

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AIR BURNERS, INC.,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY AND MICHAEL
S. REGAN, Administrator, U.S. EPA

Respondents.

Case No. 24-1203

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1); Federal Rule of Appellate Procedure 15(a); and D.C. Circuit Rule 15, Air Burners, Inc. hereby petitions this Court for review of a final rule of the U.S. Environmental Protection Agency. *See Other Solid Waste Incinerators; Air Curtain Incinerators Title V Permitting Provisions*, 89 Fed. Reg. 27,392 (April 17, 2024). A copy of the rule is attached as Exhibit A to this petition.

This Court has jurisdiction pursuant to 42 U.S.C. § 7607(b)(1). In the interest of expediting consideration of this challenge and to avoid any delay that likely would be caused by disputes over venue in the regional circuits, Air Burners, Inc. submits that venue in this Court is proper. *See Tex. Mun. Power Agency v. EPA*, 89 F.3d 858,

867 (D.C. Cir. 1996) (“§ 307(b)(1) is a venue provision, the application of which can be waived”).

Date: June 17, 2024

Respectfully submitted,

/s/ Jeffrey R. Holmstead

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, Petitioner Air Burners, Inc. hereby submits the following Disclosure Statement:

Air Burners, Inc. is a privately held corporation, and no parent company or publicly held corporation owns 10% or more of its stock.

Air Burners, Inc. is a manufacturer of Air Curtain Burners, a type of air curtain incinerator. Air curtain incinerators are subject to the U.S. Environmental Protection Agency's final action under review.

Date: June 17, 2024

Respectfully submitted,

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Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 15(c) and 25, D.C. Circuit Rules 15(a) and 25, and 40 C.F.R. § 23.12(a), I hereby certify that I have caused a true and correct copy of the foregoing Petition for Review and Rule 26.1 Statement to be served by certified mail, return receipt requested, this 17th day of June 2024, upon each of the following:

Hon. Michael S. Regan,
Administrator
U.S. Environmental
Protection Agency (1101A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

U.S. Environmental
Protection Agency
Correspondence Control Unit
Office of General Counsel (2310A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Hon. Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Hon. Todd Kim
Assistant Attorney General
Environmental and Natural
Resources Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Date: June 17, 2024

Respectfully submitted,

/s/ Jeffrey R. Holmstead

Jeffrey R. Holmstead

EXHIBIT A

enforcement of the safety zone at any time.

(c) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Detroit or his designated representative.

(2) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his designated representative. The COTP Detroit or his designated representative may be contacted via VHF Channel 16.

Dated: April 10, 2024.

Richard P. Armstrong,
Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2024-08146 Filed 4-16-24; 8:45 am]
BILLING CODE 9110-04-P

POSTAL SERVICE

39 CFR Part 20

Changes in Classifications of General Applicability for International Competitive Services

AGENCY: Postal Service™.

ACTION: Final action.

SUMMARY: The Postal Service™ is revising *Mailing Standards of the United States Postal Service*, International Mail Manual (IMM®), and Notice 123, *Price List*, to reflect classification changes to Competitive services, as established by the Governors of the United States Postal Service.

DATES: Effective July 14, 2024.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202-268-6592 or Kathy Frigo at 202-268-4178.

SUPPLEMENTARY INFORMATION: These changes implement changes in the minimum dimensions for First-Class Package International Service® (FCPIS®), International Priority Airmail® (IPA®) service and

International Surface Air Lift® (ISAL®) service letter-post rolls to bring them closer to compliance with standards established by the Universal Postal Union (UPU) Convention Regulations, which serves as applicable authority in this instance, as adopted at a meeting of the UPU Postal Operations Council in May 2023.

To be in compliance with the UPU regulations, the Postal Service must revise its minimum dimensions for international letter-post rolls, so that the minimum length will be 8.25 inches instead of 4 inches, and so that the minimum length plus twice the diameter will be 12 inches instead of 6.75 inches.

In addition, the Postal Service is eliminating a competitive international electronic money transfer service known as Sure Money® (DineroSeguro®).

Revisions to the size limitations for international rolls are posted under Docket No. MC2024-224, and the removal of prices for International Money Transfer Service (*Sure Money*) is posted under Docket Number CP2024-230 and on the Postal Regulatory Commission's website at <http://www.prc.gov>.

This final rule describes the classification changes for the following international competitive services:

- First-Class Package International Service.
- International Money Transfer Service Sure Money (DineroSeguro)

For pricing, see the Postal Explorer website at <https://pe.usps.com>.

First-Class Package International Service

First-Class Package International Service (FCPIS) is an economical international service for small packages not exceeding 4 pounds in weight and \$400 in value. The Postal Service is increasing the FCPIS minimum length requirement on rolls from 4 inches to 8.25 inches and increasing the minimum length plus twice the diameter combined from 6¾ inches to 12 inches to align with the standards established by the UPU. International Priority Airmail (IPA) service and International Surface Airlift (ISAL) service packets are also affected by this change since the dimensional requirements for IPA and ISAL are identical to those for FCPIS.

International Extra Services and Fees

The Postal Service is eliminating the competitive international extra service for International Money Transfer Service known as Sure Money (DineroSeguro).

Revise the following sections of the *Mailing Standards of the United States Postal Service*, International Mail Manual (IMM) as follows:

2 Conditions for Mailing

* * * * *

250 First-Class Package International Service

* * * * *

251.23 Dimensions—Rolls

* * * * *

[Revise the text to read as follows:]
Rolls must be within the following dimensions:

- a. Minimum length: 8.25 inches.
- b. Minimum length plus twice the diameter combined: 12 inches.

* * * * *

370 International Money Transfer Services

* * * * *

[Remove all text and revise the header to reflect “Reserved” as follows:]

372 Reserved

* * * * *

We will publish an appropriate amended to 39 CFR part 20 to reflect these changes.

Christopher Doyle,
Attorney, Ethics and Legal Compliance.
[FR Doc. 2024-08140 Filed 4-16-24; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2003-0156; FRL-7547.3-01-OAR]

RIN 2060-AW14

Other Solid Waste Incinerators; Air Curtain Incinerators Title V Permitting Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 31, 2020, in accordance with requirements under the Clean Air Act (CAA), the U.S. Environmental Protection Agency (EPA) performed a 5-year review of the Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Other Solid Waste Incineration (OSWI) Units, which includes certain very small municipal waste combustion (VSMWC) and institutional waste incineration (IWI) units. In the same action, the EPA

proposed to remove the title V permitting requirements for air curtain incinerators (ACI) that burn only wood waste, clean lumber, yard waste, or a mixture of these three types of waste. In response to supportive comments received on the August 2020 proposal, this action is finalizing, as proposed, to remove the title V permitting requirements for ACIs that only burn wood waste, clean lumber, yard waste, or a mixture of those, and are not located at title V major sources or subject to title V for other reasons. The EPA is finalizing this proposed action now to simplify the compliance obligations for owners and operators of these types of units.

DATES: The effective date of this rule is April 17, 2024.

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2003-0156. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov/>.

FOR FURTHER INFORMATION CONTACT: Noel Cope, Sector Policies and Programs Division (E143-05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina

27711; telephone number: (919) 541-2128; and email address: cope.noel@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

- ACI air curtain incinerator
- CAA Clean Air Act
- CFR Code of Federal Regulations
- CRA Congressional Review Act
- EPA Environmental Protection Agency
- FR Federal Register
- IWI institutional waste incineration
- MSW municipal solid waste
- NTTAA National Technology Transfer and Advancement Act
- OSWI other solid waste incineration
- PRA Paperwork Reduction Act
- VSMWC very small municipal waste combustion

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document and other related information?
 - C. Judicial Review and Administrative Reconsideration
- II. Background
 - A. What is the statutory authority and regulatory history for this action?
 - B. What changes did we propose for ACIs in our August 31, 2020, proposal?
- III. Summary of Final Action
 - A. Removal of title V Permitting Requirements for ACIs That Only Burn Wood Waste, Clean Lumber and Yard Waste
 - B. What are the effective and compliance dates of the standards?

- IV. Public Comments and Responses
 - A. What key comments did we receive on title V permitting requirements for ACIs that burn only wood waste, clean lumber, and yard waste?
- V. Summary of Cost, Environmental, and Economic Impacts
 - A. What are the affected facilities?
 - B. What are the air quality impacts?
 - C. What are the cost impacts?
 - D. What are the economic impacts?
 - E. What are the benefits?
- VI. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory 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 Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All
 - K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action are shown in table 1 of this preamble.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NAICS code ¹	Examples of potentially regulated entities
Any State, local, or Tribal government using a VSMWC unit.	562213, 92411	Solid waste combustion units burning municipal solid waste (MSW).
Any correctional institution using an IWI unit	922, 7213	Correctional institutions.
Any nursing or residential care facility using an OSWI unit.	623	Any nursing care, residential intellectual and developmental disability, residential mental health and substance abuse, or assisted living facilities.
Any Federal government agency using an OSWI unit ...	928, 7121	Department of Defense (labs, military bases, munition facilities) and National Parks.
Any educational institution using an OSWI unit	6111, 6112, 6113	Primary and secondary schools, universities, colleges, and community colleges.
Any church or convent using an OSWI unit	8131	Churches and convents.
Any civic or religious organization using an OSWI unit	8134	Civic associations and fraternal associations.
Any industrial or commercial facility using a VSMWC unit.	114, 211, 212, 221, 486	Oil and gas exploration operations; mining; pipeline operators; utility providers; fishing operations.

¹ North American Industry Classification System.

Table 1 is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be

regulated by this final action. To determine whether your entity is regulated by this action, you should

carefully examine the applicability criteria found in title 40 of the Code of Federal Regulations (CFR), 60.2885,

60.2981, and 60.2991. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, your delegated authority, or your EPA Regional representative listed in 40 CFR 60.4 (General Provisions).

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: <https://www.epa.gov/stationary-sources-air-pollution/other-solid-waste-incinerators-oswi-new-source-performance>. Following publication in the **Federal Register** (FR), the EPA will post the FR version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by June 17, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA,

1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority and regulatory history for this action?

Section 129 of the CAA, entitled “Solid Waste Combustion,” requires the EPA to develop and adopt new source performance standards (NSPS) and emission guidelines (EG) for solid waste incineration units pursuant to CAA section 111 and 129. Section 129(a) of the CAA requires EPA to establish NSPS for new sources, and CAA section 129(b) requires the EPA to establish guidelines, which include emission limits pursuant to section 111(d) of the CAA. Under CAA section 129, NSPS and EG must be developed for new and existing stationary sources that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare.

In 2005, the EPA promulgated NSPS and EG for OSWI units (70 FR 74870; December 16, 2005). “Standards of Performance for Other Solid Waste Incineration Units” (*i.e.*, the OSWI rule), which requires owners and operators of ACIs burning only wood waste, clean lumber, yard waste or a mixture of these three types of waste to apply for and obtain a title V permit (70 FR 74884–85). The EPA explained that title V operating permits “would assure compliance with all applicable federal requirements for regulated incineration units.” (See 70 FR 74873.)

CAA section 129(a)(5) requires the EPA, every 5 years, to review and, in accordance with CAA sections 129 and 111, revise standards and other requirements for solid waste incineration units (such as the OSWI standards). On August 31, 2020, in accordance with EPA’s general authority under CAA section 129(a), the EPA issued a proposal to amend the NSPS and EG for OSWI units (85 FR 54178). Among other amendments, the EPA proposed to eliminate the requirement that ACIs that burn only wood waste, clean lumber, and yard waste, and that are not located at major sources or subject to title V for other reasons, obtain title V operating permits. The EPA has received feedback from several States indicating that the title V permits are unnecessarily burdensome and expensive for States to maintain for these ACIs. Further, based on available data, ACIs that burn exclusively wood waste, clean lumber, and yard waste are commonly located at facilities that would not otherwise require title V operating permits. In this action, the EPA is finalizing only the portion of the

proposed rule that eliminates the title V permit requirement for ACIs that burn only wood waste, clean lumber, and yard waste, for the reasons described below. Since the proposal, both State and industry stakeholders have commented that the title V requirements for these units are overly burdensome and costly, particularly in light of the dependence on ACI units to mitigate natural disaster debris, such as massive amounts of clean wood and vegetative waste for wildfire mitigation and forest management; burning of storm-generated wood and vegetative debris; and burning of land clearing debris. Several States have commented that these ACIs should not be required to obtain title V permits because they are low-emitting and because permitting these ACIs is unnecessarily burdensome and expensive. Further, ACIs that burn exclusively wood waste, clean lumber, and yard waste are typically used temporarily at the location of a natural disaster, not at facilities that are subject to title V (See 85 FR 54194; August 31, 2020).

The EPA has also received comments that the title V permit requirement for ACIs that only burn wood waste, clean lumber, and yard waste is inconsistent with the definition of “solid waste incineration unit” in CAA section 129(g)(1). CAA section 129(e) generally requires title V permits for “solid waste incineration units.” However, CAA section 129(g)(1) excludes ACIs that only burn wood waste, yard waste, and clean lumber and comply with the opacity limitations in 40 CFR 60.2971 and 60.3066. For these reasons, the EPA is removing the title V permitting requirements for ACI units burning only wood waste, clean lumber, and yard waste.

B. What changes did we propose for ACIs in our August 31, 2020, proposal?

On August 31, 2020, as part of the Agency’s 5-year review of the Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Other Solid Waste Incineration (OSWI) Units, the EPA proposed to remove the title V permitting requirements for ACI units burning only wood waste, clean lumber, and yard waste. The EPA received 20 comment letters from States and industry stakeholders supporting the removal of title V permitting requirement for ACIs that burn only wood waste, clean lumber, and yard waste. The EPA received no adverse comments on the proposal.

III. Summary of Final Action

A. Removal of Title V Permitting Requirements for ACIs That Burn Only Wood Waste, Clean Lumber, and Yard Waste

After considering public comments received on the August 2020 proposal, in this action the EPA is finalizing as proposed to remove title V permit requirements for ACI units that burn only wood waste, clean lumber, and yard waste. EPA is finalizing this provision to simplify the compliance obligations for owners and operators of these types of units.

B. What are the effective and compliance dates of the standards?

The revisions to the title V permitting requirements for ACIs burning only wood waste, clean lumber, and yard waste being promulgated in this action are effective on April 17, 2024.

IV. Public Comments and Responses

A. What key comments did we receive on title V permitting requirements for ACIs that Burn only wood waste, clean lumber, and yard waste and what are our responses?

Comment: Commenters support the removal of title V permitting requirements for ACIs burning wood waste, yard waste, and clean lumber. Some States commented that these types of ACIs are excluded from the definition of “solid waste incineration units” under CAA section 129(g)(1) and are therefore not subject to the title V permit requirements in CAA section 129(e). Commenters further stated that ACIs burning only the allowed materials should not be considered subject to standards or regulations under CAA section 111, because only “solid waste incineration units” are required to be subject to New Source Performance Standards pursuant to CAA section 129(a) and Emission Guidelines for Existing Units pursuant to CAA section 129(b). Additionally, commenters stated that ACIs burning only the allowed materials should not be subject to title V permitting pursuant to CAA section 502(a), because ACIs are not subject to standards or regulations under CAA section 111. Commenters stated that ACIs burning only the allowed materials should only be subject to the opacity standards pursuant to CAA section 129(g)(1).

In addition, several commenters indicated that the title V permit requirement for these ACIs has been unduly burdensome and expensive for both ACI operators and permitting agencies. Commenters asserted that this

has impacted especially small businesses, because of the high cost involved in some jurisdictions, the extensive paperwork, and time-consuming reporting requirements. Commenters further stated that these impediments render utilizing an ACI for the reduction of the allowed materials, in most instances, not commercially viable compared to open pile burning or grinding and disposing of the grindings by various means that are often environmentally unsound, such as landfilling. A commenter noted that the title V permit requirements often discourage ACI use and instead create conditions where open burning of wood waste occurs instead.

A commenter indicated that removal of the title V permit requirement would greatly simplify the permitting process while encouraging a cleaner, less polluting method of wood waste disposal when compared to open burning. Commenters stated that the immediate result of removing the title V permit requirement will be less open pile burning and grinding of wood waste, which will reduce Black Carbon emissions with a positive effect on global warming. Several commenters noted that increased use of ACIs that are not considered to be solid waste incinerators would produce biochar that can be used as a beneficial soil amendment rather than being treated as a hazardous waste that must be disposed of in a landfill. A commenter also asserted that ACIs are air quality control devices and a preferred method of managing wood wastes.

A commenter stated that ACIs that burn wood waste, clean lumber, and yard waste are not incinerators and characterized ACIs that burn this type of waste as air pollution control devices for an open burn pile. Commenters emphasized that the residuals from ACIs that burn this type of waste consist of wood ash and biochar, which are not hazardous waste, as are residual ashes from true MSW incinerators. A commenter added that this would pave the way in all jurisdictions for wood ash and biochar from ACIs burning only the allowed materials to be land-applied as a beneficial soil additive and ACI residuals from burning clean wood waste would no longer require a hazardous waste permit and subsequent disposal into a landfill, often at considerable cost.

A commenter encouraged the EPA to clarify that the waiver of title V permitting requirements also would apply when ACIs are used to burn other naturally occurring and organic materials in an effort to remove or reduce hazardous fuels loads that could

lead to a wildland fire incident. Another commenter urged the EPA to expand this title V exemption to all ACIs that burn only wood waste, clean lumber, and yard waste (e.g., ACIs subject to 40 CFR 60.2020 and 60.2010).

Response: As noted by the commenter, the EPA proposed to eliminate the title V permit requirement for ACIs that only burn wood wastes, yard wastes, and clean lumber and that comply with opacity limitations established by the EPA, unless they otherwise need title V permits (85 FR 54194). The definition of “solid waste incineration unit” in CAA section 129(g)(1) “does not include (C) air curtain incinerators [that] only burn wood wastes, yard wastes and clean lumber” and comply with opacity limits. Importantly, the regulations at 40 CFR 70.3 stipulate the types of sources that must obtain a permit for operation pursuant to CAA section 502(a). In particular, title V permitting applies to any major source, as defined in 40 CFR 70.2, without exceptions, including ACI that are not solid waste incineration units under CAA section 129(g)(1), but are themselves major sources. The preamble to the proposal explains that “EPA is proposing to eliminate this regulatory title V permitting requirement for such ACIs that are not located at a major source or subject to title V for other reasons.” (85 FR 54194) This final rule clarifies applicability of title V permitting requirement for ACIs that burn only wood waste, clean lumber, and yard waste or a combination of these materials and comply with the Section 129 opacity requirements. We disagree that this interpretation should extend to ACIs used to burn materials other than wood waste, clean lumber, and yard waste, as defined in 40 CFR 60.2992 and 60.3078.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected facilities?

The OSWI database developed for the August 31, 2020, proposal lists approximately 29 ACI units that burn only wood waste, clean lumber, and yard waste, at 29 facilities. It is possible that there are units not included in the OSWI database.

B. What are the air quality impacts?

There are no air quality impacts associated with this action. The removal of title V permitting requirements for ACIs that only burn wood waste, clean lumber, and yard waste does not have an effect on the obligation for sources to comply with the existing standards, including the stringency of the

standards in 40 CFR part 60, subpart EEEE or FFFF, or on the ability of Federal or State agencies to enforce standards.

C. What are the cost impacts?

The removal of title V permit requirements for ACI units that burn only wood waste, clean lumber, and yard waste results in a cost savings in permit costs for ACI units that burn only wood waste, clean lumber, and yard waste. There is no cost impact on other types of ACI units that do not burn only wood waste, clean lumber, and yard waste.

D. What are the economic impacts?

The removal of title V permit requirements for ACI units that burn only wood waste, clean lumber, and yard waste results in a cost reduction that cannot be quantified because the EPA is unable to accurately identify the number of these units to scale the cost reduction. There is no economic impact on other types of ACI units that do not burn only wood waste, clean lumber, and yard waste.

E. What are the benefits?

This final action will simplify compliance and reduce administrative cost burden for owners and operators of ACI units that burn only wood waste, clean lumber, and yard waste and permitting authorities. The rule will not change existing emission standards. Further, it will have no adverse impact on public health or the environment.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in the Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the Paperwork Reduction Act (PRA). There are no information collection request activities associated with this action.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a

substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this action is any significant adverse economic impact on small entities and that the agency is certifying that this action will not have a significant economic impact on a substantial number of small entities because the action relieves regulatory burden on the small entities subject to this action. This action removes title V permit requirements for affected small entities. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

This action does not contain an unfunded mandate of \$100 million or more as described in the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action 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.

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

This action does not have Tribal implications as specified in Executive Order 13175. It will neither impose direct compliance costs on federally recognized Tribal governments nor preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not anticipate the environmental health or safety risks addressed by this action present a disproportionate risk to

children. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on communities with environmental justice (EJ) concerns. The removal of title V requirements for ACIs that burn only wood waste, clean lumber, and yard waste do not affect the level of protection provided to human health or the environment.

The EPA believes that this action is not likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. Air quality regulation on ACIs remains in place to control environmental exposure to the public despite the removal of title V permit requirements for ACIs that burn only wood waste, clean lumber, and yard waste. This action will not compromise standards and/or controls on ACIs that burn only wood waste, clean lumber, and yard waste.

K. Congressional Review Act

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action 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 procedures, Air pollution control, Hazardous substances, Intergovernmental relations,

Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

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

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

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

Subpart EEEE—Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006

■ 2. Revise § 60.2966 to read as follows:

§ 60.2966 Am I required to apply for and obtain a title V operating permit for my unit?

(a) If you are the owner or operator of an air curtain incinerator that is subject to this subpart and that does not burn only wood waste, clean lumber, and yard waste, you are required to apply for and obtain a title V operating permit for your OSWI unit.

(b) If you are the owner or operator of an air curtain incinerator that burns

only wood waste, clean lumber, and yard waste and that is subject only to the requirements in §§ 60.2970 through 60.2973, you are exempt from the obligation to obtain a title V operating permit, provided that your air curtain incinerator is not otherwise required to obtain a title V operating permit.

■ 3. Revise § 60.2967 to read as follows:

§ 60.2967 When must I submit a title V permit application for my new unit?

(a) If your new unit subject to this subpart is applying for a permit the first time, a complete title V permit application must be submitted timely either 12 months after the date the unit commences operation as a new source or before one of the dates specified in paragraph (b) of this section, as applicable.

(b) For a unit that commenced operation as a new source as of December 16, 2005, then a complete title V permit application must be submitted not later than December 18, 2006. For a small OSWI unit that commenced operation as a new source as of April 17, 2024, a complete title V permit application must be submitted not later than April 18, 2025.

(c) [Reserved]

§ 60.2969 [Removed and Reserved]

■ 4. Remove and reserve § 60.2969.

§ 60.2974 [Removed and Reserved]

■ 5. Remove and reserve § 60.2974

■ 6. Revise the heading of subpart FFFF to read as follows:

Subpart FFFF—Emission Guidelines and Compliance Times for Other Solid Waste

■ 7. Revise § 60.3059 to read as follows:

§ 60.3059 Am I required to apply for and obtain a title V operating permit for my unit?

(a) Yes, if your OSWI unit is an existing incineration unit subject to an applicable EPA-approved and effective Clean Air Act section 111(d)/129 state or tribal plan or an applicable and effective Federal plan, and your OSWI unit does not burn only wood waste, clean lumber, and yard waste, you are required to apply for and obtain a title V operating permit.

(b) If you are the owner or operator of an air curtain incinerator that burns only wood waste, clean lumber, and yard waste and is subject only to the requirements in §§ 60.3062 through 60.3068, you are exempt from the obligation to obtain an operating permit, provided that your air curtain incinerator is not otherwise required to obtain a title V operating permit.

§ 60.3060 [Removed and Reserved]

■ 8. Remove and reserve § 60.3060.

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