

(ii) A discussion of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants.

(iii) A discussion of how you will establish the upper and/or lower values for these parameters that will establish the operating limits on these parameters, including a discussion of the averaging periods associated with those parameters for determining compliance.

(iv) A discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments.

(v) A discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

**§ 60.5180 Do the emission limits, emission standards, and operating limits apply during periods of startup, shutdown, and malfunction?**

The emission limits and standards apply at all times and during periods of malfunction. The operating limits apply at all times that sewage sludge is in the combustion chamber (*i.e.*, until the sewage sludge feed to the combustor has been cut off for a period of time not less than the sewage sludge incineration residence time). For determining compliance with the CO concentration limit using CO CEMS, the correction to 7 percent oxygen does not apply during periods of startup or shutdown. Use the measured CO concentration without correcting for oxygen concentration in averaging with other CO concentrations (corrected to 7 percent O<sub>2</sub>) to determine the 24-hour average value.

**§ 60.5181 How do I establish an affirmative defense for exceedance of an emission limit or standard during malfunction?**

In response to an action to enforce the numerical emission standards set forth in paragraph § 60.5165, you may assert an affirmative defense to a claim for civil penalties for

exceedances of emission limits that are caused by malfunction, as defined in § 60.2. Appropriate penalties may be assessed however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(a) To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that the conditions in paragraphs (a)(1) through (a)(9) of this section are met.

(1) The excess emissions:

(i) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner, and (ii) Could not have been prevented through careful planning, proper design or better operation and maintenance practices, and (iii) Did not stem from any activity or event that could have been foreseen and avoided, or planned for, and

(iv) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance, and

(2) Repairs were made as expeditiously as possible when the applicable emission limits were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs, and (3) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions, and (4) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, and

(5) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health, and

(6) All emissions monitoring and control systems were kept in operation if at all possible consistent with safety and good air pollution control practices, and

(7) All of the actions in response to the excess emissions were documented