

**§ 60.57b**

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or is required to be completed under § 60.8 of subpart A of this part, the owner or operator of an air curtain incinerator with the capacity to combust greater than 250 tons per day of municipal solid waste and that combusts a fuel feed stream composed of 100 percent yard waste and no other municipal solid waste materials shall at no time cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10-percent opacity (6-minute average), except that an opacity level of up to 35 percent (6-minute average) is permitted during startup periods during the first 30 minutes of operation of the unit.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997]

**§ 60.57b Siting requirements.**

(a) The owner or operator of an affected facility shall prepare a materials separation plan, as defined in § 60.51b, for the affected facility and its service area, and shall comply with the requirements specified in paragraphs (a)(1) through (a)(10) of this section. The initial application is defined as representing a good faith submittal as determined by EPA.

(1) The owner or operator shall prepare a preliminary draft materials separation plan and shall make the plan available to the public as specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(i) The owner or operator shall distribute the preliminary draft materials separation plan to the principal public libraries in the area where the affected facility is to be constructed.

(ii) The owner or operator shall publish a notification of a public meeting in the principal newspaper(s) serving the area where the affected facility is to be constructed and where the waste treated by the affected facility will primarily be collected. As a minimum, the notification shall include the information specified in paragraphs (a)(1)(ii)(A) through (a)(1)(ii)(D) of this section.

(A) The date, time, and location of the public meeting.

(B) The location of the public libraries where the preliminary draft materials separation plan may be found, in-

cluding normal business hours of the libraries.

(C) An agenda of the issues to be discussed at the public meeting.

(D) The dates that the public comment period on the preliminary draft materials separation plan begins and ends.

(2) The owner or operator shall conduct a public meeting, accept comments on the preliminary draft materials separation plan, and comply with the requirements specified in paragraphs (a)(2)(i) through (a)(2)(iv) of this section.

(i) The public meeting shall be conducted in the county where the affected facility is to be located.

(ii) The public meeting shall be scheduled to occur 30 days or more after making the preliminary draft materials separation plan available to the public as specified under paragraph (a)(1) of this section.

(iii) Suggested issues to be addressed at the public meeting are listed in paragraphs (a)(2)(iii)(A) through (a)(2)(iii)(H) of this section.

(A) The expected size of the service area for the affected facility.

(B) The amount of waste generation anticipated for the service area.

(C) The types and estimated amounts of materials proposed for separation.

(D) The methods proposed for materials separation.

(E) The amount of residual waste to be disposed.

(F) Alternate disposal methods for handling the residual waste.

(G) Identification of the location(s) where responses to public comment on the preliminary draft materials separation plan will be available for inspection, as specified in paragraphs (a)(3) and (a)(4) of this section.

(H) Identification of the locations where the final draft materials separation plan will be available for inspection, as specified in paragraph (a)(7).

(iv) Nothing in this section shall preclude an owner or operator from combining this public meeting with any other public meeting required as part of any other Federal, State, or local permit review process except the public meeting required under paragraph (b)(4) of this section.

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(3) Following the public meeting required by paragraph (a)(2) of this section, the owner or operator shall prepare responses to the comments received at the public meeting.

(4) The owner or operator shall make the document summarizing responses to public comments available to the public (including distribution to the principal public libraries used to announce the meeting) in the service area where the affected facility is to be located.

(5) The owner or operator shall prepare a final draft materials separation plan for the affected facility considering the public comments received at the public meeting.

(6) As required under § 60.59b(a), the owner or operator shall submit to EPA a copy of the notification of the public meeting, a transcript of the public meeting, the document summarizing responses to public comments, and copies of both the preliminary and final draft materials separation plans on or before the time the facility's application for a construction permit is submitted under 40 CFR part 51, subpart I, or part 52, as applicable.

(7) As part of the distribution of the siting analysis required under paragraph (b)(3) of this section, the owner or operator shall make the final draft materials separation plan required under paragraph (a)(5) of this section available to the public, as specified in paragraph (b)(3) of this section.

(8) As part of the public meeting for review of the siting analysis required under paragraph (b)(4) of this section, the owner or operator shall address questions concerning the final draft materials separation plan required by paragraph (a)(5) of this section including discussion of how the final draft materials separation plan has changed from the preliminary draft materials separation plan that was discussed at the first public meeting required by paragraph (a)(2) of this section.

(9) If the owner or operator receives any comments on the final draft materials separation plan during the public meeting required in paragraph (b)(4) of this section, the owner or operator shall respond to those comments in the document prepared in accordance with paragraph (b)(5) of this section.

(10) The owner or operator shall prepare a final materials separation plan and shall submit, as required under § 60.59b(b)(5)(ii), the final materials separation plan as part of the initial notification of construction.

(b) The owner or operator of an affected facility for which the initial application for a construction permit under 40 CFR part 51, subpart I, or part 52, as applicable, is submitted after December 19, 1995 shall prepare a siting analysis in accordance with paragraphs (b)(1) and (b)(2) of this section and shall comply with the requirements specified in paragraphs (b)(3) through (b)(7) of this section.

(1) The siting analysis shall be an analysis of the impact of the affected facility on ambient air quality, visibility, soils, and vegetation.

(2) The analysis shall consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to the public health or the environment.

(3) The owner or operator shall make the siting analysis and final draft materials separation plan required by paragraph (a)(5) of this section available to the public as specified in paragraphs (b)(3)(i) and (b)(3)(ii) of this section.

(i) The owner or operator shall distribute the siting analysis and final draft materials separation plan to the principal public libraries in the area where the affected facility is to be constructed.

(ii) The owner or operator shall publish a notification of a public meeting in the principal newspaper(s) serving the area where the affected facility is to be constructed and where the waste treated by the affected facility will primarily be collected. As a minimum, the notification shall include the information specified in paragraphs (b)(3)(ii)(A) through (b)(3)(ii)(D) of this section.

(A) The date, time, and location of the public meeting.

(B) The location of the public libraries where the siting analyses and final draft materials separation plan may be found, including normal business hours.

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(C) An agenda of the issues to be discussed at the public meeting.

(D) The dates that the public comment period on the siting analyses and final draft materials separation plan begins and ends.

(4) The owner or operator shall conduct a public meeting and accept comments on the siting analysis and the final draft materials separation plan required under paragraph (a)(5) of this section. The public meeting shall be conducted in the county where the affected facility is to be located and shall be scheduled to occur 30 days or more after making the siting analysis available to the public as specified under paragraph (b)(3) of this section.

(5) The owner or operator shall prepare responses to the comments on the siting analysis and the final draft materials separation plan that are received at the public meeting.

(6) The owner or operator shall make the document summarizing responses to public comments available to the public (including distribution to all public libraries) in the service area where the affected facility is to be located.

(7) As required under § 60.59b(b)(5), the owner or operator shall submit a copy of the notification of the public meeting, a transcript of the public meeting, the document summarizing responses to public comments, and the siting analysis as part of the initial notification of construction.

(c) The owner or operator of an affected facility for which construction is commenced after September 20, 1994 shall prepare a siting analysis in accordance with 40 CFR part 51, subpart I, or part 52, as applicable, and shall submit the siting analysis as part of the initial notification of construction. Affected facilities subject to paragraphs (a) and (b) of this section are not subject to this paragraph.

[60 FR 65419, Dec. 19, 1995, as amended at 62 FR 45126, Aug. 25, 1997; 71 FR 27337, May 10, 2006]

**§ 60.58b Compliance and performance testing.**

(a) The provisions for startup, shutdown, and malfunction are provided in paragraphs (a)(1) and (a)(2) of this section.

(1) Except as provided by § 60.56b, the standards under this subpart apply at all times except during periods of startup, shutdown, and malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence, except as provided in paragraph (a)(1)(iii) of this section. During periods of startup, shutdown, or malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of 40 CFR 60.59b(d)(7).

(i) The startup period commences when the affected facility begins the continuous burning of municipal solid waste and does not include any warmup period when the affected facility is combusting fossil fuel or other nonmunicipal solid waste fuel, and no municipal solid waste is being fed to the combustor.

(ii) Continuous burning is the continuous, semicontinuous, or batch feeding of municipal solid waste for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of municipal solid waste solely to provide thermal protection of the grate or hearth during the startup period when municipal solid waste is not being fed to the grate is not considered to be continuous burning.

(iii) For the purpose of compliance with the carbon monoxide emission limits in § 60.53b(a), if a loss of boiler water level control (*e.g.*, boiler waterwall tube failure) or a loss of combustion air control (*e.g.*, loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction, the duration of the malfunction period is limited to 15 hours per occurrence. During such periods of malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of § 60.59b(d)(7).

(2) The opacity limits for air curtain incinerators specified in § 60.56b apply at all times as specified under § 60.56b except during periods of malfunction. Duration of malfunction periods are limited to 3 hours per occurrence.