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the affected facility shall submit a signed statement indicating if any changes were made in operation of the emission control system during the period of data unavailability which could affect the ability of the system to meet the applicable emission limit. Operations of the control system and affected facility during periods of data unavailability are to be compared with operation of the control system and affected facility before and following the period of data unavailability.

(e) For each fuel gas stream combusted in a fuel gas combustion device subject to § 60.104(a)(1), if an owner or operator determines that one of the exemptions listed in § 60.105(a)(4)(iv) applies to that fuel gas stream, the owner or operator shall maintain records of the specific exemption chosen for each fuel gas stream. If the owner or operator applies for the exemption described in § 60.105(a)(4)(iv)(D), the owner or operator must keep a copy of the application as well as the letter from the Administrator granting approval of the application.

(f) The owner or operator of an affected facility shall submit the reports required under this subpart to the Administrator semiannually for each six-month period. All semiannual reports shall be postmarked by the 30th day following the end of each six-month period.

(g) The owner or operator of the affected facility shall submit a signed statement certifying the accuracy and completeness of the information contained in the report.

[54 FR 34029, Aug. 17, 1989, as amended at 55 FR 40178, Oct. 2, 1990; 64 FR 7465, Feb. 12, 1999; 65 FR 61755, Oct. 17, 2000; 73 FR 35867, June 24, 2008]

§ 60.108 Performance test and compliance provisions.

(a) Section 60.8(d) shall apply to the initial performance test specified under paragraph (c) of this section, but not to the daily performance tests required thereafter as specified in § 60.108(d). Section 60.8(f) does not apply when determining compliance with the standards specified under § 60.104(b). Performance tests conducted for the purpose of determining compliance under § 60.104(b) shall be conducted according

to the applicable procedures specified under § 60.106.

(b) Owners or operators who seek to comply with § 60.104(b)(3) shall meet that standard at all times, including periods of startup, shutdown, and malfunctions.

(c) The initial performance test shall consist of the initial 7-day average calculated for compliance with § 60.104(b)(1), (b)(2), or (b)(3).

(d) After conducting the initial performance test prescribed under § 60.8, the owner or operator of a fluid catalytic cracking unit catalyst regenerator subject to § 60.104(b) shall conduct a performance test for each successive 24-hour period thereafter. The daily performance tests shall be conducted according to the appropriate procedures specified under § 60.106. In the event that a sample collected under § 60.106(i) or (j) is accidentally lost or conditions occur in which one of the samples must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operators' control, compliance may be determined using available data for the 7-day period.

(e) Each owner or operator subject to § 60.104(b) who has demonstrated compliance with one of the provisions of § 60.104(b) but a later date seeks to comply with another of the provisions of § 60.104(b) shall begin conducting daily performance tests as specified under paragraph (d) of this section immediately upon electing to become subject to one of the other provisions of § 60.104(b). The owner or operator shall furnish the Administrator with a written notification of the change in the semiannual report required by § 60.107(f).

[54 FR 34030, Aug. 17, 1989, as amended at 55 FR 40178, Oct. 2, 1990; 64 FR 7466, Feb. 12, 1999; 73 FR 35867, June 24, 2008]

§ 60.109 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

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(b) Authorities which shall not be delegated to States:

- (1) Section 60.105(a)(13)(iii),
- (2) Section 60.106(i)(12).

[54 FR 34031, Aug. 17, 1989, as amended at 55 FR 40178, Oct. 2, 1990]

Subpart Ja—Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

SOURCE: 73 FR 35867, June 24, 2008, unless otherwise noted.

§ 60.100a Applicability, designation of affected facility, and reconstruction.

(a) The provisions of this subpart apply to the following affected facilities in petroleum refineries: fluid catalytic cracking units (FCCU), fluid coking units (FCU), delayed coking units, fuel gas combustion devices (including process heaters), flares and sulfur recovery plants. The sulfur recovery plant need not be physically located within the boundaries of a petroleum refinery to be an affected facility, provided it processes gases produced within a petroleum refinery.

(b) Except for flares and delayed coking units, the provisions of this subpart apply only to affected facilities under paragraph (a) of this section which either commence construction, modification or reconstruction after May 14, 2007, or elect to comply with the provisions of this subpart in lieu of complying with the provisions in subpart J of this part. For flares, the provisions of this subpart apply only to flares which commence construction, modification or reconstruction after June 24, 2008. For the purposes of this subpart, a modification to a flare commences when a project that includes any of the activities in paragraphs (c)(1) or (2) of this section is commenced. For delayed coking units, the provisions of this subpart apply to delayed coking units that commence construction, reconstruction or modification on the earliest of the following dates:

(1) May 14, 2007, for such activities that involve a “delayed coking unit” defined as follows: one or more refinery process units in which high molecular weight petroleum derivatives are thermally cracked and petroleum coke is produced in a series of closed, batch system reactors;

(2) December 22, 2008, for such activities that involve a “delayed coking unit” defined as follows: a refinery process unit in which high molecular weight petroleum derivatives are thermally cracked and petroleum coke is produced in a series of closed, batch system reactors. A delayed coking unit consists of the coke drums and associated fractionator;

(3) September 12, 2012, for such activities that involve a “delayed coking unit” as defined in § 60.101a.

(c) For all affected facilities other than flares, the provisions in § 60.14 regarding modification apply. As provided in § 60.14(f), the special provisions set forth under this subpart shall supersede the provisions in § 60.14 with respect to flares. For the purposes of this subpart, a modification to a flare occurs as provided in paragraphs (c)(1) or (2) of this section.

(1) Any new piping from a refinery process unit, including ancillary equipment, or a fuel gas system is physically connected to the flare (*e.g.*, for direct emergency relief or some form of continuous or intermittent venting). However, the connections described in paragraphs (c)(1)(i) through (vii) of this section are not considered modifications of a flare.

(i) Connections made to install monitoring systems to the flare.

(ii) Connections made to install a flare gas recovery system or connections made to upgrade or enhance components of a flare gas recovery system (*e.g.*, addition of compressors or recycle lines).

(iii) Connections made to replace or upgrade existing pressure relief or safety valves, provided the new pressure relief or safety valve has a set point opening pressure no lower and an internal diameter no greater than the existing equipment being replaced or upgraded.

(iv) Connections made for flare gas sulfur removal.