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APPLICABILITY OF STATE PLANS

§ 60.2991 What incineration units must I address in my State plan?

Your State plan must address all incineration units in your State that meet all the requirements specified in paragraphs (a) through (c) of this section.

(a) The incineration unit is an existing incineration unit as defined in § 60.2992.

(b) The incineration unit is an OSWI unit as defined in § 60.3078 or an air curtain incinerator subject to this subpart as described in § 60.2994(b). OSWI units are very small municipal waste combustion units and institutional waste incineration units as defined in § 60.3078.

(c) The incineration unit is not excluded under § 60.2993.

§ 60.2992 What is an existing incineration unit?

An existing incineration unit is an OSWI unit or air curtain incinerator subject to this subpart that commenced construction on or before December 9, 2004, except as provided in paragraph (a) of this section.

(a) If the owner or operator of an incineration unit makes changes that meet the definition of modification or reconstruction on or after June 16, 2006, the unit becomes subject to subpart EEEE of this part (New Source Performance Standards for Other Solid Waste Incineration Units) and the State plan no longer applies to that unit.

(b) If the owner or operator of an existing incineration unit makes physical or operational changes to the unit primarily to comply with the State plan, then subpart EEEE of this part does not apply to that unit. Such changes do not qualify as modifications or reconstructions under subpart EEEE of this part.

§ 60.2993 Are any combustion units excluded from my State plan?

This subpart excludes the types of units described in paragraphs (a) through (q) of this section, as long as the owner/operator meets the requirements of this section.

(a) *Cement kilns.* The unit is excluded if it is regulated under subpart LLL of part 63 of this chapter (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry).

(b) *Co-fired combustors.* The unit, that would otherwise be considered a very small municipal waste combustion unit, is excluded if the owner/operator of the unit meets the five requirements specified in paragraphs (b)(1) through (5) of this section.

(1) Has a Federally enforceable permit limiting the combustion of municipal solid waste to 30 percent of the total fuel input by weight.

(2) Notifies the Administrator that the unit qualifies for the exclusion.

(3) Provides the Administrator with a copy of the Federally enforceable permit.

(4) Records the weights, each calendar quarter, of municipal solid waste and of all other fuels combusted.

(5) Keeps each report for 5 years. These records must be kept on site for at least 2 years, but may be kept off site for the remaining 3 years.

(c) *Cogeneration facilities.* The unit is excluded if it meets the three requirements specified in paragraphs (c)(1) through (3) 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) The owner/operator of the unit notifies the Administrator that the unit meets all of these criteria.

(d) *Commercial and industrial solid waste incineration units.* The unit is excluded if it is regulated under subparts CCCC or DDDD of this part or subpart III of part 62 and is required to meet the emission limitations established in those subparts.

(e) *Hazardous waste combustion units.* The unit is excluded if it meets either of the two criteria specified in paragraph (e)(1) or (2) of this section.

(1) The owner/operator of the unit is required to get a permit for the unit

under section 3005 of the Solid Waste Disposal Act.

(2) The unit is regulated under 40 CFR part 63, subpart EEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).

(f) *Hospital/medical/infectious waste incinerators.* The unit is excluded if it is regulated under subparts Ce or Ec of this part (New Source Performance Standards and Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators) or subpart HHH of part 62 (Federal Plan for Hospital/Medical/Infectious Waste Incinerators constructed on or before June 20, 1996).

(g) *Incinerators and air curtain incinerators in isolated areas of Alaska.* The incineration unit is excluded if it is used at a solid waste disposal site in Alaska that is classified as a Class II or Class III municipal solid waste landfill, as defined in § 60.3078.

(h) *Rural institutional waste incinerators.* The incineration unit is excluded if it is an institutional waste incinerator, as defined in § 60.3078, and the application for exclusion described in paragraphs (h)(1) and (2) of this section has been approved by the Administrator.

(1) Prior to 1 year before the final compliance date, an application and supporting documentation demonstrating that the institutional waste incineration unit meets the two requirements specified in paragraphs (h)(1)(i) and (ii) of this section must be submitted to the Administrator for approval.

(i) The unit is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area,

(ii) Alternative disposal options are not available or are economically infeasible.

(2) The application described in paragraph (h)(1) of this section must be revised and resubmitted to the Administrator for approval every 5 years following the initial approval of the exclusion for your unit.

(3) If you re-applied for an exclusion pursuant to paragraph (h)(2) of this section and were denied exclusion by the Administrator, you have 3 years from the expiration date of the current exclusion to comply with the emission limits and all other applicable requirements of this subpart.

(i) *Institutional boilers and process heaters.* The unit is excluded if it is regulated under 40 CFR part 63, subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters).

(j) *Laboratory Analysis Units.* The unit is excluded if it burns samples of materials only for the purpose of chemical or physical analysis.

(k) *Materials recovery units.* The unit is excluded if it combusts waste for the primary purpose of recovering metals. Examples include primary and secondary smelters.

(l) *Pathological waste incineration units.* The institutional waste incineration unit or very small municipal waste combustion unit is excluded from this subpart if it burns 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 § 60.3078 and the owner/operator of the unit notifies the Administrator that the unit meets these criteria.

(m) *Small or large municipal waste combustion units.* The unit is excluded if it is regulated under subparts AAAA, BBBB, Ea, Eb, or Cb, of this part or subparts FFF or JJJ of part 62 and is required to meet the emission limitations established in those subparts.

(n) *Small power production facilities.* The unit is excluded if it meets the three requirements specified in paragraphs (n)(1) through (3) 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) The owner/operator of the unit notifies the Administrator that the unit meets all of these criteria.

(o) *Temporary-use incinerators and air curtain incinerators used in disaster recovery.* The incineration unit is excluded if it is used on a temporary basis to combust debris from a disaster

or emergency such as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism and you comply with the requirements in § 60.3061.

(p) *Units that combust contraband or prohibited goods.* The incineration unit is excluded if the unit is owned or operated by a government agency such as police, customs, agricultural inspection, or a similar agency to destroy only illegal or prohibited goods such as illegal drugs, or agricultural food products that can not be transported into the country or across state lines to prevent biocontamination. The exclusion does not apply to items either confiscated or incinerated by private, industrial, or commercial entities.

(q) *Incinerators used for national security.* Your incineration unit is excluded if it meets the requirements specified in either (q)(1) or (2) of this section.

(1) The incineration unit is used solely during military training field exercises to destroy national security materials integral to the field exercises.

(2) The incineration unit is used solely to incinerate national security materials, its use is necessary to safeguard national security, you follow the exclusion request requirements in paragraphs (q)(2)(i) and (ii) of this section, and the Administrator has approved your request for exclusion.

(i) The request for exclusion and supporting documentation must demonstrate both that the incineration unit is used solely to destroy national security materials and that a reliable alternative to incineration that ensures acceptable destruction of national security materials is unavailable, on either a permanent or temporary basis.

(ii) The request for exclusion must be submitted to the Administrator prior to 1 year before the final compliance date.

§ 60.2994 Are air curtain incinerators regulated under this subpart?

(a) Air curtain incinerators that burn less than 35 tons per day of municipal solid waste or air curtain incinerators located at institutional facilities burning any amount of institutional waste generated at that facility are subject to all requirements of this subpart, including the emission limitations specified in table 2 of this subpart.

(b) Air curtain incinerators that burn only less than 35 tons per day of the materials listed in paragraphs (b)(1) through (4) of this section collected from the general public and from residential, commercial, institutional, and industrial sources; or, air curtain incinerators located at institutional facilities that burn only the materials listed in paragraphs (b)(1) through (4) of this section generated at that facility, are required to meet only the requirements in §§ 60.3062 through 60.3069 and are exempt from all other requirements of this subpart.

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent yard waste.

(4) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

MODEL RULE—USE OF MODEL RULE

§ 60.2996 What is the purpose of the "model rule" in this subpart?

(a) The model rule provides the emission guidelines requirements in a standard regulation format. You must develop a State plan that is at least as protective as the model rule. You may use the model rule language as part of your State plan. Alternative language may be used in your State plan if you demonstrate that the alternative language is at least as protective as the model rule contained in this subpart.

(b) In the ''model rule'' of §§ 60.3000 through 60.3078, ''you'' means the owner or operator of an OSWI unit or air curtain incinerator subject to this subpart.

§ 60.2997 How does the model rule relate to the required elements of my State plan?

Use the model rule to satisfy the State plan requirements specified in § 60.2983(a)(4) and (5).

§ 60.2998 What are the principal components of the model rule?

The model rule contains nine major components, as follows:

(a) Compliance schedule.

(b) Waste management plan.

(c) Operator training and qualification.