

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 60 and 62**

[EPA-HQ-OAR-2011-0405 and EPA-HQ-OAR-2006-0534; FRL-9802-3]

RIN 2060-AR-11 and RIN 2060-A004

**Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On or Before December 1, 2008, and Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action finalizes amendments to the federal plan and the new source performance standards for hospital/medical/infectious waste incinerators. This final action implements national standards promulgated in the 2009 amendments to the hospital/medical/infectious waste incinerator emissions guidelines that will result in reductions in emissions of certain pollutants from all affected units.

**DATES:** The effective date of this rule is June 12, 2013.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-HQ-OAR-2011-0405 and Legacy Docket ID Number A-98-24. The EPA has established a docket for the hospital/medical/infectious waste incinerator (HMIWI) rules under Docket ID Number EPA-HQ-OAR-2006-0534 and Legacy Docket ID Number A-91-61. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the

Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Hambrick, Fuels and Incineration Group, Sector Policies and Programs Division (E143-05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-0964; fax number: (919) 541-3470; email address: *hambrick.amy@epa.gov*.

**SUPPLEMENTARY INFORMATION:** *Organization of This Document.* The following outline is provided to aid in locating information in this preamble.

- I. General Information
  - A. Does the final action apply to me?
  - B. Where can I get a copy of this document?
  - C. Judicial Review
- II. Background Information
  - A. What is the regulatory development background for this final rule?
  - B. What is the purpose of this final rule?
  - C. What is the status of state plan submittals?
  - D. What are the elements of the amended HMIWI federal plan?
- III. Affected Facilities
  - A. What is a HMIWI?
  - B. Does the federal plan apply to me?
  - C. How do I determine if my HMIWI is covered by an approved and effective state plan?
- IV. Summary of Changes Since Proposal and Response to Public Comments
  - A. State Plans and Negative Declarations
  - B. Visible Ash Emissions Limitation
  - C. Initial and Annual HMIWI Unit Inspection
- V. Summary of Final Amendments to HMIWI Federal Plan
  - A. What are the final amendments to applicability?
  - B. What are the final amendments to the emissions limits?
  - C. What are the final amendments to the waste management plan requirements?
  - D. What are the final amendments to the inspection requirements?
  - E. What are the final amendments to the performance testing and monitoring requirements?
  - F. What are the final amendments to the recordkeeping and reporting requirements?
  - G. What are the final amendments to the compliance schedule?
  - H. What are the other final amendments?
- VI. Summary of Final Amendments to HMIWI NSPS
  - A. What are the final amendments to the emissions limits?
- VII. HMIWI That Have or Will Shutdown
  - A. Units That Plan To Close Rather Than Comply

- B. Inoperable Units
- C. HMIWI That Have Shutdown
- VIII. Implementation of the Federal Plan and Delegation
  - A. Background of Authority
  - B. Delegation of the Federal Plan and Retained Authorities
  - C. Mechanisms for Transferring Authority
  - D. Implementing Authority
- IX. Title V Operating Permits
  - A. Title V and Delegation of a Federal Plan
- X. Statutory and Executive Order Reviews
  - A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Paperwork Reduction Act (PRA)
  - C. Regulatory Flexibility Act (RFA)
  - D. Unfunded Mandates Reform Act (UMRA)
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
  - I. National Technology Transfer and Advancement Act (NTTAA)
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations
  - K. Congressional Review Act

A redline version of the federal plan regulatory language that incorporates the changes in this action is available in the docket.

**I. General Information**

*A. Does the final action apply to me?*

*Regulated Entities.* If you own or operate an existing HMIWI and are not already subject to an EPA-approved and effective state plan implementing the October 6, 2009, revised emissions guidelines (EG), you may be covered by this final federal plan. Existing HMIWI are those that commenced construction on or before December 1, 2008, or commenced modification on or before April 6, 2010. In addition, if you own or operate a new HMIWI, you may be covered by this final amended new source performance standard (NSPS). New HMIWI are those that commenced construction after December 1, 2008, or commenced modification after April 6, 2010. Regulated categories and entities include those listed in the following table.

Category	NAICS* code	Examples of regulated entities
Industry .....	622110 622310	Private hospitals, other health care facilities, commercial research laboratories, commercial waste disposal companies, private universities.

Category	NAICS* code	Examples of regulated entities
Federal Government .....	325411	Federal hospitals, other health care facilities, public health service, armed services.
	325412	
	562213	
	611310	
	622110	
State/Local/Tribal Government .....	541710	State/local hospitals, other health care facilities, state/local waste disposal services, state universities.
	928110	
	622110	
	562213	
	611310	

\*North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the final action. To determine whether your facility will be affected by this amended final action, you should examine the applicability criteria in § 62.14400 of subpart HHH. If you have any questions regarding the applicability of the final action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. Where can I get a copy of this document?*

In addition to being available in the docket, an electronic copy of the final action will be available on the World Wide Web (WWW) through the EPA's Technology Transfer Network (TTN). Following signature, a copy of the final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control. Additionally in the rule docket, the EPA will include a redline strikeout version of the full regulatory text, comparing the 2000 rule text and the today's final amended rule text.

*C. Judicial Review*

Under Clean Air Act (CAA) section 307(b)(1), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by July 12, 2013. Section 307(d)(7)(B) of the CAA further provides that "only an objection to this final rule that was raised with reasonable specificity during the period for public comment can 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 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 this rule." Any person seeking to make such a demonstration to the EPA should submit a Petition of Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20004, with a copy to both of the contacts list in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Council (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

## II. Background Information

### A. What is the regulatory development background for this final rule?

Section 129 of the CAA requires the EPA to develop NSPS and EG for "units combusting hospital waste, medical waste and infectious waste." On September 15, 1997, the EPA promulgated NSPS for new HMIWI, codified at 40 CFR part 60 subpart Ec, and EG for existing HMIWI, codified at 40 CFR part 60 subpart Ce. (See 62 FR 48348.) The NSPS and EG were designed to reduce air pollution emitted from these HMIWI, including cadmium (Cd), carbon monoxide (CO), dioxins/furans (total, or 2,3,7,8-Tetrachlorodibenzo-p-Dioxin toxic equivalency (TEQ)), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides (NO<sub>x</sub>), opacity, particulate matter (PM) and sulfur dioxide (SO<sub>2</sub>). The 1997 NSPS applied to HMIWI for

which construction began after June 20, 1996, and required compliance within 6 months after startup or by March 16, 1998, whichever date was later. The 1997 EG applied to HMIWI for which construction began on or before June 20, 1996, and required compliance no later than September 15, 2002.

On March 2, 1999, in *Sierra Club v. EPA*, 167 F.3d 658 (DC Cir. 1999), the Court remanded the rule to the EPA for further explanation regarding how the EPA derived the maximum achievable control technology (MACT) emissions standards for HMIWI. The Court did not vacate the regulations and the regulations remained in effect during the remand.

On July 6, 1999, the EPA proposed the federal plan requirements for HMIWI units constructed on or before June 20, 1996 (64 FR 36426). The federal plan covered existing HMIWI located in states that did not have an approved state plan. Furthermore, the federal plan implemented and enforced the EG in Indian country until tribes receive approval to administer their own programs. On August 15, 2000, the EPA promulgated the federal plan requirements for HMIWI units constructed on or before June 20, 1996 (65 FR 49868). The 1997 HMIWI rules were fully implemented by September 2002.

On February 6, 2007, the EPA proposed a response to the Court's remand of HMIWI. (See 72 FR 5510.) The proposed response would have revised some of the emissions limits in the NSPS and EG. In addition to responding to the Court's remand, the EPA also proposed its first 5-year review of the HMIWI standards. Every 5 years after adopting a MACT standard under section 129, CAA section 129(a)(5) requires the EPA to review and, if appropriate, revise the incinerator standards.

On December 1, 2008, the EPA re-proposed its response to the Court's remand and 5-year review (73 FR

72962). The EPA's decision to repropose its response to the remand was based on a number of factors, including further rulings by the Court that were issued after the 2007 proposal was published. In addition, public comments regarding the 2007 proposal raised issues that, upon further consideration, the EPA concluded would best be addressed through a reproposal. In response to public comments on the 2008 reproposal, the EPA further revised the standards and, on October 6, 2009, published final revisions to the September 1997 NSPS and EG to respond to the remand and satisfy the 5-year review requirement under CAA section 129(a)(5) (74 FR 51367). On April 4, 2011, the EPA promulgated amendments to the NSPS and EG, correcting inadvertent drafting errors in the NO<sub>x</sub> and SO<sub>2</sub> emissions limits for large HMIWI in the NSPS which did not correspond to our description of our standard-setting process; correcting erroneous cross-references in the reporting and recordkeeping requirements in the NSPS, clarifying that compliance with the EG must be expeditious if a compliance extension is granted; correcting the inadvertent omission of delegation of authority provisions in the EG; correcting errors in the units' description for several emissions limits in the EG and NSPS; and removing extraneous text from the HCl emissions limit for large HMIWI in the EG (76 FR 18407).

On April 23, 2012, the EPA proposed amendments to the existing HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that do not have an approved revised/new state plan implementing the EG, as amended, in place by October 6, 2011 (77 FR 24272). Also on April 23, 2012, the EPA proposed to amend the NSPS to better reflect our original intent in the October 6, 2009, final rule in eliminating an exemption during startup, shutdown and malfunction (SSM) periods from the requirement to comply with standards at all times (77 FR 24272). Today's action will finalize the amendments to the federal plan and NSPS.

*B. What is the purpose of this final rule?*

Section 129 of the CAA relies upon states as the preferred implementers of

EG for existing HMIWI. For the EG to be enforceable, it must be implemented through either a state plan approved by the EPA, or through a federal plan promulgated by notice and comment rulemaking. To make the HMIWI EG enforceable in states with existing HMIWI, states are required to submit plans that implement and enforce the amended EG to the EPA within 1 year of promulgation of the EG. For states that have existing HMIWI but do not have an EPA-approved and effective plan, the EPA must develop and implement a federal plan within 2 years following promulgation of the EG. The federal plan is an interim measure to ensure that emissions standards are implemented until states assume their role as the preferred implementers of the EG. States without any existing HMIWI are directed to submit to the Administrator a letter of negative declaration certifying that there are no HMIWI in the state. No plan is required for states that do not have any HMIWI. Hospital/medical/infectious waste incinerators located in states that mistakenly submit a letter of negative declaration would be subject to the federal plan until a state plan becomes approved and effective covering those HMIWI.

State plans to implement the EG adopted on September 15, 1997, are already in place and the EPA adopted a HMIWI federal plan on August 15, 2000, (65 FR 49868) to implement the September 15, 1997, EG for those HMIWI not covered by an approved state plan. Revised or new state plans to implement the amended EG adopted on October 6, 2009, from 8 states are final or currently undergoing EPA review to become final. The deadline for submitting revised/new state plans for EPA review was October 6, 2010. The EPA strongly encourages states that are unable to submit approvable revised/new plans to request delegation of the amended federal. The EPA has not received state plans or negative declarations from 25 states and or territories. Eight states and or territories have indicated they intend to accept delegation of the federal plan.

Today's action finalizes amendments to the HMIWI federal plan to implement the amended EG adopted on October 6,

2009, for those states that did not have an approved revised/new state plan in place by October 6, 2011. Sections 111 and 129 of the CAA and 40 CFR 60.27(c) and (d) require the EPA to develop, implement and enforce a federal plan to cover existing HMIWI located in states that do not have an approved plan within 2 years after promulgation of the EG (by October 6, 2011). The EPA is finalizing amendments to the HMIWI federal plan now so that a promulgated federal plan will go into place for any such states, and thus ensuring implementation and enforcement of the amended HMIWI EG.

The amended EG adopted on October 6, 2009, required improvements in performance for 50 of the then operating 57 units.<sup>1</sup> Incineration of hospital/medical/infectious waste 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. The EPA estimated a total emissions reduction of 393,000 pounds per year of the regulated pollutants from the 2009 EG, of which acid gases (*i.e.*, HCl and SO<sub>2</sub>) comprise about 62 percent, PM about 0.8 percent, CO about 0.3 percent, NO<sub>x</sub> about 37 percent, and metals (*i.e.*, Pb, Cd and Hg) and dioxins/furans about 0.2 percent. The EPA also estimated that air pollution control devices that would be installed to comply with the 2009 rule would also effectively reduce emissions of pollutants such as polycyclic organic matter (POM) and polychlorinated biphenyls (PCBs). The 2009 final rule's revised waste management plan provisions encourage segregation of types of waste that lead to reductions in emissions, such as chlorinated plastics and PCB-containing wastes.

*C. What is the status of state plan submittals?*

Sections 111(d) and 129(b)(3) of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(3), authorize the EPA to develop and implement a federal plan for HMIWI located in states with no approved and effective state plan. The status of the state plans are outlined in the below table.

STATUS OF STATE PLANS

Status	States
I. States with EPA-approved state plans .....	Florida; Illinois; Indiana; West Virginia.

<sup>1</sup> See 74 FR 51371–51375, 51396–51399, and 51399–51400 to reference the regulatory

background, summary of final rule changes, and

impacts of the amended EG adopted on October 6, 2009.

STATUS OF STATE PLANS—Continued

Status	States
II. Anticipated states to submit negative declarations to the EPA.	Connecticut; Michigan; Wisconsin.
III. Negative declaration submitted/EPA approved.	Alabama; Jefferson County (Birmingham), Alabama; Arkansas; Delaware; District of Columbia; Iowa; Kentucky; Jefferson County (Louisville), Kentucky; Louisiana; Maine; Massachusetts; New Hampshire; New York; Forsyth County (Winston-Salem), North Carolina; Buncombe County (Asheville), North Carolina; Philadelphia County, Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Vermont; Virginia.
IV. Final state plans submitted to the EPA .....	Maryland; Missouri; North Carolina; North Dakota.
V. Draft state plans submitted to the EPA.	
VI. States for which the EPA has not received a draft or final plan or negative declaration.	Huntsville, Alabama; Alaska, American Samoa; Arizona; Maricopa County, Arizona; Pima County, Arizona; Pinal County, Arizona; California; Colorado; Georgia; Guam; Hawaii; Kansas; Mississippi; Montana; Nebraska; Nevada; City of Albuquerque, New Mexico; New Mexico; Mecklenburg County (Charlotte), North Carolina; Ohio; Oklahoma; South Dakota; Tennessee; Texas; Utah; Wyoming.
VII. Anticipated states to accept delegation of federal plan.	Idaho; Minnesota; New Jersey; Oregon; Pennsylvania; Allegheny County, Pennsylvania; Virgin Islands; Washington.

The above list shows which states have an EPA approved state plan in effect by the date of signature of this notice. As 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.

The EPA will maintain a list of revised/new state plan submittals and

approvals on the TTN Air Toxics Web site at <http://www.epa.gov/ttn/atw/129/hmiwi/rihmiwi.html>. The list will help HMIWI owners or operators determine whether their HMIWI is affected by a state plan or the federal plan.

Owners and operators of HMIWI can also contact the EPA Regional Office for the state in which their HMIWI is located to determine whether there is an

approved and effective revised/new state plan in place. The following table lists the names, email addresses and telephone numbers of the EPA Regional Office contacts and the states and protectorates that they cover.

REGIONAL OFFICE CONTACTS

Region	Regional contact	Phone	States and protectorates
Region I .....	Patrick Bird, <a href="mailto:bird.patrick@epa.gov">bird.patrick@epa.gov</a> .....	(617) 918-1287	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont.
Region II .....	Ted Gardella, <a href="mailto:gardella.anthony@epa.gov">gardella.anthony@epa.gov</a> .....	(212) 637-3892	New York, New Jersey, Puerto Rico, Virgin Islands.
Region III .....	Mike Gordon, <a href="mailto:gordon.mike@epa.gov">gordon.mike@epa.gov</a> .....	(215) 814-2039	Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia.
Region IV .....	Stan Kukier, <a href="mailto:Kukier.stan@epa.gov">Kukier.stan@epa.gov</a> .....	(404) 562-9046	Florida, Georgia, North Carolina, Alabama, Kentucky, Mississippi, South Carolina, Tennessee.
Region V .....	Margaret Sieffert, <a href="mailto:sieffert.margaret@epa.gov">sieffert.margaret@epa.gov</a> .....	(312) 353-1151	Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio.
Region VI .....	Steve Thompson, <a href="mailto:thompson.steve@epa.gov">thompson.steve@epa.gov</a> .....	(214) 665-2769	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Region VII .....	Lisa Hanlon, <a href="mailto:hanlon.lisa@epa.gov">hanlon.lisa@epa.gov</a> .....	(913) 551-7599	Iowa, Kansas, Missouri, Nebraska.
Region VIII .....	Kendra Morrison, <a href="mailto:Morrison.kendra@epa.gov">Morrison.kendra@epa.gov</a> .....	(303) 312-6145	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
Region IX .....	Joseph Lapka, <a href="mailto:lapka.joseph@epa.gov">lapka.joseph@epa.gov</a> .....	(415) 947-4226	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands.
Region X .....	Heather Valdez, <a href="mailto:valdez.heather@epa.gov">valdez.heather@epa.gov</a> .....	(206) 553-6220	Alaska, Idaho, Oregon, Washington.

D. What are the elements of the amended HMIWI Federal Plan?

Section 111(d) and 129 of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(2), require states to develop and implement state plans for HMIWI to implement and enforce the promulgated EG. Subparts B and Ce of 40 CFR part 60 require states to submit state plans that include specified elements. Because this federal plan is being adopted in lieu of state plans, it includes the same essential elements: (1) Identification of legal authority and mechanisms for implementation; (2) inventory of

HMIWI; (3) emissions inventory; (4) emissions limits; (5) compliance schedules; (6) public hearing; (7) testing, monitoring, recordkeeping and reporting; (8) waste management plan; (9) operator training and qualification; and (10) progress reporting. See 40 CFR part 62, subparts HHH and sections 111 and 129 of the CAA. Each element was discussed in detail as it relates to the federal plan in the preamble of the proposed rule (77 FR 24272). The EPA received a total of five public comments suggesting corrections to which states submitted state plans or negative

declarations and regulatory text edits regarding visible emissions and annual inspections. A summary of these comments and the EPA's responses is presented in section IV. "Summary of Changes Since Proposal and Response to Public Comments" of this preamble.

III. Affected Facilities

A. What is a HMIWI?

The term "HMIWI" means any device that combusts any amount of hospital waste and/or medical/infectious waste, as defined in 40 CFR part 62, subpart HHH. Six types of combustion units,

which are listed in § 62.14400 of subpart HHH, are conditionally exempt from specific provisions of the currently promulgated 2000 federal plan and would continue to be so under today's final amended federal plan.

*B. Does the federal plan apply to me?*

Today's final amended federal plan will apply to you if you are the owner or operator of a combustion device that combusts hospital waste and/or medical/infectious waste (as defined in subpart HHH) and the device is not covered by an approved and effective state plan as of October 6, 2011. The federal plan will cover your HMIWI until the EPA approves a state plan that covers your HMIWI and that plan becomes effective.

If you began the construction of your HMIWI on or before December 1, 2008, or began modification of your HMIWI on or before April 6, 2010, it is considered an existing HMIWI and could be subject to the federal plan. If you began the construction of your HMIWI after December 1, 2008, or began modification of your HMIWI after April 6, 2010, it is considered a new HMIWI and subject to the NSPS.

Your existing HMIWI will be subject to this federal plan if, on the effective date of the amended federal plan, the EPA has not approved the revised/new state plan implementing the amended EG that covers your unit or the EPA-approved state plan has not become effective. The specific applicability of the currently promulgated federal plan is described in 40 CFR 62.14400 through 62.14403 of subpart HHH, and continues to apply, as amended, under the final revised federal plan. The amended federal plan will become effective 30 days after final promulgation of these amendments.

Once an approved revised/new state plan is in effect, the final amended federal plan will no longer apply to HMIWI covered by such plan. An approved state plan is a plan developed by a state that the EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B, to implement and enforce 40 CFR part 60, subpart C. The state plan is effective on the date specified in the notice published in the **Federal Register** announcing the EPA's approval of the plan. Today's promulgation of an amended HMIWI federal plan will not preclude states from submitting a plan or seeking delegation of the federal plan. If a state submits a plan after the promulgation of amendments to the HMIWI federal plan, the EPA will review and approve or disapprove the state plan. If the EPA approves a plan, then the amended

HMIWI federal plan will no longer apply to HMIWI covered by the state plan as of the effective date of the state plan. If a HMIWI were overlooked by a state and the state submitted a negative declaration letter, or if an individual HMIWI were not covered by an approved and effective state plan, the HMIWI will be subject to this final amended federal plan. If a state or tribe intends to take delegation of the amended federal plan, the state or tribe should submit to the appropriate EPA Regional Office a written request for delegation of authority as described in section VIII. B. "Delegation of the Federal Plan and Retained Authorities".

*C. How do I determine if my HMIWI is covered by an approved and effective state plan?*

Part 62 of Title 40 of the CFR identifies the status of approval and promulgation of section 111(d) and section 129 state plans for designated facilities in each state. However, part 62 is updated only once per year. Thus, if part 62 does not indicate that your state has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office (see table in section II.C of this preamble) to determine if approval occurred since publication of the most recent version of part 62.

**IV. Summary of Changes Since Proposal and Response to Public Comments**

Today's rules will be finalized as proposed except in several areas that were revised for further clarification as a result of public comments received. Furthermore, although the EPA did not receive adverse comments on the schedule for sources to show they have met increments of progress, the EPA has adjusted the schedule to account for the timeframe of signature of this federal plan and not impose any deadlines retroactively. The EPA received a total of five public comments on the proposed amended federal plan rulemaking, one of which was also inadvertently duplicated and submitted to the NSPS docket. No public hearing was requested, and therefore, none was held. After consideration of all the public comments received and due to the extended timeframe for finalizing the rule, the EPA is making several changes to the amended federal plan. The following section is a summary of the public comments received, our responses and rationale for the changes made. All of the public comments are located in the respective dockets, which can be accessed by following the instructions outlined in the **ADDRESSES**

section of this preamble. Additional discussion on the revisions to the schedule for increments of progress can be found in section V.G. of this preamble.

*A. State Plans and Negative Declarations*

*Comment:* A number of commenters identified inadvertent mistakes in the table outlining the status of the state plan submittals at proposal. Specifically, commenters identified that the state of Alabama did submit to the EPA a formal letter of negative declaration declaring that no HMIWI unit is located within the boundaries of the state. Additionally, commenters identified that the states of Missouri and North Carolina did in fact obtain state plan approval from the EPA. Commenters further clarified that the state of Alaska withdrew their letter of negative declaration submitted to the EPA in 2012.

*Response:* The EPA agrees with the commenters and has corrected the status of their state submittals in section II. C. of this final preamble. The EPA will maintain a list of revised/new state plan submittals and approvals on the TTN Air Toxics Web site at <http://www.epa.gov/ttn/atw/129/hmiwi/rihmiwi.html>.

*B. Visible Ash Emissions Limitation*

*Comment:* One commenter highlighted that proposed section 62.14412(b) requires all HMIWI to not discharge visible emissions of combustion ash from an ash conveying system to the atmosphere in excess of 5 percent of the observation period. The commenter further identified that the 2009 EG, by referencing the NSPS, only establishes a visible emissions standard for combustion ash from an ash conveying system for those sources defined in section 60.50c(a)(1) and (a)(2) (large HMIWI for which construction commenced between June 20, 1996, and December 1, 2008, or which modification commenced between March 16, 1998, and April 6, 2010), and 60.50c(a)(3) and (4) (*i.e.*, those HMIWI subject to the NSPS for which construction commenced after December 1, 2008, or for which modification commenced after April 6, 2010). Existing sources, regulated under the EG and as defined in section 60.32e(a)(1) (HMIWI which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998), are not required to meet a visible emission standard for combustion ash from an ash conveying system. The commenter requests that the EPA

update the amendatory text by deleting section 62.14412(b) so that the final federal plan reflects the EG.

*Response:* The EPA agrees with the commenter's interpretation of proposed section 62.14412(b) and the 2009 EG. Under the 1997 NSPS in section 60.52c(c), new large HMIWI were subject to a 5 percent visible emissions limit for fugitive emissions generated during ash handling. To demonstrate compliance with this emissions limit, new large HMIWI were required under section 60.56c(b)(12) to conduct annual performance tests for fugitive emissions from ash handling using EPA Method 22. The 1997 EG, in sections 60.37e(a) and (b), did not apply this 5 percent visible emissions limit requirement to existing HMIWI. As the commenter points out, existing sources, as regulated under the 2009 EG and defined in section 60.32e(a)(1), are not required to meet a visible emission standard for combustion ash from an ash conveying system. However, in the 2009 amendments to the EG in sections 60.37e(a)(2) and (b)(2), the EPA did not carry forward the exclusion of the minimal testing requirement to the other HMIWI that became subject to the amended emission standards. The EPA explained the reasoning for this in the preambles to the 2007 proposal and 2008 re-proposed EG stating that the testing provision was selected to provide additional assurance that sources continue to operate at the levels established during their first performance test. Existing HMIWI will be required to measure fugitive ash emissions during their next performance test. Specifically, sections 60.37e(a)(2) and 60.37e(b)(2) of the 2009 EG provide

that facilities defined in section 60.32e(a)(1) and (a)(2) subject to the emissions limits in section 60.33e(a)(2), 60.33e(a)(3) and 60.33e(b)(2) would no longer be excluded from the requirement for a one-time fugitive emissions test as listed in section 60.56c(b)(14) of subpart Ec. In order for the final amended federal plan to be consistent with the 2009 EG, the EPA is revising section 62.14412(b) in the amendatory regulatory text to clarify that the visible emissions limit only applies to HMIWI as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI. Facilities that were already subject to the visible emissions ash handling standard as new sources under the 1998 NSPS, but which are treated as existing sources under the 2009 EG, remain subject to the limit.

*C. Initial and Annual HMIWI Unit Inspection*

*Comment:* One commenter pointed out that section 62.14440(a) and 62.14441(a) and (b) only address initial and annual HMIWI inspection requirements for small rural HMIWI; however section 60.36e(a) (EG) requires each affected source under sections 60.33e(a)(2) and (a)(3) to undergo equipment inspections. Furthermore, the commenter stated that section 62.14463(a)(13) requires records be reported of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection of the time frame established by the EPA Administrator, or delegated enforcement authority. The commenter requests that the EPA revise the amendatory text so that the HMIWI

inspection monitoring, recordkeeping and reporting requirements are consistent within 40 CFR part 62 subpart HHH and reflect the intent of 40 CFR part 60 subpart Ce.

*Response:* The EPA agrees with the commenter's interpretation that the proposed section 62.14440(a) and 62.1441(a) and (b) only address initial and annual HMIWI inspection requirements for small rural HMIWI and this is inconsistent with what is reflected in the EG at 60.36e. The EG requires each affected source subject to emissions limitations under sections 60.33e(b), 60.33e(a)(2) and 60.33e(a)(3) to undergo HMIWI equipment and air pollution control device inspections. The EPA has made minor revisions to sections 62.14440, 62.14441 and 62.14463 in order to clarify that all units are required to conduct initial and annual HMIWI equipment and air pollution control device inspections and the inspections must be documented in a record and reported to the agency. The recordkeeping and reporting requirements include documenting and submitting to the Administrator or the delegated authority any required maintenance and any repairs not completed within 10 days of an inspection. These revisions to the amended federal plan will ensure consistency with the 2009 EG.

**V. Summary of Final Amendments to HMIWI Federal Plan**

A summary of each amended plan element of the final amended federal plan is described below. The table below lists each amended element and identifies where it is located or codified.

Element of the HMIWI 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 HMIWI units .....	Docket EPA-HQ-OAR-2011-0405.
Inventory of emissions .....	Docket EPA-HQ-OAR-2011-0405.
Emissions limits .....	40 CFR 62.14410-62.14413.
Compliance schedules .....	40 CFR 62.14470-62.14472.
Operator training and qualification .....	40 CFR 62.14420-62.14425.
Waste management plan .....	40 CFR 62.14430-62.14432.
Record of public hearings .....	Docket EPA-HQ-OAR-2011-0405.
Testing, monitoring, recordkeeping and reporting .....	40 CFR 62.14440-62.14465.
Progress reports .....	Section V.G. of this preamble.

*A. What are the final amendments to applicability?*

Today's action finalizes the amendments to applicability as proposed. The amended federal plan reflects new dates defining what are "existing" and "new" sources for purposes of the revised 2009 NSPS and EG. All HMIWI that complied with the 1997 EG (*i.e.*, those units for which

construction commenced on or before June 20, 1996, or for which modification commenced on or before March 16, 1998) are still considered "existing" sources under the 2009 amended EG and are required to meet the emissions limits by the applicable compliance date for the amended EG. All HMIWI that complied with the 1997 NSPS (*i.e.*, those units for which construction

commenced after June 20, 1996, but no later than December 1, 2008, or for which modification commenced after March 16, 1998, but no later than April 6, 2010) are also considered "existing" sources under the amended EG. Those HMIWI are required to meet the emissions limits under the amended EG by the applicable compliance date for the amended EG, except where the

corresponding 1997 NSPS is more stringent, in which case those HMIWI are to continue to comply with the 1997 NSPS. In the interim, those 1997 NSPS sources that must meet the amended EG must continue to be subject to the NSPS as promulgated in 1997 until the date for compliance with the revised EG. Those units for which construction commenced after the December 1, 2008, HMIWI proposal, or for which modification commenced on or after April 6, 2010, are considered “new” units subject to more stringent revised NSPS emissions limits.

*B. What are the final amendments to the emissions limits?*

Today’s action finalizes the revised emissions limits as proposed. The revised emissions limits mirror the 2009 EG emissions limits which respond to a Court remand of the 1997 regulations and satisfies the 5-year review requirement under CAA section 129(a)(5).

Today’s final action removes the SSM exemption from the 2000 federal plan at 40 CFR 62.14413, and finalizes that the emissions limits apply at all times, for the same reasons as outlined in the 2009 EG at 74 FR 51375. Additionally, today’s action finalizes two 1997 NSPS emissions limits that are more stringent than the corresponding 2009 amended EG limits. As specified in the 2009 amended EG, those HMIWI that previously complied with the 1997 NSPS and are now considered existing units, would have to continue to comply with the more stringent 1997 NSPS limits. Furthermore, as promulgated in the 2009 amendments to the EG, this final amended federal plan requires that HMIWI as defined in sections 62.14400 conduct a one-time initial ash handling fugitive emissions test using EPA Method 22 to provide additional assurance that sources continue to operate at the levels established during their initial performance test. Furthermore, units as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI are additionally required to demonstrate compliance with a 5 percent visible emissions limit for fugitive emissions and test annually using EPA Method 22. Lastly, as clarified in the 2009 amendments to the EG, the EPA added additional columns to the emissions limits table in the HMIWI federal plan to include averaging times and EPA reference test methods.

Table 1 of this preamble summarizes the amended EG emissions limits in today’s final rule.

TABLE 1—SUMMARY OF EG EMISSIONS LIMITS PROMULGATED IN RESPONSE TO THE REMAND FOR EXISTING HMIWI<sup>3</sup>

Pollutant (units)	Unit size <sup>1</sup>	Final limit <sup>2</sup>
HCl (ppmv)	L	6.6
	M	7.7
	S	44
	SR	810
CO (ppmv)	L	11
	M	5.5
	S, SR	20
Pb (mg/dscm)	L	0.036
	M	0.018
	S	0.31
	SR	0.50
Cd (mg/dscm)	L	0.0092
	M	0.013
	S	0.017
	SR	0.11
Hg (mg/dscm)	L	0.018
	M	0.025
	S	0.014
	SR	0.0051
PM (gr/dscf)	L	0.011
	M	0.020
	S	0.029
	SR	0.038
Dioxins/furans, total (ng/dscm)	L	9.3
	M	0.85
	S	16
Dioxins/furans, TEQ (ng/dscm)	SR	240
	L	0.054
	M	0.020
NO <sub>x</sub> (ppmv)	S	0.013
	SR	5.1
	L	140
SO <sub>2</sub> (ppmv)	M, S	190
	SR	130
	L	9.0
Opacity (%)	M, S	4.2
	SR	55
	L, M, S, SR	6.0

<sup>1</sup> L = Large (>500 lb/hr of waste); M = Medium (>200 to ≤500 lb/hr of waste); S = Small (≤200 lb/hr of waste); SR = Small rural (small HMIWI >50 miles from boundary of nearest SMSA, burning <2,000 lb/wk of waste).

<sup>2</sup> All emissions limits are reported as corrected to 7 percent oxygen.

<sup>3</sup> The 2009 EG requires that the emissions limits as listed above in Table 1, regardless of a SSM event, be met at all times. However, in one provision of the NSPS, section 60.56c(d)(2), the EPA inadvertently failed to delete a SSM exemption we had intended to eliminate, and to better reflect the EPA’s intent in the 2009 final rule, today’s final action also amends that section of the NSPS to remove the accidentally retained SSM exemption. Please see section VI of this preamble.

*C. What are the final amendments to the waste management plan requirements?*

Today’s action finalizes the waste management plan as proposed. The amended federal plan’s waste management plan provisions reflect the 2009 EG to promote the segregation of chlorinated plastics and PCB-containing wastes and specify that commercial

facilities train and educate their clients to conduct their own waste segregation.

*D. What are the final amendments to the inspection requirements?*

Today’s action finalizes additional rule language that clarify inspection requirements that all units are required to conduct HMIWI equipment and air pollution control device inspections. The rule requires that an initial inspection be conducted, and, starting 1 year after that initial inspection, annual inspections must be completed, documented in a record, and reported to the agency. The recordkeeping and reporting requirements include documenting and submitting to the Administrator or the delegated authority any required maintenance and any repairs not completed within 10 days of an inspection. These provisions reflect the amended 2009 EG.

*E. What are the final amendments to the performance testing and monitoring requirements?*

Today’s action finalizes the testing and monitoring requirements as proposed.

1. Performance Testing

First, today’s final amended federal plan requires that all HMIWI, including small rural units, conduct initial performance tests for all nine pollutants and opacity to demonstrate initial compliance with the revised emissions limits and conduct annual performance tests on Co, HCl, opacity and PM. The amended federal plan allows for less frequent testing if the facility demonstrates that it is in compliance with the emissions limits for three consecutive performance tests.

Second, today’s final amended federal plan requires existing HMIWI to conduct a test to assess fugitive ash emissions during their next performance test to provide additional assurance that sources continue to operate at the levels established during their initial performance test. Hospital/Medical/Infectious Waste Incinerators as defined in section 62.14400(a)(2)(ii) and utilizing a large HMIWI are additionally required to meet this provision annually in order to demonstrate compliance with the 5 percent visible emissions limit.

Third, today’s final amended federal plan allows sources to use results of their previous emissions tests to demonstrate initial compliance with the revised emissions limits as long as the sources certify that the previous test results are representative of current operations. Only those sources who could not certify and/or whose previous

emissions tests do not demonstrate compliance with one or more revised emissions limits would be required to conduct another emissions test for those pollutants. (Note that most sources were already required under the 1997 EG to test for CO, HCl, opacity and PM on an annual basis and those annual tests are still required.)

Fourth, today's final amended federal plan incorporates by reference two alternatives to EPA reference test methods, American Society of Mechanical Engineers (ASME) PTC 19.10–1981 and American Society for Testing and Materials International (ASTM) D6784–02), discussed further in section X.I. titled, "National Technology Transfer and Advancement Act (NTTAA)," of this preamble.

## 2. Monitoring

Today's final amended federal plan retains previous parameter monitoring requirements and, as proposed, adds a parameter requirement for those HMIWI expected to install selective noncatalytic reduction (SNCR) systems in order to comply with the more stringent NO<sub>x</sub> emissions limits. Those HMIWI installing SNCR technology to comply with the NO<sub>x</sub> emissions limit are required to continuously monitor the charge rate, secondary chamber temperature and reagent (e.g., ammonia or urea) flow rate. Further, although existing HMIWI equipped with fabric filters (FFs) are not required to install bag leak detectors, use of bag leak detectors is an option for these HMIWI.

Although HMIWI units are not required to use CO, HCl, PM, Hg or multi-metal continuous emissions monitoring systems (CEMS) or sorbent trap biweekly Hg and dioxin/furan monitoring systems, such systems are considered alternative monitoring requirements in lieu of annual testing for all sources.

## 3. Electronic Data Submittal

Today's action finalizes the electronic data submittal requirements as proposed. The EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Hospital/Medical/Infectious Waste Incinerator facilities have the option of submitting to the EPA electronic database an electronic copy of annual stack test reports. Hard-copy paper reporting will remain as an available option for HMIWI facilities.

As stated in the proposed preamble, should facilities choose the option of electronic data submittal, the data will be collected through an electronic emissions test report structure called the Electronic Reporting Tool (ERT). The

ERT will generate an electronic report which will be submitted to the EPA's Central Data Exchange (CDX) through the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the ERT can be found at: <http://www.epa.gov/ttn/chief/ert/index.html> and CEDRI can be accessed through the CDX Web site: ([www.epa.gov/cdx](http://www.epa.gov/cdx)).

The option to submit performance test data electronically to the EPA does not create any additional performance testing requirements and will only be an option for those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the previously mentioned ERT Web site. The EPA believes, through this flexible approach, industry will save time in the performance test submittal process. Should HMIWI choose the electronic reporting option, the industry will benefit by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept on-site.

As mentioned in the proposed preamble, state, local and tribal agencies will benefit from more streamlined and accurate review of electronic data that will be available on the EPA WebFIRE database (<http://cfpub.epa.gov/webfire/>). Additionally performance test data will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. The major advantages of electronic reporting are more fully explained in the preamble to the proposed rule (77 FR 24272).

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an option of an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and the data used in developing air quality regulations.

### *F. What are the final amendments to recordkeeping and reporting requirements?*

Today's action finalizes the recordkeeping and reporting requirements as proposed and clarifies which records and reports are associated with unit and air pollution control device inspections.

#### 1. Recordkeeping

Today's final amended federal plan adds the requirement that owners and

operators must maintain records of the amount and type of NO<sub>x</sub> reagent used, records of the annual unit and air pollution control device inspections (including any maintenance), and a description, included with each test report, of how operating parameters were established during the initial performance test and re-established during subsequent performance tests.

#### 2. Reporting

Today's final amended federal plan adds requirements for existing HMIWI to submit, along with each test report, a description of how operating parameters were established or re-established and submit records of annual air pollution control device inspections (including any maintenance).

### *G. What are the final amendments to the compliance schedule?*

Today's action finalizes the compliance schedule with revisions to the proposed schedule. Today's final revised federal plan requires owners or operators of HMIWI to either: (1) Come into compliance with the plan within 1 year after the plan is promulgated; or (2) meet increments of progress and come into compliance by October 6, 2014. This final amended federal plan, includes as its compliance schedule the same five increments of progress from 40 CFR 62.14470(b)(2), along with defined and enforceable dates for completion of each increment.

The EPA has determined it necessary to adjust the schedule for the increments of progress to account for the timeframe of promulgation of this federal plan and to avoid retroactive application of any of the increment deadlines. The proposed rule would have set forth the first two increments of progress deadline on October 6, 2012, and May 6, 2013, respectively. Since this federal plan will be finalized after the October 6, 2012 date, the EPA revised the schedule for the first two incremental deadlines. The EPA has set the first and second incremental date to be 3 and 7 months following publication of this federal plan. The EPA developed this schedule using EPA guidance drafted for enabling states to draft state plans and set increments of progress. The 2010 State Implementation Guidance Document is available in this rulemaking docket and through the EPA's TTN.

The HMIWI owner or operator is responsible for meeting each of the five increments of progress for each HMIWI no later than the applicable compliance date. The owner or operator must notify the EPA as each increment of progress

is achieved, as well as when any is missed. The notification must identify the increment and the date the increment is achieved (or missed). If an owner or operator misses an increment deadline, the owner or operator must also notify the EPA when the increment is finally achieved. The owner or operator must mail the notification to the applicable EPA Regional Office within 10 business days after the increment date defined in the amended federal plan. (See the table under section II.C. of this document for a list of Regional Offices.)

The definition of each increment of progress, along with its required completion date, follows.

**Submit Final Control Plan.** To meet this increment, the owner or operator of each HMIWI must submit a plan that describes, at a minimum, the air pollution control device and/or process changes that will be employed so that each HMIWI complies with the emissions limits and other requirements. A final control plan is not required for units that will be shutdown.

*Completion Date:* August 13, 2013.

**Award Contract.** To award a contract means the HMIWI owner or operator enters into legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the owner or operator. The EPA anticipates that the owner or operator may award a number of contracts to complete the retrofit. To meet this increment of progress, the HMIWI owner or operator must award a contract or contracts to initiate on-site construction, to initiate on-site installation of air pollution control devices, and/or to incorporate process changes. The owner or operator must mail a copy of the signed contract(s) to

the EPA within 10 business days of entering the contract(s).

*Completion Date:* December 13, 2013.

**Begin On-site Construction.** To begin on-site construction, installation of air pollution control devices or process change means to begin any of the following:

(1) Installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(2) Physical preparation necessary for the installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(3) Alteration of an existing air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(4) Alteration of the waste combustion process to accommodate installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan; or

(5) Process changes identified in the final control plan in order to meet the emissions standards.

*Completion Date:* January 6, 2014.

**Complete On-site Construction.** To complete on-site construction means that all necessary air pollution control devices or process changes identified in the final control plan are in place, on-site and ready for operation on the HMIWI.

*Completion Date:* August 6, 2014.

**Final Compliance.** To be in final compliance means to incorporate all process changes or complete retrofit construction in accordance with the final control plan and to connect the air pollution control equipment or process changes such that, if the HMIWI is brought online, all necessary process changes or air pollution control equipment will operate as designed.

*Completion Date:* October 6, 2014.

If a HMIWI does not achieve final compliance by October 6, 2014, the final amended federal plan, requires the HMIWI to shutdown by October 6, 2014, complete the retrofit while not operating and be in compliance upon restarting. Shutdown is necessary in order to avoid being out of compliance and subject to possible enforcement action.

*H. What are the other final amendments?*

Today's action finalizes certain other amendments as proposed, including amending and adding definitions for further clarification and updating toxic equivalency factors (TEF).

1. Definitions

Today's final action includes the following definitions:

- "Minimum secondary chamber temperature";
- "Modification or modified HMIWI";
- "Bag leak detection system";
- "Commercial HMIWI"; and
- "Minimum reagent flow rate."

2. Toxicity Equivalence Factors

Today's final amended federal plan incorporates the latest revisions to the TEFs as listed in amended Table 2 to subpart HHH in today's action. These revisions are a result of the January 6, 2011, **Federal Register** notice, where the EPA announced the availability of the final "Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds" (EPA/100/R-10/005).

The revised methodology includes the following changes to TEFs that HMIWI would use to determine compliance with the HMIWI dioxin/furan TEQ emissions limits:

Dioxin/furan congener	Toxicity equivalency factors	
	1997 EG/2000 federal plan	Today's proposed amendments to federal plan
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin .....	0.5	1
Octachlorinated dibenzo-p-dioxin .....	0.001	0.0003
2,3,4,7,8-pentachlorinated dibenzofuran .....	0.5	0.3
1,2,3,7,8-pentachlorinated dibenzofuran .....	0.05	0.03
Octachlorinated dibenzofuran .....	0.001	0.0003

**VI. Summary of Final Amendments to HMIWI NSPS**

*A. What are the final amendments to the emissions limits?*

Today's action finalizes the NSPS amendments as proposed. The final

amendment to the HMIWI NSPS removes section 60.56c(d)(2) of subpart Ec which excluded HMIWI units from having to comply with standards during periods of SSM provided that no hospital waste or medical/infectious waste was being charged to the unit

during those SSM periods. The EPA inadvertently failed to delete the SSM exemption we had intended to eliminate in the 2009 NSPS. The 2009 EG and NSPS requires that the emissions limits, regardless of a SSM event, be met at all times. To better reflect the EPA's intent

in the 2009 final rule, today's final action also amends that section of the NSPS to remove the accidentally retained SSM exemption.

This action is necessary to make the NSPS continuously applicable, as required under CAA section 302(k) and under the Court's 2008 *Sierra Club v. EPA* ruling. Our rationale for this amendment was presented in the October 6, 2009, final rule, at 74 FR 51368, 51375 and 51393–95 (October 6, 2009), and we hereby incorporate by reference that rationale in order to complete the regulatory amendments we intended to make at the time. Today's action also finalizes the removal of the SSM exemption from the 2000 federal plan at 40 CFR 62.14413, and finalizes the requirement that the emissions limits apply at all times, for the same reasons.

## VII. HMIWI That Have or Will Shutdown

### A. Units That Plan To Close Rather Than Comply

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Under today's final amended federal plan if, for compliance purposes, you plan to permanently close your currently operating HMIWI, you must do so by May 13, 2014. As described in the proposed preamble, the final amendments will allow HMIWI owners or operators who are planning to shutdown, the opportunity to petition the EPA for an extension beyond the 1-year compliance date (but no later than October 6, 2014). An example of a facility that might petition the EPA for such an extension is a facility installing an on-site alternative waste treatment technology. It is possible that installation cannot be completed within 1 year and the facility has no feasible waste disposal options other than on-site incineration while the alternative technology is being installed. The requirements for a petition for an extension to shutdown under today's final federal plan will update the compliance date requirements set forth at § 62.14471 of subpart HHH.

If you continue to operate your HMIWI 1 year after May 13, 2014, then you must comply with the operator training and qualification requirements and the inspection requirements of the plan by May 13, 2014. This requirement includes HMIWI that comply within 1 year, as well as those that have been granted an extension beyond the 1-year compliance date (*i.e.*, HMIWI with extended retrofit schedules and HMIWI

granted an extension to shutdown after the 1-year compliance date). In addition, while still in operation, you are subject to the same requirements for Title V operating permits that apply to units that will not shutdown.

### B. Inoperable Units

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Today's final amended federal plan, includes that in cases where a HMIWI has already shutdown, has been rendered inoperable and does not intend to restart, the HMIWI may be left off the source inventory in a revised/new state plan or this final amended federal plan. A HMIWI that has been rendered inoperable will not be covered by this amended federal plan. The HMIWI owner or operator may do one of the following to render a HMIWI inoperable: (1) Weld the waste charge door shut, (2) remove stack (and by-pass stack, if applicable), (3) remove combustion air blowers, or (4) remove burners or fuel supply appurtenances.

### C. HMIWI That Have Shutdown

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Today's final amended federal plan includes any HMIWI that are known to have already shutdown (but are not known to be inoperable) in the source inventory. These HMIWI should be identified in any revised/new state plan submitted to the EPA.

#### 1. Restarting Before the Final Compliance Date

If the owner or operator of an inactive HMIWI plans to restart before the final compliance date, the owner or operator must submit a control plan for the HMIWI and bring the HMIWI into compliance with the applicable compliance schedule. Final compliance is required for all pollutants and all HMIWI no later than the final compliance date.

#### 2. Restarting After the Final Compliance Date

Under this federal plan, as amended, a control plan is not needed for inactive HMIWI that restart after the final compliance date. However, before restarting, operators of these HMIWI would have to complete the operator training and qualification requirements and inspection requirements (if applicable) and complete any needed retrofit or process modifications prior to restarting. Performance testing to

demonstrate compliance would be required within 180 days after restarting. There is no need to show that the increments of progress have been met since these steps would have occurred before restart while the HMIWI was shutdown and not generating emissions. A HMIWI that operates out of compliance after the final compliance date would be in violation of the final amended federal plan and subject to enforcement action.

## VIII. Implementation of the Federal Plan and Delegation

### A. Background of Authority

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. 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 sources. These EG are not enforceable until the EPA approves a state plan or adopts a federal plan that implements and enforces them and the state or federal plan has become effective. As discussed above, the federal plan regulates HMIWI in states that do not have approved plans in effect to implement the amended 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 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 approvable revised/new plans after promulgation of the amended HMIWI federal plan. The EPA strongly encourages states that are unable to submit approvable revised/new plans to request delegation of the amended federal plan so that they can have primary responsibility for implementing the revised EG, consistent with the intent of Congress.

Approved and effective revised/new state plans or delegation of the amended federal plan is the EPA's preferred outcome because the EPA believes that state and local agencies not only have

the responsibility to carry out the revised EG but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. For these reasons, the EPA will do all that it can to expedite delegation of the amended federal plan to state and local agencies, whenever possible, in cases where states are unable to develop and submit approvable state plans.

#### *B. Delegation of the Federal Plan and Retained Authorities*

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. As similarly described in the 2000 federal plan, if a state or tribe intends to take delegation of the amended federal plan, the state or tribe should submit to the appropriate EPA Regional Office a written request for delegation of authority. The state or tribe should explain how it meets the criteria for delegation. See generally "Good Practices Manual for Delegation of NSPS and NESHAP" (EPA, February 1983). The letter requesting delegation of authority to implement the amended federal plan should: (1) Demonstrate that the state or tribe has adequate resources, as well as the legal and enforcement authority to administer and enforce the program, (2) include an inventory of affected HMIWI units, which includes those that have ceased operation but have not been dismantled, include an inventory of the affected units' air emissions and a provision for state progress reports to the EPA, (3) certify that a public hearing is held on the state delegation request, and (4) include a memorandum of agreement between the state or tribe 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 or tribe, the EPA will implement the amended federal plan. Also, if a state or tribe fails to properly implement a delegated portion of the amended federal plan, the EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the state or tribe even when a state or tribe has received delegation of the amended federal plan. In all cases where the amended federal plan is delegated, the EPA will retain and will not transfer

authority to a state or tribe to approve the following items that include additional items to those listed in the 2000 federal plan as to correspond to those changes promulgated in the 2009 HMIWI rules:

(1) Alternative site-specific operating parameters established by facilities using HMIWI controls other than a wet scrubber, dry scrubber followed by a FF, or dry scrubber followed by a FF and wet scrubber;

(2) Alternative methods of demonstrating compliance, including the following methods outlined in the October 6, 2009, amendments to the HMIWI EG:

- Approval of CEMS for PM, HCl, multi-metals and Hg where used for purposes of demonstrating compliance;
- Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance; and
- Approval of major alternatives to test methods;

(3) Approval of major alternatives to monitoring (added in 2009 amended EG);

(4) Waiver of recordkeeping requirements (added in 2009 amended EG); and

(5) Performance test and data reduction waivers under 40 CFR 60.8(b) (added in 2009 amended EG).

Retaining what was established in the 2000 federal plan, today's final amended federal plan also specifies that HMIWI owners or operators who wish to establish alternative operating parameters, alternative methods of demonstrating compliance, major alternatives to monitoring, waiver of recordkeeping requirements or performance test and data reduction waivers should submit a request to the Regional Office Administrator with a copy to the appropriate state.

#### *C. Mechanisms for Transferring Authority*

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. There are two mechanisms for transferring implementation authority to state and local agencies: (1) the EPA approval of a revised/new state plan after the amended federal plan is in effect; and (2) if a state does not submit or obtain approval of its own revised/new plan, the EPA delegation to a state of the authority to implement certain portions of this amended federal plan to the extent appropriate and if allowed by state law. Both of these options are the same as those first outlined in the 2000

federal plan and are described in more detail below.

#### *1. Federal Plan Becomes Effective Prior To Approval of a State Plan*

After HMIWI in a state become subject to the amended federal plan, the state or local agency may still adopt and submit a revised/new plan to the EPA. If the EPA determines that the revised/new state plan is as protective as the revised EG, the EPA will approve the revised/new state plan. If the EPA determines that the plan is not as protective as the revised EG, the EPA will disapprove the plan and the HMIWI covered in the state plan would remain subject to the amended federal plan until a revised state plan covering those HMIWI is approved and effective. Prior to disapproval, the EPA will work with states to attempt to reconcile areas of the plan that remain not as protective as the revised EG.

Upon the effective date of a revised/new state plan, the amended federal plan would no longer apply to HMIWI covered by such a plan and the state or local agency would implement and enforce the revised/new state plan in lieu of the amended federal plan. When an EPA Regional Office approves a revised/new state plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

#### *2. State Takes Delegation of the Federal Plan*

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

#### *D. Implementing Authority*

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as

proposed at 77 FR 24285. The EPA Regional Administrators have been delegated the authority for implementing the HMIWI federal plan amendments. All reports required by these amendments to the federal plan should be submitted to the appropriate Regional Office Administrator. Section II.C. of this preamble includes a table that lists names and addresses of the EPA Regional Office contacts and the states they cover.

### IX. Title V Operating Permits

The EPA did not receive any comments on this section and is therefore finalizing this section as proposed at 77 FR 24285. All existing HMIWI regulated under state or federal plans implementing the 1997 EG and any HMIWI that was regulated under the 1997 NSPS should have already applied for and obtained Title V operating permits, as required under the EG. Title V operating permits assure compliance with all applicable federal requirements for HMIWI, including all applicable CAA section 129 requirements. (See 40 CFR 70.2, 70.6(a)(1), 71.2 and 71.6(a)(1).) Title V operating permits for the above-noted sources may, however, need to be reopened to incorporate the requirements of a revised/new state plan, this amended federal plan or more stringent NSPS requirements.

For more background information on the interface between CAA section 129 and Title V, including the EPA's interpretation of CAA section 129(e), as well as information on submitting Title V permit applications, updating existing Title V permit applications and reopening existing Title V permits, 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).

As described in the April 23, 2012 proposal, today's final amended federal plan maintains the 2000 federal plan approach, specifying that owners or operators of HMIWI that burn only pathological waste, low-level radioactive waste and/or chemotherapeutic waste and co-fired combustors, as defined in § 62.14490 of subpart HHH, must comply only with certain recordkeeping and reporting requirements set forth in today's final amended federal plan. (See § 62.14400.) These HMIWI and co-fired combustors would not be subject to the emissions control-related requirements of the amended federal plan as long as they comply with the recordkeeping and

reporting requirements, including maintaining records for five years, set forth as conditions for their exemption. As described in the April 23, 2012 proposal, the EPA or delegated enforcement authority will maintain facilities' exemption claims for as long as the source is operating under such exempt status.

Consistent with the 2000 federal plan, owners and operators of these sources as listed above would not be required to obtain Title V operating permits as a matter of federal law if the only reason they would potentially be subject to Title V is these non-emissions control-related recordkeeping and reporting requirements. (See § 62.14480.) Originally explained in the 2000 federal plan, today's rule maintains that owners and operators of HMIWI that burn only pathological waste, low-level radioactive waste and/or chemotherapeutic waste and co-fired combustors that do not comply with the recordkeeping and reporting requirements necessary to qualify for exemption from the other requirements of the amended federal plan would become subject to those other requirements and would have to obtain Title V permits. Moreover as stated in the 2000 federal plan and again in today's final rule, if, in the future, the EPA promulgates regulations subjecting any of these sources to requirements other than these recordkeeping and reporting requirements, these sources could become subject to Title V at that time.

#### A. Title V and Delegation of a Federal Plan

We have previously stated that issuance of a Title V permit is not equivalent to the approval of a state plan or delegation of a federal plan.<sup>2</sup> Legally, delegation of a standard or requirement results in a delegated state or tribe standing in for the EPA as a matter of federal law. This means that obligations a source may have to the EPA under a federally promulgated standard become obligations to a state (except for functions that the EPA retains for itself) upon delegation.<sup>3</sup> Although a state or tribe may have the authority under state or tribal law to

incorporate section 111/129 requirements into its Title V permits, and implement and enforce these requirements in these permits without first taking delegation of the section 111/129 federal plan, the state or tribe is not standing in for the EPA as a matter of federal law in this situation. Where a state or tribe 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 continues to maintain that an approved part 70 operating permits program cannot be used as a mechanism to transfer the authority to implement and enforce the federal plan from the EPA to a state or tribe.

As mentioned above, a state or tribe may have the authority under state or tribal law to incorporate section 111/129 requirements into its Title V permits, and implement and enforce these requirements in that context without first taking delegation of the section 111/129 federal plan.<sup>4</sup> Some states or tribes, however, may not be able to implement and enforce a section 111/129 standard in a Title V permit until the section 111/129 standard has been delegated. In these situations, a state or tribe should not issue a part 70 permit to a source subject to a federal plan before taking delegation of the section 111/129 federal plan.

If a state or tribe can provide an Attorney General's (AG's) opinion delineating its authority to incorporate 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 or tribe does not need to take delegation of the section 111/129 requirements for purposes of Title V permitting.<sup>5</sup> In practical terms, without approval of a state or tribal plan, delegation of a federal plan, or an adequate AG's opinion, states and tribes with approved part 70 permitting programs open themselves up to potential questions regarding their

<sup>4</sup> The EPA interprets the phrase "assure compliance" in 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 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).

<sup>5</sup> 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.

<sup>2</sup> See, e.g., the "Title V and Delegation of a Federal Plan" section of the proposed federal plan for Commercial Industrial Solid Waste Incinerators (CISWI), November 25, 2002 (67 FR 70640, 70652). 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).

<sup>3</sup> If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, e.g., alternative methods of demonstrating compliance.

authority to issue permits containing 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 part 70 program. As a result, prior to a state or tribal permitting authority drafting a part 70 permit for a source subject to a section 111/129 federal plan, the state or tribe, the EPA Regional Office and source in question are advised to ensure that delegation of the relevant federal plan has taken place or that the permitting authority has provided to the EPA Regional Office an adequate AG's opinion.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a federal plan, a section 111/129 source subject to the federal plan in that state must simultaneously submit to both the EPA and the state 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 section 111/129 requirements when they have been 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 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 section 111/129 federal plan. See the section V.G. of this preamble titled "What are the final amendments to the compliance schedule?".

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 and tribes which 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 section 111/129 requirements into a Title V permit and implement and enforce these requirements in that context without delegation.

#### **X. Statutory and Executive Order Reviews**

This section addresses the following administrative requirements: Executive

Orders 12866 and 13563, 13132, 13175, 13045, 13211 and 12898, PRA, RFA, UMR and the NTTAA. This two-part action finalizes an amended federal plan and finalizes amendments to the 2009 NSPS. Since this final amended federal plan rule merely implements the amended HMIWI EG promulgated on October 6, 2009 (codified at 40 part 60, subpart Ce) as they apply to HMIWI and the final NSPS amendments clarify the EPA's original intent removing the SSM exemption in the final NSPS rule October 6, 2009 (codified at 40 part 60, subpart Ec) and does not impose any new requirements, much of the following discussion of administrative requirements refers to the documentation of applicable administrative requirements in the preamble to the 2009 rule promulgating the amended EG and NSPS (74 FR 51368–51402, October 6, 2009).

#### *A. Executive Order 12866 and 13563: Regulatory Planning and Review*

This final action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735; October 4, 1993) and is, therefore, not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

#### *B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden. This action finalizes amendments to the HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that do not have an approved revised/new state plan implementing the EG. Additionally, this action also finalizes amendments to the NSPS to better reflect the EPA's original intent in the October 6, 2009, final rule in eliminating an exemption during SSM periods from the requirement to comply with standards at all times. However, the OMB has previously approved the information collection requirements contained in the existing regulations 40 CFR part 60 subparts CE and EC under the provisions on the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control Number 2060–0422. The OMB Control Numbers for EPA's regulation in 40 CFR are listed in 40 CFR part 9.

#### *C. Regulatory Flexibility Act (RFA)*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a

substantial number of small entities (SISNOSE). Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this final action on small entities, small entity is defined as follows: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. During the 2009 HMIWI EG rulemaking, the EPA estimated that a substantial number of small entities would not be significantly impacted by the promulgated EG. (See 74 FR at 51400–51401.) This final rule will not impose any requirements on small entities.

#### *D. Unfunded Mandates Reform Act (UMRA)*

This final action does not contain a federal mandate that may result in expenditures of \$100 million or more for state and local governments, in the aggregate, or the private sector in any one year. In the preamble to the 2009 EG, the national total cost to comply with the final rule was estimated to be approximately \$15.5 million in each of the first 3 years of compliance. This final federal plan, as amended, will apply to only a subset of the units considered in the cost analysis for the EG, and less than 10 percent of the units nationwide are state or locally owned. Thus, this rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA has determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because, as noted above, the burden is small and the regulation does not unfairly apply to small governments.

#### *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, as specified in Executive Order 13132. This final action will not impose substantial direct compliance costs on state or local governments and will not preempt state law. Thus, Executive Order 13132 does not apply to this proposed action.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicited comments on the April 23, 2012, proposal from state and local officials. The EPA did not receive any comments.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This final action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The EPA is not aware of any HMIWI owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this final action.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The EPA interprets Executive Order 13045 (62 FR 19885; April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final action is not subject to Executive Order 13045 because it is based solely on technology performance.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This final action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA, Public Law 104–113 (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA

directs the EPA to provide Congress, through OMB, explanations when the EPA decides not to use available and applicable VCS.

This final rulemaking involves technical standards. The EPA finalizes to use two VCS in today's action. One VCS, ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses,” is cited in the 2009 EG and the final rule, as proposed, for its manual method of measuring the content of the exhaust gas as an acceptable alternative to EPA Method 3B of appendix A–2. This standard is available from the ASME, P.O. Box 2900, Fairfield, NJ 07007–2900; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112.

Another VCS, ASTM D6784–02, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” is cited in the 2009 EG and the final rule, as proposed, as an acceptable alternative to EPA Method 29 of appendix A–8 (portion for Hg only) for measuring Hg. This standard is available from the ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106.

As discussed in the April 23, 2012, proposed rule preamble, while the EPA has identified 16 VCS as being potentially applicable to the final 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 final rule. See the docket for the 2009 EG (Docket ID Number EPA–HQ–OAR–2006–0534), which is being implemented under today's final action, for the reasons for these determinations.

Under 40 CFR 62.14495, the EPA Administrator retains the authority of approving alternative methods of demonstrating compliance as established under 40 CFR 60.8(b) and 60.13(i) of 40 CFR part 60, 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.

The EPA did not receive any comments on this aspect of the proposed rulemaking.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629; Feb. 16, 1994) establishes federal executive policy on EJ. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make EJ part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations 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 minority or low-income population.

This final action implements national standards in the 2009 amendments to the HMIWI EG that would result in reductions in emissions of Cd, CO, dioxins/furans, HCl, Pb, Hg, NO<sub>x</sub>, PM and SO<sub>2</sub> from all HMIWI and thus decrease the amount of such emissions to which all affected populations are exposed.

#### *K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C., 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C., 804(2). This final rule will be effective on June 12, 2013.

#### **List of Subjects**

##### *40 CFR Part 60*

Environmental protection, Administrative practice and procedure,

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 62

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

Dated: April 4, 2013

Bob Perciasepe, Acting Administrator.

For reasons set out in the preamble, 40 CFR parts 60 and 62 are amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS

1. The authority citation for part 60 continues to read as follows:

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

2. The subpart heading for subpart Ec is revised to read as follows:

Subpart Ec—Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators

3. Section 60.56c is amended by revising the first sentence of paragraph (d)(2) to read as follows:

§ 60.56c Compliance and performance testing.

\* \* \* \* \*

(d) \* \* \*

(2) Following the date on which the initial performance test is completed or is required to be completed under § 60.8, whichever date comes first, ensure that the affected facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in table 3 of this subpart and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. \* \* \*

\* \* \* \* \*

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

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

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

5. The subpart heading for subpart HHH is revised to read as follows:

Subpart HHH—Federal Plan Requirements for Hospital/Medical/ Infectious Waste Incinerators Constructed On Or Before December 1, 2008

6. Section 62.14400 is amended by revising paragraphs (a) introductory text, (a)(2), and (c) to read as follows:

§ 62.14400 Am I subject to this subpart?

(a) You are subject to this subpart if paragraphs (a)(1), (2)(i) or (ii), and (3) of this section are all true:

\* \* \* \* \*

(2)(i) Construction of the HMIWI commenced on or before June 20, 1996, or modification of the HMIWI commenced on or before March 16, 1998; or

(ii) Construction of the HMIWI commenced after June 20, 1996 but no later than December 1, 2008, or modification of the HMIWI commenced after March 16, 1998 but no later than April 6, 2010; and

\* \* \* \* \*

(c) Owners or operators of sources that qualify for the exemptions in paragraphs (b)(1) or (2) of this section must submit records required to support their claims of exemption to the EPA Administrator (or delegated enforcement authority) upon request. Upon request by any person under the regulation at part 2 of this chapter (or a comparable law or regulation governing a delegated enforcement authority), the EPA Administrator (or delegated enforcement authority) must request the records in (b)(1) or (2) from an owner or operator and make such records available to the requestor to the extent required by part 2 of this chapter (or a comparable law governing a delegated enforcement authority). Records required under paragraphs (b)(1) and (2) of this section must be maintained by the source for a period of at least 5 years. Notifications of exemption claims required under paragraphs (b)(1) and (2) of this section must be maintained by the EPA or delegated enforcement authority for as long as the source is operating under such exempt status. Any information obtained from an owner or operator of a source accompanied by a claim of confidentiality will be treated in accordance with the regulations in part 2 of this chapter (or a comparable law governing a delegated enforcement authority).

7. Section 62.14401 is revised to read as follows:

§ 62.14401 How do I determine if my HMIWI is covered by an approved and effective State or Tribal plan?

This part (40 CFR part 62) contains a list of all states and tribal areas with approved Clean Air Act (CAA) section 111(d)/129 plans in effect. However, this part is only updated once a year. Thus, 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 approval occurred since publication of the most recent version of this part. A state may also meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the federal plan that meets the requirements of this section. This is the only other option for a state to meet its 111(d)/129 obligations.

(a) An acceptable Federal plan delegation request must include the following:

(1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan.

(2) The items under §§ 60.25(a) and 60.39e(c).

(3) Certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(4) A commitment to enter into a Memorandum of Agreement with the Regional Administrator who sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority. Additional guidance and information is given in the EPA's Delegation Manual, Item 7-139, Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal plans.

(b) A state with an already approved HMIWI CAA section 111(d)/129 state plan is not precluded from receiving EPA approval of a delegation request for the revised Federal plan, providing the requirements of paragraph (a) of this section are met, and at the time of the delegation request, the state also requests withdrawal of the EPA's previous state plan approval.

(c) A state's CAA section 111(d)/129 obligations are separate from its obligations under Title V of the CAA.

8. Section 62.14402 is revised to read as follows:

**§ 62.14402 If my HMIWI is not listed on the Federal plan inventory, am I exempt from this subpart?**

Not necessarily. Sources subject to this subpart include, but are not limited to, the inventory of sources listed in Docket ID Number EPA-HQ-OAR-2011-0405 for the federal plan. Review the applicability of § 62.14400 to determine if you are subject to this subpart.

■ 9. Section 62.14403 is revised to read as follows:

**§ 62.14403 What happens if I modify an existing HMIWI?**

(a) If you commenced modification (defined in 40 CFR 62.14490) of an existing HMIWI after April 6, 2010, you are subject to 40 CFR part 60, subpart Ec (40 CFR 60.50c through 60.58c), as amended, and you are not subject to this subpart, except as provided in paragraph (b) of this section.

(b) If you made physical or operational changes to your existing HMIWI solely for the purpose of complying with this subpart, these changes are not considered a modification and you are not subject to 40 CFR part 60, subpart Ec (40 CFR 60.50c through 60.58c), as amended. You remain subject to this subpart.

■ 10. Section 62.14412 is revised to read as follows:

**§ 62.14412 What stack opacity and visible emissions requirements apply?**

(a) Your HMIWI (regardless of size category) must not discharge into the atmosphere from the stack any gases that exhibit greater than 6 percent opacity (6-minute block average).

(b) Your HMIWI as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI must not discharge into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (*i.e.*, 9 minutes per 3-hour period), as determined by EPA Reference Method 22 of 40 CFR part 60, appendix A-7, except as provided in paragraphs (b)(1) and (2) of this section.

(1) The emissions limit specified in paragraph (b) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emissions limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(2) The provisions specified in paragraph (b) of this section do not apply during maintenance and repair of ash conveying systems. Maintenance and/or repair must not exceed 10

operating days per calendar quarter unless you obtain written approval from the state agency establishing a date when all necessary maintenance and repairs of ash conveying systems are to be completed.

■ 11. Section 62.14413 is revised to read as follows:

**§ 62.14413 When do the emissions limits and stack opacity and visible emissions requirements apply?**

The emissions limits, stack opacity, and visible emissions requirements of this subpart apply at all times.

■ 12. Section 62.14422 is amended by revising paragraph (a)(13) and adding paragraph (a)(14) to read as follows:

**§ 62.14422 What are the requirements for a training course that is not part of a State-approved program?**

(a) \* \* \*

(13) Recordkeeping requirements; and

(14) Training in waste segregation

according to § 62.14430(c)

\* \* \* \* \*

■ 13. Section 62.14425 is amended by revising paragraph (b) to read as follows:

**§ 62.14425 When must I review the documentation?**

\* \* \* \* \*

(b) You must conduct your initial review of the information listed in § 62.14424 by [date 6 months after publication of final rule], or prior to assumption of responsibilities affecting HMIWI operation, whichever is later.

\* \* \* \* \*

■ 14. Section 62.14431 is revised to read as follows:

**§ 62.14431 What must my waste management plan include?**

(a) Your waste management plan must identify both the feasibility of, and the approach for, separating certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. The waste management plan you develop may address, but is not limited to, elements such as segregation and recycling of paper, cardboard, plastics, glass, batteries, food waste and metals (*e.g.*, aluminum cans, metals-containing devices); segregation of non-recyclable wastes (*e.g.*, polychlorinated biphenyl-containing waste, pharmaceutical waste, and mercury-containing waste such as dental waste); and purchasing recycled or recyclable products. Your waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals

for every waste stream. When you develop your waste management plan, it should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other potential environmental or energy impacts they might have. In developing your waste management plan, you must consider the American Hospital Association (AHA) publication titled "Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities." This publication (AHA Catalog Number 057007) is available for purchase from AHA Services, Inc., Post Office Box 933283, Atlanta, Georgia 31193-3283.

(b) If you own or operate commercial HMIWI, you must conduct training and education programs in waste segregation for each of your waste generator clients and ensure that each client prepares its own waste management plan that includes, but is not limited to, the provisions listed in this section.

(c) If you own or operate commercial HMIWI, you must conduct training and education programs in waste segregation for your HMIWI operators.

■ 15. Section 62.14432 is revised to read as follows:

**§ 62.14432 When must my waste management plan be completed?**

As specified in §§ 62.14463 and 62.14464, you must submit your waste management plan with your initial report, which is due 60 days after you demonstrate initial compliance with the amended emissions limits, by conducting an initial performance test or submitting the results of previous emissions tests, provided the conditions in § 62.14451(e) are met.

■ 16. Section 62.14440 is revised to read as follows:

**§ 62.14440 Which HMIWI are subject to inspection requirements?**

(a) All HMIWI, including small rural HMIWI (defined in § 62.14490) and each HMIWI (subject to emissions limits and visible emissions requirements in §§ 62.14411 and 62.14412) are subject to the HMIWI equipment inspection requirements.

(b) All HMIWI equipped with one or more air pollution control devices are subject to the air pollution control device inspection requirements.

■ 17. Section 62.14441 is revised to read as follows:

**§ 62.14441 When must I inspect my HMIWI equipment and air pollution control devices?**

- (a) You must inspect your large, medium, small or small rural HMIWI equipment by May 13, 2014.
- (b) You must conduct inspections of your large, medium, small or small rural HMIWI equipment as outlined in § 62.14442(a) annually (no more than 12 months following the initial inspection or previous annual HMIWI equipment inspection).
- (c) You must inspect the air pollution control devices on your large, medium, small or small rural HMIWI by May 13, 2014.
- (d) You must conduct the air pollution control device inspections on your large, medium, small or small rural HMIWI as outlined in § 62.14442(b) annually (no more than 12 months following the initial inspection or previous annual air pollution control device inspection).

- 18. Section 62.14442 is amended as follows:
  - a. By redesignating paragraphs (a) through (q) as paragraphs (a)(1) through (a)(17);
  - b. By redesignating introductory text as paragraph (a) introductory text and revising it;
  - c. By redesignating newly redesignated paragraph (a)(17) as (a)(18) and adding new paragraph (a)(17); and
  - d. By adding new paragraph (b).
 The revisions and additions read as follows:

**§ 62.14442 What must my inspections include?**

(a) At a minimum, you must do the following during your HMIWI equipment inspection:

\* \* \* \* \*

(17) Include inspection elements according to manufacturer's recommendations; and

\* \* \* \* \*

(b) At a minimum, you must do the following during your air pollution control device inspection:

- (1) Inspect air pollution control device(s) for proper operation, if applicable;
- (2) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and
- (3) Include inspection elements according to manufacturer's recommendations; and
- (4) Generally observe that the equipment is maintained in good operating condition.

- 19. Section 62.14443 is revised to read as follows:

**§ 62.14443 When must I do repairs?**

(a) You must complete any necessary repairs to the HMIWI equipment within 10 operating days of the HMIWI equipment inspection unless you obtain written approval from the EPA Administrator (or delegated enforcement authority) establishing a different date when all necessary repairs of your HMIWI equipment must be completed.

(b) You must complete any necessary repairs to the air pollution control device within 10 operating days of the air pollution control device inspection unless you obtain written approval from the EPA Administrator (or delegated enforcement authority) establishing a different date when all necessary repairs of your air pollution control device must be completed. During the time that you conduct repairs to your air pollution control device, all emissions standards remain in effect according to § 62.14413.

**§ 62.14450 [Removed and Reserved]**

- 20. Section 62.14450 is removed and reserved.
- 21. Section 62.14451 is amended as follows:
  - a. By revising paragraph (a);
  - b. By adding paragraph (b)(3);
  - c. By redesignating paragraph (c) as paragraph (d);
  - d. By adding new paragraph (c); and
  - e. By adding paragraph (e).

The revisions and additions read as follows:

**§ 62.14451 What are the testing requirements?**

(a) Except as specified in paragraph (e) of this section, you must conduct an initial performance test for PM, opacity, CO, dioxin/furan, HCl, Pb, Cd, Hg, SO<sub>2</sub>, NO<sub>x</sub> and fugitive ash emissions using the test methods and procedures outlined in § 62.14452.

(b) \* \* \*

(3) If you use a large HMIWI that commenced construction or modification according to § 62.14400(a)(2)(ii), determine compliance with the visible emissions limits for fugitive emissions from flyash/bottom ash storage and handling by conducting a performance test using EPA Reference Method 22 of 40 CFR part 60, appendix A-7 on an annual basis (no more than 12 months following the previous performance test).

(c) The 2,000 lb/wk limitation for small rural HMIWI does not apply during performance tests.

\* \* \* \* \*

(e) You may use the results of previous emissions tests to demonstrate

compliance with the emissions limits, provided that the conditions in paragraphs (e)(1) through (3) of this section are met:

(1) Your previous emissions tests must have been conducted using the applicable procedures and test methods listed in § 62.14452. Previous emissions test results obtained using the EPA-accepted voluntary consensus standards are also acceptable.

(2) The HMIWI at your facility must currently be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s), and the HMIWI may not have been modified such that emissions would be expected to exceed the results from previous emissions test(s).

(3) The previous emissions test(s) must have been conducted in 1996 or later.

- 22. Section 62.14452 is amended as follows:

- a. By revising paragraphs (c), (d), and (f);
- b. By redesignating paragraph (l) as paragraph (o) and revising it;
- c. By redesignating paragraph (m) as paragraph (r);
- d. By redesignating paragraphs (g) through (k) as paragraphs (i) through (m) and revising them;
- f. By adding new paragraphs (g) and (h); and
- g. By adding paragraphs (n), (p), and (q).

The revisions and additions read as follows:

**§ 62.14452 What test methods and procedures must I use?**

\* \* \* \* \*

(c) You must use EPA Reference Method 1 of 40 CFR part 60, appendix A-1 to select the sampling location and number of traverse points;

(d) You must use EPA Reference Method 3, 3A or 3B of 40 CFR part 60, appendix A-2 for gas composition analysis, including measurement of oxygen concentration. You must use EPA Reference Method 3, 3A or 3B of 40 CFR part 60, appendix A-2 simultaneously with each reference method. You may use ASME PTC-19-10-1981-Part 10 (incorporated by reference in 40 CFR 60.17) as an alternative to EPA Reference Method 3B;

\* \* \* \* \*

(f) You must use EPA Reference Method 5 of 40 CFR part 60, appendix A-3 or Method 26A or Method 29 of 40 CFR part 60, appendix A-8 to measure

particulate matter (PM) emissions. You may use bag leak detection systems, as specified in § 62.14454(e), or PM continuous emissions monitoring systems (CEMS), as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the PM emissions limit;

(g) You must use EPA Reference Method 6 or 6C of 40 CFR part 60, appendix A-4 to measure SO<sub>2</sub> emissions;

(h) You must use EPA Reference Method 7 or 7E of 40 CFR part 60, appendix A-4 to measure NO<sub>x</sub> emissions;

(i) You must use EPA Reference Method 9 of 40 CFR part 60, appendix A-4 to measure stack opacity. You may use bag leak detection systems, as specified in § 62.14454(e), or PM CEMS, as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the opacity requirements;

(j) You must use EPA Reference Method 10 or 10B of 40 CFR part 60, appendix A-4 to measure the CO emissions. You may use CO CEMS, as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the CO emissions limit;

(k) You must use EPA Reference Method 23 of 40 CFR part 60, appendix A-7 to measure total dioxin/furan emissions. The minimum sample time must be 4 hours per test run. You may elect to sample dioxins/furans by installing, calibrating, maintaining and operating a continuous automated sampling system, as specified in paragraph (p) of this section, as an alternative to demonstrate compliance with the dioxin/furan emissions limit. If you have selected the toxic equivalency (TEQ) standards for dioxin/furans under § 62.14411, you must use the following procedures to determine compliance:

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

(2) For each dioxin/furan congener measured in accordance with paragraph (k)(1) of this section, multiply the congener concentration by its corresponding TEQ factor specified in Table 2 of this subpart;

(3) Sum the products calculated in accordance with paragraph (k)(2) of this section to obtain the total concentration of dioxins/furans emitted in terms of TEQ.

(l) You must use EPA Reference Method 26 or 26A of 40 CFR part 60, appendix A-8 to measure HCl emissions. You may use HCl CEMS as

an alternative to demonstrate compliance with the HCl emissions limit;

(m) You must use EPA Reference Method 29 of 40 CFR part 60, appendix A-8 to measure Pb, Cd and Hg emissions. You may use ASTM D6784-02 (incorporated by reference in 40 CFR 60.17) as an alternative to EPA Reference Method 29 for measuring Hg emissions. You may also use Hg CEMS, as specified in paragraph (o) of this section, or a continuous automated sampling system for monitoring Hg emissions, as specified in paragraph (q) of this section, as an alternative to demonstrate compliance with the Hg emissions limit. You may use multi-metals CEMS, as specified in paragraph (o) of this section, as an alternative to EPA Reference Method 29 to demonstrate compliance with the Pb, Cd or Hg emissions limits;

(n) You must use EPA Reference Method 22 of 40 CFR part 60, appendix A-7 to measure fugitive ash emissions and determine compliance with the fugitive ash emissions limit, as applicable, under § 60.52c(c). The minimum observation time must be a series of three 1-hour observations.

(o) If you are using a CEMS to demonstrate compliance with any of the emissions limits under §§ 62.14411 or 62.14412, you:

(1) Must determine compliance with the appropriate emissions limit(s) using a 12-hour rolling average, calculated as specified in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A-7. Performance tests using EPA Reference Methods are not required for pollutants monitored with CEMS.

(2) Must operate a CEMS to measure oxygen concentration, adjusting pollutant concentrations to 7 percent oxygen as specified in paragraph (e) of this section.

(3) Must operate all CEMS in accordance with the applicable procedures under appendices B and F of 40 CFR part 60. For those CEMS for which performance specifications have not yet been promulgated (HCl, multi-metals), this option takes effect on the date a final performance specification is published in the **Federal Register** or the date of approval of a site-specific monitoring plan.

(4) May substitute use of a CO CEMS for the CO annual performance test and minimum secondary chamber temperature to demonstrate compliance with the CO emissions limit.

(5) May substitute use of an HCl CEMS for the HCl annual performance test, minimum HCl sorbent flow rate and minimum scrubber liquor pH to

demonstrate compliance with the HCl emissions limit.

(6) May substitute use of a PM CEMS for the PM annual performance test and minimum pressure drop across the wet scrubber, if applicable, to demonstrate compliance with the PM emissions limit.

(p) If you are using a continuous automated sampling system to demonstrate compliance with the dioxin/furan emissions limits, you must record the output of the system and analyze the sample according to EPA Reference 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 monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan. If you elect to continuously sample dioxin/furan emissions instead of sampling and testing using EPA Reference Method 23 of 40 CFR part 60, appendix A-7, you must install, calibrate, maintain and operate a continuous automated sampling system and comply with the requirements specified in 40 CFR 60.58b(p) and (q) of subpart Eb.

(q) If you are using a continuous automated sampling system to demonstrate compliance with the Hg emissions limits, you must record the output of the system and analyze the sample at set intervals using any suitable determinative technique that can meet appropriate performance criteria. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to Hg from monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan. If you elect to continuously sample Hg emissions instead of sampling and testing using EPA Reference Method 29 of 40 CFR part 60, appendix A-8, or an approved alternative method for measuring Hg emissions, you must install, calibrate, maintain and operate a continuous automated sampling system and comply with the requirements specified in 40 CFR 60.58b(p) and (q) of subpart Eb.

\* \* \* \* \*

■ 23. Section 62.14453 is amended by revising paragraphs (a) introductory text, (a)(2) and (b) to read as follows:

**§ 62.14453 What must I monitor?**

(a) If your HMIWI uses combustion control only, or your HMIWI is equipped with a dry scrubber followed by a fabric filter (FF), a wet scrubber, a dry scrubber followed by a FF and wet

scrubber, or a selective noncatalytic reduction (SNCR) system:

\* \* \* \* \*

(2) After the date on which the initial performance test is completed or is required to be completed under § 62.14470, whichever comes first, your HMIWI must not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table 3 and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours), at all times except during performance tests.

(b) If you are using an air pollution control device other than a dry scrubber followed by a FF, a wet scrubber, a dry scrubber followed by a FF and a wet scrubber, or a SNCR system to comply with the emissions limits under § 62.14411, you must petition the EPA Administrator for site-specific operating parameters to be established during the initial performance test and you must continuously monitor those parameters thereafter. You may not conduct the initial performance test until the EPA Administrator has approved the petition.

■ 24. Section 62.14454 is amended by revising paragraphs (a) through (c) and adding paragraph (e) to read as follows:

**§ 62.14454 How must I monitor the required parameters?**

(a) Except as provided in §§ 62.14452(o) through (q), you must install, calibrate (to manufacturers' specifications), maintain and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 3 of this subpart (unless CEMS are used as a substitute for certain parameters as specified) such that these devices (or methods) measure and record values for the operating parameters at the frequencies indicated in Table 3 of this subpart at all times. For charge rate, the device must measure and record the date, time and weight of each charge fed to the HMIWI. This must be done automatically, meaning that the only intervention from an operator during the process would be to load the charge onto the weighing device. For batch HMIWI, the maximum charge rate is measured on a daily basis (the amount of waste charged to the unit each day).

(b) For all HMIWI, you must install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack, including the date, time and duration of such use.

(c) For all HMIWI, if you are using controls other than a dry scrubber followed by a FF, a wet scrubber, a dry scrubber followed by a FF and a wet scrubber, or a SNCR system to comply with the emissions limits under § 62.14411, you must install, calibrate (to manufacturers' specifications), maintain and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to § 62.14453(b).

\* \* \* \* \*

(e) If you use an air pollution control device that includes a FF and are not demonstrating compliance using PM CEMS, you must determine compliance with the PM emissions limit using a bag leak detection system and meet the requirements in paragraphs (e)(1) through (12) of this section for each bag leak detection system.

(1) Each triboelectric bag leak detection system must be installed, calibrated, operated and maintained according to the "Fabric Filter Bag Leak Detection Guidance," (EPA-454/R-98-015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Sector Policies and Programs Division; Measurement Policy Group (D-243-02), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emissions Measurement Center Continuous Emissions Monitoring. Other types of bag leak detection systems must be installed, operated, calibrated and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(2) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(3) The bag leak detection system sensor must provide an output of relative PM loadings.

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

(5) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(6) For positive pressure FF systems, a bag leak detector must be installed in each baghouse compartment or cell.

(7) For negative pressure or induced air FF, the bag leak detector must be installed downstream of the FF.

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

(9) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the "Fabric Filter Bag Leak Detection Guidance."

(10) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points or alarm delay time may not be adjusted. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete FF inspection that demonstrates that the FF is in good operating condition. Each adjustment must be recorded.

(11) Record the results of each inspection, calibration and validation check.

(12) Initiate corrective action within 1 hour of a bag leak detection system alarm; operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period. If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

■ 25. Section 62.14455 is amended as follows:

■ a. By revising paragraphs (a) through (e);

■ b. By redesignating paragraphs (f) through (h) as paragraphs (g) through (i);

■ c. By adding new paragraph (f); and

■ d. By revising newly redesignated paragraphs (g) and (h).

The revisions and addition read as follows:

**§ 62.14455 What if my HMIWI goes outside of a parameter limit?**

(a) Operation above the established maximum or below the established minimum operating parameter(s) constitutes a violation of established operating parameter(s). Operating parameter limits do not apply during performance tests.

(b) Except as provided in paragraph (g) or (h) of this section, if your HMIWI uses combustion control only:

And your HMIWI . . .	Then you are in violation of . . .
Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The PM, CO and dioxin/furan emissions limits.

(c) Except as provided in paragraph (f) equipped with a dry scrubber followed or (g) of this section, if your HMIWI is by a FF:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum FF inlet temperature (3-hour rolling average), above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), and below the minimum dioxin/furan sorbent flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum HCl sorbent flow rate (3-hour rolling average) simultaneously.	The HCl emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum Hg sorbent flow rate (3-hour rolling average) simultaneously.	The Hg emissions limit.
(5) Uses the bypass stack .....	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(6) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(7) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the PM emissions limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The PM emissions limit. <sup>a</sup>
(8) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the opacity limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The opacity limit. <sup>a</sup>
(9) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(10) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(11) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(12) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(13) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.
(14) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(15) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

<sup>a</sup>If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(d) Except as provided in paragraph (g) or (h) of this section, if your HMIWI is equipped with a wet scrubber:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum pressure drop across the wet scrubber (3-hour rolling average) or below the minimum horsepower or amperage to the system (3-hour rolling average) simultaneously.	The PM emissions limit.

And your HMIWI . . .	Then you are in violation of . . .
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), below the minimum secondary chamber temperature (3-hour rolling average), and below the minimum scrubber liquor flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum scrubber liquor pH (3-hour rolling average) simultaneously.	The HCl emissions limit.
(5) Operates above the maximum flue gas temperature (3-hour rolling average) and above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) simultaneously.	The Hg emissions limit.
(6) Uses the bypass stack .....	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(7) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(8) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(9) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(10) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(11) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(12) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.
(13) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(14) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

(e) Except as provided in paragraph (e) or (h) of this section, if your HMIWI is equipped with a dry scrubber followed by a FF and a wet scrubber:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum fabric filter inlet temperature (3-hour rolling average), above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), and below the minimum dioxin/furan sorbent flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum scrubber liquor pH (3-hour rolling average) simultaneously.	The HCl emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum Hg sorbent flow rate (3-hour rolling average) simultaneously.	The Hg emissions limit.
(5) Uses the bypass stack .....	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(6) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(7) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the PM emissions limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The PM emissions limit. <sup>a</sup>
(8) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the opacity limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The opacity limit. <sup>a</sup>
(9) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(10) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(11) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(12) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(13) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.

And your HMIWI . . .	Then you are in violation of . . .
(14) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(15) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

<sup>a</sup> If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(f) Except as provided in paragraph (g) or (h) of this section, if your HMIWI is equipped with a SNCR system:

And your HMIWI . . .	Then you are in violation of . . .
Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), below the minimum secondary chamber temperature (3-hour rolling average), and below the minimum reagent flow rate (3-hour rolling average) simultaneously.	The NO <sub>x</sub> emissions limit.

(g) You may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that your HMIWI is not in violation of the applicable emissions limit(s). You must conduct repeat performance tests pursuant to this paragraph using the identical operating parameters that indicated a violation under paragraph (b), (c), (d), (e), or (f) of this section.

(h) If you are using a CEMS to demonstrate compliance with any of the emissions limits in table 1 of this subpart or § 62.14412, and your CEMS indicates compliance with an emissions limit during periods when operating parameters indicate a violation of an emissions limit under paragraphs (b), (c), (d), (e) or (f) of this section, then you are considered to be in compliance with the emissions limit. You need not conduct a repeat performance test to demonstrate compliance.

\* \* \* \* \*

■ 26. Section 62.14460 is amended as follows:

- a. By revising paragraph (b)(1)
- b. By redesignating paragraphs (b)(7) through (15) as paragraphs (b)(8) through (16);
- c. By adding new paragraph (b)(7);
- d. By revising newly designated paragraph (b)(16);
- e. By adding paragraphs (b)(17) through (19); and
- f. By revising paragraphs (c), (e), and (f).

The revisions and additions read as follows:

**§ 62.14460 What records must I maintain?**

\* \* \* \* \*

- (a) \* \* \*
- (b) \* \* \*

(1) Concentrations of any pollutant listed in table 1, measurements of opacity and visible ash;

\* \* \* \* \*

(7) Amount and type of NO<sub>x</sub> reagent used during each hour of operation, as applicable;

\* \* \* \* \*

(16) All operating parameter data collected, if you are complying by monitoring site-specific operating parameters under § 62.14453(b).

(17) Concentrations of CO, PM, HCl, Pb, Cd, Hg and dioxin/furan, as applicable, as determined by the CEMS or continuous automated sampling system, as applicable.

(18) Records of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the timeframe established by the Administrator.

(19) Records of each bag leak detection system alarm, the time of the alarm, the time corrective action was initiated and completed and a brief description of the cause of the alarm and the corrective action taken, as applicable.

(c) Identification of calendar days for which data on emissions rates or operating parameters specified under paragraph (b)(1) through (19) of this section were not obtained, with an identification of the emissions rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken;

\* \* \* \* \*

(e) Identification of calendar days for which data on emissions rates or operating parameters specified under paragraphs (b)(1) through (19) of this section exceeded the applicable limits, with a description of the exceedances,

reasons for such exceedances and a description of corrective actions taken.

(f) The results of the initial, annual and any subsequent performance tests conducted to determine compliance with the emissions limits and/or to establish or re-establish operating parameters, as applicable, including sample calculations, of how the operating parameters were established or re-established, if applicable.

\* \* \* \* \*

■ 27. Section 62.14463 is amended as follows:

- a. By redesignating paragraphs (a) through (c) as paragraphs (a)(1) through (3);
- b. By revising newly designated paragraphs (a)(1) and (2);
- c. By adding paragraph (a)(4);
- d. By redesignating the section introductory text as paragraph (a) introductory text;
- e. By redesignating paragraphs (d) through (k) as paragraphs (a)(5) through (12);
- f. By revising newly designated paragraphs (a)(5), (11), and (12);
- g. By adding paragraphs (a)(13) through (15); and
- h. By adding new paragraph (b).

The revisions and additions read as follows:

**§ 62.14463 What reporting requirements must I satisfy?**

(a) \* \* \*

(1) The initial performance test data as recorded under § 62.14451(a);

(2) The values for the site-specific operating parameters established pursuant to § 62.14453, as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test;

\* \* \* \* \*

(4) If you use a bag leak detection system, analysis and supporting documentation demonstrating conformance with the EPA guidance and specifications for bag leak detection systems in § 62.14454(e);

(5) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to § 62.14453, as applicable;

\* \* \* \* \*

(11) Any use of the bypass stack, duration of such use, reason for malfunction and corrective action taken;

(12) Records of the annual equipment inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the time frame established by the EPA Administrator (or delegated enforcement authority);

(13) Records of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the time frame established by the EPA Administrator (or delegated enforcement authority);

(14) Concentrations of CO, PM, HCl, Pb, Cd, Hg and dioxin/furan, as applicable, as determined by the CEMS or continuous automated sampling system, as applicable; and

(15) Petition for site-specific operating parameters under § 62.14453(b).

(b) If you choose to submit an electronic copy of stack test reports to the EPA's WebFIRE database, as of December 31, 2011, you must enter the test data into the EPA's database using the Electronic Reporting Tool (ERT) located at [http://www.epa.gov/ttn/chief/ert/ert\\_tool.html](http://www.epa.gov/ttn/chief/ert/ert_tool.html).

■ 28. Section 62.14464 is amended as follows:

■ a. By revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

**§ 62.14464 When must I submit reports?**

(a) You must submit the information specified in § 62.14463(a)(1) through (4) no later than 60 days following the initial performance test.

(b) You must submit an annual report to the EPA Administrator (or delegated enforcement authority) no more than 1 year following the submission of the information in paragraph (a) of this section, and you must submit subsequent reports no more than 1 year following the previous report (once the unit is subject to permitting requirements under Title V of the CAA, you must submit these reports semiannually). The annual report must

include the information specified in § 62.14463(a)(5) through (14), as applicable.

\* \* \* \* \*

(d) You must submit your petition for site-specific operating parameters specified in § 62.14463(a)(15) prior to your initial performance test. You may not conduct the initial performance test until the EPA Administrator has approved the petition.

■ 29. Section 62.14470 is amended as follows:

■ a. By revising paragraph (a) introductory text;

■ b. By revising paragraphs (a)(1) through (a)(3);

■ c. By revising paragraph (b) introductory text;

■ d. By revising paragraph (b)(1);

■ e. By revising paragraphs (b)(2)(i) through (v); and

■ f. By revising paragraph (b)(3).

The revisions read as follows:

**§ 62.14470 When must I comply with this subpart if I plan to continue operation of my HMIWI?**

\* \* \* \* \*

(a) If you plan to continue operation and come into compliance with the requirements of this subpart by May 13, 2014, then you must complete the requirements of paragraphs (a)(1) through (a)(4) of this section.

(1) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by May 13, 2014.

(2) You must achieve final compliance by May 13, 2014. This includes incorporating all process changes and/or completing retrofit construction, connecting the air pollution control equipment or process changes such that the HMIWI is brought online, and ensuring that all necessary process changes and air pollution control equipment are operating properly.

(3) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you are required to achieve final compliance under paragraph (a)(2) of this section.

\* \* \* \* \*

(b) If you plan to continue operation and come into compliance with the requirements of this subpart after May 13, 2014, but before October 6, 2014, then you must complete the requirements of paragraphs (b)(1) through (4) of this section.

(1) You must comply with the operator training and qualification requirements and inspection

requirements (if applicable) of this subpart by May 13, 2014.

(2) \* \* \*

(i) You must submit a final control plan by May 13, 2016. Your final control plan must, at a minimum, include a description of the air pollution control device(s) or process changes that will be employed for each unit to comply with the emissions limits and other requirements of this subpart.

(ii) You must award contract(s) for on-site construction, on-site installation of emissions control equipment or incorporation of process changes by December 13, 2013. You must submit a signed copy of the contract(s) awarded.

(iii) You must begin on-site construction, begin on-site installation of emissions control equipment or begin process changes needed to meet the emissions limits as outlined in the final control plan by January 6, 2014.

(iv) You must complete on-site construction, installation of emissions control equipment or process changes by August 6, 2014.

(v) You must achieve final compliance by October 6, 2014. This includes incorporating all process changes and/or completing retrofit construction as described in the final control plan, connecting the air pollution control equipment or process changes such that the HMIWI is brought online and ensuring that all necessary process changes and air pollution control equipment are operating properly.

(3) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you are required to achieve final compliance under paragraph (b)(2)(v) of this section.

\* \* \* \* \*

■ 30. Section 62.14471 is amended as follows:

■ a. By revising paragraph (a);

■ b. By revising paragraph (b) introductory text;

■ c. By revising paragraphs (b)(1) introductory text and (b)(1)(i); and

■ d. By revising paragraphs (b)(2) and (3).

The revisions read as follows:

**§ 62.14471 When must I comply with this subpart if I plan to shutdown?**

\* \* \* \* \*

(a) If you plan to shutdown by May 13, 2014, rather than come into compliance with the requirements of this subpart, then you must shutdown by May 13, 2014, to avoid coverage under any of the requirements of this subpart.

(b) If you plan to shutdown rather than come into compliance with the

requirements of this subpart but are unable to shutdown by [May 13, 2014, then you may petition the EPA for an extension by following the procedures outlined in paragraphs (b)(1) through (3) of this section.

(1) You must submit your request for an extension to the EPA Administrator (or delegated enforcement authority) by [date 90 days after publication of final rule]. Your request must include:

(i) Documentation of the analyses undertaken to support your need for an extension, including an explanation of why your requested extension date is sufficient time for you to shutdown while May 13, 2014, does not provide sufficient time for shutdown. Your documentation must include an evaluation of the option to transport your waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(ii) \* \* \*

(2) You must shutdown no later than October 6, 2014.

(3) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by May 13, 2014.

■ 31. Section 62.14472 is amended as follows:

- a. By revising paragraph (a);
- b. By revising paragraph (b) introductory text;
- c. By revising paragraphs (b)(1) and (4);
- d. By revising paragraph (c) introductory text; and
- e. By revising paragraph (c)(1).

The revisions read as follows:

**§ 62.14472 When must I comply with this subpart if I plan to shutdown and later restart?**

\* \* \* \* \*

(a) If you plan to shutdown and restart prior to October 6, 2014, then you must:

(1) Meet the compliance schedule outlined in § 63.14470(a) if you restart prior to May 13, 2014; or

(2) Meet the compliance schedule outlined in § 62.14470(b) if you restart after May 13, 2014. Any missed increments of progress need to be completed prior to or upon the date of restart.

(b) If you plan to shutdown by May 13, 2014, and restart after October 6, 2014, then you must complete the requirements of paragraphs (b)(1) through (b)(5) of this section.

(1) You must shutdown by May 13, 2014.

\* \* \* \* \*

(4) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you restart.

\* \* \* \* \*

(c) If you plan to shutdown after May 13, 2014, and restart after October 6, 2014, then you must complete the requirements of paragraphs (c)(1) and (2) of this section.

(1) You must petition the EPA for an extension by following the procedures outlined in § 63.14471(b)(1) through (3).

\* \* \* \* \*

■ 32. Section 62.14490 is amended as follows:

- a. By adding a definition for “Bag leak detection system”;
- b. By adding a definition for “Commercial HMIWI”;
- c. By revising the definition for “Maximum design waste burning capacity”;
- d. By adding a definition for “Minimum reagent flow rate”;
- e. By revising the definition for “Minimum secondary chamber temperature”; and
- f. By revising the introductory text to the definition for “Modification” or “Modified HMIWI.”

The revisions and additions read as follows:

**§ 62.14490 Definitions.**

*Bag leak detection system* means an instrument that is capable of monitoring PM loadings in the exhaust of a FF 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 effects to monitor relative PM loadings.

\* \* \* \* \*

*Commercial HMIWI* means a HMIWI which offers incineration services for hospital/medical/infectious waste generated offsite by firms unrelated to the firm that owns the HMIWI.

\* \* \* \* \*

*Maximum design waste burning capacity* means:

(1) For intermittent and continuous HMIWI,

$$C = P_v \times 15,000 / 8,500 \text{ (Eq. 2)}$$

Where:

C = HMIWI capacity, lb/hr  
 P<sub>v</sub> = primary chamber volume, ft<sup>3</sup>

15,000 = primary chamber heat release rate factor, Btu/ft<sup>3</sup>/hr  
 8,500 = standard waste heating value, Btu/lb;

(2) For batch HMIWI,

$$C = P_v \times 4.5 / 8 \text{ (Eq. 3)}$$

Where:

C = HMIWI capacity, lb/hr  
 P<sub>v</sub> = primary chamber volume, ft<sup>3</sup>  
 4.5 = waste density, lb/ft<sup>3</sup>  
 8 = typical hours of operation of a batch HMIWI, hours.

\* \* \* \* \*

*Minimum reagent flow rate* means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the SNCR technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the NO<sub>x</sub> emissions limit.

\* \* \* \* \*

*Minimum secondary chamber temperature* means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, dioxin/furan or NO<sub>x</sub> emissions limits.

*Modification* or *Modified HMIWI* means any change to a HMIWI unit after April 6, 2010, such that:

\* \* \* \* \*

■ 33. Section 62.14495 is amended by revising paragraph (b) and adding paragraphs (c) through (e) to read as follows:

**§ 62.14495 What authorities will be retained by the EPA Administrator?**

\* \* \* \* \*

(b) Approval of alternative methods of demonstrating compliance under 40 CFR 60.8, including:

(1) Approval of CEMS for PM, HCl, multi-metals and Hg where used for purposes of demonstrating compliance,

(2) Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance, and

(3) Approval of major alternatives to test methods;

(c) Approval of major alternatives to monitoring;

(d) Waiver of recordkeeping requirements; and

(e) Performance test and data reduction waivers under 40 CFR 60.8(b).

34. Table 1 to Subpart HHH is revised to read as follows:

TABLE 1 TO SUBPART HHH OF PART 62—EMISSIONS LIMITS FOR SMALL RURAL, SMALL, MEDIUM AND LARGE HMIWI

For the air pollutant	You must meet this emissions limit				With these units (7 percent oxygen, dry basis)	Using this averaging time <sup>a</sup>	And determining compliance using this method <sup>b</sup>
	HMIWI size						
	Small rural	Small	Medium	Large			
Particulate matter ..	87 (0.038) ...	66 (0.029) ...	46 (0.020) <sup>c</sup> 34 (0.015) <sup>d</sup>	25 (0.011) ...	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	3-run average (1- hour minimum sample time per run).	EPA Reference Method 5 of ap- pendix A-3 of part 60, or EPA Reference Method M 26A or 29 of appen- dix A-8 of part 60
Carbon monoxide	20 .....	20 .....	5.5 .....	11 .....	Parts per million by volume.	3-run average (1- hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A-4 of part 60
Dioxins/furans .....	240 (100) or 5.1 (2.2).	16 (7.0) or 0.013 (0.0057).	0.85 (0.37) or 0.020 (0.0087).	9.3 (4.1) or 0.054 (0.024).	Nanograms per dry standard cubic meter total dioxins/furans (grains per bil- lion dry stand- ard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry stand- ard cubic feet).	3-run average (4- hour minimum sample time per run).	EPA Reference Method 23 of appendix A-7 of part 60
Hydrogen chloride	810 .....	44 <sup>c</sup> .....	7.7 .....	6.6 .....	Parts per million by volume.	3-run average (1- hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A-8 of part 60
Sulfur dioxide .....	55 .....	4.2 .....	4.2 .....	9.0 .....	Parts per million by volume.	3-run average (1- hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A-4 of part 60
Nitrogen oxides .....	130 .....	190 .....	190 .....	140 .....	Parts per million by volume.	3-run average (1- hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A-4 of part 60
Lead .....	0.50 (0.22) ..	0.31 (0.14) ..	0.018 (0.0079).	0.036 (0.016).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1- hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60
Cadmium .....	0.11 (0.048)	0.017 (0.0074).	0.013 (0.0057).	0.0092 (0.0040).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1- hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60
Mercury .....	0.051 (0.0022).	0.014 (0.0061).	0.025 (0.011).	0.018 (0.0079).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1- hour minimum sample time per run).	EPA Reference Method 29 of appendix A-8 of part 60

<sup>a</sup> Except as allowed under §§ 62.14452(o)–(q) for HMIWI equipped with CEMS or continuous automated sampling systems.

<sup>b</sup> Does not include CEMS, continuous automated sampling systems, and approved alternative non-EPA test methods allowed under § 62.14452(d) and (m).

<sup>c</sup> Limits for those HMIWI for which construction or modification was commenced according to § 62.14400(a)(2)(i).

<sup>d</sup> Limits for those HMIWI for which construction or modification was commenced according to § 62.14400(a)(2)(ii).

35. Table 2 to Subpart HHH is revised to read as follows:

TABLE 2 TO SUBPART HHH OF PART 62—TOXIC EQUIVALENCY FACTORS

Dioxin/furan congener	Toxic equivalence factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin .....	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin .....	1
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 .....	0.0003
2,3,7,8-tetrachlorinated dibenzofuran .....	0.1
2,3,4,7,8-pentachlorinated dibenzofuran .....	0.3
1,2,3,7,8-pentachlorinated dibenzofuran .....	0.03
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 .....	0.0003

36. Table 3 to Subpart HHH is revised to read as follows:

TABLE 3 TO SUBPART HHH OF PART 62—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES

Operating parameters to be monitored	Minimum frequency		HMIWI				
	Data measurement	Data recording	HMIWI with combustion control only	HMIWI with dry scrubber followed by FF	HMIWI with wet scrubber	HMIWI with dry scrubber followed by FF and wet scrubber	HMIWI with SNCR system
Maximum operating parameters:							
Maximum charge rate.	Once per charge ....	Once per charge ....	✓	✓	✓	✓	✓
Maximum FF inlet temperature.	Continuous .....	Once per minute ....	.....	✓	.....	✓	.....
Maximum flue gas temperature.	Continuous .....	Once per minute ....	.....	.....	✓	✓	.....
Minimum operating parameters:							
Minimum secondary chamber temperature.	Continuous .....	Once per minute ....	✓	✓	✓	✓	✓
Minimum dioxin/furan sorbent flow rate.	Hourly .....	Once per hour .....	.....	✓	.....	✓	.....
Minimum HCl sorbent flow rate.	Hourly .....	Once per hour .....	.....	✓	.....	✓	.....
Minimum mercury (Hg) sorbent flow rate.	Hourly .....	Once per hour .....	.....	✓	.....	✓	.....

TABLE 3 TO SUBPART HHH OF PART 62—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES—Continued

Operating parameters to be monitored	Minimum frequency		HMIWI				
	Data measurement	Data recording	HMIWI with combustion control only	HMIWI with dry scrubber followed by FF	HMIWI with wet scrubber	HMIWI with dry scrubber followed by FF and wet scrubber	HMIWI with SNCR system
Minimum pressure drop across the wet scrubber or minimum horsepower or amperage to wet scrubber.	Continuous .....	Once per minute ....	.....	.....	✓	✓	.....
Minimum scrubber liquor flow rate.	Continuous .....	Once per minute ....	.....	.....	✓	✓	.....
Minimum scrubber liquor pH.	Continuous .....	Once per minute ....	.....	.....	✓	✓	.....
Minimum reagent flow rate.	Hourly .....	Once per hour .....	.....	.....	.....	.....	✓

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