions beyond this date.

*Public Hearing.* If anyone contacts EPA by May 24, 2010 requesting to speak at a public hearing, EPA will hold a public hearing on June 1, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0534, by one of the following methods:

*http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

*E-mail:* Send your comments via electronic mail to *a-and-r-Docket@epa.gov*, Attention Docket ID No. EPA-HQ-OAR-2006-0534.

*Facsimile:* Fax your comments to (202) 566-9744, Attention Docket ID No. EPA-HQ-OAR-2006-0534.

*Mail:* Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2006-0534. Please include a total of two copies. We request that a separate copy also be sent to the contact person identified below (*see FOR FURTHER INFORMATION CONTACT*).

*Hand Delivery:* Deliver your comments to: EPA Docket Center (EPA/DC), EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2006-0534. Such deliveries are accepted only during the normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0534. The EPA's policy is that all comments received will be included in the public docket and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is

an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Public Hearing:* If a public hearing is held, it will be held at EPA's Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby. Contact Ms. Joan Rogers at (919) 541-4487 to request a hearing, to request to speak at a public hearing, to determine if a hearing will be held, or to determine the hearing location. If no one contacts EPA requesting to speak at a public hearing concerning this proposed rule by May 24, 2010, the hearing will be cancelled without further notice.

*Docket:* EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2006-0534 and Legacy Docket ID No. A-91-61. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ketan D. Patel, Natural Resources and Commerce Group, Sector Policies and Programs Division (E143-03),

Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-9736; fax number: (919) 541-3470; e-mail address: *patel.ketan@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

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

- I. General Information
  - A. Does the proposed action apply to me?
  - B. What should I consider as I prepare my comments?
- II. Background
- III. Summary of Proposed Amendments
  - A. Nitrogen Oxides Emissions Limit
  - B. Sulfur Dioxide Emissions Limit
  - C. Reporting and Recordkeeping Requirements

- IV. Impacts of the Proposed Action
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in

Minority Populations and Low-Income Populations

A redline version of the regulatory language that incorporates the changes in this action is available in the docket.

**I. General Information**

*A. Does the proposed action apply to me?*

*Regulated Entities.* Categories and entities potentially affected by the proposed action are those which operate hospital/medical/infectious waste incinerators (HMIWI). The NSPS and emissions guidelines (EG) for HMIWI affect the following categories of sources:

Category	NAICS code	Examples of potentially regulated entities
Industry .....	622110 622310 325411 325412 562213 611310	Private hospitals, other health care facilities, commercial research laboratories, commercial waste disposal companies, private universities.
Federal Government .....	622110 541710 928110	Federal hospitals, other health care facilities, public health service, armed services.
State/local/tribal Government .....	622110 562213 611310	State/local hospitals, other health care facilities, State/local waste disposal services, State universities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the proposed action. To determine whether your facility would be affected by the proposed action, you should examine the applicability criteria in 40 CFR 60.50c of subpart Ec. If you have any questions regarding the applicability of the proposed action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. What should I consider as I prepare my comments?*

1. Submitting CBI

Do not submit information that you consider to be CBI electronically through <http://www.regulations.gov> or e-mail. Send or deliver information identified as CBI to only the following address: Mr. Ketan D. Patel, c/o OAQPS Document Control Officer (Room C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2006-0534. Clearly mark the part or all of the information that you claim to be CBI. For CBI on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific

information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. Tips for Preparing Your Comments

- When submitting comments, remember to:
  - a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
  - b. Follow directions. EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
  - c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
  - d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified in the preceding section titled **DATES**.

3. Docket

The docket number for the proposed action regarding the HMIWI NSPS (40 CFR part 60, subpart Ec) is Docket ID No. EPA-HQ-OAR-2006-0534.

4. Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of the proposed action is available on the WWW through the Technology Transfer Network Web site (TTN Web). Following signature, EPA posted a copy of the proposed action on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology

exchange in various areas of air pollution control.

## II. Background

On September 15, 1997, EPA adopted NSPS (40 CFR part 60, subpart Ec) and EG (40 CFR part 60, subpart Ce) for HMIWI under the authority of Sections 111 and 129 of the Clean Air Act (CAA). Emissions standards were adopted for the nine pollutants required to be regulated under CAA Section 129—particulate matter, lead, cadmium, mercury, chlorinated dibenzo-p-dioxins/dibenzofurans, carbon monoxide, nitrogen oxides, hydrogen chloride and sulfur dioxide. The EPA developed emissions limits for all nine pollutants for three HMIWI size subcategories (large, medium and small) for the NSPS and four HMIWI size subcategories (large, medium, small and small rural) for the EG.

On November 14, 1997, the Sierra Club and the Natural Resources Defense Council (Sierra Club) filed suit in the U.S. Court of Appeals for the District of Columbia Circuit (the Court). The Sierra Club claimed that EPA violated CAA Section 129 by setting emissions standards for HMIWI that are less stringent than required by Section 129(a)(2); that EPA violated Section 129 by not including pollution prevention or waste minimization requirements; and that EPA had not adequately considered the non-air quality health and environmental impacts of the standards.

On March 2, 1999, the Court issued its opinion in *Sierra Club v. EPA*, 167 F.3d 658 (D.C. Cir. 1999). While the Court rejected the Sierra Club's statutory arguments under CAA Section 129, the Court remanded the rule to EPA for further explanation regarding how EPA derived the maximum achievable control technology (MACT) floors for new and existing HMIWI. The Court did not vacate the regulations, and the regulations remained in effect during the remand.

On October 6, 2009, EPA promulgated its response to the Court's remand of the HMIWI regulations and also satisfied its requirement under CAA Section 129(a)(5) to conduct a five-year review of the HMIWI standards. The promulgated rule revised the NSPS and EG emissions limits for all nine of the CAA Section 129 pollutants.

Following promulgation of the revised emissions limits, an industry representative informed EPA of an error in the published NSPS emissions limit for nitrogen oxides (NO<sub>x</sub>) for large HMIWI, which did not appear to reflect EPA's described analytical process for adopting the revised standards. On review, EPA staff determined that the

published revised NO<sub>x</sub> NSPS for large HMIWI indeed did not reflect EPA's intent in the final rule. EPA also reviewed the other published NSPS and EG emissions limits for similar errors, and determined that the published revised sulfur dioxide (SO<sub>2</sub>) NSPS for large HMIWI also did not reflect EPA's intent in the final rule. To correct these errors, this action issues proposed amendments to the NSPS emissions limits for NO<sub>x</sub> and SO<sub>2</sub> for large HMIWI.

Also after promulgation, a State agency representative informed EPA of an error in the published NSPS reporting and recordkeeping requirements, which incorrectly referred to § 60.56, instead of § 60.56c, in three separate paragraphs. To correct this error, this action issues proposed amendments to the NSPS reporting and recordkeeping provisions that have this incorrect cross-reference.

## III. Summary of Proposed Amendments

The NSPS emissions limits for new and reconstructed HMIWI were developed in accordance with the criteria specified in CAA Section 129(a)(2), which provides that the "degree of reduction in emissions that is deemed achievable [\* \* \*] shall not be less stringent than the emissions control that is achieved in practice by the best controlled similar unit, as determined by the Administrator."

In order to properly account for variability in the data, we calculated upper limits associated with the data for the best controlled similar unit (best performer), prior to setting the emissions limits. We would typically take into account the distribution of the emissions data (*i.e.*, determine whether the data are distributed normally or lognormally) prior to calculating the upper limit value. Where there were a sufficient number of datapoints for the best performer, we used the skewness of the data to determine the distribution. Because normal distributions typically have a skewness of zero, we concluded that those datasets with a skewness less than 0.5 were normally distributed, while those with a skewness of 0.5 or greater were lognormally distributed. Where there were only a few datapoints for the best performer, we decided to assume a normal distribution in calculating the upper limit value, which provides a more stringent limit, rather than a lognormal distribution. (*See* 2009 memorandum entitled "Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI," which is included in the docket.) (A lognormal distribution would tend to provide less stringent

emissions limits than a normal distribution.)

We used the 99th percentile to calculate the upper limits, because we found it provided a more reasonable compensation for variability than the other percentiles we considered (*i.e.*, 90, 95 and 99.9 percent). We determined the emissions limits by rounding up the upper limit values to two significant figures, in accordance with standard engineering practices.

**Note:** In the preamble to the October 6, 2009, final rule, we erroneously referred to these calculated values as "upper confidence limits" or "UCLs." In today's notice, we are using the more accurate term "upper limits."

The following two sections discuss the proposed amendments to the NO<sub>x</sub> and SO<sub>2</sub> NSPS emissions limits for new large HMIWI, which have been revised to correspond to the aforementioned standard-setting process. The third section discusses the proposed amendments to the reporting and recordkeeping requirements for new HMIWI, which have been revised to correct the cross-reference to § 60.56c.

### A. Nitrogen Oxides Emissions Limit

For the large HMIWI size subcategory, the NO<sub>x</sub> emissions estimate associated with the best controlled similar unit is 66.9 parts per million by volume (ppmv). (*See* 2009 memorandum entitled "Revised MACT Floors, Data Variability Analysis and Emission Limits for Existing and New HMIWI," which is included in the docket.) Because there were only a few datapoints for NO<sub>x</sub> for the best performer, we assumed a normal distribution in calculating the NO<sub>x</sub> upper limit value. The 99 percent upper limit for NO<sub>x</sub> for new large HMIWI (assuming a normal distribution) is 144 ppmv. (*See* 2009 memorandum entitled "Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI," which is included in the docket.) Rounding up to two significant figures, we estimated the NO<sub>x</sub> emissions limit for new large HMIWI would be 150 ppmv, which would be less stringent than the corresponding NO<sub>x</sub> EG limit for existing HMIWI (140 ppmv).

This unusual situation occurred due to a difference in the size of the datasets used to determine the NO<sub>x</sub> upper limit values for existing and new HMIWI. The NO<sub>x</sub> dataset for the best performer (used to determine the MACT floor for NO<sub>x</sub> for new sources) was smaller than the NO<sub>x</sub> dataset for the best-performing 12 percent of sources (used to determine the MACT floor for existing sources) and had a higher standard deviation.

Since the upper limit calculation depends on both the average and standard deviation, the higher standard deviation resulted in the NO<sub>x</sub> upper limit value for the best performer being less stringent. (See 2009 memorandum entitled “Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI,” which is included in the docket.)

In this and other similar cases, we decided to use existing source limits for new sources where they are more stringent than new source limits, in order to prevent a situation where a new source would have a less stringent emissions limit than an existing source. We estimated the NO<sub>x</sub> EG limit for existing large HMIWI to be 140 ppmv. (See 2009 memorandum entitled “Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI,” which is included in the docket.) Therefore, the NSPS NO<sub>x</sub> emissions limit for new large HMIWI should have also been 140 ppmv. However, a NO<sub>x</sub> NSPS limit of 130 ppmv was erroneously published, which does not correspond to our analytical process.

The source of this error lies in the previous draft of the NO<sub>x</sub> EG limit for existing large HMIWI (130 ppmv), which was incorrectly determined assuming a normal distribution of the NO<sub>x</sub> emissions dataset for the best-performing 12 percent of the large HMIWI size subcategory. The distribution of the NO<sub>x</sub> emissions dataset for the best-performing 12 percent of large HMIWI was actually lognormal (based on a skewness of 1.44). Assuming a normal distribution would result in a NO<sub>x</sub> upper limit value of 121 ppmv, which would be rounded up to 130 ppmv to establish the NO<sub>x</sub> EG limit. Assuming a lognormal distribution, the NO<sub>x</sub> upper limit would actually be 131 ppmv, which would be rounded up to 140 ppmv to establish the NO<sub>x</sub> EG limit. The correct NO<sub>x</sub> EG limit (140 ppmv) was included in the final rule for existing large HMIWI, but the incorrect, previous draft of the NO<sub>x</sub> NSPS limit (130 ppmv) was erroneously included in the final rule for new large HMIWI. Today’s action proposes to correct this error and amend the HMIWI NSPS to include the correct NO<sub>x</sub> NSPS limit of 140 ppmv for new large HMIWI, which matches the final NO<sub>x</sub> EG limit and reflects EPA’s intent in the October 6, 2009 final rule.

#### B. Sulfur Dioxide Emissions Limit

For the large HMIWI size subcategory, the SO<sub>2</sub> emissions estimate associated with the best controlled similar unit is 0.462 ppmv. (See 2009 memorandum

entitled “Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI,” which is included in the docket.) In our analysis for the October 6, 2009, final rule, we indicated that the SO<sub>2</sub> data for the best performer were normally distributed, but a closer examination of the skewness of the data (0.54) indicates that the SO<sub>2</sub> data are actually lognormally distributed. For the October 6, 2009, final rule, we erroneously estimated a 99 percent upper limit of 1.59 ppmv and an emissions limit of 1.6 ppmv for new large HMIWI, based on our incorrect estimation that the SO<sub>2</sub> data were normally distributed. (See 2009 memorandum entitled “Revised MACT Floors, Data Variability Analysis, and Emission Limits for Existing and New HMIWI,” which is included in the docket.) The 99 percent upper limit for SO<sub>2</sub> for new large HMIWI based on a lognormal distribution is 8.04 ppmv. Rounding up to two significant figures, the SO<sub>2</sub> NSPS emissions limit should be 8.1 ppmv, if our standard-setting process is to be correctly followed. (See 2009 memorandum entitled “Revised Sulfur Dioxide MACT Floor, Data Variability Analysis, and Emission Limit for New Large HMIWI,” which is included in the docket.) This action proposes to amend the HMIWI NSPS to include the correct SO<sub>2</sub> limit of 8.1 ppmv for new large HMIWI, which reflects EPA’s intent in the October 6, 2009, final rule.

#### C. Reporting and Recordkeeping Requirements

The NSPS reporting and recordkeeping requirements of the October 6, 2009, final rule include three separate cross-references to “§ 60.56(d), (h), or (j).” The correct cross-reference in each case should have been “§ 60.56c(d), (h), or (j),” consistent with the section numbering format for NSPS subpart Ec. This action proposes to amend the HMIWI NSPS to correct this error.

#### IV. Impacts of the Proposed Action

Based on the stringency of the HMIWI standards promulgated on October 6, 2009, sources would likely respond to the HMIWI rule by choosing not to construct new HMIWI and would use alternative waste disposal options rather than incur the costs of compliance. Considering this information, we do not anticipate any new HMIWI, and, therefore, no costs or impacts are associated with the proposed NSPS amendments for NO<sub>x</sub> and SO<sub>2</sub> for new large units.

However, in the unlikely event that a new unit is constructed, we estimated costs and impacts expected for each of

three HMIWI model plants (large, medium and small), which we entered into the docket for the October 6, 2009, promulgation. (See 2009 memoranda entitled “Revised Compliance Costs and Economic Inputs for New HMIWI” and “Revised Baseline Emissions and Emissions Reductions for Existing and New HMIWI,” which are included in the docket.) We estimated baseline NO<sub>x</sub> emissions of 80 ppmv and baseline SO<sub>2</sub> emissions of 0.84 ppmv for the large HMIWI model plant, based on the average NO<sub>x</sub> and SO<sub>2</sub> emissions measured at the latest large HMIWI to be installed since the 1997 rule. Consequently, the NO<sub>x</sub> and SO<sub>2</sub> emissions associated with the large HMIWI model plant are already below both the incorrect NO<sub>x</sub> and SO<sub>2</sub> emissions limits of 130 ppmv and 1.6 ppmv, respectively, promulgated in the October 6, 2009, **Federal Register** notice and the correct NO<sub>x</sub> and SO<sub>2</sub> emissions limits of 140 ppmv and 8.1 ppmv, respectively, being proposed in today’s action. Therefore, even if a new large unit were constructed, we would estimate no cost savings or negative impacts associated with today’s proposed amendments to the NO<sub>x</sub> and SO<sub>2</sub> emissions limits for new large HMIWI.

#### V. Statutory and Executive Order Reviews

##### A. Executive Order (EO) 12866: Regulatory Planning and Review

This proposed action is not a “significant regulatory action” under the terms of EO 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the EO.

##### B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). Today’s proposed rule only includes revised NO<sub>x</sub> and SO<sub>2</sub> emissions limits for new large HMIWI, and, as noted previously, no new HMIWI are anticipated. Consequently, today’s proposed action will not impose any additional information collection burden for new sources.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 this proposed action on small entities, small entity is defined as follows: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (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 this proposed rule on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Today's proposed action only includes revised NO<sub>x</sub> and SO<sub>2</sub> emissions limits for new large HMIWI, and no new HMIWI are anticipated.

#### *D. Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538 for State, local or tribal governments or the private sector. This proposed action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this proposed action is not subject to the requirements of sections 202 or 205 of the UMRA.

This proposed action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Executive Order 13132: Federalism*

EO 13132 (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” are defined in the EO 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.”

This proposed 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 EO 13132. This proposed action will not impose substantial direct compliance costs on State or local governments, and will not preempt State law. Thus, EO 13132 does not apply to this rule.

In the spirit of EO 13132 and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in EO 13175 (65 FR 67249; November 9, 2000). EPA is not aware of any HMIWI owned or operated by Indian tribal governments. Thus, EO 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

EPA interprets EO 13045 (62 FR 19885; April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed action is not subject to EO 13045 because it is based solely on technology performance.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This action is not a “significant energy action” as defined in EO 13211 (66 FR 28355; May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 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. NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

EO 12898 (59 FR 7629)(February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it affects only new large units and no new units are anticipated to be constructed.

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

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

Dated: May 10, 2010.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

For the reasons stated in the preamble, title 40, chapter I, part 60 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, *et seq.*

#### **Subpart Ec—[Amended]**

2. Section 60.58c is amended by revising paragraphs (d)(1) through (3) to read as follows:

**§ 60.58c Reporting and recordkeeping requirements.**

\* \* \* \* \*

(d) \* \* \*

(1) The values for the site-specific operating parameters established pursuant to § 60.56c(d), (h), or (j), as applicable.

(2) The highest maximum operating parameter and the lowest minimum

operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to § 60.56c(d), (h), or (j), as applicable.

(3) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded

pursuant to § 60.56c(d), (h), or (j) for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period.

\* \* \* \* \*

3. Table 1B to Subpart Ec is revised to read as follows:

**TABLE 1B TO SUBPART EC OF PART 60—EMISSIONS LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI AT AFFECTED FACILITIES AS DEFINED IN § 60.50C(A)(3) AND (4)**

Pollutant	Units (7 percent oxygen, dry basis)	Emissions limits			Averaging time <sup>1</sup>	Method for demonstrating compliance <sup>2</sup>
		HMIWI size				
		Small	Medium	Large		
Particulate matter.	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	66 (0.029) .....	22 (0.0095) .....	18 (0.0080) .....	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A-3 of part 60, or EPA Reference Method M 26A or 29 of appendix A-8 of part 60.
Carbon monoxide.	Parts per million by volume .....	20 .....	1.8 .....	11 .....	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of part 60.
Dioxins/furans ....	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet).	16 (7.0) or 0.013 (0.0057).	0.47 (0.21) or 0.014 (0.0061).	9.3 (4.1) or 0.035 (0.015).	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of part 60.
Hydrogen chloride.	Parts per million by volume .....	15 .....	7.7 .....	5.1 .....	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of part 60.
Sulfur dioxide ....	Parts per million by volume .....	1.4 .....	1.4 .....	8.1 .....	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of part 60.
Nitrogen oxides	Parts per million by volume .....	67 .....	67 .....	140 .....	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of part 60.
Lead .....	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	0.31 (0.14) .....	0.018 (0.0079)	0.00069 (0.00030).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60.
Cadmium .....	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction.	0.017 (0.0074)	0.0098 (0.0043)	0.00013 (0.000057).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60.
Mercury .....	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction.	0.014 (0.0061)	0.0035 (0.0015)	0.0013 (0.00057).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60.

<sup>1</sup> Except as allowed under § 60.56c(c) for HMIWI equipped with CEMS.

<sup>2</sup> Does not include CEMS and approved alternative non-EPA test methods allowed under § 60.56c(b).

[FR Doc. 2010-11585 Filed 5-13-10; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300****[EPA-HQ-SFUND-1999-0006; FRL-9150-2]****National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Intent to Delete the Ruston Foundry Superfund Site****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 is issuing a Notice of Intent to Delete the Ruston Foundry Superfund Site (Site), located in Alexandria, Rapides Parish, Louisiana, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by June 14, 2010.**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1999-0006, by one of the following methods:

- <http://www.regulations.gov>. Follow online instructions for submitting comments.
- *E-mail:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 [coltrain.katrina@epa.gov](mailto:coltrain.katrina@epa.gov).
- *Fax:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 (6SF-RL) 214-665-6660.
- *Mail:* Katrina Higgins-Coltrain, Remedial Project Manager, U.S. EPA Region 6 (6SF-RL), 1445 Ross Avenue, Dallas, TX 75202-2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements

should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID no. EPA-HQ-SFUND-1999-0006. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket**

All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at: U.S. EPA Region 6 Library, 7th Floor Reception area by Appointment, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, (214) 665-6424; Rapides Parish Public Library, 411 Washington Street, Alexandria, Louisiana 71301, (318) 442-1840; Louisiana Department of Environmental Quality Public Records Center, Galvez Building Room 127, 602 N. Fifth Street, Baton Rouge, Louisiana 70802, (225) 219-3168, e-mail: [publicrecords@la.gov](mailto:publicrecords@la.gov), Web page:

<http://www.deq.louisiana.gov/pubrecords>.**FOR FURTHER INFORMATION CONTACT:**

Katrina Higgins-Coltrain, Remedial Project Manager (RPM), U.S. EPA Region 6 (6SF-RL), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-8143 or 1-800-533-3508 ([coltrain.katrina@epa.gov](mailto:coltrain.katrina@epa.gov)).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Ruston Foundry Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent Final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: April 29, 2010.

**Lawrence E. Starfield,***Deputy Regional Administrator, Region 6.*

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