

The EPA Administrator, Michael S. Regan, signed the following notice on 9/16/2024, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2016-0664. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-HQ-OAR-2016-0664; FRL-5960-02-OAR]

RIN 2060-AT28

Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before June 4, 2010 and Have Not Been Modified or Reconstructed Since August 7, 2013

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the federal plan for existing commercial and industrial solid waste incineration units (CISWI). This final action implements the U.S. Environmental Protection Agency's (EPA) emission guidelines adopted on February 7, 2013, as amended on June 23, 2016, and on April 16, 2019, in states that do not have an approved state plan implementing the emission guidelines in place by the effective date of this federal plan. The implementation of the emission guidelines will result in emissions reductions of the regulated pollutants including cadmium, hydrogen chloride, lead, mercury, carbon dioxide, nitrogen oxides, particulate matter, and sulfur dioxide from the affected CISWI. This final action is also revising the definition of "small, remote incinerator" to reflect new statutory prohibitions on the implementation of CISWI standards to units in the state of Alaska.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the *Federal Register* as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2016-0664. All documents in the docket are listed on the <https://www.regulations.gov/> web site. 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 <http://www.regulations.gov/>. **FOR FURTHER INFORMATION CONTACT:** Dr. Felica Davis, Sector Policies and Programs Division (E14305), 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) 541-4857; email address: davis.felica@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. 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:

| | |
|-----|-----------------------------------|
| AG | Attorney General |
| CAA | Clean Air Act |
| CBI | Confidential business information |
| Cd | Cadmium |

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| | |
|-------------------|---|
| CFR | Code of Federal Regulations |
| CISWI | Commercial and industrial solid waste incineration units |
| CMS | Continuous monitoring system |
| CO | Carbon monoxide |
| EG | Emission Guidelines |
| EPA | U.S. Environmental Protection Agency |
| ERU | Energy recovery unit |
| FF | Fabric filter |
| HAP | Hazardous air pollutants |
| HCl | Hydrogen chloride |
| Hg | Mercury |
| IBR | Incorporation by reference |
| ICR | Information collection request |
| mg/dscm | Milligrams per dry standard cubic meter |
| NAICS | North American Industrial Classification System |
| NESHAP | National emission standards for hazardous air pollutants |
| ng/dscm | Nanograms per dry standard cubic meter |
| NO _x | Nitrogen oxides |
| NSPS | New source performance standards |
| NTTAA | National Technology Transfer and Advancement Act |
| OAQPS | Office of Air Quality Planning and Standards |
| Pb | Lead |
| PCB | hydrocarbons and polychlorinated biphenyls |
| PM | Particulate matter (filterable, unless otherwise specified) |
| PM _{2.5} | Particulate matter (diameter less than or equal to 2.5 micrometers) |
| PM CPMS | Particulate matter Continuous Parameter Monitoring System |
| ppmv | Parts per million by volume |
| RIN | Regulatory Information Number |
| SRI | Small, remote incinerators |
| SO ₂ | Sulfur dioxide |
| the Court | United States Court of Appeals for the District of Columbia Circuit |
| tpy | Tons per year |
| UMRA | Unfunded Mandates Reform Act |
| U.S.C. | United States Code |
| VCS | Voluntary consensus standards |

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

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- K. Congressional Review Act (CRA)

I. General Information

A. Does the action apply to me?

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Regulated Entities. Owners or operators of existing CISWI that are subject to the existing federal plan implementing the December 1, 2000, emission guidelines (EG), and units not already subject to an EPA-approved and effective state plan implementing the February 7, 2013, EG (and subsequent 2016 and 2019 amendments made to the EG), may be regulated by this final action. Existing CISWI are those that commenced construction on or before June 4, 2010, or that commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013. Regulated categories and entities include those that operate CISWI. Although there is no specific North American Industry Classification System (NAICS) code for CISWI, these units may be operated by the categories of sources listed in table 1 of this preamble:

Table 1. Examples of Potentially Regulated Entities

| Category | NAICS Code | Examples of potentially regulated entities |
|---|---------------|--|
| Any industrial or commercial facility using a solid waste incinerator | 211, 212, 486 | Mining; oil and gas exploration operations; pipeline operators |
| | 221 | Utility providers |
| | 321, 322, 337 | Manufacturers of wood products; manufacturers of pulp, paper and paperboard; manufacturers of furniture and related products |
| | 325, 326 | Manufacturers of chemicals and allied products; manufacturers of plastics and rubber products |
| | 327 | Manufacturers of cement; nonmetallic mineral product manufacturing |
| | 333, 336 | Manufacturers of machinery; manufacturers of transportation equipment |
| | 423, 44 | Merchant wholesalers, durable goods; retail trade |

This table is not intended to be exhaustive, but rather provides a general guide for identifying entities likely to be affected by this action. To determine whether a facility would be affected by this action, please examine the applicability criteria in 40 Code of Federal Regulations (CFR) 62.14510 through 62.14525 (now at 40 CFR 62.14510a through 62.14530a)

of subpart III (now subpart IIIa). Questions regarding the applicability of this action to a particular entity should be directed to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the EPA taking?

In this action, the EPA is finalizing the federal plan for existing CISWI in states that do not have an approved state plan implementing the CISWI EG. The CISWI federal plan was proposed on January 11, 2017, and received 13 public comments, some of which led to revisions that were made to this final rule. The comments on the proposal and changes the EPA made to finalize this federal plan are discussed in more detail in section III of this preamble.

C. How do I obtain a copy of this document and other related information?

The docket number for this final action regarding the CISWI Federal plan (40 CFR part 62, subpart IIIa) is Docket ID No. EPA-HQ-OAR-2016-0664. In addition to being available in the docket, an electronic copy of this final action is available on the internet at <https://www.epa.gov/stationary-sources-air-pollution/commercial-and-industrial-solid-waste-incineration-units-ciswi-new>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the final rule and key technical documents on this same website.

D. Judicial Review

Under the CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Under CAA section 307(d)(7)(B), “[o]nly 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 convene a proceeding for reconsideration, “[i]f the person raising an objection can demonstrate to the EPA 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 to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West 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. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

E. What are the incremental costs and benefits of this action?

This federal plan implements the CISWI EG that were promulgated on February 7, 2013, and amended on June 23, 2016, and April 16, 2019, (see the background discussion in section II.A of this preamble for more detail) for the states (see table 2 of this preamble) that do not have approved state plans implementing the CISWI EG. Therefore, any costs and benefits associated with this federal plan have already been quantified and attributed to the CISWI EG (*i.e.*, CISWI EG benefits and costs equal those for units covered by approved state plans plus those units covered by this federal plan - see section II.C of this preamble for more detailed discussion). Because the Consolidated Appropriations Act of 2024, H.R. 4366, Sec. 432, precludes the EPA from expending funds to implement or enforce the EG codified under 40 CFR part 60, subpart DDDD with respect to units in the state of Alaska that are defined as “small remote incinerators” (SRI) until a subsequent regulation is issued, neither costs nor emission reductions from SRIs

located in Alaska are included in the portion of CISWI EG costs and emissions reduction expected due to the federal plan implementation.

Incineration of solid waste at commercial and industrial facilities causes the release of a wide array of air pollutants, some of which exist in the waste feed material and are released unchanged during combustion, and some of which are generated as a result of the combustion process itself.¹ The EPA estimated in the 2013 rule that once the state plans and the federal plan become effective, a total emissions reduction of the regulated pollutants would occur as follows: acid gases (*i.e.*, hydrogen chloride (HCl) and sulfur dioxide (SO₂), about 7,046 tons per year (tpy); particulate matter (PM) about 2,401 tpy; non-Hg metals (*i.e.*, lead (Pb) and cadmium (Cd)) about 4.5 tpy; carbon monoxide (CO) about 20,000 tpy; nitrogen oxides (NO_x) about 5,399 tpy; and mercury (Hg) about 688 pounds per year. The EPA also estimated that air pollution control devices installed to comply with the 2013 rule would also effectively reduce emissions of pollutants such as 7-polycyclic aromatic hydrocarbons and polychlorinated biphenyls (PCB).²

II. Background Information

A. What is the statutory authority for this action?

Sections 111(b) and 129(a) of the CAA address emissions from new units (*i.e.*, New Source Performance Standards (NSPS)), and CAA sections 111(d) and 129(b) address emissions from existing units (*i.e.*, EG). The NSPS are federal regulations that are directly enforceable on CISWI, and, under CAA section 129(f)(1), become effective 6 months after promulgation. Unlike the NSPS, the EG provide direction for developing state plans, and are not themselves directly enforceable. For the EG to be enforceable, it must be implemented through either an

¹ See 78 FR 9131-9133 to reference the impacts of the EG adopted on February 7, 2013.

² See 75 FR 31970 (June 4, 2010), where polycyclic organic matter (POM) and polychlorinated biphenyl (PCB) emission reductions are discussed.

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EPA-approved state or tribal³ plan or through an EPA adopted federal plan. The federal plan regulates CISWI in states that do not have approved plans in effect to implement the EG.

Although Congress required the EPA to promulgate a federal plan for states that fail to submit approvable state plans, states may submit approvable state plans after promulgation of the federal plan and become subject to the approved state plans. Congress established CAA sections 111 and 129 with the intent that the state and local agencies take the primary responsibility for ensuring that the emissions limitations and other requirements in the EG are achieved.

CAA section 129(b)(2) directs states with existing CISWI(s) subject to the EG to submit plans to the EPA that implement and enforce the EG. The deadline for states to submit state plans to the EPA for review was February 7, 2014 (see 78 FR 9121-2, February 7, 2013).⁴ CAA sections 111 and 129(b)(3) and 40 CFR 60.27(c) and (d) require the EPA to develop, implement and enforce a federal plan for CISWI in any state which has not submitted an approvable state plan within 2 years after promulgation of the EG. On January 11, 2017, the EPA proposed a federal plan that would apply to any CISWI located in any state without an approved state plan as of the compliance date for existing CISWI (*i.e.*, 5 years after promulgation of the emission guidelines). The EPA did not reopen the underlying CISWI rule for public comment in this current action and the Agency does not address comments on the underlying CISWI rule.⁵

CAA section 129, titled, “Solid Waste Combustion,” requires the EPA to develop and adopt standards for solid waste incineration units pursuant to CAA sections 111 and 129. On

³ The EPA is not aware of any CISWI units owned or operated by Indian tribal governments at the time of the publication of this document.

⁴ Five states did not submit a draft or final state plan or negative declaration and one state indicated intent to submit a state plan to the EPA.

⁵ Many aspects of the CISWI rule were challenged in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit or Court) in *American Forest and Paper Association (AFPA) v. EPA*, and the Court rejected all challenges to the standards and other provisions being implemented in this federal plan. See *AFPA v. EPA*, 830 F.3d 579 (D.C. Cir. 2016).

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March 21, 2011, the EPA promulgated revised NSPS and EG for CISWI. At that time, the Administrator also announced that it identified certain issues that warranted further opportunity for public comment and that the Agency was planning to reconsider the CISWI rule. The EPA also received petitions for reconsideration of the final CISWI rule. On December 23, 2011, the EPA proposed revisions to the March 2011 final CISWI rule and requested comment on proposed changes to the NSPS and EG for CISWI (76 FR 80452).

On February 7, 2013, the EPA promulgated the final reconsideration of the 2011 NSPS and EG for CISWI (78 FR 9112). The 2013 final rule made some revisions to the December 2011 proposed reconsideration rule in response to comments and additional information received. Following that action, the EPA received petitions for reconsideration of the 2013 final rule. These petitions stated certain provisions should be reconsidered and that the public lacked sufficient opportunity to comment on some of the provisions contained in the final 2013 CISWI rule. On January 21, 2015, the EPA reconsidered and requested comment on four provisions of the 2013 final NSPS and EG for CISWI. Additionally, the EPA proposed clarifying changes and corrections to the 2013 final rule, some of which were raised in petitions for reconsideration. On June 23, 2016, the EPA promulgated the final reconsideration of the 2013 NSPS and EG for CISWI (81 FR 40956) (2016 CISWI rule).

Following promulgation of the 2016 CISWI rule, the EPA received requests from industry interested parties and implementing agencies to clarify various issues with implementation of the standards. In addition, the EPA identified certain procedural issues, including testing and monitoring issues and inconsistencies within the rules,⁶ that required

⁶ The 2019 technical amendments addressed certain implementation issues and inconsistencies that required further clarification or correction to the 2016 EG. The technical amendments were not

further clarification or correction. On June 15, 2018, the EPA proposed amendments to several provisions of the 2016 CISWI rule to address these issues (83 FR 28068). In addition, the EPA identified additional regulatory provisions, beyond those raised by the requests from industry interested parties and implementing agencies, that required clarification and editorial correction to address inconsistencies and errors in the final rule. The EPA promulgated these technical amendments on April 16, 2019 (84 FR 15846).

B. What is the purpose of this action?

CAA section 129(b)(2) requires states to implement the EG for existing solid waste incineration units, including CISWI. States with existing CISWI were required to submit to the EPA, within one year following promulgation of the EG (by February 7, 2014), state plans that are at least as protective as the EG. CAA sections 111 and 129 and 40 CFR 60.27(c) and (d) require the EPA to develop, implement, and enforce a federal plan in states that have not submitted an approvable plan. The EPA is promulgating this CISWI federal plan to be effective in any state that failed to provide an approvable state plan, thus ensuring implementation and enforcement of the final CISWI EG.

The regulations required states without any existing CISWI to submit to the Administrator a letter of negative declaration certifying that there are no CISWI in the state (see 40 CFR 62.06). No plan was required for states that do not have any CISWI. CISWI located in states that mistakenly submitted a letter of negative declaration are subject to the federal plan, once effective, until a state plan regulating those CISWI is approved. State plans that have been

substantive and did not introduce any analytical changes to the emission guidelines. Therefore, the 2019 technical amendments did not trigger a supplemental proposal for the federal plan.

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submitted to implement the final CISWI EG,⁷ have either been approved or are currently undergoing EPA review. This CISWI federal plan implements the final CISWI EG in those states that do not have an approved state plan in place by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If a state plan is approved in part, the federal plan will apply to the affected CISWI in lieu of the disapproved portions of the state plan until the state addresses the deficiencies in the state or tribal plan and the revised state plan is approved by the EPA.

C. What is the status of state plan submittals?

The EPA anticipates that facilities in ten states and three U.S. territories⁸ will be subject to the CISWI federal plan. Table 2 of this preamble lists the status of state plans as of the signature date of this action. Additionally, table 2 of this preamble lists states and local agencies that submitted negative declarations and those that have indicated that they intend to take delegation of the federal plan to directly implement and enforce the guidelines (see mechanisms for transferring authority discussion in section VI.B.2 of this preamble for more detail).

Table 2. Status of State and Territory Plans

| Status | States |
|---|---|
| I. EPA-Approved State Plans | Alabama; Colorado; Louisiana; North Dakota; Oklahoma; Puerto Rico; Tennessee; Virginia; West Virginia |
| II. Indicated intent to Submit Negative Declarations to the EPA | |

⁷ The “final CISWI EG” means the provision of 40 CFR part 60, subpart DDDD, including the revisions published on June 23, 2016 (81 FR 40956) and April 16, 2019 (84 FR 15846). As noted in the June 23, 2016, preamble, the final CISWI EG action granted reconsideration and addressed certain aspects of the February 7, 2013, rule, which itself was issued to grant reconsideration of aspects of the March 21, 2011, rule. The April 16, 2019, technical amendments included clarifying revisions and general editorial corrections. See section II.A of this preamble for more discussion on the background of the final CISWI EG.

⁸ 42 U.S.C. 7602. Definitions (d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

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| III. Negative Declaration Submitted to the EPA | Arkansas; Arizona; Connecticut; Delaware; District of Columbia; Idaho; Indiana; Kansas; Kentucky; Maine; Maryland; Massachusetts; Minnesota; Mississippi; Missouri; Montana; Nebraska; New Hampshire; New Jersey; New Mexico; New York; Nevada; Pennsylvania AMS; Rhode Island; South Dakota; Utah; Vermont; Virgin Islands; Wyoming |
| IV. Final State Plans Submitted to the EPA | Florida; Georgia; Iowa; South Carolina; Texas |
| V. Draft State Plans Submitted to the EPA | |
| VI. EPA Has Not Received a Draft or Final State Plan or Negative Declaration | California; Hawaii; Michigan; Oregon; Washington |
| VII. Indicated Intent to Submit State Plan to the EPA | North Carolina |
| VIII. Indicated Intent to Accept Delegation of Federal Plan | |
| IX. Indicated Intent to Accept Federal Plan Implementation by the EPA | Alaska; American Samoa; Guam; Illinois; Northern Mariana Islands; Ohio; Wisconsin |

As the EPA Regional offices approve state plans, they will also, in the same action, amend the appropriate subpart of 40 CFR part 62 to codify their approvals. If the EPA approves a state plan after the federal plan is promulgated, the federal plan will no longer apply to the CISWI covered by the state plan, upon the effective date of the state plan.

CISWI owners or operators can also contact the EPA Regional office for the state in which their CISWI are located to determine whether there is an EPA-approved state plan in place. Table 3 of this preamble lists the names, email addresses, and telephone numbers of the EPA Regional office contacts and the states and territories that they cover.

Table 3. Regional Office Contacts

| Region | Regional contact | Phone | States and territories |
|-----------|--|----------------|---|
| Region I | Jessica Kilpatrick kilpatrick.jessica@epa.gov | (617) 918-1652 | Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont |
| Region II | Fausto Taveras taveras.fausto@epa.gov | (212) 637-3378 | New York, New Jersey, Puerto Rico, Virgin Islands |

| | | | |
|-------------|--|----------------|---|
| Region III | Krystal Stankunas stankunas.krystal@epa.gov | (215) 814-5271 | Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia |
| Region IV | Mark Bloeth Bloeth.mark@epa.gov | (404) 562-9013 | Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee |
| Region V | Margaret Sieffert sieffert.margaret@epa.gov | (312) 353-1151 | Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio |
| Region VI | Karolina Ruan-Lei ruan-lei.karolina@epa.gov | (214) 665-7346 | Arkansas, Louisiana, New Mexico, Oklahoma, Texas |
| Region VII | Larry Gonzalez gonzalez.larry@epa.gov | (913) 551-7041 | Iowa, Kansas, Missouri, Nebraska |
| Region VIII | Allison Reibach reibach.allison@epa.gov | (303) 312-6949 | Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming |
| Region IX | Shaheerah Kelly Kelly.shaheerah@epa.gov | (415) 947-4156 | Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands |
| Region X | Geoffrey Glass glass.geoffrey@epa.gov | (206) 553-1847 | Alaska, Idaho, Oregon Washington |

III. Summary of Changes Since Proposal and Response to Comments

Based on our review of comments received on the 2017 proposed federal plan and statutory prohibitions on the implementation of CISWI standards to units in the state of Alaska, the EPA is finalizing the federal plan as proposed with a few minor exceptions, albeit we are finalizing all of the amendments as a new subpart IIIa. The minor exceptions since proposal include establishing the final compliance date for existing sources, implementing the 2019 technical amendments to the CISWI EG, and modifying the applicability of subpart DDDD to only apply to small, remote incinerators (SRIs) located outside the state of Alaska, and modifying equation 7 at 40 CFR 62.14670(y) (now at 40 CFR 62.14640a(y)) for waste-burning

kilns that is used to calculate kiln-specific emission limit when kiln emissions are emitted through multiple stacks.

Since proposal of amendments to subpart III,⁹ the EPA determined that creating a new subpart will lessen confusion for affected sources and implementing agencies. Therefore, we have created a new subpart IIIa, which will replace subpart III once effective, which is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. By incorporating these amendments as a new subpart IIIa, we hope to alleviate any confusion that could be caused by making significant amendments to the current subpart III regulatory text. For one, subpart III only applies to incinerators but the emission guidelines that subpart IIIa will implement includes subcategories for incinerators, energy recovery units, waste-burning kilns, and small remote incinerators, with unique requirements and standards for each subcategory. Additionally, in creating a new subpart IIIa, we can omit transitional regulatory requirement language and make a “clean split” on a single date where subpart III ends effectiveness by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and subpart IIIa begins effectiveness from that date onward. Finally, to better accommodate any potential future updates to the CISWI federal plan, in subpart IIIa we are establishing section numbering increments of 5 so that there is adequate numeric spacing to revise or add new regulatory text sections if needed in the future.

As noted above, the EPA is establishing the final compliance date to be the effective date of this final action, which is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The CAA provides that owners or operators of affected CISWI must comply no later than 5 years after the effective date of the final CISWI EG (*i.e.*,

⁹ See 82 FR 3554, January 11, 2017.

February 7, 2018) or within 3 years from state plan approval (or promulgation of a federal plan), whichever is earlier. The final compliance date remains as proposed as there is no statutory authority under CAA section 129 for providing compliance extensions (*i.e.*, allowing compliance after the compliance date). We believe that sources have had ample notification of this final compliance date and that they were aware of what measures they must take in order to comply.

Based on reviews of permits for units potentially subject to this federal plan, the EPA has determined that sources in states and territories that would be subject to the federal plan have either ceased burning waste or have made control device retrofits in the period of time since the 2017 proposed federal plan was published. Furthermore, no adverse comments were received requesting additional time for compliance beyond the proposed February 7, 2018, final compliance date. Thus, the EPA has determined that no additional time is necessary for sources to comply with the standards.

We are also finalizing other provisions to be consistent with the 2019 technical amendments to the CISWI EG (84 FR 15848, April 16, 2019). Although these provisions were not included in the original proposed federal plan, the EPA subsequently solicited comments on these modifications to the EG in the 2019 CISWI rulemaking. Therefore, the public had adequate opportunity to comment on these changes and had notice that sources subject to the federal plan would be subject to these revised provisions. The 2019 technical amendments provided meaningful burden reduction by allowing regulated facilities additional time to complete initial compliance demonstrations and adding production-based emission limits in lieu of the concentration-based limits in the 2016 CISWI rule. The requirement in 40 CFR 62.14535(a)(4) (now at 40 CFR 62.14535a(a)(4)) to perform the initial performance test within 90 days of the final compliance date has been revised to be within 180 days of the final compliance date,

consistent with Section 62.14665(a) and 62.14820(b) (now at sections 62.14630a(a) and 62.14760a(b), respectively).

The Waste Management Plan (WMP) submittal due date has been changed from November 7, 2017, to the final compliance date, **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to be consistent with the EG (40 CFR 60, subpart DDDD). The WMP is a component of compliance, and therefore it may be submitted together with operating procedures, operator training, and initial compliance testing to demonstrate initial compliance.

The EPA is finalizing revisions to 40 CFR 62.14755(b) (now at section 62.14730a(b)) to clarify that results of performance testing and CEMS performance evaluations occurring over multiple days may be submitted together up to 60 days after all performance evaluations are completed. The EPA is also finalizing the addition of an alternative equivalent emission limit for Hg for the waste-burning kiln subcategory to be consistent with the 2019 CISWI EG technical amendments (84 FR 15848). Specifically, the EPA is adding, to the federal plan, a 58 lb/million (MM) ton clinker emission limit for Hg for the waste-burning kiln subcategory as an alternative equivalent emission limit to the 0.011 mg/dscm standard.

Consistent with the 2019 rule, the EPA is also finalizing clarifications regarding the Agency's intent to allow CEMS for demonstrating initial compliance for any pollutant and clarification of continuous parameter monitoring requirements when CEMS are used for direct pollutant emissions monitoring. The EPA is also finalizing additional minor technical amendments consistent with the 2019 rule: Clarifications of other CEMS requirements; clarification of continuous opacity monitoring system (COMS) requirements; clarification of

reduced testing requirements; clarification of deviation reporting requirements for continuous monitoring data; and clarification of activated carbon injection (ACI) requirements.

The EPA is finalizing a revised definition of “small, remote incinerator” to reflect new prohibitions on the implementation of CISWI standards to units in the state of Alaska that were implemented by Congress after the EPA proposed the federal plan. As specified in the Consolidated Appropriations Act of 2024, H.R. 4366, section 432,¹⁰ the EPA is precluded from “expending funds to implement or enforce 40 CFR part 60 subpart DDDD [the 2011 EG currently in effect] with respect to units in the state of Alaska that are defined as small remote incinerator until a subsequent regulation is issued.”

In the 2000 CISWI EG (65 FR 75351, December 1, 2000), we excluded combustion units at commercial or industrial facilities with a capacity less than 35 tons per day that combust more than 30 percent MSW from the rule. SRI means an incinerator that combusts solid waste (as that term is defined by the Administrator in 40 CFR part 241) and combusts 3 tons per day or less solid waste and is more than 25 miles driving distance to the nearest municipal solid waste landfill. The SRIs were found to qualify for an exemption from CISWI based on their burning at least 30 percent MSW. In the 2011 CISWI EG we removed this exemption to ensure that any CISWI combusting any solid waste is subject to these standards. Therefore, commercial and industrial units that were previously exempt pursuant to this provision would be required to meet the emission limits and operating requirements of the rule. In this final action, we have revised the definition of “small, remote incinerator” consistent with the prohibition in the appropriations rider to mean “an incinerator located outside the state of Alaska that combusts solid waste (as that term is defined by the Administrator in 40 CFR part 241) and combusts 3 tons per day or

¹⁰ Consolidated Appropriations Act, 2024. Pub. L. No. 118-42 (March 8, 2024).

<https://www.congress.gov/bill/118th-congress/house-bill/4366/text>.

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less solid waste and is more than 25 miles driving distance to the nearest municipal solid waste landfill.”

Finally, based on review of the initial and continuous compliance requirements, the EPA identified an error and is finalizing a modified version of equation 7, which is used to calculate kiln-specific emission limit when kiln emissions are emitted through multiple stacks, at 40 CFR 62.14670(y) (now at 40 CFR 62.14640a(y)). When kiln emissions are emitted through multiple stacks (*e.g.*, there is an alkali bypass and/or an in-line coal mill that exhaust emissions through a separate stack(s)), the combined emissions are subject to the emission limits applicable to waste-burning kilns in table 8. At proposal, equation 7 only reflected a single configuration of emissions, a single alkali bypass and in-line coal mill, it did not reflect the multiple different stack configurations currently in use. Therefore, we are modifying equation 7 to generalize the number and type of stacks and allow all configurations of sources to correctly calculate the kiln stack concentration limit for continuing compliance, irrespective of the number and type of emission points.

Public comments on the proposed rulemaking and the EPA’s responses to these comments are addressed in a separate response to comment document, available in docket EPA-HQ-OAR-2016-0664.

IV. Summary of final CISWI Federal Plan Requirements

The CISWI federal plan requirements are described below. Table 4 of this preamble lists each element and identifies where it is located or codified.

Table 4. Elements of the CISWI Federal Plan

| Element of the CISWI Federal Plan | Location |
|---|---|
| Legal authority and enforcement mechanism | Sections 129(b)(3), 111(d), 301(a), and 301(d)(4) of the CAA. |
| Inventory of affected CISWI | Docket ID No. EPA-HQ-OAR-2016-0664. |

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| | |
|--|---|
| Inventory of emissions | Docket ID No. EPA-HQ-OAR-2016-0664. |
| Compliance schedules | 40 CFR 62.14535 to 62.14575 (now at 40 CFR 62.14535a to 62.14545a). |
| Emissions limits and operating limits | 40 CFR 62.14630 to 62.14645 (now at 40 CFR 62.14600a to 62.14610a). |
| Operator training and qualification | 40 CFR 62.14595 to 62.14625 (now at 40 CFR 62.14565a to 62.14595a). |
| Testing, monitoring, recordkeeping and reporting | 40 CFR 62.14650 to 62.14760 (now at 40 CFR 62.14615a to 62.14735a). |
| Record of public hearings | Docket ID No. EPA-HQ-OAR-2016-0664. |

A. What are the final applicability requirements?

The federal plan applicability reflects the final CISWI EG. The federal plan applies in whole or in part to existing CISWI meeting the applicability of 40 CFR 62.14510 (now at 40 CFR 62.14510a) that are located in any state, with the exception of SRIs located in Alaska, that does not currently have a fully approved state plan in place. Existing CISWI, including air curtain incinerators (ACIs), are all CISWI for which construction commenced on or before June 4, 2010, or that commenced modification or reconstruction after June 4, 2010, but no later than August 7, 2013. The federal plan requirements apply to owners and/or operators of existing incineration units combusting solid waste (as defined under the Resource Conservation and Recovery Act (RCRA) and located at commercial or industrial facilities (*i.e.*, CISWI (as defined in 40 CFR 62.14840 now at 40 CFR 62.14780a). Four subcategories are defined for existing units: incinerators (*i.e.*, units designed to burn discarded waste materials for the purpose of disposal); SRIs; energy recovery units (ERU) (*i.e.*, units that would be boilers or process heaters if they did not combust solid waste); and waste burning kilns (*i.e.*, units that would be cement kilns if they did not combust solid waste). The final CISWI EG further subcategorize ERUs into 3 subcategories and waste burning kilns into 2 subcategories.

The final CISWI EG establishes opacity limitations for ACI that burn 100 percent wood waste; 100 percent clean lumber; or a 100 percent mixture of only wood waste, clean lumber,

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and/or yard waste. If an ACI begins burning solid waste as defined in the Non Hazardous Secondary Materials rule (see 40 CFR part 241) in addition to, or instead of, wood waste, clean lumber, or a mixture of wood waste, clean lumber, and/or yard waste, it is a solid waste incineration unit that is subject to the applicable numerical emission standards contained in CISWI.

B. What are the final compliance schedules?

The federal plan requires owners or operators of CISWI to come into compliance by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Although the final CISWI EG included increments of progress in the compliance schedule, the EPA is not including increments of progress as a compliance pathway for the final federal plan. Increments of progress were included in the EG to establish obligations that would apply to sources planning to take more than one year from approval of the state plan to comply. The increments would help ensure that sources planning to take more than one year to comply would make some incremental progress toward compliance after the first year. The increments did not require any additional action within one year of approval of a state plan (or promulgation of a federal plan). Because the increments of progress contained in the final EG do not require any additional action within one year of promulgation of a federal plan, including the increments of progress in this federal plan would serve no meaningful purpose and may create confusion. For this reason, the EPA did not include increments of progress in the proposed federal plan, and we are not including them in this final action.

If a CISWI does not achieve final compliance by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the final federal plan requires the CISWI to shut down by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION**

IN THE FEDERAL REGISTER], complete the retrofit while not operating, and be in compliance upon restarting. A CISWI that operates out of compliance after the final compliance date would be in violation of the federal plan and subject to enforcement action.

C. What emissions and operating limits is the EPA incorporating into the final federal plan?

The EPA is incorporating the EG emissions and operating limits from the final CISWI EG, 40 CFR part 60, subpart DDDD, into this final CISWI federal plan. Table 5 of this preamble summarizes the emissions limits that we are finalizing in the final federal plan. Table 5 also includes the 2000 CISWI federal plan emission limits (which applied only to units in the existing incinerator subcategory) for comparison. These standards apply at all times. Existing sources may comply with either the Polychlorinated dibenzo-p-dioxins/Polychlorinated dibenzofurans (PCDD/ PCDF) toxicity equivalence or total mass balance emission limits.

Facilities will be required to establish site-specific operating limits derived from the results of performance testing. The site-specific operating limits are established as the minimum (or maximum, as appropriate) operating parameter value measured during the performance test. These operating limits will result in achievable operating ranges that will ensure that the control devices used for compliance will be operated to achieve continuous compliance with the emissions limits. Further discussion on performance testing can be found in section IV.D of this preamble.

Table 5. Summary of Emissions Limits Promulgated for Existing CISWI

| Pollutant (units) ¹ | Incinerators (2000 CISWI limit) | CISWI Subcategories | | | | |
|--|---------------------------------------|---------------------|---|----------------------|------------------------|-----|
| | | Incinerators | ERUs - Solids | ERUs – Liquid/Gas | Waste-burning kilns | SRI |
| HCl (parts per million by volume (ppmv)) | 62 | 29 | 0.20 (biomass units)/ 58 (coal units) | 14 | 3.0 | 300 |

| | | | | | | |
|--|------------|--------|--|--------|--|--------|
| CO (ppmv) | 157 | 17 | 260 (biomass units)/ 95 (coal units) | 35 | 110 (long kilns) / 790 (preheater / precalciner) | 64 |
| Pb (mg/dscm) | 0.04 | 0.015 | 0.014 (biomass units) / 0.057 (coal units) | 0.096 | 0.014 | 2.1 |
| Cd (mg/dscm) | 0.004 | 0.0026 | 0.0014 (biomass units) / 0.0017 (coal units) | 0.023 | 0.0014 | 0.95 |
| Hg (mg/dscm) | 0.47 | 0.0048 | 0.0022 (biomass units) / 0.013 (coal units) | 0.0024 | 0.011 ² | 0.0053 |
| PM, filterable (mg/dscm) | 70 | 34 | 11 (biomass units) / 130 (coal units) | 110 | 13.5 | 270 |
| Dioxin, furans, total (ng/dscm) | (no limit) | 4.6 | 0.52 (biomass units) / 5.1 (coal units) | 2.9 | 1.3 | 4,400 |
| Dioxins and furans, TEQ (nanograms per dry standard cubic meter (ng/dscm)) | 0.41 | 0.13 | 0.12 (biomass units) / 0.075 (coal units) | 0.32 | 0.075 | 180 |
| NO _x (ppmv) | 388 | 53 | 290 (biomass units)/ 460 (coal units) | 76 | 630 | 190 |
| SO ₂ (ppmv) | 20 | 11 | 7.3 (biomass units)/ 850 (coal units) | 720 | 600 | 150 |

¹ All emission limits are expressed as concentrations corrected to 7 percent O₂.

² Or alternative limit of 58 lb/MM ton clinker.

D. What are the final performance testing and monitoring requirements?

The EPA is finalizing several performance testing and monitoring provision amendments to the current 2003 CISWI federal plan (see 68 FR 57518, October 3, 2003) that are consistent with the requirements of the final CISWI EG. The following paragraphs list a number of testing and monitoring requirements in the final CISWI EG that the EPA is including in the final CISWI federal plan.

1. Performance Testing and Monitoring

The final federal plan requires all CISWI to demonstrate initial and continuous compliance with the final emission limits. These provisions require initial and annual performance tests and initial and annual inspections of scrubbers, fabric filters (FF), and other air pollution control devices that are used to meet the emission limits. In addition, a Method 22 (40 CFR part 60, appendix A-7) visible emissions test of the ash handling operations is required during the initial and annual compliance test for all subcategories except waste-burning kilns, which do not have ash handling systems. Furthermore, for any CISWI that operates a FF air pollution control device, we are requiring that a bag leak detection system be installed to monitor the device.

This federal plan continues to require parametric monitoring of all other add-on air pollution control devices, such as wet scrubbers, dry scrubbers and activated carbon injection. CISWI that install selective non-catalytic reduction technology to reduce NO_x emissions are required to monitor the reagent (*e.g.*, ammonia or urea) injection rate and secondary chamber temperature (if applicable to the CISWI). This final federal plan also requires subcategory-specific monitoring requirements in addition to the aforementioned inspection, bag leak detection, and parametric monitoring requirements that are applicable to all CISWI. Existing incinerators, SRIs, and ERUs are required to have annual emissions testing for all 9 pollutants: PM, SO₂, HCl, NO_x, CO, Pb, Cd, Hg, and dioxins and furans. Waste-burning kilns are required to monitor Hg and HCl (if no scrubber) emissions using a continuous emissions monitoring system, monitor PM emissions using a PM continuous parameter monitoring system (PM CPMS), and perform annual testing for the remaining pollutants.

The final federal plan provides reduced annual testing requirements for all 9 pollutants when testing results are shown to be well below the limits. If an ERU has a design capacity greater than 250 Million British Thermal units per hour, we are requiring a PM CPMS for PM monitoring for these units. For the PM CPMS, the EPA is further requiring that a site-specific parametric operating limit be established during the performance test, that there be continuous monitoring of that parametric limit using a PM CPMS, and that 4 deviations within a 12-month operating period constitutes a violation and triggers immediate corrective action and a Method 5 performance test within 30 days with an additional 15 days to reestablish a site-specific operating limit. Consistent with the final CISWI EG, all operating parameter averaging for ERU units must be on a 30-day rolling average and allow the sorbent injection parameter to be adjusted based on the ERU's load. These testing and monitoring provisions reflect those in the final CISWI EG.

The final federal plan incorporates by reference three alternatives to the EPA reference test methods as shown in table 6 below.

Table 6. List of Incorporation by Reference (IBR).

| Test Method | Publisher | IBR in 40 CFR Part 62, Subpart III (now 40 CFR Part 62, Subpart IIIa) |
|---|---|--|
| ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus] | Available for purchase from the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016–5990, (800) 843-2763, https://www.asme.org/ . | Sections 62.14670(s)(1)(i), (s)(1)(ii), (t)(1)(ii), (t)(4)(i), and (z)(1)(i) (now at 40 CFR 62.14640a(s)(1)(i), (s)(1)(ii), (t)(1)(ii), (t)(4)(i), and (z)(1)(i)) |
| ASTM D6784-24 Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), approved April 16, 2024 | Available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106, (877) 909-2786, http://www.astm.org/ . | Sections 62.14670(j) and (z)(2)(i), and tables 1, 5, 6, and 8 to subpart III (now at 40 CFR 62.14640a(j) and (z)(2)(i), and tables 1, 5, 6, and 8 to subpart IIIa) |

| | | |
|---|--|---|
| OAQPS Fabric Filter Bag Leak Detection Guidance, EPA-454/R-98-015, September 1997 | Available from the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (202) 272-0167, http://www.epa.gov . | Sections 62.14670(r)(3) and (z)(3)(i) (now at 40 CFR 62.14640a(r)(3) and (z)(3)(i)) |
|---|--|---|

These tests are discussed further in section VIII.I of this preamble, titled “National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51.”

2. Electronic Data Submittal

To increase the ease and efficiency of data submittal and data accessibility, the final federal plan requires that owners and operators of CISWI submit electronic copies of required performance test, performance evaluation, initial, annual, and deviation reports through the EPA’s Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). This mirrors the final CISWI EG for CISWI. A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules*, available in the docket for this action. The final rule requires that performance test and performance evaluation results be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website for initial, deviation, and annual reports, the final rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. The final version of the templates for these reports will be located on the CEDRI website.¹¹

Furthermore, the EPA is finalizing provisions that allow owners and operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.*, for a possible outage in CDX or CEDRI or for a force majeure event, in the time just prior to a report’s due date, as well as the process to assert such a claim. Examples of force

¹¹ <https://www.epa.gov/electronic-reporting-air-emissions/cedri>.

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majeure events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. This also mirrors the final CISWI EG for CISWI.

E. What are the final recordkeeping and reporting requirements?

The EPA is finalizing requirements that reflect those promulgated in the final CISWI EG. The federal plan requires that records of all initial and all subsequent performance tests, CEMS performance evaluations, deviation reports, operating parameter data, continuous monitoring data, maintenance and inspections of air pollution control devices, monitoring plan, and operator training and qualification must be maintained for 5 years. Any incident of deviation, resumed operation following shutdown, force majeure, intent to stop or start use of Continuous Monitoring Systems (CMS), and intent of conducting or rescheduling a performance test are required to be reported to the Administrator. Furthermore, final compliance reports are required following the completion of each requirement and identifying any missed requirement. See section IV.B of this preamble for a more detailed discussion of the compliance schedules.

F. What are the other final requirements?

We are finalizing requirements for the federal plan to make it consistent with the final CISWI EG, including technical amendments promulgated on April 16, 2019. For example, the final CISWI federal plan includes the requirement for owners or operators of existing CISWI to meet operator training and qualification requirements, which include: ensuring that at least one

operator or supervisor per facility complete the operator training course, that qualified operator(s) or supervisor(s) complete an annual review or refresher course specified in the regulation, and that they maintain plant-specific information, updated annually, regarding training.

Owners or operators of existing CISWI are also required to submit a monitoring plan for any CMS or bag leak detection system used to comply with the rule.

V. CISWI That Have or Will Shut Down

A. Units That Plan to Close

The final federal plan establishes that if owners or operators plan to permanently close currently operating CISWI, they must do so and submit a closure notification to the Administrator by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The final requirements for closing a CISWI are set forth at 40 CFR 62.14570, subpart III (now at 40 CFR 62.14540, subpart IIIa). Conversely, the CISWI requirements do apply to a “mothballed unit” or inactive unit, where a unit does not operate, but it is not rendered inoperable. Until such time as a unit is permanently closed, it must comply with any applicable requirements of the federal plan. In addition, while still in operation, the CISWI is subject to the same requirements for title V operating permits that apply to units that will continue to operate.

B. Inoperable Units

The federal plan provides that in cases where a CISWI has already shut down permanently and has been rendered inoperable (*e.g.*, waste charge door is welded shut, stack is removed, combustion air blowers removed, burners or fuel supply equipment are removed), the

CISWI may be left off the source inventory in a state plan or this final federal plan. A CISWI that has been rendered inoperable would not be covered by the federal plan.

C. CISWI That Have Shut Down

The unit inventory for this federal plan includes any CISWI known to have already shut down (but not known to be inoperable).

1. Restarting Before the Final Compliance Date

If the owner or operator of an inactive CISWI plans to restart before the final compliance date, the owner or operator must achieve final compliance by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

2. Restarting After the Final Compliance Date

Under the final federal plan, if the owner or operator of a CISWI closes the CISWI, but restarts the unit after the final compliance date of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the owner or operator must complete emission control retrofits and meet the emissions and operating limits on the date the CISWI restarts operation. Within 6 months of the unit startup, operator(s) of these CISWI would have to complete the operator training and qualification requirements. Within 60 days of installing an air pollution control device, operator(s) must conduct a unit inspection. Performance testing to demonstrate initial compliance would also be required as described at 40 CFR 62.14650 (now at 40 CFR 62.14615a). A CISWI may not use the provisions to close the CISWI and restart after the compliance date to gain an effective “extension” of the operator training and qualification requirements or initial compliance requirements. A CISWI that operates out of compliance after the final compliance date will be in violation of the federal plan and subject to enforcement action.

VI. Implementation of the Federal Plan and Delegation

A. Background of Authority

Under sections 111(d) and 129(b) of the CAA, the EPA is required to adopt EG that are applicable to existing solid waste incineration units. These EG are implemented when the EPA approves a state plan or adopts a federal plan that implements and enforces the EG. As discussed above, the federal plan regulates CISWI in states that do not have fully approved plans in effect to implement the EG.

Congress has determined that the primary responsibility for air pollution prevention and control rests with state and local agencies. (See section 101(a)(3) of the CAA.) Consistent with that overall determination, Congress established sections 111 and 129 of the CAA with the intent that the state and local agencies take the primary responsibility for ensuring that the emissions limitations and other requirements in the EG are achieved. Also, in section 111(d) of the CAA, Congress explicitly required that the EPA establish procedures that are similar to those under CAA section 110(c) for state implementation plans. Although Congress required the EPA to propose and promulgate a federal plan for states that fail to submit approvable state plans on time, states may submit plans at any time that may replace the CISWI federal plan. The EPA strongly encourages states that are unable to submit approvable plans to request delegation of the federal plan so that they can have primary responsibility for implementing the final CISWI EG, consistent with the intent of Congress.

The preferred outcome under the statute and the regulations results when the state, tribal, and local agencies implement the EPA approved state (or tribal) plan because state, tribal, and local agencies not only have the responsibility to implement the final CISWI EG, but also have the practical knowledge and enforcement resources critical to achieving the highest rate of

compliance. In cases where states are unable to develop and submit approvable state plans, it is still preferable for the state and local agencies to be the implementing agency. For these reasons, the EPA will do all that it can to expedite delegation of the federal plan to state, tribal, and local agencies, whenever possible, in cases where states are unable to develop and submit approvable state plans. The EPA will also continue to review and act on state plans after promulgation of the CISWI federal plan.

B. Mechanisms for Transferring Authority

There are 2 mechanisms for transferring implementation authority to state, tribal, and local agencies: (1) The EPA approval of a state plan after the federal plan is in effect; and (2) if a state does not submit or obtain approval of its own plan, the EPA delegation to a state, tribe, or local agency with the authority to implement certain portions of this federal plan to the extent appropriate and if allowed by state law. Both of these options are described in more detail below.

1. Federal Plan Becomes Effective Prior to Approval of a State Plan

After a CISWI in a state without an approved state plan becomes subject to the federal plan, the state or tribal agency may still adopt and submit a state or tribal plan to the EPA. If the EPA determines that the state or tribal plan is as protective as the final CISWI EG, the EPA will approve the state or tribal plan. If the EPA determines that the plan is not as protective as the final CISWI EG, the EPA may approve the portions of the plan that are consistent with the final CISWI EG. If a state or tribal plan is approved in part, the federal plan will apply to the affected CISWI in lieu of the disapproved portions of the state plan until the state or tribe addresses the deficiencies in the state plan and the revised state plan is approved by the EPA. Prior to any disapproval, the EPA will work with states and tribes to attempt to reconcile areas of the plan that remain inconsistent with the EG.

Upon the effective date of a state or tribal plan, the federal plan would no longer apply to CISWI covered by such a plan and the state, tribe, territory, or local agency would implement and enforce the state plan in lieu of the federal plan. When an EPA regional office approves a state or tribal plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State, Tribe, Territory, or Local Agency Taking Delegation of the Federal Plan

The EPA, in its discretion, may delegate to state, tribe, territorial, or local agencies the authority to implement this federal plan. As discussed above, the EPA has concluded that it is advantageous and the best use of resources for states, tribes, territories, or local agencies to agree to undertake, on the EPA's behalf, administrative and substantive roles in implementing the federal plan to the extent appropriate and where authorized by federal, state, tribal, territorial, or local law. If a state, tribe, territory, or local agency requests delegation, the EPA will generally delegate the entire federal plan to the state, tribe, territory, or local agency. These functions include administration and oversight of compliance, and reporting and recordkeeping requirements, CISWI inspections and preparation of draft notices of violation, but will not include any authorities retained by the EPA. Agencies that have taken delegation, as well as the EPA, will have responsibility for bringing enforcement actions against sources violating federal plan provisions.

C. Implementing Authority

The EPA Regional Administrators have been delegated the authority for implementing the CISWI federal plan. All reports required by the federal plan should be submitted to the appropriate Regional Administrator. Section II.C of this preamble includes table 3 that lists names and addresses of the EPA regional office contacts and the states they cover.

D. Delegation of the Federal Plan and Retained Authorities

If a state, tribe, territory, or local agency intends to take delegation of the federal plan, the state, tribe, territory, or local agency should submit to the appropriate EPA regional office a written request for delegation of authority. The state, tribe, territory, or local agency should explain how it meets the criteria for delegation. See generally “Good Practices Manual for Delegation of NSPS and NESHAP” (U.S. EPA, February 1983).¹² The letter requesting delegation of authority to implement the federal plan should: (1) demonstrate that the state, tribe, territory, or local agency has adequate resources, as well as the legal authority to administer and enforce the program, (2) include an inventory of affected CISWI, which includes those that have ceased operation, but have not been dismantled or rendered inoperable, and an inventory of the affected units’ air emissions and a provision for state progress reports to the EPA, (3) certify that a public hearing was held on the state, tribe, territory, or local agency delegation request, and (4) include a memorandum of agreement between the state, tribe, territory, or local agency and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement and the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional office would publish an approval notice in the *Federal Register*, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a state, tribe, territory, or local agency, the EPA will implement the federal plan. Also, if a state, tribe, territory, or local agency fails to properly implement a delegated portion of the federal plan, the EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along

¹² “Good Practices Manual for Delegation of NSPS and NESHAPS.” U.S. EPA, Office of Air Quality Planning and Standards. (February 1983). https://www.epa.gov/sites/default/files/2015-05/documents/epa_good_pract_man_ch1-5.pdf.

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with the state, tribe, territory, or local agency even when the agency has received delegation of the federal plan. In all cases where the federal plan is delegated, the EPA will retain and will not transfer authority to a state, tribe, or local agency to approve the items in 40 CFR 62.14838 (now at 40 CFR 62.14775) promulgated in the final CISWI EG. CISWI owners or operators who wish to petition the Agency for any alternative requirement should submit a request to the Regional Administrator with a copy sent to the appropriate state.

VII. Title V Operating Permits

All existing CISWI located at commercial or industrial facilities and regulated under state, tribal, or federal plans implementing the final CISWI EG must operate in a manner consistent with a title V operating permit that assures compliance with all federally applicable requirements for any regulated CISWI, including all applicable CAA section 129 requirements.¹³

The permit application deadline for a CAA section 129 source applying for a title V operating permit depends on when the source first becomes subject to the relevant title V permit program. Because existing major sources are subject to title V,¹⁴ major source facilities that contain existing CISWI should already have a title V permit. In such cases, the source must comply with the title V permit revision provisions of the relevant state title V program instead of applying for a title V permit. In contrast, the application deadline would apply to CISWI at facilities that are not subject to the title V permit program for other reasons. Such sources with an existing CISWI or air curtain incinerator subject to this federal plan must submit a complete title V permit application by the earliest of the following dates:

¹³ 40 CFR 70.2, 70.6(a)(1), 71.2, and 71.6(a)(1).

¹⁴ CAA section 503(c) and 40 CFR 70.3(a) and (b), 70.5(a)(1)(i), 71.3(a) and (b), and 71.5(a)(1)(i). This document is a prepublication version, signed by EPA Administrator, Michael S. Regan on 9/16/2024. We have taken steps to ensure the accuracy of this version, but it is not the official version.

- Twelve (12) months after the effective date of any applicable EPA-approved CAA sections 111(d)/129 plan (*i.e.*, approved state or tribal plan that implements the final CISWI EG); or
- Twelve (12) months after the effective date of any applicable federal plan; or
- Thirty-six (36) months after promulgation of 40 CFR part 60, subpart DDDD (*i.e.*, February 7, 2016).

For any existing CISWI not subject to an earlier permit application deadline, the application deadline of February 7, 2016, which is in the past, applies regardless of whether or when any applicable federal plan is effective, or whether or when any applicable CAA sections 111(d)/129 plan is approved by the EPA and becomes effective. (See CAA sections 129(e), 503(c), 503(d), 502(a), and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i)).

For more background information on the interface between CAA section 129 and title V, including the EPA's interpretation of CAA section 129(e), see the final federal plan for Commercial and Industrial Solid Waste Incinerators, October 3, 2003, (68 FR 57518, 57532). See also the final federal plan for Hospital Medical Infectious Waste Incinerators, August 15, 2000 (65 FR 49868, 49877).

A. Title V and Delegation of a Federal Plan

As noted previously, issuance of a title V permit is not itself equivalent to the approval of a state or tribal plan or delegation of a federal plan.¹⁵ Legally, delegation of a standard or requirement results in a delegated state, local, or tribal agency standing in for the EPA as a matter of federal law. This means that obligations a source may have to the EPA under a

¹⁵ See, *e.g.*, the "Title V and Delegation of a Federal Plan" section of the proposed federal plan for CISWI (67 FR 70640, 70652, November 25, 2002). The preamble language from this section in the proposed federal plan for CISWI was reaffirmed in the final federal plan for CISWI, October 3, 2003 (68 FR 57518, 57535).

federally promulgated standard become obligations to a state, tribal, or local agency (except for functions that the EPA retains for itself) upon delegation.¹⁶ Although a state, local, or tribal agency must have the authority under state, local, or tribal law to incorporate CAA section 111/129 requirements into its title V permits, and implement and enforce these requirements in these permits without first taking delegation of the CAA section 111/129 federal plan, the state, local, or tribal agency is not standing in for the EPA as a matter of federal law in this situation. Where a state, local, or tribal agency does not take delegation of a section 111/129 federal plan, obligations that a source has to the EPA under the federal plan continue after a title V permit is issued to the source. As a result, the EPA maintains that an approved 40 CFR part 70 operating permits program alone cannot be used as a mechanism to transfer the authority to implement and enforce the federal plan from the EPA to a state, local, or tribal agency.

As mentioned above, a state, local, or tribal agency title V program necessarily includes the authority to incorporate CAA section 111/129 requirements into its title V permits, and implement and enforce these requirements in that context without first taking delegation of the CAA section 111/129 federal plan.¹⁷ Some states, local governments, or tribes, however, may not be able to implement and enforce a CAA section 111/129 standard in a title V permit under state, local, or tribal law until the CAA section 111/129 standard has been delegated. In these situations, a state, local, or tribal agency should not issue a 40 CFR part 70 permit to a source subject to a federal plan before taking delegation of the section 111/129 federal plan.

¹⁶ If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, *e.g.*, major alternatives to test alternative methods.

¹⁷ The EPA interprets the phrase “assure compliance” in CAA section 502(b)(5)(A) to mean that permitting authorities will implement and enforce each applicable standard, regulation, or requirement which must be included in the title V permits that the permitting authorities issue. See definition of “applicable requirement” in 40 CFR 70.2. See also 40 CFR 70.4(b)(3)(i) and 70.6(a)(1).

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However, if a state or tribe can provide an Attorney General's (AG) opinion delineating its authority to incorporate CAA section 111/129 requirements into its title V permits, and then implement and enforce these requirements through its title V permits without first taking delegation of the requirements, then a state, local, or tribal agency does not need to take delegation of the CAA section 111/129 requirements for purposes of title V permitting.¹⁸ In practical terms, without approval of a state or tribal plan, delegation of a federal plan, or an adequate AG's opinion, states, local governments, and tribes with approved 40 CFR part 70 permitting programs open themselves up to potential questions regarding their authority to issue permits containing CAA section 111/129 requirements and to assure compliance with these requirements. Such questions could lead to the issuance of a notice of deficiency for a state's or tribe's 40 CFR part 70 program. As a result, prior to a state, local, or tribal permitting authority drafting a part 70 permit for a source subject to a CAA section 111/129 federal plan, the state, local government, or tribe, the EPA regional office and the source in question are advised to ensure that delegation of the relevant federal plan has taken place or that the permitting authority has provided an adequate AG's opinion to the EPA Regional office.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a federal plan, a CAA section 111/129 source subject to the federal plan in that state must simultaneously submit to both the EPA and the state, local government, or tribe all reports required by the standard to be submitted to the EPA. Given that these reports are necessary to implement and enforce the CAA section 111/129 requirements when they have been

¹⁸ It is important to note that an AG's opinion submitted at the time of initial title V program approval is sufficient if it demonstrates that a state or tribe has adequate authority to incorporate CAA section 111/129 requirements into its title V permits and to implement and enforce these requirements through its title V permits without delegation and no subsequent state law or regulation has in some way limited that authority.

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included in title V permits, the permitting authority needs to receive these reports at the same time as the EPA.

In the situation where a permitting authority chooses to rely on an AG's opinion and not take delegation of a federal plan, the EPA regional offices will be responsible for implementing and enforcing CAA section 111/129 requirements outside of any title V permits. Moreover, in this situation, the EPA regional offices will continue to be responsible for developing progress reports and conducting any other administrative functions required under this federal plan or any other CAA section 111/129 federal plan. See section IV.B of this preamble titled "What are the final compliance schedules?"

It is important to note that the EPA is not using its authority under 40 CFR part 70.4(i)(3) to request that all states, local governments, and tribes that do not take delegation of this federal plan submit supplemental AG's opinions at this time. However, the EPA regional offices shall request, and permitting authorities shall provide, such opinions when the EPA questions a state's or tribe's authority to incorporate CAA section 111/129 requirements into a title V permit and implement and enforce these requirements in that context without delegation.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://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 under section 3(f)(1) of 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 (PRA)

The information collection activities in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2385.09. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

This action finalizes the CISWI federal plan to implement the EG adopted on February 7, 2013,¹⁹ for those states that do not have a fully approved state plan implementing the EG. While there were amendments to the 2013 rule on June 23, 2016, and April 16, 2019, neither of those final actions imposed any new information collection burden under the PRA (*See* 81 FR 40969 and 84 FR 15852, respectively). OMB has previously approved the information collection activities contained in the existing regulation and has assigned OMB Control number 2060–0664 for 40 CFR part 60, subpart DDDD. While this action is believed to result in no changes to the information collection requirements of the 2013 CISWI rule, it does implement the CISWI standards to a subset of existing units that will be regulated by implementing this final action. Therefore, in addition to the total burden, the EPA is presenting an estimate of the subset of the CISWI respondent universe and burden that will be subject to the CISWI federal plan instead of being regulated under an approved state plan for the CISWI EG. These estimates are provided below.

Respondents/affected entities: Owners and operators of existing CISWI.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart DDDD and 40 CFR part 62, subpart III, now at 40 CFR part 62, subpart IIIa).

¹⁹ See 78 FR 9112, February 7, 2013.

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Estimated number of respondents: The annual number of responding facilities complying with the requirements of the CISWI EG is 76. Of the total, 40 are subject to this final rule's implementation of the CISWI EG per 40 CFR part 62, subpart III now at 40 CFR part 62, subpart IIIa.

Frequency of response: Initially, annually, and semiannually.

Total estimated burden: The annual recordkeeping and reporting burden for responding facilities to comply with all of the requirements in the CISWI EG, averaged over the 3 years of this ICR, is estimated to be 8,660 hours. Of these, 4,420 hours (per year) is the portion of the burden to comply with this final rule's portion of implementing the CISWI EG. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting cost for responding facilities to comply with all of the requirements in the CISWI EG, averaged over the 3 years of this ICR, is estimated to be \$13,300,000 (per year), including \$12,300,000 annualized capital or operation and maintenance costs. Of the CISWI total, \$3,700,000 (per year) is the portion of the cost to comply with this final rule's portion of implementing the CISWI EG, including \$3,200,000 in annualized capital or operation and maintenance costs.

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 the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce the approval in the *Federal Register* and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

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 rule is any significant adverse economic impact on small entities. The agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule implements the EG for owners of existing CISWI that were established by the February 7, 2013, final rule (78 FR 9112), and that rule was certified as not having a significant economic impact on a substantial number of small entities. This action establishes a federal plan to implement and enforce those requirements in those states that do not have their own EPA-approved state plan for implementing and enforcing the requirements. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities beyond those considered for the CISWI EG.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The 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. The EPA is not aware of any CISWI owned or operated by Indian tribal governments at the time of the publication of this document. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it implements a previously promulgated emission guidelines.

Furthermore, the EPA’s Policy on Children’s Health does not apply to this action because it implements a technology-based standard and does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions 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 Orders 12866.

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

This action involves technical standards. Please reference table 6 of this preamble for the locations where these standards are available. The EPA has decided to use ANSI/ASME PTC 19.10-1981, "Flue and Exhaust Gas Analyses," for its manual methods of measuring the oxygen or carbon dioxide content of the exhaust gas. These parts of ASME PTC 19.10-1981 are acceptable alternatives to EPA Methods 6 and 7 for the manual procedures only. The manual

method segment of the oxygen determination is performed through the absorption of oxygen. This method is available at the American National Standards Institute (ANSI), 1899 L Street NW, 11th Floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016-5990. See <https://www.ansi.org> and <https://www.asme.org>. The standard is available to everyone at a cost determined by ANSI/ASME (\$80). ANSI/ASME also offer memberships or subscriptions for reduced costs. The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

Another voluntary consensus standard (VCS), ASTM D6784-24 "Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)" for its manual method of measuring mercury is an acceptable alternative to Method 29 and 30B. Initially developed for the measurement of mercury in coal-fired power plants, this method has been used on other combustion sources such as the waste incinerators subject to this rule. This method is available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106, (877) 909-2786, <https://www.astm.org/>. The standard is available to everyone at a cost determined by ASTM (\$90). The cost of obtaining this method is not a significant financial burden, making the method reasonably available.

The EPA further determined to use Office of Air Quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance, EPA-454/R-98-015, September 1997, for its guidance on the use of tiboelectic monitors as bag leak detectors for a fabric filter air pollution control device and monitoring system decriptions, selection, installation, set up,

adjustment, operation, and quality assurance procedures. This standard is available from the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (202) 272-0167, <https://www.epa.gov>. The EPA determined that this standard is reasonably available because it is freely available from the EPA. Lastly, the EPA decided to use EPA Methods 5, 6, 6C, 7, 7E, 9, 10, 10A, 10B, 22, 23, 26A, 29, and 30B. No VCS were found for EPA Methods 9 and 22.

While the EPA has identified 23 VCS as being potentially applicable to the rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would be impractical because they do not meet the objectives of the standards cited in this rule. See the docket for the final CISWI EG (Docket ID No. EPA-HQ-OAR-2003-0119), which are being implemented under this action, for further information.

Under 40 CFR 62.14838 (now at 40 CFR 62.14775a), the EPA Administrator retains the authority of approving alternate methods of demonstrating compliance as established under 40 CFR 60.8(b) and 40 CFR 60.13(i), subpart A (NSPS General Provisions). A source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required EPA test methods, performance specifications, or procedures.

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 it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. This action implements the final

CISWI EG, which was published in 2013. At that time, no analysis was performed on the inventory of units and proximity to communities with existing environmental justice concerns.

The EPA believes that this action is not likely to result in new disproportionate and adverse effects on communities with environmental justice concerns.

The information supporting this Executive Order review is contained in this preamble section, as well as the final CISWI EG discussion for Executive Order 12898 (78 FR 9178, February 7, 2013). This federal plan implements the final CISWI EG for states that do not have a fully approved state plan implementing the final CISWI EG. As discussed in the preamble to the 2013 CISWI rule, the final CISWI EG will not have disproportionately high and adverse human health or environmental effects on communities with EJ concerns because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any communities with EJ concerns.

The amendments finalized in 2013 (made to the 2011 CISWI final rule), as well as subsequent amendments made in 2016 and 2019, do not relax the control measures on sources regulated by the CISWI rule, and, therefore, will not cause emissions increases from these sources. The February 2013 final CISWI rule will reduce emissions of all the listed hazardous air pollutants (HAP) emitted from this source when implemented either through an approved state plan or this final federal plan. This includes emissions of Cd, HCl, Pb, and Hg. Other emissions reductions include reductions of criteria pollutants such as CO, NO_x, PM (including particulate matter 2.5 microns or less), SO₂ and NO_x. SO₂ and NO_x are precursors for the formation of particulate matter (diameter less than or equal to 2.5 micrometers (PM_{2.5})) and NO_x is a

precursor for ozone. Reducing these emissions will decrease the amount of such pollutants to which all affected populations are exposed.

K. Congressional Review Act (CRA)

This action is subject to the 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 62

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

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, Title 40, chapter I, part 62 of the Code of Federal Regulations (CFR) is amended as follows:

PART 62 —APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

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

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

SUBPART III—FEDERAL PLAN REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE NOVEMBER 30, 1999

2. Amend § 62.14510 by adding paragraph (d) to read as follows:

§ 62.14510 Am I subject to this subpart?

* * * * *

(d) On and after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], CISWI will no longer be subject to the requirements of this subpart and instead will be subject to the requirements of subpart IIIa of this part.

3. Amend Part 62 by adding subpart IIIa to read as follows:

SUBPART IIIa—FEDERAL PLAN REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE JUNE 4, 2010, AND HAVE NOT BEEN MODIFIED OR RECONSTRUCTED SINCE AUGUST 7, 2013

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Table 7 to Subpart III of Part 62—Model Rule—Emission Limitations That Apply to Small, Remote Incinerators After [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

Introduction

§ 62.14500a What is the purpose of this subpart?

(a) This subpart establishes emission requirements and compliance schedules for the control of emissions from commercial and industrial solid waste incineration units (CISWI) that are not covered, or are only partially covered, by an EPA approved and currently effective state or tribal plan. The pollutants addressed by these emission requirements are listed in tables 4 through 7 to this subpart. These emission requirements are developed in accordance with sections 111 and 129 of the Clean Air Act and 40 CFR part 60, subpart B.

(b) In this subpart, “you” means the owner or operator of a CISWI.

§ 62.14505a What are the principal components of this subpart?

This subpart contains the ten major components listed in paragraphs (a) through (j) of this section.

- (a) Waste management plan.
- (b) Operator training and qualification.
- (c) Emission limitations and operating limits.

- (d) Performance testing.
- (e) Initial compliance requirements.
- (f) Continuous compliance requirements.
- (g) Monitoring.
- (h) Recordkeeping and reporting.
- (i) Definitions.
- (j) Tables.

Applicability

§ 62.14510a Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a CISWI as defined in § 62.14780a or an air curtain incinerator as defined in § 62.14780a and the CISWI or air curtain incinerator meets the criteria described in paragraphs (a)(1) through (3) of this section.

(1) Construction of your CISWI or air curtain incinerator commenced on or before June 4, 2010, and have not been modified or reconstructed since August 7, 2013.

(2) Your CISWI is not exempt under § 62.14530a.

(3) Your CISWI is not regulated by an EPA approved and currently effective state or tribal plan, or your CISWI is located in any state whose approved state or tribal plan is only approved in part. In the case of a state or tribal program that is approved in part, the federal plan applies to affected CISWI in lieu of the disapproved portions of the state or tribal program until the state or tribe plan addresses the deficiencies and the revised plan is approved by the EPA.

(b) If changes to the CISWI are made after August 7, 2013, that meet the definition of modification or reconstruction, your CISWI is subject to 40 CFR part 60, subpart CCCC, and this subpart no longer applies to that unit.

(c) If you make physical or operational changes to your existing CISWI primarily to comply with this subpart, then such changes do not qualify as modifications or reconstructions under 40 CFR part 60, subpart CCCC.

§ 62.14515a Can my CISWI be covered by both a state plan and this subpart?

(a) If your CISWI is located in a state that does not have an EPA-approved state plan or your state's plan has not become effective, this subpart applies to your CISWI until the EPA approves a state plan that covers your CISWI and that state plan becomes effective. However, a state may enforce the requirements of a state regulation while your CISWI is still subject to this subpart.

(b) After the EPA fully approves a state plan covering your CISWI, and after that state plan becomes effective, you will no longer be subject to this subpart and will only be subject to the approved and effective state plan. If the state or tribal plan are only approved in part, you will remain subject to the federal plan to the extent necessary to address the deficiencies in the disapproved portions of the state or tribal plan.

§ 62.14520a How do I determine if my CISWI is covered by an approved and effective state or tribal plan?

This part (40 CFR part 62) contains a list of state and tribal areas with approved Clean Air Act section 111(d) and section 129 plans along with the effective dates for such plans. The list is published annually. If this part does not indicate that your state or tribal area has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office to determine if the EPA has approved a state plan covering your CISWI since publication of the most recent version of this subpart.

§ 62.14525a If my CISWI is not listed in the federal plan inventory, am I exempt from this

subpart?

Any CISWI that meets the applicability criteria in § 62.14510a is required to comply with the applicable emissions guidelines even if the source is not listed in the federal plan or otherwise applicable state or tribal plan inventory. CISWI subject to this subpart are not limited to the inventory of sources listed in Docket EPA-HQ-OAR-2016-0664 for the federal plan. If your CISWI meets the applicability criteria in § 62.14510a, this subpart applies to you whether or not your CISWI is listed in the federal plan inventory in the docket.

§ 62.14530a Can my combustion unit be exempt from this subpart?

This subpart exempts 11 types of units, described in paragraphs (a) through (k) of this section, from complying with the requirements of this subpart with the exception of the requirements specified in this section.

(a) *Pathological waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in § 62.14785a are not subject to this subpart if you meet the two requirements specified in paragraphs (a)(1) and (2) of this section.

(1) Notify the Administrator that the unit meets these criteria.

(2) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) *Municipal waste combustion units.* Incineration units that are regulated under 40 CFR part 60, subpart Ea (Standards of Performance for Municipal Waste Combustors); 40 CFR part 60, subpart Eb (Standards of Performance for Municipal Waste Combustors for Which

Construction is Commenced After September 20, 1994); 40 CFR part 60, subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Waste Combustors Constructed on or Before September 20, 1994); 40 CFR part 60, subpart AAAA (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units); 40 CFR part 60, subpart BBBB (Emission Guidelines for Existing Stationary Sources: Small Municipal Waste Combustion Units); or 40 CFR part 62, subpart JJJ (Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999).

(c) *Medical waste incineration units.* Incineration units regulated under 40 CFR part 60, subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996); 40 CFR part 60, subpart Ce (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators); and 40 CFR part 62, subpart HHH (Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996).

(d) *Small power production facilities.* Units that meet the four requirements specified in paragraphs (d)(1) through (4) of this section.

(1) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) You submit documentation to the Administrator notifying the Agency that the qualifying small power production facility is combusting homogenous waste.

(4) You must maintain the records specified in § 62.14675a(t).

(e) *Cogeneration facilities*. Units that meet the four requirements specified in paragraphs (e)(1) through (4) of this section.

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

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You submit documentation to the Administrator notifying the Agency that the qualifying cogeneration facility is combusting homogenous waste.

(4) You maintain the records specified in § 62.14675a(u).

(f) *Hazardous waste combustion units*. Units for which you are required to get a permit under section 3005 of the Solid Waste Disposal Act.

(g) *Materials recovery units*. Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(h) *Air curtain incinerators*. Air curtain incinerators that burn 100 percent wood waste; 100 percent clean lumber; or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste; are required to meet only the requirements under “Air Curtain Incinerators” (§§ 62.14740a through 62.14765a) and the title V operating permit requirements (§ 62.14770a).

(i) *Sewage treatment plants*. Incineration units regulated under 40 CFR part 60, subpart O (Standards of Performance for Sewage Treatment Plants).

(j) *Sewage sludge incineration units*. Incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are subject to 40 CFR part 60, subpart LLLL (Standards of Performance for New Sewage Sludge

Incineration Units) or 40 CFR part 60, subpart MMMM (Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units).

(k) *Other solid waste incineration units.* Incineration units that are subject to 40 CFR part 60, 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) or 40 CFR part 60, subpart FFFF (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004).

(l) *Small, remote incinerators.* Incineration units located in the state of Alaska are not subject to this subpart as specified in the Consolidated Appropriations Act of 2024, H.R. 4366, Section 432. The EPA is precluded from “expending funds to implement or enforce 40 CFR part 60 subpart DDDD [the 2011 EG currently in effect] with respect to units in the state of Alaska that are defined as small remote incinerator until a subsequent regulation is issued.”

Compliance Schedule

§ 62.14535a When must I comply with this subpart if I plan to continue operation of my CISWI?

If you plan to continue operation of your CISWI, then you must follow the requirements in paragraph (a) of this section.

(a) If you plan to continue operation and come into compliance with the requirements of this subpart by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], then you must complete the requirements of paragraphs (a)(1) through (5) of this section.

(1) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) You must submit a waste management plan no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(3) You must achieve final compliance by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. To achieve final compliance, you must incorporate all process changes and complete retrofit construction of control devices, so that, if the affected CISWI is brought online, all necessary process changes and air pollution control devices would operate as designed.

(4) You must conduct the initial performance test within 180 days after the date when you are required to achieve final compliance under paragraph (a)(3) of this section.

(5) You must submit an initial report including the results of the initial performance test no later than 60 days following the initial performance test (*see* §§ 62.14675a through 62.14735a for complete reporting and recordkeeping requirements).

§ 62.14540a What must I do if I plan to permanently close my CISWI?

If you plan to permanently close your CISWI rather than comply with the federal plan, you must submit a legally binding closure agreement, including the date of closure, to the Administrator by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] for sources that will not operate on or after the compliance date.

§ 62.14545a What must I do if I close my CISWI and then restart it?

If you close your CISWI but restart it after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] for the purpose of continuing operation of

the your CISWI, you must complete emission control retrofits and meet the emission limitations and operating limits on the date your unit restarts operation.

Waste Management Plan

§ 62.14550a What is a waste management plan?

A waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.

§ 62.14555a When must I submit my waste management plan?

You must submit a waste management plan no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or six months prior to commencing or recommencing burning solid waste, whichever is later.

§ 62.14560a What should I include in my waste management plan?

A waste management plan must include consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The plan must identify any additional waste management measures, and the source must implement those measures considered practical and feasible, based on the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other environmental or energy impacts they might have.

Operator Training and Qualification

§ 62.14565a What are the operator training and qualification requirements?

(a) You must have a fully trained and qualified CISWI operator accessible at all times when the unit is in operation, either at your facility or able to be at your facility within one hour.

The trained and qualified CISWI operator may operate the CISWI directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified CISWI operators are temporarily not accessible, you must follow the procedures in § 62.14595a.

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (c)(1) through (3) of this section.

(1) Training on the eleven subjects listed in paragraphs (c)(1)(i) through (xi) of this section.

(i) Environmental concerns, including types of emissions.

(ii) Basic combustion principles, including products of combustion.

(iii) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures.

(iv) Combustion controls and monitoring.

(v) Operation of air pollution control equipment and factors affecting performance (where applicable).

(vi) Inspection and maintenance of the incinerator and air pollution control devices.

(vii) Actions to correct malfunctions or conditions that may lead to malfunction.

(viii) Bottom and fly ash characteristics and handling procedures.

(ix) Applicable federal, state, and local regulations, including Occupational Safety and Health Administration workplace standards.

(x) Pollution prevention.

(xi) Waste management practices.

(2) An examination designed and administered by the instructor.

(3) Written material covering the training course topics that can serve as reference material following completion of the course.

§ 62.14570a When must the operator training course be completed?

(a) The operator training course must be completed by the later of the three dates specified in paragraphs (a)(1) through (3) of this section.

(1) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) Six months after CISWI startup; or

(3) Six months after an employee assumes responsibility for operating the CISWI or assumes responsibility for supervising the operation of the CISWI.

§ 62.14575a How do I obtain my operator qualification?

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under § 62.14565a(b).

(b) Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under § 62.14565a(c)(2).

§ 62.14580a How do I maintain my operator qualification?

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the five topics described in paragraphs (a) through (e) of this section.

(a) Update of regulations.

(b) Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

- (c) Inspection and maintenance.
- (d) Responses to malfunctions or conditions that may lead to malfunction.
- (e) Discussion of operating problems encountered by attendees.

§ 62.14585a How do I renew my lapsed operator qualification?

You must renew a lapsed operator qualification by one of the two methods specified in paragraphs (a) and (b) of this section.

(a) For a lapse of less than 3 years, you must complete a standard annual refresher course described in § 62.14580a.

(b) For a lapse of 3 years or more, you must repeat the initial qualification requirements in § 62.14575a(a).

§ 62.14590a What site-specific documentation is required?

(a) Documentation must be available at the facility and readily accessible for all CISWI operators that addresses the ten topics described in paragraphs (a)(1) through (10) of this section. You must maintain this information and the training records required by paragraph (c) of this section in a manner that they can be readily accessed and are suitable for inspection upon request.

- (1) Summary of the applicable standards under this subpart.
- (2) Procedures for receiving, handling, and charging waste.
- (3) Incinerator startup, shutdown, and malfunction procedures.
- (4) Procedures for maintaining proper combustion air supply levels.
- (5) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this subpart.

(6) Monitoring procedures for demonstrating compliance with the incinerator operating limits.

(7) Reporting and recordkeeping procedures.

(8) The waste management plan required under §§ 62.14550a through 62.14560a.

(9) Procedures for handling ash.

(10) A list of the wastes burned during the performance test.

(b) You must establish a program for reviewing the information listed in paragraph (a) of this section with each employee who operates your incinerator.

(1) The initial review of the information listed in paragraph (a) of this section must be conducted by the later of the three dates specified in paragraphs (b)(1)(i) through (iii) of this section.

(i) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(ii) Six months after CISWI startup.

(iii) Six months after being assigned to operate the CISWI.

(2) Subsequent annual reviews of the information listed in paragraph (a) of this section must be conducted no later than 12 months following the previous review.

(c) You must also maintain the information specified in paragraphs (c)(1) through (3) of this section.

(1) Records showing the names of all plant personnel who operate your CISWI who have completed review of the information in § 62.14590a(a) as required by § 62.14590a(b), including the date of the initial review and all subsequent annual reviews.

(2) Records showing the names of all plant personnel who operate your CISWI who have completed the operator training requirements under § 62.14565a, met the criteria for qualification under § 62.14575a, and maintained or renewed their qualification under § 62.14580a or § 62.14585a. Records must include documentation of training, the dates of the initial refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(3) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

§ 62.14595a What if all the qualified operators are temporarily not accessible?

If all qualified operators are temporarily not accessible (*i.e.*, not at the facility and not able to be at the facility within 1 hour), you must meet one of the two criteria specified in paragraphs (a) and (b) of this section, depending on the length of time that a qualified operator is not accessible.

(a) When all qualified operators are not accessible for more than 8 hours, but less than 2 weeks, the CISWI may be operated by other plant personnel familiar with the operation of the CISWI who have completed a review of the information specified in § 62.14590a(a) within the past 12 months. However, you must record the period when all qualified operators were not accessible and include this deviation in the annual report as specified under § 62.14705a.

(b) When all qualified operators are not accessible for 2 weeks or more, you must take the two actions that are described in paragraphs (b)(1) and (2) of this section.

(1) Notify the Administrator of this deviation in writing within 10 days. In the notice, state what caused this deviation, what you are doing to ensure that a qualified operator is accessible, and when you anticipate that a qualified operator will be accessible.

(2) Submit a status report to the Administrator every 4 weeks outlining what you are doing to ensure that a qualified operator is accessible, stating when you anticipate that a qualified operator will be accessible and requesting approval from the Administrator to continue operation of the CISWI. You must submit the first status report 4 weeks after you notify the Administrator of the deviation under paragraph (b)(1) of this section. If the Administrator notifies you that your request to continue operation of the CISWI is disapproved, the CISWI may continue operation for 90 days, then must cease operation. Operation of the unit may resume if you meet the two requirements in paragraphs (b)(2)(i) and (ii) of this section.

(i) A qualified operator is accessible as required under § 62.14565a(a).

(ii) You notify the Administrator that a qualified operator is accessible and that you are resuming operation.

Emission Limitations and Operating Limits

§ 62.14600a What emission limitations must I meet and by when?

(a) You must meet the emission limitations for each CISWI, including bypass stack or vent, specified in tables 4 through 7 to this subpart by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The emission limitations apply at all times the unit is operating including and not limited to startup, shutdown, or malfunction.

(b) Units that do not use wet scrubbers must maintain opacity to less than or equal to the percent opacity (three 1-hour blocks consisting of ten 6-minute average opacity values) specified in table 4 to this subpart, as applicable.

§ 62.14605a What operating limits must I meet and by when?

(a) If you use a wet scrubber to comply with the emission limitations, you must establish operating limits for up to four operating parameters (as specified in table 1 to this subpart) as described in paragraphs (a)(1) through (4) of this section during the initial performance test.

(1) Maximum charge rate, calculated using one of the two different procedures in paragraph (a)(1)(i) or (ii) of this section, as appropriate.

(i) For continuous and intermittent units, maximum charge rate is 110 percent of the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(ii) For batch units, maximum charge rate is 110 percent of the daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(2) Minimum pressure drop across the wet particulate matter scrubber, which is calculated as the lowest 1-hour average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as the lowest 1-hour average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(3) Minimum scrubber liquor flow rate, which is calculated as the lowest 1-hour average liquor flow rate at the inlet to the wet acid gas or particulate matter scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(4) Minimum scrubber liquor pH, which is calculated as the lowest 1-hour average liquor pH at the inlet to the wet acid gas scrubber measured during the most recent performance test demonstrating compliance with the hydrogen chloride (HCl) emission limitation.

(b) You must meet the operating limits established on the date that the performance test report is submitted to the EPA's Central Data Exchange or postmarked, per the requirements of § 62.14730a(b).

(c) If you use a fabric filter to comply with the emission limitations and you do not use a particulate matter (PM) continuous parameter monitoring system (CPMS) for monitoring PM compliance, you must operate each fabric filter system such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during any 6-month period. In calculating this operating time percentage, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm shall be counted as a minimum of 1 hour. If you take longer than 1 hour to initiate corrective action, the alarm time shall be counted as the actual amount of time taken by you to initiate corrective action.

(d) If you use an electrostatic precipitator (ESP) to comply with the emission limitations and you do not use a PM CPMS for monitoring PM compliance, you must measure the (secondary) voltage and amperage of the electrostatic precipitator collection plates during the particulate matter performance test. Calculate the average electric power value (secondary voltage x secondary current = secondary electric power) for each test run. The operating limit for the electrostatic precipitator is calculated as the lowest 1-hour average secondary electric power measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(e) If you use activated carbon sorbent injection to comply with the emission limitations, you must measure the sorbent flow rate during the performance testing. The operating limit for the carbon sorbent injection is calculated as the lowest 1-hour average sorbent flow rate

measured during the most recent performance test demonstrating compliance with the mercury emission limitations. For energy recovery units (ERU), when your unit operates at lower loads, multiply your sorbent injection rate by the load fraction, as defined in this subpart, to determine the required injection rate (*e.g.*, for 50 percent load, multiply the injection rate operating limit by 0.5).

(f) If you use selective noncatalytic reduction to comply with the emission limitations, you must measure the charge rate, the secondary chamber temperature (if applicable to your CISWI), and the reagent flow rate during the nitrogen oxides (NO_x) performance testing. The operating limits for the selective noncatalytic reduction are calculated as the highest 1-hour average charge rate, lowest secondary chamber temperature, and lowest reagent flow rate measured during the most recent performance test demonstrating compliance with the nitrogen oxides emission limitations.

(g) If you use a dry scrubber to comply with the emission limitations, you must measure the injection rate of each sorbent during the performance testing. The operating limit for the injection rate of each sorbent is calculated as the lowest 1-hour average injection rate of each sorbent measured during the most recent performance test demonstrating compliance with the hydrogen chloride emission limitations. For energy recovery units, when your unit operates at lower loads, multiply your sorbent injection rate by the load fraction, as defined in this subpart, to determine the required injection rate (*e.g.*, for 50 percent load, multiply the injection rate operating limit by 0.5).

(h) If you do not use a wet scrubber, electrostatic precipitator, or fabric filter to comply with the emission limitations, and if you do not determine compliance with your particulate

matter emission limitation with either a particulate matter CEMS or a particulate matter CPMS, you must maintain opacity to less than or equal to ten percent opacity (1-hour block average).

(i) If you use a PM CPMS to demonstrate compliance, you must establish your PM CPMS operating limit and determine compliance with it according to paragraphs (i)(1) through (5) of this section:

(1) During the initial performance test or any subsequent performance test that demonstrates compliance with the PM limit, record all hourly average output values (milliamps, or the digital signal equivalent) from the PM CPMS for the periods corresponding to the test runs (*e.g.*, three 1-hour average PM CPMS output values for three 1-hour test runs):

(i) Your PM CPMS must provide a 4-20 milliamp output, or the digital signal equivalent, and the establishment of its relationship to manual reference method measurements must be determined in units of milliamps or digital bits;

(ii) Your PM CPMS operating range must be capable of reading PM concentrations from zero to a level equivalent to at least two times your allowable emission limit. If your PM CPMS is an auto-ranging instrument capable of multiple scales, the primary range of the instrument must be capable of reading PM concentration from zero to a level equivalent to two times your allowable emission limit; and

(iii) During the initial performance test or any subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp output values, or their digital equivalent, from the PM CPMS for the periods corresponding to the compliance test runs (*e.g.*, average all your PM CPMS output values for three corresponding 2-hour Method 5 or Method 29 PM test runs).

(2) If the average of your three PM performance test runs are below 75 percent of your PM emission limit, you must calculate an operating limit by establishing a relationship of PM CPMS signal to PM concentration using the PM CPMS instrument zero, the average PM CPMS output values corresponding to the three compliance test runs, and the average PM concentration from the Method 5 or Method 29 performance test with the procedures in (i)(1) through (5) of this section:

(i) Determine your instrument zero output with one of the following procedures:

(A) Zero point data for *in-situ* instruments should be obtained by removing the instrument from the stack and monitoring ambient air on a test bench;

(B) Zero point data for extractive instruments should be obtained by removing the extractive probe from the stack and drawing in clean ambient air;

(C) The zero point can also be established by performing manual reference method measurements when the flue gas is free of PM emissions or contains very low PM concentrations (*e.g.*, when your process is not operating, but the fans are operating or your source is combusting only natural gas) and plotting these with the compliance data to find the zero intercept; and

(D) If none of the steps in paragraphs (i)(2)(i)(A) through (C) of this section are possible, you must use a zero output value provided by the manufacturer.

(ii) Determine your PM CPMS instrument average in milliamps, or the digital equivalent, and the average of your corresponding three PM compliance test runs, using equation 1 to this paragraph (i)(2)(ii):

Equation 1 to paragraph (i)(2)(ii)

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n X_i, \bar{y} = \frac{1}{n} \sum_{i=1}^n Y_i \quad (\text{Eq. 1})$$

Where:

- X_1 = the PM CPMS output data points for the three runs constituting the performance test,
- Y_1 = the PM concentration value for the three runs constituting the performance test, and
- n = the number of data points.

(iii) With your instrument zero expressed in milliamps, or the digital equivalent, your three run average PM CPMS milliamp value, or its digital equivalent, and your three run average PM concentration from your three compliance tests, determine a relationship of mg/dscm per milliamp or digital signal equivalent, with equation 2 to this paragraph (i)(2)(iii):

Equation 2 to paragraph (i)(2)(iii)

$$R = Z + \frac{Y_1}{(X_1 - z)} \quad (\text{Eq. 2})$$

Where:

- R = the relative mg/dscm per milliamp, or the digital equivalent, for your PM CPMS,
- Y_1 = the three run average mg/dscm PM concentration,
- X_1 = the three run average milliamp output, or the digital equivalent, from you PM CPMS, and
- Z = the milliamp or digital signal equivalent of your instrument zero determined from paragraph (i)(2)(i) of this section.

(iv) Determine your source specific 30-day rolling average operating limit using the mg/dscm per milliamp value, or per digital signal equivalent, from equation 2 to paragraph (i)(2)(iii) in equation 3 to this paragraph (i)(2)(iv), below. This sets your operating limit at the PM CPMS output value corresponding to 75 percent of your emission limit:

Equation 3 to paragraph (i)(2)(iv)

$$O_1 = Z + \frac{0.75(L)}{R} \quad (\text{Eq. 3})$$

Where:

- O_1 = the operating limit for your PM CPMS on a 30-day rolling average, in milliamps or their digital signal equivalent,
- L = your source emission limit expressed in mg/dscm,
- z = your instrument zero in milliamps or digital equivalent, determined from paragraph (i)(2)(i) of this section, and
- R = the relative mg/dscm per milliamp, or per digital signal output equivalent, for your PM CPMS, from equation 2 to paragraph (i)(2)(iii).

(3) If the average of your three PM compliance test runs is at or above 75 percent of your PM emission limit you must determine your operating limit by averaging the PM CPMS milliamp or digital signal output corresponding to your three PM performance test runs that demonstrate compliance with the emission limit using equation 4 to this paragraph (i)(3) and you must submit all compliance test and PM CPMS data according to the reporting requirements in paragraph (i)(5) of this section:

Equation 4 to paragraph (i)(3)

$$O_h = \frac{1}{n} \sum_{i=1}^n X_i \quad (\text{Eq. 4})$$

Where:

- X_i = the PM CPMS data points for all runs i ,
- n = the number of data points, and
- O_h = your site specific operating limit, in milliamps or digital signal equivalent.

(4) To determine continuous compliance, you must record the PM CPMS output data for all periods when the process is operating and the PM CPMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (*e.g.*, milliamps or digital signal bits, PM concentration, raw data signal) on a 30-day rolling average basis.

(5) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (*e.g.*, beta attenuation), span of the instruments primary analytical range, milliamp or digital signal value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp or digital signals corresponding to each PM compliance test run.

§ 62.14610a What if I do not use a wet scrubber, fabric filter, activated carbon injection, selective noncatalytic reduction, an electrostatic precipitator, or a dry scrubber to comply with the emission limitations?

If you use an air pollution control device other than a wet scrubber, activated carbon injection, selective noncatalytic reduction, fabric filter, an electrostatic precipitator, or a dry scrubber or limit emissions in some other manner, including mass balances, to comply with the emission limitations under § 62.14600a, you must petition the EPA Administrator for specific operating limits to be established during the initial performance test and continuously monitored thereafter. You must submit the petition at least sixty days before the performance test is scheduled to begin. Your petition must include the five items listed in paragraphs (a) through (e) of this section.

(a) Identification of the specific parameters you propose to use as additional operating limits.

(b) 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.

(c) 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.

(d) 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.

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

Performance Testing

§ 62.14615a How do I conduct the initial and annual performance test?

(a) All performance tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) You must document that the waste burned during the performance test is representative of the waste burned under normal operating conditions by maintaining a log of the quantity of waste burned (as required in § 62.14675a(b)(1)) and the types of waste burned during the performance test.

(c) All performance tests must be conducted using the minimum run duration specified in tables 4 through 7 to this subpart.

(d) Method 1 of 40 CFR part 60, appendix A-1 must be used to select the sampling location and number of traverse points.

(e) Method 3A of 40 CFR part 60, appendix A-1 must be used for gas composition analysis, including measurement of oxygen concentration. Method 3A must be used simultaneously with each method (except when using Method 9 of 40 CFR part 60, appendix A-4 and Method 22 of 40 CFR part 60, appendix A-7).

(f) All pollutant concentrations, except for opacity, must be adjusted to 7 percent oxygen using equation 5 to this paragraph (f):

Equation 5 to paragraph (f)

$$C_{adj} = C_{meas} (20.9-7)/(20.9-\%O_2) \quad (\text{Eq. 5})$$

Where:

- C_{adj} = pollutant concentration adjusted to 7 percent oxygen;
- C_{meas} = pollutant concentration measured on a dry basis;
- $(20.9-7)$ = 20.9 percent oxygen–7 percent oxygen (defined oxygen correction basis);
- 20.9 = oxygen concentration in air, percent; and
- $\%O_2$ = oxygen concentration measured on a dry basis, percent.

(g) You must determine dioxins/furans toxic equivalency by following the procedures in paragraphs (g)(1) through (4) of this section.

(1) Measure the concentration of each dioxin/furan (tetra- through octa-) isomer emitted using EPA Method 23 of 40 CFR part 60, appendix A-7.

(2) Quantify isomers meeting identification criteria in Section 11.4.3.4 of Method 23 of 40 CFR part 60, appendix A-7, regardless of whether the isomers meet identification criteria in Section 11.4.3.4.1 of Method 23. You must quantify the isomers per Section 11.4.3.5 of Method

23. [Note: You may reanalyze the sample aliquot or split to reduce the number of isomers not meeting identification criteria in Section 11.4.3.4 of Method 23.].

(3) For each dioxin/furan (tetra- through octa-chlorinated) isomer measured in accordance with paragraph (g)(1) and (2) of this section, multiply the isomer concentration by its corresponding toxic equivalency factor specified in table 2 to this subpart; and

(4) Sum the products calculated in accordance with paragraph (g)(3) of this section to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

(h) Method 22 of 40 CFR part 60, appendix A-7 must be used to determine compliance with the fugitive ash emission limit in table 4, 5, or 7 to this subpart.

(i) If you have an applicable opacity operating limit, you must determine compliance with the opacity limit using Method 9 of 40 CFR part 60, appendix A-4, based on three 1-hour blocks consisting of ten 6-minute average opacity values, unless you are required to install a continuous opacity monitoring system, consistent with § 62.14640a and § 62.14665a.

(j) You must determine dioxins/furans total mass basis by following the procedures in paragraphs (j)(1) through (3) of this section:

(1) Measure the concentration of each dioxin/furan tetra- through octa-chlorinated isomer emitted using EPA Method 23 of 40 CFR part 60, appendix A-7;

(2) Quantify isomers meeting identification criteria in Section 11.4.3.4 of Method 23 of 40 CFR part 60, appendix A-7, regardless of whether the isomers meet identification criteria in Section 11.4.3.4.1 of Method 23. (Note: You may reanalyze the sample aliquot or split to reduce the number of isomers not meeting identification criteria in Section 11.4.3.4 of Method 23.); and

(3) Sum the quantities measured in accordance with paragraphs (j)(1) and (2) of this section to obtain the total concentration of dioxins/furans emitted in terms of total mass basis.

§ 62.14620a How are the performance test data used?

You use results of performance tests to demonstrate compliance with the emission limitations in tables 4 through 7 to this subpart.

Initial Compliance Requirements

§ 62.14625a How do I demonstrate initial compliance with the emission limitations and establish the operating limits?

You must conduct an initial performance test to determine compliance with the emission limitations in tables 4 through 7 to this subpart, to establish compliance with any opacity operating limits in § 62.14605a(h), to establish the kiln-specific emission limit in § 62.14640a(y), as applicable, and to establish operating limits using the procedure in § 62.14605a or § 62.14610a. The initial performance test must be conducted using the test methods listed in tables 4 through 7 to this subpart and the procedures in § 62.14615a. The use of the bypass stack during a performance test shall invalidate the performance test.

As an alternative to conducting a performance test, as required under §§ 62.14615a and 62.14600a, you may use a 30-day rolling average of the 1-hour arithmetic average CEMS data, including CEMS data during startup and shutdown as defined in this subpart, to determine compliance with the emission limitations in tables 4 through 7 to this subpart. You must conduct a performance evaluation of each continuous monitoring system within 180 days of installation of the monitoring system. The initial performance evaluation must be conducted prior to collecting CEMS data that will be used for the initial compliance demonstration.

§ 62.14630a By what date must I conduct the initial performance test?

(a) The initial performance test must be conducted no later than 180 days after your final compliance date. Your final compliance date is [INSERT DATE 30 DAYS AFTER DATE OF

PUBLICATION IN THE FEDERAL REGISTER], or the date you restart your CISWI if later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) If you commence or recommence combusting a solid waste at an existing combustion unit at any commercial or industrial facility and you conducted a test consistent with the provisions of this subpart while combusting the given solid waste within the 6 months preceding the reintroduction of that solid waste in the combustion chamber, you do not need to retest until 6 months from the date you reintroduce that solid waste.

(c) If you commence or recommence combusting a solid waste at an existing combustion unit at any commercial or industrial facility and you have not conducted a performance test consistent with the provisions of this subpart while combusting the given solid waste within the 6 months preceding the reintroduction of that solid waste in the combustion chamber, you must conduct a performance test within 60 days from the date you reintroduce solid waste.

§ 62.14635a By what date must I conduct the initial air pollution control device inspection?

(a) The initial air pollution control device inspection must be conducted within 60 days after installation of the control device and the associated CISWI reaches the charge rate at which it will operate, but no later than 180 days after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Within 10 operating days following an air pollution control device inspection, all necessary repairs must be completed unless the owner or operator obtains written approval from the state agency establishing a date whereby all necessary repairs of the designated facility must be completed.

Continuous Compliance Requirements

§ 62.14640a How do I demonstrate continuous compliance with the emission limitations and the operating limits?

(a) *Compliance with standards.* (1) The emission standards and operating requirements set forth in this subpart apply at all times.

(2) If you cease combusting solid waste you may opt to remain subject to the provisions of this subpart. Consistent with the definition of CISWI, you are subject to the requirements of this subpart at least 6 months following the last date of solid waste combustion. Solid waste combustion is ceased when solid waste is not in the combustion chamber (*i.e.*, the solid waste feed to the combustor has been cut off for a period of time not less than the solid waste residence time).

(3) If you cease combusting solid waste you must be in compliance with any newly applicable standards on the effective date of the waste-to-fuel switch. The effective date of the waste-to-fuel switch is a date selected by you, that must be at least 6 months from the date that you ceased combusting solid waste, consistent with paragraph (a)(2) of this section. Your source must remain in compliance with this subpart until the effective date of the waste-to-fuel switch.

(4) If you own or operate an existing commercial or industrial combustion unit that combusted a fuel or non-waste material, and you commence or recommence combustion of solid waste, you are subject to the provisions of this subpart as of the first day you introduce or reintroduce solid waste to the combustion chamber, and this date constitutes the effective date of the fuel-to-waste switch. You must complete all initial compliance demonstrations for any Section 112 standards that are applicable to your facility before you commence or recommence combustion of solid waste. You must provide 30 days prior notice of the effective date of the waste-to-fuel switch. The notification must identify:

(i) The name of the owner or operator of the CISWI, the location of the source, the emissions unit(s) that will cease burning solid waste, and the date of the notice;

(ii) The currently applicable subcategory under this subpart, and any 40 CFR part 63 subpart and subcategory that will be applicable after you cease combusting solid waste;

(iii) The fuel(s), non-waste material(s) and solid waste(s) the CISWI is currently combusting and has combusted over the past 6 months, and the fuel(s) or non-waste materials the unit will commence combusting;

(iv) The date on which you became subject to the currently applicable emission limits;

(v) The date upon which you will cease combusting solid waste, and the date (if different) that you intend for any new requirements to become applicable (*i.e.*, the effective date of the waste-to-fuel switch), consistent with paragraphs (a)(2) and (3) of this section.

(5) All air pollution control equipment necessary for compliance with any newly applicable emissions limits which apply as a result of the cessation or commencement or recommencement of combusting solid waste must be installed and operational as of the effective date of the waste-to-fuel, or fuel-to-waste switch.

(6) All monitoring systems necessary for compliance with any newly applicable monitoring requirements which apply as a result of the cessation or commencement or recommencement of combusting solid waste must be installed and operational as of the effective date of the waste-to-fuel, or fuel-to-waste switch. All calibration and drift checks must be performed as of the effective date of the waste-to-fuel, or fuel-to-waste switch. Relative accuracy tests must be performed as of the performance test deadline for PM CEMS (if PM CEMS are elected to demonstrate continuous compliance with the particulate matter emission limits). Relative accuracy testing for other CEMS need not be repeated if that testing was previously

performed consistent with section 112 monitoring requirements or monitoring requirements under this subpart.

(b) You must conduct an annual performance test for the pollutants listed in tables 4 through 7 to this subpart and opacity for each CISWI as required under § 62.14615a. The annual performance test must be conducted using the test methods listed in tables 4 through 7 to this subpart and the procedures in § 62.14615a. Opacity must be measured using EPA Reference Method 9 of 40 CFR part 60, appendix A-4. Annual performance tests are not required if you use CEMS or continuous opacity monitoring systems to determine compliance.

(c) You must continuously monitor the operating parameters specified in § 62.14605a or established under § 62.14610a. Operation above the established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. Three-hour block average values are used to determine compliance (except for baghouse leak detection system alarms) unless a different averaging period is established under § 62.14610a or, for energy recovery units, where the averaging time for each operating parameter is a 30-day rolling average, calculated each hour as the average of the previous 720 operating hours. Operation above the established maximum, below the established minimum, or outside the allowable range of the operating limits specified in paragraph (a) of this section constitutes a deviation from your operating limits established under this subpart, except during performance tests conducted to determine compliance with the emission and operating limits or to establish new operating limits. Operating limits are confirmed or reestablished during performance tests.

(d) You must burn only the same types of waste and fuels used to establish subcategory applicability (for ERUs) and operating limits during the performance test.

(e) For energy recovery units, incinerators, and small remote units, you must perform annual visual emissions tests for ash handling.

(f) For energy recovery units, you must conduct an annual performance test for opacity using EPA Reference Method 9 of 40 CFR part 60, appendix A-4 (except where particulate matter continuous monitoring system or CPMS are used) and the pollutants listed in table 5 to this subpart.

(g) For facilities using a CEMS to demonstrate compliance with the carbon monoxide emission limit, compliance with the carbon monoxide emission limit may be demonstrated by using the CEMS, as described in § 60.14665a(o).

(h) Coal and liquid/gas energy recovery units with annual average heat input rates greater than 250 MMBtu/hr may elect to demonstrate continuous compliance with the particulate matter emissions limit using a particulate matter CEMS according to the procedures in § 62.14665a(n) instead of the CPMS specified in § 62.14640a(i). Coal and liquid/gas energy recovery units with annual average heat input rates less than 250 MMBtu/hr, incinerators, and small, remote incinerators may also elect to demonstrate compliance using a particulate matter CEMS according to the procedures in § 62.14665a(n) instead of particulate matter testing with EPA Method 5 of 40 CFR part 60, appendix A-3 and, if applicable, the continuous opacity monitoring requirements in paragraph (i) of this section.

(i) For energy recovery units with annual average heat input rates greater than or equal to 10 MMBtu/hr but less than 250 MMBtu/hr that do not use a wet scrubber, fabric filter with bag leak detection system, an electrostatic precipitator, particulate matter CEMS, or particulate matter CPMS, you must install, operate, certify and maintain a continuous opacity monitoring system (COMS) according to the procedures in § 62.14665a(m).

(j) For waste-burning kilns, you must conduct an annual performance test for the pollutants (except mercury and hydrogen chloride if no acid gas wet scrubber or dry scrubber is used) listed in table 6 to this subpart, unless you choose to demonstrate initial and continuous compliance using CEMS, as allowed in paragraph (u) of this section. If you do not use an acid gas wet scrubber or dry scrubber, you must determine compliance with the hydrogen chloride emissions limit using a HCl CEMS according to the requirements in paragraph (j)(1) of this section. You must determine compliance with the mercury emissions limit using a mercury CEMS or an integrated sorbent trap monitoring system according to paragraph (j)(2) of this section. You must determine compliance with particulate matter using a PM CPMS according to paragraph (x) of this section.

(1) If you monitor compliance with the HCl emissions limit by operating an HCl CEMS, you must do so in accordance with Performance Specification 15 (PS 15) of 40 CFR part 60, appendix B, or, PS 18 of 40 CFR part 60, appendix B. You must operate, maintain, and quality assure a HCl CEMS installed and certified under PS 15 according to the quality assurance requirements in Procedure 1 of 40 CFR part 60, appendix F except that the Relative Accuracy Test Audit requirements of Procedure 1 must be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of PS 15. You must operate, maintain and quality assure a HCl CEMS installed and certified under PS 18 according to the quality assurance requirements in Procedure 6 of 40 CFR part 60, appendix F. For any performance specification that you use, you must use Method 321 of 40 CFR part 63, appendix A as the reference test method for conducting relative accuracy testing. The span value and calibration requirements in paragraphs (j)(1)(i) and (ii) of this section apply to all HCl CEMS used under this subpart:

(i) You must use a measurement span value for any HCl CEMS of 0-10 ppmvw unless the monitor is installed on a kiln without an inline raw mill. Kilns without an inline raw mill may use a higher span value sufficient to quantify all expected emissions concentrations. The HCl CEMS data recorder output range must include the full range of expected HCl concentration values which would include those expected during “mill off” conditions. The corresponding data recorder range shall be documented in the site-specific monitoring plan and associated records;

(ii) In order to quality assure data measured above the span value, you must use one of the three options in paragraphs (j)(1)(ii)(A) through (C) of this section:

(A) Include a second span that encompasses the HCl emission concentrations expected to be encountered during “mill off” conditions. This second span may be rounded to a multiple of 5 ppm of total HCl. The requirements of the appropriate HCl monitor performance specification shall be followed for this second span with the exception that a RATA with the mill off is not required;

(B) Quality assure any data above the span value by proving instrument linearity beyond the span value established in paragraph (j)(1)(i) of this section using the following procedure. Conduct a weekly “above span linearity” calibration challenge of the monitoring system using a reference gas with a certified value greater than your highest expected hourly concentration or greater than 75 percent of the highest measured hourly concentration. The “above span” reference gas must meet the requirements of the applicable performance specification and must be introduced to the measurement system at the probe. Record and report the results of this procedure as you would for a daily calibration. The “above span linearity” challenge is successful if the value measured by the HCl CEMS falls within 10 percent of the certified value of the reference gas. If the value measured by the HCl CEMS during the above span linearity

challenge exceeds 10 percent of the certified value of the reference gas, the monitoring system must be evaluated and repaired and a new “above span linearity” challenge met before returning the HCl CEMS to service, or data above span from the HCl CEMS must be subject to the quality assurance procedures established in (j)(1)(ii)(D) of this section. In this manner values measured by the HCl CEMS during the above span linearity challenge exceeding +/-20 percent of the certified value of the reference gas must be normalized using equation 6 to paragraph (j)(1)(ii)(D);

(C) Quality assure any data above the span value established in paragraph (j)(1)(i) of this section using the following procedure. Any time two consecutive one-hour average measured concentration of HCl exceeds the span value you must, within 24 hours before or after, introduce a higher, “above span” HCl reference gas standard to the HCl CEMS. The “above span” reference gas must meet the requirements of the applicable performance specification and target a concentration level between 50 and 150 percent of the highest expected hourly concentration measured during the period of measurements above span, and must be introduced at the probe. While this target represents a desired concentration range that is not always achievable in practice, it is expected that the intent to meet this range is demonstrated by the value of the reference gas. Expected values may include above span calibrations done before or after the above-span measurement period. Record and report the results of this procedure as you would for a daily calibration. The “above span” calibration is successful if the value measured by the HCl CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the HCl CEMS is not within 20 percent of the certified value of the reference gas, then you must normalize the stack gas values measured above span as described in paragraph (j)(1)(ii)(D) of this section. If the “above span” calibration is conducted during the period when measured

emissions are above span and there is a failure to collect the one data point in an hour due to the calibration duration, then you must determine the emissions average for that missed hour as the average of hourly averages for the hour preceding the missed hour and the hour following the missed hour. In an hour where an “above span” calibration is being conducted and one or more data points are collected, the emissions average is represented by the average of all valid data points collected in that hour; and

(D) In the event that the “above span” calibration is not successful (*i.e.*, the HCl CEMS measured value is not within 20 percent of the certified value of the reference gas), then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the “above span” calibration for reporting based on the HCl CEMS response to the reference gas as shown in equation 6 to this paragraph (j)(1)(ii)(D):

Equation 6 to paragraph (j)(1)(ii)(D)

$$\frac{\text{Certified reference gas value}}{\text{Measured value of reference gas}} = \text{Measured stack gas} = \text{Normalized stack gas result} \quad (\text{Eq. 6})$$

Only one “above span” calibration is needed per 24-hour period.

(2) Compliance with the mercury emissions limit must be determined using a mercury CEMS or integrated sorbent trap monitoring system according to the following requirements:

(i) You must operate a mercury CEMS in accordance with performance specification 12A of 40 CFR part 60, appendix B or an integrated sorbent trap monitoring system in accordance with performance specification 12B of 40 CFR part 60, appendix B; these monitoring systems must be quality assured according to procedure 5 of appendix F to 40 CFR 60. For the purposes of emissions calculations when using an integrated sorbent trap monitoring system, the mercury concentration determined for each sampling period must be assigned to each hour during the

sampling period. If you choose to comply with the production-rate based mercury limit for your waste-burning kiln, you must also monitor hourly clinker production and determine the hourly mercury emissions rate in pounds per million ton of clinker produced. You must demonstrate compliance with the mercury emissions limit using a 30-day rolling average of these 1-hour mercury concentrations or mass emissions rates, including CEMS data during startup and shutdown as defined in this subpart, calculated using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7. CEMS data during startup and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are measured at stack oxygen content;

(ii) Owners or operators using a mercury CEMS or integrated sorbent trap monitoring system to determine mass emission rate must install, operate, calibrate and maintain an instrument for continuously measuring and recording the mercury mass emissions rate to the atmosphere according to the requirements of performance specification 6 of 40 CFR part 60, appendix B and conducting an annual relative accuracy test of the continuous emission rate monitoring system according to section 8.2 of performance specification 6; and

(iii) The owner or operator of a waste-burning kiln must demonstrate initial compliance by operating a mercury CEMS or integrated sorbent trap monitoring system while the raw mill of the in-line kiln/raw mill is operating under normal conditions and including at least one period when the raw mill is off.

(k) If you use an air pollution control device to meet the emission limitations in this subpart, you must conduct an initial and annual inspection of the air pollution control device.

The inspection must include, at a minimum, the following:

(1) Inspect air pollution control device(s) for proper operation; and

(2) Develop a site-specific monitoring plan according to the requirements in paragraph (1) of this section. This requirement also applies to you if you petition the EPA Administrator for alternative monitoring parameters under § 60.13(i).

(1) For each CMS required in this section, you must develop and submit to the EPA Administrator for approval a site-specific monitoring plan according to the requirements of this paragraph (1) that addresses paragraphs (1)(1)(i) through (vi) of this section:

(1) You must submit this site-specific monitoring plan at least 60 days before your initial performance evaluation of your continuous monitoring system:

(i) Installation of the continuous monitoring system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(ii) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer and the data collection and reduction systems;

(iii) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations);

(iv) Ongoing operation and maintenance procedures in accordance with the general requirements of § 60.11(d);

(v) Ongoing data quality assurance procedures in accordance with the general requirements of § 60.13; and

(vi) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 60.7(b),(c) introductory text, (c)(1), (c)(4), (d), (e), (f) and (g).

(2) You must conduct a performance evaluation of each continuous monitoring system in accordance with your site-specific monitoring plan.

(3) You must operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.

(m) If you have an operating limit that requires the use of a flow monitoring system, you must meet the requirements in paragraphs (l) and (m)(1) through (4) of this section:

(1) Install the flow sensor and other necessary equipment in a position that provides a representative flow;

(2) Use a flow sensor with a measurement sensitivity at full scale of no greater than 2 percent;

(3) Minimize the effects of swirling flow or abnormal velocity distributions due to upstream and downstream disturbances; and

(4) Conduct a flow monitoring system performance evaluation in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(n) If you have an operating limit that requires the use of a pressure monitoring system, you must meet the requirements in paragraphs (l) and (n)(1) through (6) of this section:

(1) Install the pressure sensor(s) in a position that provides a representative measurement of the pressure (*e.g.*, PM scrubber pressure drop);

(2) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion;

(3) Use a pressure sensor with a minimum tolerance of 1.27 centimeters of water or a minimum tolerance of 1 percent of the pressure monitoring system operating range, whichever is less;

(4) Perform checks at the frequency outlined in your site-specific monitoring plan to ensure pressure measurements are not obstructed (*e.g.*, check for pressure tap plugging daily);

(5) Conduct a performance evaluation of the pressure monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually; and

(6) If at any time the measured pressure exceeds the manufacturer's specified maximum operating pressure range, conduct a performance evaluation of the pressure monitoring system in accordance with your monitoring plan and confirm that the pressure monitoring system continues to meet the performance requirements in your monitoring plan. Alternatively, install and verify the operation of a new pressure sensor.

(o) If you have an operating limit that requires a pH monitoring system, you must meet the requirements in paragraphs (l) and (o)(1) through (4) of this section:

(1) Install the pH sensor in a position that provides a representative measurement of scrubber effluent pH;

(2) Ensure the sample is properly mixed and representative of the fluid to be measured;

(3) Conduct a performance evaluation of the pH monitoring system in accordance with your monitoring plan at least once each process operating day; and

(4) Conduct a performance evaluation (including a two-point calibration with one of the two buffer solutions having a pH within 1 of the pH of the operating limit) of the pH monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than quarterly.

(p) If you have an operating limit that requires a secondary electric power monitoring system for an electrostatic precipitator, you must meet the requirements in paragraphs (l) and (p)(1) and (2) of this section:

(1) Install sensors to measure (secondary) voltage and current to the precipitator collection plates; and

(2) Conduct a performance evaluation of the electric power monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(q) If you have an operating limit that requires the use of a monitoring system to measure sorbent injection rate (*e.g.*, weigh belt, weigh hopper, or hopper flow measurement device), you must meet the requirements in paragraphs (1) and (q)(1) and (2) of this section:

(1) Install the system in a position(s) that provides a representative measurement of the total sorbent injection rate; and

(2) Conduct a performance evaluation of the sorbent injection rate monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(r) If you elect to use a fabric filter bag leak detection system to comply with the requirements of this subpart, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (1) and (r)(1) through (5) of this section:

(1) Install a bag leak detection sensor(s) in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent, or compartment (*e.g.*, for a positive pressure fabric filter) of the fabric filter;

(2) Use a bag leak detection system certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less;

(3) Conduct a performance evaluation of the bag leak detection system in accordance with your monitoring plan and consistent with the guidance provided in “Fabric Filter Bag Leak Detection Guidance,” (EPA-454/R-98-015, September 1997, see paragraph (z) of this section);

(4) Use a bag leak detection system equipped with a device to continuously record the output signal from the sensor; and

(5) Use a bag leak detection system equipped with a system that will sound an alarm when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located where it is observed readily by plant operating personnel.

(s) For facilities using a CEMS to demonstrate initial and continuous compliance with the sulfur dioxide (SO₂) emission limit, compliance with the sulfur dioxide emission limit may be demonstrated by using the CEMS specified in § 62.14665a(1) to measure sulfur dioxide. The sulfur dioxide CEMS must follow the procedures and methods specified in paragraph (s) of this section. For sources that have actual inlet emissions less than 100 parts per million dry volume, the relative accuracy criterion for inlet sulfur dioxide CEMS should be no greater than 20 percent of the mean value of the reference method test data in terms of the units of the emission standard, or 5 parts per million dry volume absolute value of the mean difference between the reference method and the CEMS, whichever is greater:

(1) During each relative accuracy test run of the CEMS required by performance specification 2 of 40 CFR part 60, appendix B, collect sulfur dioxide and oxygen (or carbon dioxide) data concurrently (or within a 30- to 60-minute period) with both the CEMS and the test methods specified in paragraphs (s)(1)(i) and (ii) of this section:

(i) For sulfur dioxide, EPA Reference Method 6 or 6C of 40 CFR part 60, appendix A-4, or as an alternative ANSI/ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus] must be used (see paragraph (z) of this section); and

(ii) For oxygen (or carbon dioxide), EPA Reference Method 3A of 40 CFR part 60, appendix A-2, or as an alternative ANSI/ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], as applicable, must be used (see paragraph (z) of this section).

(2) The span value of the CEMS at the inlet to the sulfur dioxide control device must be 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the unit subject to this rule. The span value of the CEMS at the outlet of the sulfur dioxide control device must be 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the unit subject to this rule.

(3) Conduct accuracy determinations quarterly and calibration drift tests daily in accordance with procedure 1 of 40 CFR part 60, appendix F.

(t) For facilities using a CEMS to demonstrate initial and continuous compliance with the nitrogen oxides emission limit, compliance with the nitrogen oxides emission limit may be demonstrated by using the CEMS specified in § 62.14665a to measure nitrogen oxides. The nitrogen oxides CEMS must follow the procedures and methods specified in paragraphs (t)(1) through (4) of this section:

(1) During each relative accuracy test run of the CEMS required by performance specification 2 of 40 CFR part 60, appendix B collect nitrogen oxides and oxygen (or carbon dioxide) data concurrently (or within a 30- to 60-minute period) with both the CEMS and the test methods specified in paragraphs (t)(1)(i) and (ii) of this section:

(i) For nitrogen oxides, EPA Reference Method 7 or 7E of 40 CFR part 60, appendix A-4 must be used; and

(ii) For oxygen (or carbon dioxide), EPA Reference Method 3A of 40 CFR part 60, appendix A-2, or as an alternative ANSI/ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], as applicable, must be used (see paragraph (z) of this section).

(2) The span value of the CEMS must be 125 percent of the maximum estimated hourly potential nitrogen oxide emissions of unit.

(3) Conduct accuracy determinations quarterly and calibration drift tests daily in accordance with procedure 1 of 40 CFR part 60, appendix F.

(4) The owner or operator of an affected facility may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels must be established during the initial performance test according to the procedures and methods specified in paragraphs (t)(4)(i) through (iv) of this section. This relationship may be reestablished during performance compliance tests:

(i) The fuel factor equation in Method 3B of 40 CFR part 60, appendix A-2 must be used to determine the relationship between oxygen and carbon dioxide at a sampling location. Method 3A of 40 CFR part 60, appendix A-2, or as an alternative ANSI/ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], as applicable, must be used to determine the oxygen concentration at the same location as the carbon dioxide monitor (see paragraph (z) of this section);

(ii) Samples must be taken for at least 30 minutes in each hour;

(iii) Each sample must represent a 1-hour average; and

(iv) A minimum of 3 runs must be performed.

(u) For facilities using a CEMS or an integrated sorbent trap monitoring system for mercury to demonstrate initial and continuous compliance with any of the emission limits of this subpart, you must complete the following:

(1) Demonstrate compliance with the appropriate emission limit(s) using a 30-day rolling average of 1-hour arithmetic average emission concentrations, including CEMS or an integrated sorbent trap monitoring system data during startup and shutdown, as defined in this subpart, calculated using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7. The 1-hour arithmetic averages for CEMS must be calculated using the data points required under § 60.13(e)(2). Except for CEMS or an integrated sorbent trap monitoring system data during startup and shutdown, the 1-hour arithmetic averages used to calculate the 30-day rolling average emission concentrations must be corrected to 7 percent oxygen (dry basis). Integrated sorbent trap monitoring system or CEMS data during startup and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are measured at stack oxygen content; and

(2) Operate all CEMS and integrated sorbent trap monitoring systems in accordance with the applicable procedures under of 40 CFR part 60, appendices B and F.

(v) Use of the bypass stack at any time is an emissions standards deviation for PM, HCl, lead, cadmium, mercury, nitrogen oxides, sulfur dioxide, and dioxin/furans.

(w) For energy recovery units with a design heat input capacity of 100 MMBtu/hr or greater that do not use a carbon monoxide CEMS, you must install, operate, and maintain an

oxygen analyzer system as defined in § 62.14785a according to the procedures in paragraphs (w)(1) through (4) of this section:

(1) The oxygen analyzer system must be installed by the initial performance test date specified in § 62.14605a;

(2) You must operate the oxygen trim system within compliance with paragraph (w)(3) of this section at all times;

(3) You must maintain the oxygen level such that the 30-day rolling average that is established as the operating limit for oxygen is not below the lowest hourly average oxygen concentration measured during the most recent CO performance test; and

(4) You must calculate and record a 30-day rolling average oxygen concentration using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7.

(x) For energy recovery units with annual average heat input rates greater than or equal to 250 MMBtu/hr and waste-burning kilns, you must install, calibrate, maintain, and operate a PM CPMS and record the output of the system as specified in paragraphs (x)(1) through (8) of this section. For other energy recovery units, you may elect to use PM CPMS operated in accordance with this section. PM CPMS are suitable in lieu of using other CMS for monitoring PM compliance (*e.g.*, bag leak detectors, electrostatic precipitator secondary power, PM scrubber pressure):

(1) Install, calibrate, operate, and maintain your PM CPMS according to the procedures in your approved site-specific monitoring plan developed in accordance with paragraphs (l) and (x)(1)(i) through (iii) of this section:

(i) The operating principle of the PM CPMS must be based on in-stack or extractive light scatter, light scintillation, beta attenuation, or mass accumulation of the exhaust gas or

representative sample. The reportable measurement output from the PM CPMS must be expressed as milliamps or the digital signal equivalent;

(ii) The PM CPMS must have a cycle time (*i.e.*, period required to complete sampling, measurement, and reporting for each measurement) no longer than 60 minutes; and

(iii) The PM CPMS must be capable of detecting and responding to particulate matter concentrations increments no greater than 0.5 mg/actual cubic meter.

(2) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, you must adjust the site-specific operating limit in accordance with the results of the performance test according to the procedures specified in § 62.14605a.

(3) Collect PM CPMS hourly average output data for all energy recovery unit or waste-burning kiln operating hours. Express the PM CPMS output as milliamps or the digital signal equivalent.

(4) Calculate the arithmetic 30-day rolling average of all of the hourly average PM CPMS output collected during all energy recovery unit or waste-burning kiln operating hours data (milliamps or their digital equivalent).

(5) You must collect data using the PM CPMS at all times the energy recovery unit or waste-burning kiln is operating and at the intervals specified in paragraph (x)(1)(ii) of this section, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in your site-specific monitoring plan.

(6) You must use all the data collected during all energy recovery unit or waste-burning kiln operating hours in assessing the compliance with your operating limit except:

(i) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions are not used in calculations (report any such periods in your annual deviation report);

(ii) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods are not used in calculations (report emissions or operating levels and report any such periods in your annual deviation report);

(iii) Any PM CPMS data recorded during periods of CEMS data during startup and shutdown, as defined in this subpart.

(7) You must record and make available upon request results of PM CPMS system performance audits, as well as the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with your site-specific monitoring plan.

(8) For any deviation of the 30-day rolling average PM CPMS average value from the established operating parameter limit, you must:

(i) Within 48 hours of the deviation, visually inspect the air pollution control device;

(ii) If inspection of the air pollution control device identifies the cause of the deviation, take corrective action as soon as possible and return the PM CPMS measurement to within the established value;

(iii) Within 30 days of the deviation or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit. Within 45 days of the deviation, you must re-establish the CPMS operating limit. You are not required to conduct additional testing for any deviations that occur between the time of the original deviation and the PM emissions compliance test required under paragraph (x) of this section; and

(iv) PM CPMS deviations leading to more than four required performance tests in a 12-month process operating period (rolling monthly) constitute a violation of this subpart.

(y) When kiln emissions are emitted through multiple stacks (*e.g.*, there is an alkali bypass and/or an in-line coal mill that exhaust emissions through a separate stack(s)), the combined emissions are subject to the emission limits applicable to waste-burning kilns. To determine the kiln-specific emission limit for demonstrating compliance, you must:

(1) Calculate a kiln-specific emission limit using equation 7 to this paragraph (y)(1):

Equation 7 to paragraph (y)(1)

$$C_{ks} = \frac{(Emission\ Limit \times \sum_1^n Q_i) - \sum_1^m (Q_i \times C_i)}{Q_{ks}} \quad (Eq. 7)$$

Where:

- C_{ks} = Kiln stack concentration (ppmvd, mg/dscm, ng/dscm, depending on pollutant. Each corrected to 7% O₂.)
- Q_{ks} = Kiln stack flow rate (volume/hr).
- Q_i = Flow rate of stack *i* (volume/hr).
- n* = Number of stacks kiln emissions are being emitted from including the kiln stack.
- m* = Number of stacks excluding the kiln stack that kiln emissions are being emitted from.
- C_i = Concentration in stack *i* (ppmvd, mg/dscm, ng/dscm, depending on pollutant).

Each corrected to 7% O₂.)

(2) Particulate matter concentration must be measured downstream of the in-line coal mill. All other pollutant concentrations must be measured either upstream or downstream of the in-line coal mill.

(3) For purposes of determining the combined emissions from kilns equipped with an alkali bypass or that exhaust kiln gases to a coal mill that exhausts through a separate stack, instead of installing a CEMS or PM CPMS on the alkali bypass stack or in-line coal mill stack, the results of the initial and subsequent performance test can be used to demonstrate compliance with the relevant emissions limit. A performance test must be conducted on an annual basis (between 11 and 13 calendar months following the previous performance test).

(z) *Incorporation by reference.* These standards are incorporated by reference into this section with the approval of the Director of the *Federal Register* in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 272-0167, <http://www.epa.gov>. You may also inspect a copy at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(1) American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, NY 10016-5990 (Phone: 1-800-843-2763; Website: <https://www.asme.org/>).

(i) ANSI/ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus].

(2) ASTM Int'l, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106 (Phone: 1-877-909-2786; Website: <http://www.astm.org/>).

(i) ASTM D6784-24 Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), approved April 16, 2024.

(3) U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 272-0167, <http://www.epa.gov>.

(i) OAQPS Fabric Filter Bag Leak Detection Guidance, EPA-454/R-98-015, September 1997.

§ 62.14645a By what date must I conduct the annual performance test?

You must conduct annual performance tests between 11 and 13 calendar months of the previous performance test.

§ 62.14650a By what date must I conduct the annual air pollution control device inspection?

On an annual basis (no more than 12 months following the previous annual air pollution control device inspection), you must complete the air pollution control device inspection as described in § 62.14635a.

§ 62.14655a May I conduct performance testing less often?

(a) You must conduct annual performance tests according to the schedule specified in § 62.14645a, with the following exceptions:

(1) You may conduct a repeat performance test at any time to establish new values for the operating limits, as specified in § 62.14660a. New operating limits become effective on the date

that the performance test report is submitted to the EPA's Central Data Exchange or postmarked, per the requirements of § 62.14730a(b). The Administrator may request a repeat performance test at any time;

(2) You must repeat the performance test within 60 days of a process change, as defined in § 62.14780a; and

(3) You can conduct performance tests less often if you meet the following conditions: your performance tests for the pollutant for at least 2 consecutive performance tests demonstrates that the emission level for the pollutant is no greater than the emission level specified in paragraph (a)(3)(i) or (a)(3)(ii) of this section, as applicable; there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions; and you are not required to conduct a performance test for the pollutant in response to a request by the Administrator in paragraph (a)(1) of this section or a process change in paragraph (a)(2) of this section. In this case, you do not have to conduct a performance test for that pollutant for the next 2 years. You must conduct a performance test for the pollutant no more than 37 months following the previous performance test for the pollutant. If the emission level for your CISWI continues to meet the emission level specified in paragraph (a)(3)(i) or (a)(3)(ii) of this section, as applicable, you may choose to conduct performance tests for the pollutant every third year, as long as there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions. Each such performance test must be conducted no more than 37 months after the previous performance test.

(i) For particulate matter, hydrogen chloride, mercury, carbon monoxide, nitrogen oxides, sulfur dioxide, cadmium, lead, and dioxins/furans, the emission level equal to 75 percent of the applicable emission limit in tables 4 through 7 to this subpart, as applicable; and

(ii) For fugitive emissions, visible emissions (of combustion ash from the ash conveying system) for 2 percent of the time during each of the three 1-hour observation periods.

(4) If you are conducting less frequent testing for a pollutant as provided in paragraph (a)(3) of this section and a subsequent performance test for the pollutant indicates that your CISWI does not meet the emission level specified in paragraph (a)(3)(i) or (a)(3)(ii) of this section, as applicable, you must conduct annual performance tests for the pollutant according to the schedule specified in paragraph (a) of this section until you qualify for less frequent testing for the pollutant as specified in paragraph (a)(3) of this section.

§ 62.14660a May I conduct a repeat performance test to establish new operating limits?

(a) Yes. You may conduct a repeat performance test at any time to establish new values for the operating limits. The Administrator may request a repeat performance test at any time.

(b) You must repeat the performance test if your feed stream is different than the feed streams used during any performance test used to demonstrate compliance.

Monitoring

§ 62.14665a What monitoring equipment must I install and what parameters must I monitor?

(a) If you are using a wet scrubber to comply with the emission limitation under § 62.14600a, you must install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in table 1 to this subpart. These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in table 1 to this subpart at all times except as specified in § 62.14670a(a).

(b) If you use a fabric filter to comply with the requirements of this subpart and you do not use a PM CPMS or PM CEMS for monitoring PM compliance, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (b)(1) through (8) of this section.

(1) You must install and operate a bag leak detection system for each exhaust stack of the fabric filter.

(2) Each bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(3) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

(4) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings.

(5) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(6) The bag leak detection system must be equipped with an alarm system that will alert automatically an operator when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located where it is observed easily by plant operating personnel.

(7) For positive pressure fabric filter systems, a bag leak detection system must be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(c) If you are using something other than a wet scrubber, activated carbon, selective non-catalytic reduction, an electrostatic precipitator, or a dry scrubber to comply with the emission limitations under § 62.14600a, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in § 62.14610a.

(d) If you use activated carbon injection to comply with the emission limitations in this subpart, you must measure the minimum sorbent flow rate once per hour.

(e) If you use selective noncatalytic reduction to comply with the emission limitations, you must complete the following:

(1) Following the date on which the initial performance test is completed or is required to be completed under § 62.14615a, whichever date comes first, ensure that the affected facility does not operate above the maximum charge rate, or below the minimum secondary chamber temperature (if applicable to your CISWI) or the minimum reagent flow rate measured as 3-hour block averages at all times; and

(2) Operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature and below the minimum reagent flow rate simultaneously constitute a violation of the nitrogen oxides emissions limit.

(f) If you use an electrostatic precipitator to comply with the emission limits of this subpart and you do not use a PM CPMS for monitoring PM compliance, you must monitor the secondary power to the electrostatic precipitator collection plates and maintain the 3-hour block

averages at or above the operating limits established during the mercury or particulate matter performance test.

(g) For waste-burning kilns not equipped with a wet scrubber or dry scrubber, you must install, calibrate, maintain, and operate a CEMS for monitoring hydrogen chloride emissions discharged to the atmosphere, as specified in § 62.14640a(j) of this subpart, and record the output of the system. You may substitute use of a HCl CEMS for conducting the HCl initial and annual testing with EPA Method 321 of 40 CFR part 63, appendix A. for units other than waste-burning kilns not equipped with a wet scrubber or dry scrubber, a facility may substitute use of a HCl CEMS for conducting the HCl initial and annual performance test. For units equipped with a HCl CEMS, you are not required to monitor the minimum hydrogen chloride sorbent flow rate, monitoring the minimum scrubber liquor pH, and monitoring minimum injection rate.

(h) To demonstrate continuous compliance with the particulate matter emissions limit, a facility may substitute use of either a particulate matter CEMS or a particulate matter CPMS for conducting the particulate matter annual performance test. For units equipped with a particulate matter CEMS, you are not required to use other CMS monitoring for PM compliance (*e.g.*, bag leak detectors, electrostatic precipitator secondary power, PM scrubber pressure). A facility may also substitute use of a particulate matter CEMS for conducting the PM initial performance test.

(i) To demonstrate initial and continuous compliance with the dioxin/furan emissions limit, a facility may substitute use of a continuous automated sampling system for the dioxin/furan initial and annual performance test. You must record the output of the system and analyze the sample according to EPA Method 23 of 40 CFR part 60, appendix A-7. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to dioxin/furan from continuous monitors is published in the **Federal**

Register. The owner or operator who elects to continuously sample dioxin/furan emissions instead of sampling and testing using EPA Method 23 must install, calibrate, maintain and operate a continuous automated sampling system and must comply with the requirements specified in § 60.58b(p) and (q). A facility may substitute continuous dioxin/furan monitoring for the minimum sorbent flow rate, if activated carbon sorbent injection is used solely for compliance with the dioxin/furan emission limit.

(j) To demonstrate initial and continuous compliance with the mercury emissions limit, a facility may substitute use of a mercury CEMS or an integrated sorbent trap monitoring system for the mercury initial and annual performance test. The owner or operator who elects to continuously sample mercury emissions instead of sampling and testing using EPA Method 29 or 30B of 40 CFR part 60, appendix A-8, ASTM D6784-24 (see § 62.14640a(z)), or an approved alternative method for measuring mercury emissions, must install, calibrate, maintain and operate the mercury CEMS or integrated sorbent trap monitoring system and must comply with performance specification 12A or performance specification 12B of 40 CFR part 60, appendix B, respectively, and quality assurance procedure 5 of 40 CFR part 60, appendix F. For the purposes of emissions calculations when using an integrated sorbent trap monitoring system, the mercury concentration determined for each sampling period must be assigned to each hour during the sampling period. For units equipped with a mercury CEMS or an integrated sorbent trap monitoring system, you are not required to monitor the minimum sorbent flow rate, if activated carbon sorbent injection is used solely for compliance with the mercury emission limit. Waste-burning kilns must install, calibrate, maintain, and operate a mercury CEMS or an integrated sorbent trap monitoring system as specified in § 62.14640a(j) of this subpart.

(k) To demonstrate initial and continuous compliance with the nitrogen oxides emissions limit, a facility may substitute use of a CEMS for the nitrogen oxides initial and annual performance test to demonstrate compliance with the nitrogen oxides emissions limits. For units equipped with a nitrogen oxides CEMS, you are not required to monitor the charge rate, secondary chamber temperature and reagent flow for selective noncatalytic reduction, if applicable:

(1) Install, calibrate, maintain and operate a CEMS for measuring nitrogen oxides emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 2 of 40 CFR part 60, appendix B, the quality assurance procedure 1 of 40 CFR part 60, appendix F and the procedures under § 60.13 must be followed for installation, evaluation and operation of the CEMS; and

(2) Compliance with the emission limit for nitrogen oxides must be determined based on the 30-day rolling average of the hourly emission concentrations using CEMS outlet data, as outlined in § 62.14640a(u).

(l) To demonstrate initial and continuous compliance with the sulfur dioxide emissions limit, a facility may substitute use of a CEMS for the sulfur dioxide initial and annual performance test to demonstrate compliance with the sulfur dioxide emissions limits:

(1) Install, calibrate, maintain and operate a CEMS for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 2 of 40 CFR part 60, appendix B, the quality assurance requirements of procedure 1 of 40 CFR part 60, appendix F and the procedures under § 60.13 must be followed for installation, evaluation and operation of the CEMS; and

(2) Compliance with the sulfur dioxide emission limit shall be determined based on the 30-day rolling average of the hourly arithmetic average emission concentrations using CEMS outlet data, as outlined in § 62.14640a(u).

(m) For energy recovery units over 10 MMBtu/hr but less than 250 MMBtu/hr annual average heat input rates that do not use a wet scrubber, fabric filter with bag leak detection system, an electrostatic precipitator, particulate matter CEMS, or particulate matter CPMS, you must install, operate, certify and maintain a continuous opacity monitoring system according to the procedures in paragraphs (m)(1) through (5) of this section by the compliance date specified in § 62.14600a. Energy recovery units that use a particulate matter CEMS to demonstrate initial and continuing compliance according to the procedures in § 62.14665a(n) are not required to install a continuous opacity monitoring system and must perform the annual performance tests for opacity consistent with § 62.14640a(f):

(1) Install, operate and maintain each continuous opacity monitoring system according to performance specification 1 of 40 CFR part 60, appendix B;

(2) Conduct a performance evaluation of each continuous opacity monitoring system according to the requirements in § 60.13 and according to performance specification 1 of 40 CFR part 60, appendix B;

(3) As specified in § 60.13(e)(1), each continuous opacity monitoring system must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period;

(4) Reduce the continuous opacity monitoring system data as specified in § 60.13(h)(1);
and

(5) Determine and record all the 6-minute averages (and 1-hour block averages as applicable) collected.

(n) For coal and liquid/gas energy recovery units, incinerators, and small remote incinerators, an owner or operator may elect to install, calibrate, maintain and operate a CEMS for monitoring particulate matter emissions discharged to the atmosphere and record the output of the system. The owner or operator of an affected facility who continuously monitors particulate matter emissions instead of conducting performance testing using EPA Method 5 of 40 CFR part 60, appendix A-3, or monitoring with a particulate matter CPMS according to paragraph (r) of this section, must install, calibrate, maintain and operate a PM CEMS and must comply with the requirements specified in paragraphs (n)(1) through (10) of this section:

(1) The PM CEMS must be installed, evaluated and operated in accordance with the requirements of performance specification 11 of 40 CFR part 60, appendix B and quality assurance requirements of procedure 2 of 40 CFR part 60, appendix F and § 60.13;

(2) The initial performance evaluation must be completed no later than 180 days after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], as specified under § 62.14615a or within 180 days of notification to the Administrator of use of the continuous monitoring system if the owner or operator was previously determining compliance by Method 5 of 40 CFR part 60, appendix A-3 performance tests, whichever is later;

(3) The owner or operator of an affected facility may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. The relationship between oxygen and carbon dioxide levels

for the affected facility must be established according to the procedures and methods specified in § 62.14640a(t)(4)(i) through (iv);

(4) The owner or operator of an affected facility must conduct an initial performance test for particulate matter emissions. If PM CEMS are elected for demonstrating compliance, and the initial performance test has not yet been conducted, then initial compliance must be determined by using the CEMS specified in paragraph (n) of this section to measure particulate matter. You must calculate a 30-day rolling average of 1-hour arithmetic average emission concentrations, including CEMS data during startup and shutdown, as defined in this subpart, using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7;

(5) Continuous compliance with the particulate matter emission limit must be determined based on the 30-day rolling average calculated using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7 of the part from the 1-hour arithmetic average of the CEMS outlet data;

(6) At a minimum, valid continuous monitoring system hourly averages must be obtained as specified § 62.14670a;

(7) The 1-hour arithmetic averages required under paragraph (n)(5) of this section must be expressed in milligrams per dry standard cubic meter (mg/dscm) corrected to 7 percent oxygen (or carbon dioxide)(dry basis) and must be used to calculate the 30-day rolling average emission concentrations. CEMS data during startup and shutdown, as defined in this subpart, are not corrected to 7 percent oxygen, and are measured at stack oxygen content. The 1-hour arithmetic averages must be calculated using the data points required under § 60.13(e)(2);

(8) All valid CEMS data must be used in calculating average emission concentrations even if the minimum CEMS data requirements of paragraph (n)(6) of this section are not met;

(9) The CEMS must be operated according to performance specification 11 of 40 CFR part 60, appendix B; and

(10) Quarterly and yearly accuracy audits and daily drift, system optics, and sample volume checks must be performed in accordance with procedure 2 of 40 CFR part 60, appendix F.

(o) To demonstrate initial and continuous compliance with the carbon monoxide emissions limit, a facility may substitute use of a CEMS for the carbon monoxide initial and annual performance test to demonstrate compliance with the carbon monoxide emissions limits:

(1) Install, calibrate, maintain, and operate a CEMS for measuring carbon monoxide emissions discharged to the atmosphere and record the output of the system. The requirements under performance specification 4A or 4B of 40 CFR part 60, appendix B, the quality assurance procedure 1 of 40 CFR part 60, appendix F and the procedures under § 60.13 must be followed for installation, evaluation, and operation of the CEMS; and

(2) Compliance with the carbon monoxide emission limit shall be determined based on the 30-day rolling average of the hourly arithmetic average emission concentrations, including CEMS data during startup and shutdown as defined in this subpart, using CEMS outlet data, as outlined in § 62.14640a(u).

(p) The owner/operator of an affected source with a bypass stack shall install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack including date, time and duration.

(q) For energy recovery units with a heat input capacity of 100 MMBtu/hr or greater that do not use a carbon monoxide CEMS, you must install, operate and maintain the continuous

oxygen monitoring system as defined in § 62.14780a according to the procedures in paragraphs (q)(1) through (4) of this section:

(1) The oxygen analyzer system must be installed by the initial performance test date specified in § 62.14605a;

(2) You must operate the oxygen trim system within compliance with paragraph (q)(3) of this section at all times;

(3) You must maintain the oxygen level such that the 30-day rolling average that is established as the operating limit for oxygen according to paragraph (q)(4) of this section is not below the lowest hourly average oxygen concentration measured during the most recent CO performance test; and

(4) You must calculate and record a 30-day rolling average oxygen concentration using equation 19-19 in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7.

(r) For energy recovery units with annual average heat input rates greater than or equal to 250 MMBtu/hr and waste-burning kilns, you must install, calibrate, maintain, and operate a PM CPMS and record the output of the system as specified in paragraphs (r)(1) through (8) of this section. For other energy recovery units, you may elect to use PM CPMS operated in accordance with this section. PM CPMS are suitable in lieu of using other CMS for monitoring PM compliance (*e.g.*, bag leak detectors, electrostatic precipitator secondary power, PM scrubber pressure):

(1) Install, calibrate, operate, and maintain your PM CPMS according to the procedures in your approved site-specific monitoring plan developed in accordance with § 62.14640a(1) and (r)(1)(i) through (iii) of this section:

(i) The operating principle of the PM CPMS must be based on in-stack or extractive light scatter, light scintillation, beta attenuation, or mass accumulation of the exhaust gas or representative sample. The reportable measurement output from the PM CPMS must be expressed as milliamps or the digital signal equivalent;

(ii) The PM CPMS must have a cycle time (*i.e.*, period required to complete sampling, measurement, and reporting for each measurement) no longer than 60 minutes; and

(iii) The PM CPMS must be capable of detecting and responding to particulate matter concentrations increments no greater than 0.5 mg/actual cubic meter.

(2) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, you must adjust the site-specific operating limit in accordance with the results of the performance test according to the procedures specified in § 62.14605a.

(3) Collect PM CPMS hourly average output data for all energy recovery unit or waste-burning kiln operating hours. Express the PM CPMS output as milliamps or the digital signal equivalent.

(4) Calculate the arithmetic 30-day rolling average of all of the hourly average PM CPMS output collected during all energy recovery unit or waste-burning kiln operating hours data (milliamps or digital bits).

(5) You must collect data using the PM CPMS at all times the energy recovery unit or waste-burning kiln is operating and at the intervals specified in paragraph (r)(1)(ii) of this section, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, required monitoring system quality assurance or quality control

activities (including, as applicable, calibration checks and required zero and span adjustments), and any scheduled maintenance as defined in your site-specific monitoring plan.

(6) You must use all the data collected during all energy recovery unit or waste-burning kiln operating hours in assessing the compliance with your operating limit except:

(i) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or quality control activities conducted during monitoring system malfunctions are not used in calculations (report any such periods in your annual deviation report);

(ii) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods are not used in calculations (report emissions or operating levels and report any such periods in your annual deviation report); and

(iii) Any PM CPMS data recorded during periods of CEMS data during startup and shutdown, as defined in this subpart.

(7) You must record and make available upon request results of PM CPMS system performance audits, as well as the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with your site-specific monitoring plan.

(8) For any deviation of the 30-day rolling average PM CPMS average value from the established operating parameter limit, you must:

(i) Within 48 hours of the deviation, visually inspect the air pollution control device;

(ii) If inspection of the air pollution control device identifies the cause of the deviation, take corrective action as soon as possible and return the PM CPMS measurement to within the established value;

(iii) Within 30 days of the deviation or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit and to verify the operation of the emissions control device(s). Within 45 days of the deviation, you must re-establish the CPMS operating limit. You are not required to conduct additional testing for any deviations that occur between the time of the original deviation and the PM emissions compliance test required under this paragraph; and

(iv) PM CPMS deviations leading to more than four required performance tests in a 12-month process operating period (rolling monthly) constitute a violation of this subpart.

(s) If you use a dry scrubber to comply with the emission limits of this subpart, you must monitor the injection rate of each sorbent and maintain the 3-hour block averages at or above the operating limits established during the hydrogen chloride performance test.

(t) If you are required to monitor clinker production because you comply with the production-rate based mercury limit for your waste-burning kiln, you must:

(1) Determine hourly clinker production by one of two methods:

(i) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates in tons-mass per hour of the amount of clinker produced. The system of measuring hourly clinker production must be maintained within ± 5 percent accuracy, or

(ii) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates in tons-mass per hour of the amount of feed to the kiln. The system of measuring feed must be maintained within ± 5 percent accuracy. Calculate your hourly clinker

production rate using a kiln-specific feed to clinker ratio based on reconciled clinker production determined for accounting purposes and recorded feed rates. Update this ratio monthly. Note that if this ratio changes at clinker reconciliation, you must use the new ratio going forward, but you do not have to retroactively change clinker production rates previously estimated.

(2) Determine the accuracy of the system of measuring hourly clinker production (or feed mass flow if applicable) before the final compliance date of this rule and during each quarter of source operation.

(3) Conduct accuracy checks in accordance with the procedures outlined in your site-specific monitoring plan under § 62.14640a(1).

§ 62.14670a Is there a minimum amount of monitoring data I must obtain?

For each continuous monitoring system required or optionally allowed under § 62.14665a, you must monitor and collect data according to this section:

(a) You must operate the monitoring system and collect data at all required intervals at all times compliance is required except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods (as specified in § 62.14705a(o)), and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to effect monitoring system repairs in response to monitoring system malfunctions or out-of-control periods and to return the monitoring system to operation as expeditiously as practicable.

(b) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions or out-of-control periods, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. You must use all the data collected during all other periods, including data normalized for above scale readings, in assessing the operation of the control device and associated control system.

(c) Except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments, failure to collect required data is a deviation of the monitoring requirements.

Recordkeeping and Reporting

§ 62.14675a What records must I keep?

You must maintain the items (as applicable) as specified in paragraphs (a) through (o) of this section for a period of at least 5 years:

- (a) Calendar date of each record.
- (b) Records of the data described in paragraphs (b)(1) through (7) of this section:
 - (1) The CISWI charge dates, times, weights, and hourly charge rates;
 - (2) Liquor flow rate to the wet scrubber inlet every 15 minutes of operation, as applicable;
 - (3) Pressure drop across the wet scrubber system every 15 minutes of operation or amperage to the wet scrubber every 15 minutes of operation, as applicable;

(4) Liquor pH as introduced to the wet scrubber every 15 minutes of operation, as applicable.

(5) For affected CISWI that establish operating limits for controls other than wet scrubbers under § 62.14610a, you must maintain data collected for all operating parameters used to determine compliance with the operating limits. For energy recovery units using activated carbon injection or a dry scrubber, you must also maintain records of the load fraction and corresponding sorbent injection rate records; and

(6) If a fabric filter is used to comply with the emission limitations, you must record the date, time, and duration of each alarm and the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of operating time during each 6-month period that the alarm sounds, calculated as specified in § 62.14605a(c).

(7) If you monitor clinker production in accordance with § 62.14665a(t):

(i) Hourly clinker rate produced if clinker production is measured directly;

(ii) Hourly measured kiln feed rates and calculated clinker production rates if clinker production is not measured directly;

(iii) 30-day rolling averages for mercury in pounds per million tons of clinker produced;

(iv) The initial and quarterly accuracy of the system of measuring hourly clinker production (or feed mass flow).

(c) Identification of calendar dates and times for which data show a deviation from the operating limits in table 1 to this subpart or a deviation from other operating limits established under § 62.14605a(d) through (g) or § 62.14610a with a description of the deviations, reasons for such deviations, and a description of corrective actions taken.

(d) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable. Retain a copy of the complete test report including calculations.

(e) Records showing the names of CISWI operators who have completed review of the information in § 62.14590a(a) as required by § 62.14590(b), including the date of the initial review and all subsequent annual reviews.

(f) Records showing the names of the CISWI operators who have completed the operator training requirements under § 62.14565a, met the criteria for qualification under § 62.14575a, and maintained or renewed their qualification under § 62.14580a or § 62.14585a. Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(g) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

(h) Records of calibration of any monitoring devices as required under § 62.14665a.

(i) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

(j) The information listed in § 62.14590a(a).

(k) On a daily basis, keep a log of the quantity of waste burned and the types of waste burned (always required).

(l) Maintain records of the annual air pollution control device inspections that are required for each CISWI subject to the emissions limits in tables 4 through 7 to this subpart, any required maintenance and any repairs not completed within 10 days of an inspection or the timeframe established by the state regulatory agency.

(m) For continuously monitored pollutants or parameters, you must document and keep a record of the following parameters measured using continuous monitoring systems. If you monitor emissions with a CEMS, you must indicate which data are CEMS data during startup and shutdown:

- (1) All 6-minute average levels of opacity;
 - (2) All 1-hour average concentrations of sulfur dioxide emissions;
 - (3) All 1-hour average concentrations of nitrogen oxides emissions;
 - (4) All 1-hour average concentrations of carbon monoxide emissions;
 - (5) All 1-hour average concentrations of particulate matter emissions;
 - (6) All 1-hour average concentrations of mercury emissions;
 - (7) All 1-hour average concentrations of HCl CEMS outputs;
 - (8) All 1-hour average percent oxygen concentrations; and
 - (9) All 1-hour average PM CPMS readings or particulate matter CEMS outputs.
- (n) Records indicating use of the bypass stack, including dates, times and durations.

(o) If you choose to stack test less frequently than annually, consistent with § 62.14655a(a), you must keep annual records that document that your emissions in the previous stack test(s) were less than 75 percent of the applicable emission limit and document that there was no change in source operations including fuel composition and operation of air pollution control equipment that would cause emissions of the relevant pollutant to increase within the past year.

(p) Records of the occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the air pollution control and monitoring equipment.

(q) Records of all required maintenance performed on the air pollution control and monitoring equipment.

(r) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(s) For operating units that combust non-hazardous secondary materials that have been determined not to be solid waste pursuant to § 241.3(b)(1), you must keep a record which documents how the secondary material meets each of the legitimacy criteria under § 241.3(d)(1). If you combust a fuel that has been processed from a discarded non-hazardous secondary material pursuant to § 241.3(b)(4), you must keep records as to how the operations that produced the fuel satisfies the definition of processing in § 241.2 and each of the legitimacy criteria in § 241.3(d)(1). If the fuel received a non-waste determination pursuant to the petition process submitted under § 241.3(c), you must keep a record that documents how the fuel satisfies the requirements of the petition process. For operating units that combust non-hazardous secondary materials as fuel per § 241.4, you must keep records documenting that the material is a listed non-waste under § 241.4(a).

(t) Records of the criteria used to establish that the unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) and that the waste material the unit is proposed to burn is homogeneous.

(u) Records of the criteria used to establish that the unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) and that the waste material the unit is proposed to burn is homogeneous.

§ 62.14680a Where and in what format must I keep my records?

All records must be available onsite in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the Administrator.

§ 62.14685a What reports must I submit?

See table 3 to this subpart for a summary of the reporting requirements.

§ 62.14690a When must I submit my waste management plan?

You must submit a waste management plan no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or the date you recommence burning solid waste, whichever is later.

§ 62.14695a What information must I submit following my initial performance test?

You must submit the information specified in paragraphs (a) through (c) of this section no later than 60 days following the initial performance test. All reports must be signed by the facilities manager:

(a) The complete test report for the initial performance test results obtained under § 62.14625a, as applicable;

(b) The values for the site-specific operating limits established in § 62.14605a or § 62.14610a; and

(c) If you are using a fabric filter to comply with the emission limitations, documentation that a bag leak detection system has been installed and is being operated, calibrated, and maintained as required by § 62.14665a(b).

§ 62.14700a When must I submit my annual report?

You must submit an annual report no later than 12 months following the submission of the information in § 62.14695a. You must submit subsequent reports no more than 12 months

following the previous report. (If the unit is subject to permitting requirements under title V of the Clean Air Act, you may be required by the permit to submit these reports more frequently.)

§ 62.14705a What information must I include in my annual report?

The annual report required under § 62.14700a must include the ten items listed in paragraphs (a) through (p) of this section. If you have a deviation from the operating limits or the emission limitations, you must also submit deviation reports as specified in §§ 62.14710a, 62.14715a, and 62.14720a.

(a) Company name and address;

(b) Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report. If your report is submitted via CEDRI, the certifier's electronic signature during the submission process replaces this requirement;

(c) Date of report and beginning and ending dates of the reporting period. You are no longer required to provide the date of the report when the report is submitted via CEDRI;

(d) The values for the operating limits established pursuant to § 62.14605a or § 62.14610a;

(e) If no deviation from any emission limitation or operating limit that applies to you has been reported, a statement that there was no deviation from the emission limitations or operating limits during the reporting period;

(f) The highest recorded 3-hour average and the lowest recorded 3-hour average (30-day average for energy recovery units), as applicable, for each operating parameter recorded for the calendar year being reported;

(g) Information recorded under § 62.14675a(b)(6) and (c) through (e) for the calendar year being reported;

(h) For each performance test conducted during the reporting period, if any performance test is conducted, the process unit(s) tested, the pollutant(s) tested and the date that such performance test was conducted. Submit, following the procedure specified in § 62.14730a(b)(1), the performance test report no later than the date that you submit the annual report;

(i) If you met the requirements of § 62.14655a(a), and did not conduct a performance test during the reporting period, you must state that you met the requirements of § 62.14655a(a), and, therefore, you were not required to conduct a performance test during the reporting period;

(j) The start date, start time, and duration (in hours) of periods when all qualified CISWI operators were unavailable for more than 8 hours, but less than 2 weeks;

(k) If you had a malfunction during the reporting period, the compliance report must include the start date, start time, duration (in hours), and a brief description for each malfunction that occurred during the reporting period and that caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 60.11(d), including actions taken to correct a malfunction;

(l) For each deviation from an emission or operating limitation that occurs for a CISWI for which you are not using a CMS to comply with the emission or operating limitations in this subpart, the annual report must contain the following information:

(1) The total operating time (in hours) of the CISWI at which the deviation occurred during the reporting period; and

(2) Information on the start date, start time, duration (in hours), and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(m) If there were periods during which the continuous monitoring system, including the CEMS, was out of control as specified in paragraph (o) of this section, the annual report must contain the following information for each deviation from an emission or operating limitation occurring for a CISWI for which you are using a continuous monitoring system to comply with the emission and operating limitations in this subpart:

- (1) The date and time that each malfunction started and stopped;
- (2) The start and end date and time and duration (in hours) that each CMS was inoperative, except for zero (low-level) and high-level checks;
- (3) The start and end date and time and duration (in hours) that each continuous monitoring system was out-of-control, and descriptions of corrective actions taken;
- (4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of malfunction or during another period;
- (5) A summary of the total duration (in hours) of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period;
- (6) A breakdown of the total duration (in hours) of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes;
- (7) A summary of the total duration (in hours) of continuous monitoring system downtime during the reporting period, and the total duration of continuous monitoring system downtime as a percent of the total operating time of the CISWI at which the continuous monitoring system downtime occurred during that reporting period;
- (8) An identification of each parameter and pollutant that was monitored at the CISWI;

(9) A brief description of the CISWI;

(10) A brief description of the continuous monitoring system;

(11) The date of the latest continuous monitoring system certification or audit; and

(12) A description of any changes in continuous monitoring system, processes, or controls since the last reporting period.

(n) If there were periods during which the continuous monitoring system, including the CEMS, was not out of control as specified in paragraph (o) of this section, a statement that there were not periods during which the continuous monitoring system was out of control during the reporting period.

(o) A continuous monitoring system is out of control if any of the following occur:

(1) The zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard;

(2) The continuous monitoring system fails a performance test audit (*e.g.*, cylinder gas audit), relative accuracy audit, relative accuracy test audit, or linearity test audit; and

(3) The continuous opacity monitoring system calibration drift exceeds two times the limit in the applicable performance specification in the relevant standard.

(p) For energy recovery units, include the annual heat input and average annual heat input rate of all fuels being burned in the unit to verify which subcategory of energy recovery unit applies.

§ 62.14710a What else must I report if I have a deviation from the operating limits or the emission limitations?

(a) You must submit a deviation report if any recorded 3-hour average (30-day average for energy recovery units or for PM CPMS) parameter level is above the maximum operating limit or below the minimum operating limit established under this subpart, if the bag leak detection system alarm sounds for more than 5 percent of the operating time for any 6-month reporting period, if a performance test was conducted that deviated from any emission limitation, or if a 30-day average measured using a CEMS deviated from any emission limitation.

(b) The deviation report must be submitted by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data you collected during the second half of the calendar year (July 1 to December 31).

§ 62.14715a What must I include in the deviation report?

In each report required under § 62.14710a, for any pollutant or parameter that deviated from the emission limitations or operating limits specified in this subpart, include the four items described in paragraphs (a) through (d) of this section.

(a) The calendar dates and times your unit deviated from the emission limitations or operating limit requirements;

(b) The averaged and recorded data for those dates;

(c) Duration and causes of the following:

(1) Each deviation from the emission limitations or operating limits and your corrective actions; and

(2) Bypass events and your corrective actions. Include the calendar date and start time of the bypass event.

(d) A copy of the operating limit monitoring data during each deviation and, for any test report that documents the emission levels, the process unit(s) tested, the pollutant(s) tested and the date that the performance test was conducted. Submit, following the procedure specified in § 62.14730a(b)(1), the performance test report no later than the date that you submit the deviation report.

§ 62.14720a What else must I report if I have a deviation from the requirement to have a qualified operator accessible?

(a) If all qualified operators are not accessible for two weeks or more, you must take the two actions in paragraphs (a)(1) and (2) of this section.

(1) You must submit a notification of the deviation within 10 days that includes the three items in paragraphs (a)(1)(i) through (iii) of this section.

(i) A statement of what caused the deviation;

(ii) A description of what you are doing to ensure that a qualified operator is accessible;

and

(iii) The date when you anticipate that a qualified operator will be available.

(2) Submit a status report to the Administrator every 4 weeks that includes the three items in paragraphs (a)(2)(i) through (iii) of this section.

(i) A description of what you are doing to ensure that a qualified operator is accessible;

(ii) The date when you anticipate that a qualified operator will be accessible; and

(iii) Request approval from the Administrator to continue operation of the CISWI.

(b) If your unit was shut down by the Administrator, under the provisions of § 62.14595a(b)(2), due to a failure to provide an accessible qualified operator, you must notify the Administrator that you are resuming operation once a qualified operator is accessible.

§ 62.14725a Are there any other notifications or reports that I must submit?

(a) Yes. You must submit notifications as provided by § 60.7.

(b) If you cease combusting solid waste but continue to operate, you must provide 30 days prior notice of the effective date of the waste-to-fuel switch, consistent with § 62.14640a(a).

The notification must identify:

(1) The name of the owner or operator of the CISWI, the location of the source, the emissions unit(s) that will cease burning solid waste, and the date of the notice;

(2) The currently applicable subcategory under this subpart, and any 40 CFR part 63 subpart and subcategory that will be applicable after you cease combusting solid waste;

(3) The fuel(s), non-waste material(s) and solid waste(s) the CISWI is currently combusting and has combusted over the past 6 months, and the fuel(s) or non-waste materials the unit will commence combusting;

(4) The date on which you became subject to the currently applicable emission limits; and

(5) The date upon which you will cease combusting solid waste, and the date (if different) that you intend for any new requirements to become applicable (*i.e.*, the effective date of the waste-to-fuel switch), consistent with paragraphs (b)(2) and (3) of this section.

§ 62.14730a In what form can I submit my reports?

(a) Submit initial, annual, and deviation reports electronically or in paper format, postmarked on or before the submittal due dates. Beginning on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or once the reporting form has been available in CEDRI for 1 year, whichever is later, you must submit subsequent reports on or before the submittal dates to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX)

(<https://cdx.epa.gov>). Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Website (<https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri>). When the data forms become available in CEDRI will be listed on the CEDRI Website. If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Once the form has been available in CEDRI for 90 calendar days, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the report is submitted.

(b) Submit results of each performance test and CEMS performance evaluation required by this subpart as follows:

(1) Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, you must submit the results of the performance test following the procedure specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this section:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Website (<https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert>) at the time of the test, you must submit the results of the performance test to the EPA via the CEDRI. CEDRI can be accessed through the EPA's CDX (<https://cdx.epa.gov>). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the XML schema listed on the EPA's ERT Website. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file

generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph; and

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(2) Within 60 days after the date of completing each CEMS performance evaluation you must submit the results of the performance evaluation following the procedure specified in either paragraph (b)(2) (i) or (b)(2) (ii) of this section

. In the situation where performance evaluations cover multiple days, the results may be submitted together up to 60 days after all performance evaluations are completed.

(i) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Website at the time of the evaluation, you must submit the results of the performance evaluation to the EPA via the CEDRI. CEDRI can be accessed through the EPA's CDX. Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate file format consistent with the XML schema listed on the EPA's ERT Website. If you claim that some of the performance evaluation information being submitted is CBI, you must submit a complete file generated through the use of the EPA's ERT

or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic storage media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph; and

(ii) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Website at the time of the evaluation, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

(c) If you are required to electronically submit a report through the Compliance and Emissions Data Reporting Interface (CEDRI) in the EPA's Central Data Exchange (CDX), and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which

you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(d) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (e.g., large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you

reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

§ 62.14735a Can reporting dates be changed?

If the Administrator agrees, you may change the semiannual or annual reporting dates. See § 60.19(c) for procedures to seek approval to change your reporting date.

Air Curtain Incinerators (ACIs)

§ 62.14740a What is an air curtain incinerator?

(a) An ACI operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.

(b) Air curtain incinerators that burn only the materials listed in paragraphs (b)(1) through (3) of this section are only required to meet the requirements under § 62.14770a and under “Air Curtain Incinerators” (§§ 62.14740a through 62.14765a):

- (1) 100 percent wood waste;
- (2) 100 percent clean lumber; and
- (3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

§ 62.14745a What must I do if I close my air curtain incinerator and then restart it?

(a) If you close your incinerator but will reopen it prior to the final compliance date in this subpart, you must comply with the final standards on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) If you close your incinerator but will restart it after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], you must complete emission control retrofits and meet the emission limitations on the date your incinerator restarts operation.

§ 62.14750a What must I do if I plan to permanently close my air curtain incinerator and not restart it?

If you plan to permanently close your incinerator rather than comply with this subpart, submit a closure notification, including the date of closure, to the Administrator no later than six months prior to your operation will cease. The closure date cannot be later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] for sources that will not operate on and after the compliance date. In addition, while still in operation, your air curtain incinerator is subject to the same requirement to apply for and obtain a title V operating permit that applies to an air curtain incinerator that will not be permanently closing.

§ 62.14755a What are the emission limitations for air curtain incinerators?

After the date the initial test for opacity is required or completed (whichever is earlier), you must meet the limitations in paragraphs (a) and (b) of this section.

(a) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values), except as described in paragraph (b) of this section.

(b) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

§ 62.14760a How must I monitor opacity for air curtain incinerators?

(a) Use Method 9 of 40 CFR part 60, appendix A-4 to determine compliance with the opacity limitation.

(b) Conduct an initial test for opacity as specified in § 60.8 no later than 180 days after your final compliance date.

(c) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of your previous test.

§ 62.14765a What are the recordkeeping and reporting requirements for air curtain incinerators?

(a) Keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format, unless the Administrator approves another format, for at least 5 years.

(b) Make all records available for submittal to the Administrator or for an inspector's onsite review.

(c) Submit an initial report no later than 60 days following the initial opacity test that includes the information specified in paragraphs (c)(1) and (2) of this section.

(1) The types of materials you plan to combust in your ACI; and

(2) The results (as determined by the average of three 1-hour blocks consisting of ten 6-minute average opacity values) of the initial opacity tests.

(d) Submit annual opacity test results within 12 months following the previous report.

(e) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date and keep a copy onsite for a period of 5 years.

Title V Requirements

§ 62.14770a Am I required to apply for and obtain a Title V operating permit for my unit?

Yes. Each CISWI and ACI subject to standards under this subpart must operate pursuant to a permit issued under Clean Air Act sections 129(e) and title V.

Delegation of Authority

§ 62.14775a What authorities are withheld by the EPA Administrator?

The following authorities are withheld by the EPA Administrator and not transferred to the state or tribe:

(a) Approval of alternatives to the emission limitations in tables 4 through 7 to this subpart and operating limits established under § 62.14605a and table 1 to this subpart.

(b) Approval of petitions submitted pursuant to the requirements of § 62.14610a establishing operating parameters when using controls other than a wet scrubber, fabric filter, activated carbon injection, selective noncatalytic reduction, or a dry scrubber to comply with the emission limitations in tables 4 through 7 to this subpart.

(c) Approval of major alternatives to test methods established under § 62.14615a and tables 4 through 7 to this subpart.

(d) Approval of major alternatives to monitoring requirements established under § 62.14665a, § 62.14575a and table 1 to this subpart.

(e) Approval of major alternatives to recordkeeping and reporting requirements of this subpart.

(f) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

(g) Approval of requests submitted pursuant to the requirements in § 62.14595a(b)(2).

(h) Approval of alternative opacity emission limits in § 62.14600a under § 60.11(e)(6)through (e)(8).

(i) Performance test and data reduction waivers under §§ 62.14615a(j), 60.8(b)(4) and (5).

(j) Determination of whether a qualifying small power production facility or cogeneration facility under § 62.14530a(d) or (e) is combusting homogeneous waste.

Definitions

§ 62.14780a What definitions must I know?

Terms used but not defined in this subpart are defined in the Clean Air Act, subparts A and B of part 60 and subpart A of this part 62.

30-day rolling average means the arithmetic mean of the previous 720 hours of valid operating data. Valid data excludes periods when this unit is not operating. The 720 hours should be consecutive, but not necessarily continuous if operations are intermittent.

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

Agricultural waste means vegetative agricultural materials such as nut and grain hulls and chaff (e.g., almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations.

Air curtain incinerator (ACI) means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. Air curtain incinerators are different from conventional combustion devices which typically have enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.

Annual heat input means the heat input for the 12 months preceding the compliance demonstration.

Auxiliary fuel means natural gas, liquefied petroleum gas, fuel oil, or diesel fuel.

Average annual heat input rate means annual heat input divided by the hours of operation for the 12 months preceding the compliance demonstration.

Bag leak detection system means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (*i.e.*, baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other principle to monitor relative particulate matter loadings.

Burn-off oven means any rack reclamation unit, part reclamation unit, or drum reclamation unit. A burn-off oven is not an incinerator, waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Bypass stack means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

Calendar quarter means 3 consecutive months (non-overlapping) beginning on: January 1, April 1, July 1, or October 1.

Calendar year means 365 consecutive days starting on January 1 and ending on December 31.

CEMS data during startup and shutdown means the following:

(1) For incinerators and small, remote incinerators: CEMS data collected during the first hours of operation of a CISWI startup from a cold start until waste is fed into the unit and the hours of operation following the cessation of waste material being fed to the CISWI during a unit

shutdown. For each startup event, the length of time that CEMS data may be claimed as being CEMS data during startup must be 48 operating hours or less. For each shutdown event, the length of time that CEMS data may be claimed as being CEMS data during shutdown must be 24 operating hours or less;

(2) For energy recovery units: CEMS data collected during the startup or shutdown periods of operation. Startup begins with either the first-ever firing of fuel in a boiler or process heater for the purpose of supplying useful thermal energy (such as steam or heat) for heating, cooling or process purposes, or producing electricity, or the firing of fuel in a boiler or process heater for any purpose after a shutdown event. Startup ends four hours after when the boiler or process heater makes useful thermal energy (such as heat or steam) for heating, cooling, or process purposes, or generates electricity, whichever is earlier. Shutdown begins when the boiler or process heater no longer makes useful thermal energy (such as heat or steam) for heating, cooling, or process purposes and/or generates electricity or when no fuel is being fed to the boiler or process heater, whichever is earlier. Shutdown ends when the boiler or process heater no longer makes useful thermal energy (such as steam or heat) for heating, cooling, or process purposes and/or generates electricity, and no fuel is being combusted in the boiler or process heater; and

(3) For waste-burning kilns: CEMS data collected during the periods of kiln operation that do not include normal operations. Startup means the time from when a shutdown kiln first begins firing fuel until it begins producing clinker. Startup begins when a shutdown kiln turns on the induced draft fan and begins firing fuel in the main burner. Startup ends when feed is being continuously introduced into the kiln for at least 120 minutes or when the feed rate exceeds 60 percent of the kiln design limitation rate, whichever occurs first. Shutdown means the cessation

of kiln operation. Shutdown begins when feed to the kiln is halted and ends when continuous kiln rotation ceases.

Chemical recovery unit means combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. A chemical recovery unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart. The following seven types of units are considered chemical recovery units:

(1) Units burning only pulping liquors (*i.e.*, black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process;

(2) Units burning only spent sulfuric acid used to produce virgin sulfuric acid;

(3) Units burning only wood or coal feedstock for the production of charcoal;

(4) Units burning only manufacturing byproduct streams/residue containing catalyst metals that are reclaimed and reused as catalysts or used to produce commercial grade catalysts;

(5) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds;

(6) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes; and

(7) Units burning only photographic film to recover silver.

Chemotherapeutic waste means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

Clean lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that

have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

Commercial and industrial solid waste incineration unit (CISWI) means any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste as that term is defined in 40 CFR part 241. If the operating unit burns materials other than traditional fuels as defined in § 241.2 that have been discarded, and you do not keep and produce records as required by § 62.14675a(s), the operating unit is a CISWI. While not all CISWI will include all of the following components, a CISWI includes, but is not limited to, the solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The CISWI does not include air pollution control equipment or the stack. The CISWI boundary starts at the solid waste hopper (if applicable) and extends through two areas: The combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and the combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The CISWI includes all ash handling systems connected to the bottom ash handling system.

Contained gaseous material means gases that are in a container when that container is combusted.

Continuous emission monitoring system (CEMS) means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of emissions.

Continuous monitoring system (CMS) means the total equipment, required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable),

to analyze, and to provide a permanent record of emissions or process parameters. A particulate matter continuous parameter monitoring system (PM CPMS) is a type of CMS.

Cyclonic burn barrel means a combustion device for waste materials that is attached to a 55 gallon, open-head drum. The device consists of a lid, which fits onto and encloses the drum, and a blower that forces combustion air into the drum in a cyclonic manner to enhance the mixing of waste material and air. A cyclonic burn barrel is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements; and

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

Dioxins/furans means tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

Discard means, for purposes of this subpart and 40 CFR part 60, subpart DDDD, only, burned in an incineration unit without energy recovery.

Drum reclamation unit means a unit that burns residues out of drums (e.g., 55 gallon drums) so that the drums can be reused.

Dry scrubber means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize

acid gas in the exhaust stream forming a dry powder material. Sorbent injection systems in fluidized bed boilers and process heaters are included in this definition. A dry scrubber is a dry control system.

Energy recovery means the process of recovering thermal energy from combustion for useful purposes such as steam generation or process heating.

Energy recovery unit means a combustion unit combusting solid waste (as that term is defined by the Administrator in 40 CFR part 241) for energy recovery. Energy recovery units include units that would be considered boilers and process heaters if they did not combust solid waste.

Energy recovery unit designed to burn biomass (Biomass) means an energy recovery unit that burns solid waste, biomass, and non-coal solid materials but less than 10 percent coal, on a heat input basis on an annual average, either alone or in combination with liquid waste, liquid fuel or gaseous fuels.

Energy recovery unit designed to burn coal (Coal) means an energy recovery unit that burns solid waste and at least 10 percent coal on a heat input basis on an annual average, either alone or in combination with liquid waste, liquid fuel or gaseous fuels.

Energy recovery unit designed to burn liquid waste materials and gas (Liquid/gas) means an energy recovery unit that burns a liquid waste with liquid or gaseous fuels not combined with any solid fuel or waste materials.

Energy recovery unit designed to burn solid materials (Solids) includes energy recovery units designed to burn coal and energy recovery units designed to burn biomass.

Fabric filter means an add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse.

Foundry sand thermal reclamation unit means a type of part reclamation unit that removes coatings that are on foundry sand. A foundry sand thermal reclamation unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Incinerator means any furnace used in the process of combusting solid waste (as that term is defined by the Administrator in 40 CFR part 241) for the purpose of reducing the volume of the waste by removing combustible matter. Incinerator designs include single chamber and two-chamber.

In-line coal mill means those coal mills using kiln exhaust gases in their process. Coal mills with a heat source other than the kiln or coal mills using exhaust gases from the clinker cooler alone are not an in-line coal mill.

In-line kiln/raw mill means a system in a Portland Cement production process where a dry kiln system is integrated with the raw mill so that all or a portion of the kiln exhaust gases are used to perform the drying operation of the raw mill, with no auxiliary heat source used. In this system the kiln is capable of operating without the raw mill operating, but the raw mill cannot operate without the kiln gases, and consequently, the raw mill does not generate a separate exhaust gas stream.

Kiln means an oven or furnace, including any associated preheater or precalciner devices, in-line raw mills, in-line coal mills or alkali bypasses used for processing a substance by burning, firing or drying. Kilns include cement kilns that produce clinker by heating limestone and other materials for subsequent production of Portland Cement. Because the alkali bypass, in-line raw mill and in-line coal mill are considered an integral part of the kiln, the kiln emissions limits also apply to the exhaust of the alkali bypass, in-line raw mill and in-line coal mill.

Laboratory analysis unit means units that burn samples of materials for the purpose of chemical or physical analysis. A laboratory analysis unit is not an incinerator, waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Load fraction means the actual heat input of an energy recovery unit divided by heat input during the performance test that established the minimum sorbent injection rate or minimum activated carbon injection rate, expressed as a fraction (*e.g.*, for 50 percent load the load fraction is 0.5).

Low-level radioactive waste means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

Minimum voltage or amperage means 90 percent of the lowest test-run average voltage or amperage to the electrostatic precipitator measured during the most recent particulate matter or mercury performance test demonstrating compliance with the applicable emission limits.

Modification or modified CISWI means a CISWI you have changed later than August 7, 2013, and that meets one of two criteria:

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

current costs (current dollars). To determine what systems are within the boundary of the CISWI used to calculate these costs, see the definition of CISWI; and

(2) Any physical change in the CISWI or change in the method of operating it that increases the amount of any air pollutant emitted for which section 129 or section 111 of the Clean Air Act has established standards.

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

Opacity means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

Operating day means a 24-hour period between 12:00 midnight and the following midnight during which any amount of solid waste is combusted at any time in the CISWI.

Oxygen analyzer system means all equipment required to determine the oxygen content of a gas stream and used to monitor oxygen in the boiler or process heater flue gas, boiler/process

heater, firebox, or other appropriate location. This definition includes oxygen trim systems and certified oxygen CEMS. The source owner or operator is responsible to install, calibrate, maintain, and operate the oxygen analyzer system in accordance with the manufacturer's recommendations.

Oxygen trim system means a system of monitors that is used to maintain excess air at the desired level in a combustion device over its operating range. A typical system consists of a flue gas oxygen and/or carbon monoxide monitor that automatically provides a feedback signal to the combustion air controller or draft controller.

Part reclamation unit means a unit that burns coatings off parts (e.g., tools, equipment) so that the parts can be reconditioned and reused.

Particulate matter means total particulate matter emitted from CISWI as measured by Method 5 of appendix A-3 or Method 29 of 40 CFR part 60, appendix A-8.

Pathological waste means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

Performance evaluation means the conduct of relative accuracy testing, calibration error testing, and other measurements used in validating the continuous monitoring system data.

Performance test means the collection of data resulting from the execution of a test method (usually three emission test runs) used to demonstrate compliance with a relevant emission standard as specified in the performance test section of the relevant standard.

Process change means any of the following physical or operational changes:

(1) A physical change (maintenance activities excluded) to the CISWI which may increase the emission rate of any air pollutant to which a standard applies;

(2) An operational change to the CISWI where a new type of non-hazardous secondary material is being combusted;

(3) A physical change (maintenance activities excluded) to the air pollution control devices used to comply with the emission limits for the CISWI (*e.g.*, replacing an electrostatic precipitator with a fabric filter); and

(4) An operational change to the air pollution control devices used to comply with the emission limits for the affected CISWI (*e.g.*, change in the sorbent injection rate used for activated carbon injection).

Rack reclamation unit means a unit that burns the coatings off racks used to hold small items for application of a coating. The unit burns the coating overspray off the rack so the rack can be reused.

Raw mill means a ball or tube mill, vertical roller mill or other size reduction equipment, that is not part of an in-line kiln/raw mill, used to grind feed to the appropriate size. Moisture may be added or removed from the feed during the grinding operation. If the raw mill is used to remove moisture from feed materials, it is also, by definition, a raw material dryer. The raw mill also includes the air separator associated with the raw mill.

Reconstruction means rebuilding a CISWI and meeting two criteria:

- (1) The reconstruction begins on or after August 7, 2013; and
- (2) The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the CISWI (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI used to calculate these costs, see the definition of CISWI.

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

- (1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel; and
- (2) Pelletized refuse-derived fuel.

Responsible official means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
- (ii) The delegation of authority to such representatives is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.*, a Regional Administrator of EPA); or

(4) For affected facilities:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; or

(ii) The designated representative for any other purposes under part 60.

Shutdown means, for incinerators and small, remote incinerators, the period of time after all waste has been combusted in the primary chamber.

Small, remote incinerator means an incinerator that combusts solid waste (as that term is defined by the Administrator in 40 CFR part 241) and combusts 3 tons per day or less solid waste and is more than 25 miles driving distance to the nearest municipal solid waste landfill.

Soil treatment unit means a unit that thermally treats petroleum-contaminated soils for the sole purpose of site remediation. A soil treatment unit may be direct-fired or indirect fired. A soil treatment unit is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Solid waste means the term solid waste as defined in 40 CFR 241.2.

Solid waste incineration unit means a distinct operating unit of any facility which combusts any solid waste (as that term is defined by the Administrator in 40 CFR part 241) material from commercial or industrial establishments or the general public (including single and multiple residences, hotels and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term “solid waste incineration unit” does not include:

(1) Materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals;

(2) Qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes; or

(3) Air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Administrator by rule.

Space heater means a unit that meets the requirements of 40 CFR 279.23. A space heater is not an incinerator, a waste-burning kiln, an energy recovery unit or a small, remote incinerator under this subpart.

Standard conditions, when referring to units of measure, means a temperature of 68 °F (20 °C) and a pressure of 1 atmosphere (101.3 kilopascals).

Startup period means, for incinerators and small, remote incinerators, the period of time between the activation of the system and the first charge to the unit.

Useful Thermal Energy means energy (*i.e.*, steam, hot water, or process heat) that meets the minimum operating temperature and/or pressure required by any energy use system that uses energy provided by the affected energy recovery unit.

Waste-burning kiln means a kiln that is heated, in whole or in part, by combusting solid waste (as the term is defined by the Administrator in 40 CFR part 241). Secondary materials

used in Portland cement kilns shall not be deemed to be combusted unless they are introduced into the flame zone in the hot end of the kiln or mixed with the precalciner fuel.

Wet scrubber means an add-on air pollution control device that utilizes an aqueous or alkaline scrubbing liquor to collect particulate matter (including non-vaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

Wood waste means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

(1) Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands;

(2) Construction, renovation, or demolition wastes; or

(3) Clean lumber.

Table 1 to Subpart IIIa of Part 62—Operating Limits for Wet Scrubbers

| For these operating parameters | You must establish these operating limits | And monitor using these minimum frequencies | | |
|---|---|---|------------------|--|
| | | Data measurement | Data recording | Averaging time |
| Charge rate | Maximum charge rate | Continuous | Every hour | 1. Daily (batch units) 2. 3-hour rolling (continuous and intermittent units) ¹ |
| Pressure drop across the wet scrubber or amperage to wet scrubber | Minimum pressure drop or amperage | Continuous | Every 15 minutes | 3-hour rolling ¹ |
| Scrubber liquor flow rate | Minimum flow rate | Continuous | Every 15 minutes | 3-hour rolling ¹ |
| Scrubber liquor pH | Minimum pH | Continuous | Every 15 minutes | 3-hour rolling ¹ |

¹ Calculated each hour as the average of the previous 3 operating hours.

Table 2 to Subpart IIIa of Part 62—Toxic Equivalency Factors

| Dioxin/furan congener | Toxic equivalency factor |
|---|---------------------------------|
| 2,3,7,8-tetrachlorinated dibenzo-p-dioxin | 1 |
| 1,2,3,7,8-pentachlorinated dibenzo-p-dioxin | 0.5 |
| 1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin | 0.01 |
| octachlorinated dibenzo-p-dioxin | 0.001 |
| 2,3,7,8-tetrachlorinated dibenzofuran | 0.1 |
| 2,3,4,7,8-pentachlorinated dibenzofuran | 0.5 |
| 1,2,3,7,8-pentachlorinated dibenzofuran | 0.05 |
| 1,2,3,4,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,6,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,7,8,9-hexachlorinated dibenzofuran | 0.1 |
| 2,3,4,6,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,4,6,7,8-heptachlorinated dibenzofuran | 0.01 |
| 1,2,3,4,7,8,9-heptachlorinated dibenzofuran | 0.01 |
| octachlorinated dibenzofuran | 0.001 |

Table 3 to Subpart IIIa of Part 62—Summary of Reporting Requirements¹

| Report | Due date | Contents | Reference |
|--------------------------|--|---|------------------|
| A. Waste Management Plan | No later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or the date you recommence burning solid waste, whichever is later | Waste management plan | § 62.14690a. |
| B. Initial Test | No later than 60 days | 1. Complete test report for the initial | § 62.14695a. |

| | | | |
|------------------|--|---|--|
| Report | following the initial performance test | <p>performance test</p> <p>2. The values for the site-specific operating limits.</p> <p>3. Installation of bag leak detection systems for fabric filters.</p> | |
| C. Annual report | <p>No later than 12 months following the submission of the initial test report.</p> <p>Subsequent reports are to be submitted no more than 12 months following the previous report</p> | <p>1. Name and address</p> <p>2. Statement and signature by responsible official.</p> <p>3. Date of report.</p> <p>4. Values for the operating limits.</p> <p>5. Highest recorded 3-hour average and the lowest 3-hour average, as applicable, (or 30-day average, if applicable) for each operating parameter recorded for the calendar year being reported</p> <p>6. If a performance test was conducted during the reporting period, the results of the test.</p> <p>7. If a performance test was not conducted during the reporting period, a statement that the requirements of § 62.1468055a(a) were met.</p> <p>8. Documentation of periods when all qualified CISWI operators were unavailable for more than 8 hours but less than 2 weeks</p> <p>9. If you are conducting performance tests once every 3 years consistent with § 62.1468055a(a), the date of the last 2 performance tests, a comparison of the emission level you achieved in the last 2 performance tests to the 75 percent emission limit threshold required in § 62.1468055a(a) and a statement as to whether there have been any operational changes since the last performance test that could increase emissions</p> <p>10. Any malfunction, deviation, or continuous monitoring system out of control periods information as specified in § 62.14705a(k) through (o)</p> <p>11. Fuel input information for energy recovery unit subcategory verification as specified in § 62.14705a(p)</p> | <p>§§ 62.14700a and 62.14705a.</p> <p>Subsequent reports are to be submitted no more than 12 months following the previous report.</p> |

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| D. Emission Limitation or Operating Limit Deviation Report | By August 1 of that year for data collected during the first half of the calendar year By February 1 of the following year for data collected during the second half of the calendar year. | 1. Dates and times of deviations 2. Averaged and recorded data for these dates. 3. Duration and causes for each deviation and the corrective actions taken. 4. Copy of operating limit monitoring data and any test reports. 5. Dates, times, and causes for monitor downtime incidents. | §§ 62.14710a and 62.14715a. |
| E. Qualified Operator Deviation Notification | Within 10 days of deviation | 1. Statement of cause of deviation. 2. Description of efforts to have an accessible qualified operator. 3. The date a qualified operator will be accessible. | § 62.14720a(a)(1). |
| F. Qualified Operator Deviation Status Report | Every 4 weeks following deviation. | 1. Description of efforts to have an accessible qualified operator 2. The date a qualified operator will be accessible. 3. Request for approval to continue operation. | § 62.14720a(a)(2). |
| G. Qualified Operator Deviation Notification of Resumed Operation | Prior to resuming operation | Notification that you are resuming operation | § 62.14720a(b). |

¹ This table is only a summary, see the referenced sections of the rule for the complete requirements.

Table 4 to Subpart IIIa of Part 62—Model Rule—Emission Limitations That Apply to Incinerators on and After [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

| For the air pollutant | You must meet this emission limitation¹ | Using this averaging time² | And determining compliance using this method² |
|------------------------------|---|---|--|
| Cadmium | 0.0026 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). Use ICPMS for the analytical finish. |
| Carbon monoxide | 17 parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 10 of appendix A-4 to 40 CFR part 60). |

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| Dioxins/furans (total mass basis) | 4.6 nanograms per dry standard cubic meter | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Dioxins/furans (toxic equivalency basis) | 0.13 nanograms per dry standard cubic meter | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Hydrogen chloride | 29 parts per million dry volume | 3-run average (For Method 26 of appendix A-8 to 40 CFR part 60, collect a minimum volume of 60 liters per run. For Method 26A of appendix A-8 to 40 CFR part 60, collect a minimum volume of 1 dry standard cubic meter per run) | Performance test (Method 26 or 26A of appendix A-8 to 40 CFR part 60). |
| Lead | 0.015 milligrams per dry standard cubic meter. ² | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). Use ICPMS for the analytical finish. |
| Mercury | 0.0048 milligrams per dry standard cubic meter | 3-run average (For Method 29 of appendix A-8 to 40 CFR part 60 an ASTM D6784-24 ³ , collect a minimum volume of 2 dry standard cubic meters per run. For Method 30B of appendix A-8 to 40 CFR part 60, collect a minimum sample as specified in Method 30B | Performance test (Method 29 or 30B of appendix A-8 to 40 CFR part 60) or ASTM D6784-24. ³ |
| Nitrogen oxides | 53 parts per million dry volume | 3-run average (for Method 7E of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 7 or 7E of appendix A-4 to 40 CFR part 60). |
| Particulate matter filterable | 34 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meter) | Performance test (Method 5 or 29 of appendix A-3 or appendix A-8 to 40 CFR part 60). |
| Sulfur dioxide | 11 parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 6 or 6c of appendix A-4 to 40 CFR part 60). |
| Fugitive ash | Visible emissions for no more than 5% of the hourly observation period | Three 1-hour observation periods | Visible emission test (Method 22 of appendix A-7 to 40 CFR part 60). |

¹ All emission limitations are measured at 7 percent oxygen, dry basis at standard conditions. For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.

- ² In lieu of performance testing, you may use a CEMS or, for mercury, an integrated sorbent trap monitoring system, to demonstrate initial and continuing compliance with an emissions limit, as long as you comply with the CEMS or integrated sorbent trap monitoring system requirements applicable to the specific pollutant in § 62.14640a and § 62.14665a. As prescribed in § 62.14640a(u), if you use a CEMS or integrated sorbent trap monitoring system to demonstrate compliance with an emissions limit, your averaging time is a 30-day rolling average of 1-hour arithmetic average emission concentrations.
- ³ Incorporated by reference, see § 62.1640a(z).

Table 5 to Subpart IIIa of Part 62—Model Rule—Emission Limitations That Apply to Energy Recovery Units After [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

| For the air pollutant | You must meet this emission limitation ¹ | | Using this averaging time ² | And determining compliance using this method ² |
|--|---|--|---|--|
| | Liquid/Gas | Solids | | |
| Cadmium | 0.023 milligrams per dry standard cubic meter | Biomass—0.0014 milligrams per dry standard cubic meter. Coal—0.0017 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). Use ICPMS for the analytical finish. |
| Carbon monoxide | 35 parts per million dry volume | Biomass—260 parts per million dry volume Coal—95 parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 10 of appendix A-4 to 40 CFR part 60). |
| Dioxins/furans (total mass basis) | 2.9 nanograms per dry standard cubic meter | Biomass—0.52 nanograms per dry standard cubic meter. ² Coal—5.1 nanograms per dry standard cubic meter. | 3-run average (collect a minimum volume of 4 dry standard cubic meter) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Dioxins/furans (toxic equivalency basis) | 0.32 nanograms per dry standard cubic meter | Biomass—0.12 nanograms per dry standard cubic meter Coal—0.075 nanograms per dry standard cubic meter. ² | 3-run average (collect a minimum volume of 4 dry standard cubic meters) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Hydrogen chloride | 14 parts per | Biomass—0.20 | 3-run average (for | Performance test |

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| | million dry volume | parts per million dry volume Coal—58 parts per million dry volume | Method 26 of appendix A-8 to 40 CFR part 60, collect a minimum of 120 liters; for Method 26A of appendix A-8 to 40 CFR part 60, collect a minimum volume of 1 dry standard cubic meter) | (Method 26 or 26A of appendix A-8 to 40 CFR part 60). |
| Lead | 0.096 milligrams per dry standard cubic meter | Biomass—0.014 milligrams per dry standard cubic meter. ² Coal—0.057 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). Use ICPMS for the analytical finish. |
| Mercury | 0.0024 milligrams per dry standard cubic meter | Biomass—0.0022 milligrams per dry standard cubic meter Coal—0.013 milligrams per dry standard cubic meter | 3-run average (For Method 29 of appendix A-8 to 40 CFR part 60 and ASTM D6784-24 ³ , collect a minimum volume of 2 dry standard cubic meters per run. For Method 30B of appendix A-8 to 40 CFR part 60, collect a minimum sample as specified in Method 30B | Performance test (Method 29 or 30B at Performance test (Method 29 or 30B of appendix A-8 to 40 CFR part 60) or ASTM D6784-24. ³ |
| Nitrogen oxides | 76 parts per million dry volume | Biomass—290 parts per million dry volume Coal—460 parts per million dry volume | 3-run average (for Method 7E of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 7 or 7E of appendix A-4 to 40 CFR part 60). |
| Particulate matter filterable | 110 milligrams per dry standard cubic meter | Biomass—11 milligrams per dry standard cubic meter Coal—130 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meter) | Performance test (Method 5 or 29 of appendix A-3 or appendix A-8 to 40 CFR part 60) if the unit has an annual average heat input rate less than or equal to 250 MMBtu/hr; or PM CPMS (as specified in |

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| | | | | § 62.14670(x) if the unit has an annual average heat input rate greater than 250 MMBtu/hr. |
| Sulfur dioxide | 720 parts per million dry volume | Biomass—7.3 parts per million dry volume Coal—850 parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 6 or 6c of appendix A-4 to 40 CFR part 60). |
| Fugitive ash | Visible emissions for no more than 5 percent of the hourly observation period | Visible emissions for no more than 5 percent of the hourly observation period | Three 1-hour observation periods | Visible emission test (Method 22 of appendix A-7 to 40 CFR part 60). |

- ¹ All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions. For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.
- ² In lieu of performance testing, you may use a CEMS or, for mercury, an integrated sorbent trap monitoring system, to demonstrate initial and continuing compliance with an emissions limit, as long as you comply with the CEMS or integrated sorbent trap monitoring system requirements applicable to the specific pollutant in § 62.14640a and § 62.14665a. As prescribed in § 62.14640a(u), if you use a CEMS or integrated sorbent trap monitoring system to demonstrate compliance with an emissions limit, your averaging time is a 30-day rolling average of 1-hour arithmetic average emission concentrations.
- ³ Incorporated by reference, see § 62.14640a(z).

Table 6 to Subpart IIIa of Part 62—Model Rule—Emission Limitations That Apply to Waste-Burning Kilns After [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

| For the air pollutant | You must meet this emission limitation¹ | Using this averaging time² | And determining compliance using this method^{2,3} |
|-----------------------------------|---|---|---|
| Cadmium | 0.0014 milligrams per dry standard cubic meter. ² | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). |
| Carbon monoxide | 110 (long kilns)/790 (preheater/precalciner) parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 10 of appendix A-4 to 40 CFR part 60). |
| Dioxins/furans (total mass basis) | 1.3 nanograms per dry standard cubic meter. | 3-run average (collect a minimum volume of 4 dry standard cubic meters) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Dioxins/furans (toxic | 0.075 nanograms per dry | 3-run average (collect a | Performance test (Method |

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|-------------------------------|--|---|---|
| equivalency basis) | standard cubic meter. ² | minimum volume of 4 dry standard cubic meters) | 23 of appendix A-7 to 40 CFR part 60). |
| Hydrogen chloride | 3.0 parts per million dry volume. ² | 3-run average (collect a minimum volume of 1 dry standard cubic meter) or 30-day rolling average if HCl CEMS is being used | If a wet scrubber or dry scrubber is used, performance test (Method 321 of appendix A to 40 CFR part 63). If a wet scrubber or dry scrubber is not used, HCl CEMS as specified in § 62.14670(j). |
| Lead | 0.014 milligrams per dry standard cubic meter. ² | 3-run average (collect a minimum volume of 2 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). |
| Mercury | 0.011 milligrams per dry standard cubic meter Or 58 pounds/million tons of clinker | 30-day rolling average | Mercury CEMS or integrated sorbent trap monitoring system (performance specification 12A or 12B, respectively, of appendix B to 40 CFR part 60 and procedure 5 of appendix F to 40 CFR part 60), as specified in § 62.14670(j). |
| Nitrogen oxides | 630 parts per million dry volume | 3-run average (for Method 7E of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 7 or 7E of appendix A-4 to 40 CFR part 60). |
| Particulate matter filterable | 13.5 milligrams per dry standard cubic meter | 30-day rolling average | PM CPMS (as specified in § 62.14670(x)) |
| Sulfur dioxide | 600 parts per million dry volume | 3-run average (for Method 6 of appendix A-4 to 40 CFR part 60, collect a minimum of 20 liters; for Method 6C of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 6 or 6c of appendix A-4 to 40 CFR part 60). |

¹ All emission limitations are measured at 7 percent oxygen (except for CEMS and integrated sorbent trap monitoring system data during startup and shutdown), dry basis at standard conditions. For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.

² In lieu of performance testing, you may use a CEMS or, for mercury, an integrated sorbent trap monitoring system, to demonstrate initial and continuing compliance with an emissions limit, as long as you comply with the CEMS or integrated sorbent trap monitoring system requirements applicable to the specific pollutant in §

62.14640a and § 62.14665a. As prescribed in § 62.14640a(u), if you use a CEMS or integrated sorbent trap monitoring system to demonstrate compliance with an emissions limit, your averaging time is a 30-day rolling average of 1-hour arithmetic average emission concentrations.

- ³ Alkali bypass and in-line coal mill stacks are subject to performance testing only, as specified in 62.14640a(y)(3). They are not subject to the CEMS, integrated sorbent trap monitoring system, or CPMS requirements that otherwise may apply to the main kiln exhaust.

Table 7 to Subpart IIIa of Part 62—Model Rule—Emission Limitations That Apply to Small, Remote Incinerators After [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

| For the air pollutant | You must meet this emission limitation¹ | Using this averaging time² | And determining compliance using this method² |
|--|---|---|--|
| Cadmium | 0.95 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). |
| Carbon monoxide | 64 parts per million dry volume | 3-run average (1 hour minimum sample time per run) | Performance test (Method 10 of appendix A-4 to 40 CFR part 60). |
| Dioxins/furans (total mass basis) | 4,400 nanograms per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Dioxins/furans (toxic equivalency basis) | 180 nanograms per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meters) | Performance test (Method 23 of appendix A-7 to 40 CFR part 60). |
| Fugitive ash | Visible emissions for no more than 5 percent of the hourly observation period | Three 1-hour observation periods | Visible emissions test (Method 22 of appendix A-7 to 40 CFR part 60). |
| Hydrogen chloride | 300 parts per million dry volume | 3-run average (For Method 26 of appendix A-8 to 40 CFR part 60, collect a minimum volume of 120 liters per run. For Method 26A of appendix A-8 to 40 CFR part 60, collect a minimum volume of 1 dry standard cubic meter per run) | Performance test (Method 26 or 26A of appendix A-8 to 40 CFR part 60). |
| Lead | 2.1 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meters) | Performance test (Method 29 of appendix A-8 to 40 CFR part 60). Use |

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| | | | ICPMS for the analytical finish. |
| Mercury | 0.0053 milligrams per dry standard cubic meter | 3-run average (For Method 29 of appendix A-8 to 40 CFR part 60 and ASTM D6784-24, ³ collect a minimum volume of 2 dry standard cubic meters per run. For Method 30B of appendix A-8 to 40 CFR part 60, collect a minimum sample as specified in Method 30B) | Performance test (Method 29 or 30B of appendix A-8 to 40 CFR part 60) or ASTM D6784-24. ³ |
| Nitrogen oxides | 190 parts per million dry volume | 3-run average (for Method 7E of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 7 or 7E of appendix A-4 to 40 CFR part 60). |
| Particulate matter (filterable) | 270 milligrams per dry standard cubic meter | 3-run average (collect a minimum volume of 1 dry standard cubic meters) | Performance test (Method 5 or 29 of appendix A-3 or appendix A-8 to 40 CFR part 60). |
| Sulfur dioxide | 150 parts per million dry volume | 3-run average (for Method 6 of appendix A-4 to 40 CFR part 60, collect a minimum of 20 liters per run; for Method 6C of appendix A-4 to 40 CFR part 60, 1 hour minimum sample time per run) | Performance test (Method 6 or 6c of appendix A-4 to 40 CFR part 60). |

¹ All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions. For dioxins/furans, you must meet either the total mass basis limit or the toxic equivalency basis limit.

² In lieu of performance testing, you may use a CEMS or, for mercury, an integrated sorbent trap monitoring system, to demonstrate initial and continuing compliance with an emissions limit, as long as you comply with the CEMS or integrated sorbent trap monitoring system requirements applicable to the specific pollutant in § 62.14640a and § 62.14665a. As prescribed in § 62.14640a(u), if you use a CEMS or integrated sorbent trap monitoring system to demonstrate compliance with an emissions limit, your averaging time is a 30-day rolling average of 1-hour arithmetic average emission concentrations.

³ Incorporated by reference, see § 62.14640a(z).