

§ 63.11872 What is the relationship to other subparts in this part?

After the applicable compliance date specified in § 63.11875(a), (b) or (c), an affected source that is also subject to the provisions of other subparts in 40 CFR part 60 or this part is required to comply with this subpart and any other applicable subparts in 40 CFR part 60 or this part.

§ 63.11875 When must I comply with this subpart?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart no later than April 17, 2015. On or after April 17, 2015, any such existing affected source is no longer subject to the provisions of 40 CFR part 61, subpart F.

(b) If you start up a new affected source on or before April 17, 2012, you must achieve compliance with the provisions of this subpart no later than April 17, 2012. On or after April 17, 2012, any such new affected source is not subject to the provisions of 40 CFR part 61, subpart F.

(c) If you start up a new affected source after April 17, 2012, you must achieve compliance with the provisions of this subpart upon startup of your affected source. Upon startup, any such new affected source is not subject to the provisions of 40 CFR part 61, subpart F.

(d) You must meet the notification requirements in §§ 63.9 and 63.11985 according to the dates specified in those sections. Some of the notifications must be submitted before you are required to comply with the emission limits and standards in this subpart.

EMISSION LIMITS, OPERATING LIMITS
AND WORK PRACTICE STANDARDS

§ 63.11880 What emission limits, operating limits and standards must I meet?

(a) You must comply with each emission limit and standard specified in Table 1 to this subpart that applies to your existing affected source, and you must comply with each emission limit and standard specified in Table 2 to this subpart that applies to your new affected source.

(b) You must establish an operating limit for each operating parameter required to be monitored in § 63.11925, and you must establish each operating limit as an operating range, minimum operating level or maximum operating level. You must comply with each established operating limit.

(c) You must comply with the emission limits and standards specified in §§ 63.11910 through 63.11980 that apply to your affected source.

GENERAL COMPLIANCE REQUIREMENTS

§ 63.11885 What parts of the General Provisions apply to me?

Table 4 to this subpart specifies which parts of the General Provisions in subpart A of this part apply to you.

§ 63.11890 What are my additional general requirements for complying with this subpart?

(a) The emission limits, operating limits and work practice standards specified in this subpart apply at all times, including periods of startup, shutdown or malfunction.

(b) At all times, you must operate and maintain your affected source, including associated air pollution control components and monitoring system components, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether acceptable operation and maintenance procedures are being used will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(c) You must install, calibrate, maintain, and operate all monitoring system components according to §§ 63.8, 63.11935(b) and (c), and paragraphs (c)(1) and (2) of this section.

(1) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), you must operate the continuous monitoring system

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at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(2) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, 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 required data collection periods in assessing the operation of the control device and associated control system. You must report any periods for which the monitoring system failed to collect required data.

(d) A deviation means any of the cases listed in paragraphs (d)(1) through (7) of this section.

(1) Any instance in which an affected source subject to this subpart, or an owner or operator of such a source, fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit or work practice standard.

(2) When a performance test indicates that emissions of a pollutant in Table 1 or 2 to this subpart are exceeding the emission standard for the pollutant specified in Table 1 or 2 to this subpart.

(3) When a 3-hour block average from a continuous emissions monitor, as required by § 63.11925(c)(1) through (3), exceeds an emission limit in Table 1 or 2 to this subpart.

(4) When the average value of a monitored operating parameter, based on the data averaging period for compliance specified in Table 5 to this subpart, does not meet the operating limit established in § 63.11880(b).

(5) When an affected source discharges directly to the atmosphere from any of the sources specified in

paragraphs (d)(5)(i) through (iv) of this section.

(i) A pressure relief device, as defined in § 63.12005.

(ii) A bypass, as defined in § 63.12005.

(iii) A closed vent system in vacuum service.

(iv) A closure device on a pressure vessel.

(6) Any instance in which the affected source subject to this subpart, or an owner or operator of such a source, fails to meet any term or condition specified in paragraph (d)(6)(i) or (ii) of this section.

(i) Any term or condition that is adopted to implement an applicable requirement in this subpart.

(ii) Any term or condition relating to compliance with this subpart that is included in the operating permit for any affected source required to obtain such a permit.

(7) Any failure to collect required data, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

§ 63.11895 How do I assert an affirmative defense for exceedance of emission standard during malfunction?

In response to an action to enforce the standards set forth in § 63.11880, you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(a) Evidence. To establish the affirmative defense in any action to enforce such a standard, you must timely meet the notification requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(1) The violation:

(i) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring