The Texas Commission on Environmental Quality (TCEQ or commission) proposes Subchapter D, new Division 3, §§113.2100 - 113.2174; new Division 4, §§113.2200 - 113.2261; and new Division 5, §§113.2300 - 113.2357.

The commission also proposes to include these proposed rules in the accompanying Federal Clean Air Act (FCAA), §111(d)/129 State Plan.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The proposed amendments to Chapter 113 would revise Subchapter D (Designated Facilities and Pollutants), to add new Division 3 (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999), new Division 4 (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999), and new Division 5 (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004) to incorporate the emission guidelines found in 40 Code of Federal Regulations (CFR) Part 60 (Standards of Performance for New Stationary Sources).

New Source Performance Standards and Emission Guidelines

The FCAA, §111 (Standards of Performance for New Stationary Sources) and §129 (Solid Waste Combustion) require the United States Environmental Protection Agency (EPA) to develop and adopt performance standards and other requirements for each category of solid waste incineration units. The standards are required to include emissions limitations and other requirements applicable to new units and other requirements applicable to existing units. The new source performance standards (NSPS) apply to

new stationary sources in which construction begins after the NSPS is proposed or that are reconstructed or modified on or after a specified date. Emission guidelines are similar to the NSPS, except that they apply to existing sources in which construction begins on or before the date the NSPS is proposed or that are reconstructed or modified before a specified date. Unlike the NSPS, emission guidelines are not enforceable until the EPA approves a state plan or adopts a federal plan for implementing and enforcing them, and the state or federal plan becomes effective. The emission guidelines proposed for incorporation as part of this rulemaking are for certain solid waste incineration units, as specified in this preamble. Under the FCAA, §129, the NSPS and emission guidelines adopted for solid waste incineration units must meet maximum achievable control technology, or the maximum degree of reduction in emissions of air pollutants that the EPA determines is achievable, taking into consideration the cost of achieving reductions and any non-air quality health and environmental impacts and energy requirements.

Additionally, states are required under the FCAA, §129 and the emission guidelines, to adopt and submit to the EPA for approval, a state plan to implement and enforce the emission guidelines. The state plan is required to be at least as protective as the emission guidelines. The FCAA, §129 requires the EPA to develop, implement, and enforce a federal plan if a state fails to submit a satisfactory state plan. The EPA promulgated a federal plan to implement 40 CFR Part 60, Subpart BBBB for existing small municipal waste combustors on January 31, 2003, in 40 CFR Part 62, Subpart JJJ. This federal plan became effective on January 31, 2003. The EPA also promulgated a federal plan to implement 40 CFR Part 60, Subpart DDDD for existing commercial and industrial solid waste incinerators (CISWIs) on October 3, 2003, in 40 CFR Part 62, Subpart III. This federal plan became effective on November 3, 2003. While the EPA proposed a federal plan to implement 40 CFR Part 60, Subpart FFFF for other solid waste incineration (OSWI) units on December 18, 2006 (40 CFR Part 62, Subpart KKK), the EPA has not yet

finalized the federal plan. Interested persons may consult the emission guidelines and proposed and final federal plans for further information concerning the requirements that are the subject of this proposed rulemaking. The commission is proposing a state plan to implement and enforce the emission guidelines that are the subject of this proposed rulemaking as part of a separate, concurrent process.

40 CFR Part 60, Subparts BBBB, DDDD, and FFFF

To meet the requirements of the FCAA, §129, the commission proposes to incorporate three new emission guidelines into Chapter 113: 40 CFR Part 60, Subpart BBBB (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999) published in the December 6, 2000, issue of the *Federal Register* (65 FR 76378); Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999) published in the December 1, 2000, issue of the *Federal Register* (65 FR 75338); and Subpart FFFF (Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004) published in the December 16, 2005, issue of the *Federal Register* (70 FR 74870).

Copies of these emission guidelines are available through the EPA, the commission, or online from the EPA Federal Register Web site at: *http://www.epa.gov/fedrgstr/*.

40 CFR Part 60, Subpart BBBB, Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999

On December 6, 2000, the EPA promulgated emission guidelines for small municipal waste combustion (MWC) units constructed on or before August 30, 1999, defined as any MWC unit with a combustion

design capacity of 35 to 250 tons per day. As required by the FCAA, §129, the emission guidelines establish numerical emission limits for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, sulfur dioxide, hydrogen chloride, nitrogen oxides, and carbon monoxide, in addition to other requirements.

40 CFR Part 60, Subpart DDDD, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999

On December 1, 2000, the EPA promulgated emission guidelines for CISWI units that commenced construction on or before November 30, 1999, defined as any combustion device that combusts commercial and industrial waste, as defined in this subpart. As required by the FCAA, §129, the emission guidelines establish numerical emission limits for cadmium, carbon monoxide, dioxins/furans, hydrogen chloride, lead, mercury, opacity, oxides of nitrogen, particulate matter, and sulfur dioxide, in addition to other requirements.

40 CFR Part 60, Subpart FFFF, Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004

On December 16, 2005, the EPA promulgated emission guidelines for OSWI units that commenced construction on or before December 9, 2004, defined as either a very small MWC unit or an institutional waste incineration unit, as defined in this subpart. As required by the FCAA, §129, the emission guidelines establish numerical emission limits for cadmium, carbon monoxide, dioxins/furans, hydrogen chloride, lead, mercury, opacity, oxides of nitrogen, particulate matter, and sulfur dioxide, in addition to other requirements.

EPA Model Rules

In the emission guidelines for 40 CFR Part 60, Subparts BBBB, DDDD, and FFFF, the EPA included model rule language. The EPA states that the model rule is the portion of each of the emission guidelines that addresses the applicable requirements for each subpart in a standard regulation format, and that a state may either use the EPA's model rules as a part of its state plan, or may use alternative language if it is at least as protective as the model rule contained in each subpart.

To meet the federal requirements for its FCAA, §111(d)/129 State Plan, the commission opted to use the model language provided by the EPA in 40 CFR, and proposes to incorporate the EPA rules into 30 TAC Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants; Subchapter D, Designated Facilities and Pollutants; new Divisions 3 - 5, with the administrative changes noted in this preamble.

SECTION BY SECTION DISCUSSION

The commission proposes various changes to the EPA model rules that would be incorporated into Chapter 113 primarily to revise rule subdivision formatting and cross-references to conform with the publication requirements of the Texas Register. Throughout the rules, where appropriate, the commission also proposes additional changes to the model rule language for administrative ease and clarity, including: changing the word "Administrator" to "executive director" so that when the Chapter 113 rules and state plan are approved by the EPA, the rules reflect that the commission will enforce the rules, rather than the EPA; changing the EPA's subpart references to the appropriate TCEQ division references; defining acronyms as they are used in each section; and revising legal citations so that they will clearly identify the

federal statute, such as the FCAA. Finally, the commission proposes minor spelling, capitalization, and grammatical revisions, such as the addition of "United States" before "Environmental Protection Agency" and consistent use of the term "operating permit" throughout the rules. These nonsubstantive changes conform to both Texas Register formatting requirements and agency style conventions.

Besides the general changes listed in the previous paragraph, throughout the rules, the commission also proposes specific changes that are noted in this preamble under the specific section number where the change is proposed. The commission proposes these additional, specific changes to the EPA model rules to ensure clear understanding of the rule requirements and proper state enforcement of the rules.

Division 3, Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (40 CFR Part 60, Subpart BBBB)

§113.2100--Definitions.

The commission proposes new §113.2100, which defines terms used in new Division 3 that are either previously undefined or are used differently by the federal emission guidelines that are the basis for the rules. The definitions are taken from 40 CFR §60.1940 (What definitions must I know?).

§113.2101--What are my requirements for meeting increments of progress and achieving final compliance?

The commission proposes new §113.2101, which specifies what must be completed for both Class I and Class II units to meet final compliance. The proposed section states that the increments of progress for Class I units include the following: final control plan, notification of retrofit contract award, initiation of

onsite construction, completion of onsite construction, and final compliance. Class II units need only submit a final control plan and achieve final compliance.

§113.2102--When must I complete each increment of progress?

The commission proposes new §113.2102, which specifies that the compliance dates for each of the increments of progress for Class I and Class II units are located in Table 1 of Division 3 (§113.2174).

§113.2103--What must I include in the notifications of achievement of my increments of progress?

The commission proposes new §113.2103, which specifies that notifications demonstrating achievement of increments of progress must include three items: notification that the increment of progress has been achieved; any items required to be submitted with the increment of progress; and signature on the notification by the owner or operator.

§113.2104--When must I submit the notifications of achievement of increments of progress?

The commission proposes new §113.2104, which specifies that notifications demonstrating compliance with the increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

§113.2105--What if I do not meet an increment of progress?

The commission proposes new §113.2105, which describes what notification must be submitted to the executive director if an increment of progress is not completed. The proposed section states that the notification: must be postmarked within 10 business days after the specified date in Table 1 of Division 3 (§113.2174); and must convey to the executive director that the increment was not met, contain an

explanation of why the increment was not met, and contain the plan to meet the requirements of the increment. The proposed section further states that the reports must continue to be submitted each subsequent month until the increment of progress is met.

For clarification, the commission proposes to specify that monthly progress reports be due on the first day of each month.

§113.2106--How do I comply with the increment of progress for submittal of a control plan?

The commission proposes new §113.2106, which describes two items that must be completed for the control plan increment of progress. The first item is to submit the complete final control plan as specified.

In paragraph (2), the commission proposes to clarify the wording to specify that a copy of the final control plan must be maintained at the same location as the solid waste incineration unit.

§113.2107--How do I comply with the increment of progress for awarding contracts?

The commission proposes new §113.2107, which specifies that a signed copy of the contracts awarded must be submitted to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporate process changes. The proposed section further states that the copy of the contracts with notification that the increment of progress has been achieved must be submitted to comply with the increment of progress for awarding contracts.

For clarification, the commission proposes to add, in two locations of the section, that items for submittal must be provided to the executive director.

§113.2108--How do I comply with the increment of progress for initiating onsite construction?

The commission proposes new §113.2108, which specifies that onsite construction and installation of emission control equipment and process changes must be completed to achieve the increment of progress for initiating onsite construction.

§113.2109--How do I comply with the increment of progress for completing onsite construction?

The commission proposes new §113.2109, which specifies that onsite construction and installation of control equipment and process changes must be completed to achieve the increment of progress for completing onsite construction.

§113.2110--How do I comply with the increment of progress for achieving final compliance?

The commission proposes new §113.2110, which specifies the two items that must be completed to achieve the final compliance increment of progress. The proposed section states that this includes completion of all process changes and retrofit construction and connection of the air pollution control equipment with the MWC unit, as well as completion of process changes to the MWC unit.

§113.2111--What must I do if I close my municipal waste combustion unit and then restart my municipal waste combustion unit?

The commission proposes new §113.2111, which describes what must be met when a MWC unit is closed and restarted. The proposed section specifies different requirements, depending on whether the MWC unit reopens before or after the final compliance date in the state plan.

§113.2112--What must I do if I plan to permanently close my municipal waste combustion unit and not restart it?

The commission proposes new §113.2112, which states that a closure notification must be submitted by the date the final control plan is due if an MWC unit is permanently closed. The proposed section also states that if the closure date is later than 1 year after the effective date of state plan approval, the owner or operator must enter into a legally binding closure agreement with the executive director.

§113.2113--What types of training must I do?

The commission proposes new §113.2113, which describes the types of training that operators and plant personnel must receive.

§113.2114--Who must complete the operator training course? By when?

The commission proposes new §113.2114, which states the classifications of employees who must complete the operator training course and by what date. These employees include: chief facility operators, shift supervisors, and control room operators. The section specifies EPA or state-approved training courses, unless the employee has obtained full certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval. The proposed section also states that if these employees have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval, the EPA may waive the

requirement for completion of the EPA or state-approved operator training course, if requested.

§113.2115--Who must complete the plant-specific training course?

The commission proposes new §113.2115, which states the classifications of employees who must complete the plant-specific training course. These employees include: chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane or load handlers.

§113.2116--What plant-specific training must I provide?

The commission proposes new §113.2116, which details what must be included in the plant-specific training provided to employees, and when. This includes: developing a specific operating manual for that plant; establishing a program to review the manual with people whose responsibilities affect the operation of the MWC unit; updating the manual annually; and reviewing it with staff annually.

§113.2117--What information must I include in the plant-specific operating manual?

The commission proposes new §113.2117, which details what must be included in the plant-specific operating manual for the plant, such as a summary of applicable requirements, description of the basic combustion principles that apply to MWC units, and several specific procedures.

§113.2118--Where must I keep the plant-specific operating manual?

The commission proposes new §113.2118, which specifies that the plant-specific operating manual must be maintained in an easily accessible location at the plant. The proposed section further states that the manual must be available for review or inspection by employees and the executive director.

§113.2119--What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?

The commission proposes new §113.2119, which details what types of operator certifications must be obtained and by when. The proposed section states that each chief facility operator and shift supervisor must receive certification from the American Society of Mechanical Engineers or a state certification program. The proposed section also describes the requirements and time frames for both provisional operator certification and full certification.

§113.2120--After the required date for operator certification, who may operate the municipal waste combustion unit?

The commission proposes new §113.2120, which specifies that the MWC unit cannot be operated unless one of four certified employees are on duty. These four employees include a fully certified chief facility operator, a provisionally certified chief facility operator, a fully certified shift supervisor, and a provisionally certified shift supervisor.

§113.2121--What if all the certified operators must be temporarily offsite?

The commission proposes new §113.2121, which details the three criteria that must be met if a certified operator is temporarily offsite and a provisionally certified control room operator is fulfilling the requirement. The proposed section states that these criteria are dependant upon how long the certified operator is temporarily offsite. For instance, if the certified operator is offsite for more than 2 weeks, the executive director must be notified.

For clarification, the commission proposes to add the word "prior" before "notice" in paragraph (3) to

reflect that the provisionally certified control room operator may perform the necessary duties without first giving notice and receiving approval from the executive director. Though prior notice and approval is not necessary, in paragraph (3)(A), the owner or operator is required to follow up with a notification to the executive director, an explanation of what caused the absence of the certified operator, and what is being done to ensure that a certified operator is onsite. Paragraph (3)(B) then contains the required procedures for status reports and corrective action summaries.

In paragraph (3)(A), the commission proposes to add clarification that the notification to the executive director must be done within 10 days after the end of the 2-week period in which a certified operator is required to be onsite. The 10-day clarification is consistent with the time period provided in §§113.2219, 113.2243, 113.2313, and 113.2341, and the commission proposes the clarification regarding the beginning of the 10-day period to clearly outline the rule requirements for regulated entities.

§113.2122--What are the operating practice requirements for my municipal waste combustion unit?

The commission proposes new §113.2122, which specifies the operating practice requirements for MWC units. These requirements include maximum loads, maximum temperatures, carbon feed rate, and total carbon usage. The proposed section states the conditions and time frames under which the MWC unit is exempt from requirements, as well as specific activities that are exempt.

For clarification, the commission proposes to modify the sentence in subsection (e)(5). This paragraph refers to both the executive director and the delegated state authority, and since the executive director is the delegated state authority for Texas, the additional wording is unnecessary.

§113.2123--What happens to the operating requirements during periods of startup, shutdown, and malfunction?

The commission proposes new §113.2123, which states that all operating requirements apply at all times except during periods of startup, shutdown, or malfunction, which should last no longer than 3 hours.

§113.2124--What pollutants are regulated by this division?

The commission proposes new §113.2124, which lists the 11 pollutants that are regulated. The groups of pollutants include: organics, metals, acid gases, and other.

§113.2125--What emission limits must I meet? By when?

The commission proposes new §113.2125, which states the emission limits for Class I and II units in Tables 2 through 5 of Division 3 (§113.2174) that must be met, as applicable, after the date the initial stack test and continuous emission monitoring system evaluation are required or completed.

§113.2126--What happens to the emission limits during periods of startup, shutdown, and malfunction?

The commission proposes new §113.2126, which states that the emission limits of Division 3 apply at all times except during periods of startup, shutdown, or malfunction, which should last no longer than 3 hours. The proposed section states that a maximum of 3 hours of test data can be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

§113.2127--What types of continuous emission monitoring must I perform?

The commission proposes new §113.2127, which specifies the four tasks that must be performed to continuously monitor emissions. These tasks include: installing a continuous emission monitoring

system; operating it correctly; obtaining the minimum amount of monitoring data; and installing a continuous opacity monitoring system.

§113.2128--What continuous emission monitoring systems must I install for gaseous pollutants?

The commission proposes new §113.2128, which states that a continuous emission monitoring system must be installed, calibrated, maintained, and operated for oxygen (or carbon dioxide), sulfur dioxide, and carbon monoxide. The proposed section states that the system must meet the monitoring requirements in 40 CFR §60.13 (Monitoring requirements).

§113.2129--How are the data from the continuous emission monitoring systems used?

The commission proposes new §113.2129, which states that the data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide must be used to demonstrate continuous compliance with the applicable emission limit tables of Division 3 (§113.2174).

§113.2130--How do I make sure my continuous emission monitoring systems are operating correctly?

The commission proposes new §113.2130, which describes how and when to verify that continuous emission monitoring systems are operating properly. The proposed section specifies that initial, daily, quarterly, and annual evaluations must be conducted, and that the initial evaluation must be completed within 180 days after the final compliance date. Verification includes evaluating the continuous emission monitoring system, collecting data, and following quality assurance procedures in 40 CFR Part 60, Appendix F (Quality Assurance Procedures).

§113.2131--Am I exempt from any 40 Code of Federal Regulations Part 60, Appendix B or Appendix F

requirements to evaluate continuous emission monitoring systems?

The commission proposes new §113.2131, which states that the accuracy tests for sulfur dioxide continuous emission monitoring systems require evaluation of oxygen (or carbon dioxide) continuous emission monitoring systems; therefore, the oxygen system (or carbon dioxide) is exempt from two specific requirements in 40 CFR Part 60.

§113.2132--What is my schedule for evaluating continuous emission monitoring systems?

The commission proposes new §113.2132, which states that annual evaluations of continuous emission monitoring systems must be conducted no more than 13 months after the previous evaluations. This proposed section also states that continuous emission monitoring systems will be evaluated daily and quarterly as specified in 40 CFR Part 60, Appendix F.

§113.2133--What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

The commission proposes new §113.2133, which states that if carbon dioxide is monitored instead of oxygen, the relationship between oxygen and carbon dioxide must be established during the initial evaluation of the continuous emission monitoring systems by three specific procedures.

§113.2134--What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is the data collection requirement enforceable?

The commission proposes new §113.2134, which details what monitoring data must be collected from the continuous emission monitoring systems and how often. In addition, requirements, including notifying the executive director, are included if the minimum data requirements are not met.

§113.2135--How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

The commission proposes new §113.2135, which includes the specific equations and methods that must be used to convert 1-hour arithmetic averages into appropriate averaging times and units.

§113.2136--What is required for my continuous opacity monitoring system and how are the data used?

The commission proposes new §113.2136, which details the requirements for the continuous opacity monitoring system. The proposed section includes specific time frames, CFR cites, and table references for the opacity limit.

§113.2137--What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

The commission proposes new §113.2137, which requires the use of span values and applicable performance specifications in Table 8 of Division 3 (§113.2174) for the operation of continuous emission monitoring systems and continuous opacity monitoring system.

§113.2138--What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

The commission proposes new §113.2138, which refers to Table 8 of Division 3 (§113.2174). This table provides alternate methods for collecting data when continuous emission monitoring systems are temporarily unavailable.

§113.2139--What types of stack tests must I conduct?

The commission proposes new §113.2139, which states that initial and annual stack tests must be

conducted to measure emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§113.2140--How are the stack test data used?

The commission proposes new §113.2140, which requires the use of stack test results to demonstrate compliance with the applicable emission limits in Tables 2 and 4 of Division 3 (§113.2174) for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§113.2141--What schedule must I follow for the stack testing?

The commission proposes new §113.2141, which requires that initial stack testing be conducted no later than 180 days after the final compliance date. The proposed section also states that annual stack tests must be conducted no later than 13 months after the previous stack test.

§113.2142--What test methods must I use to stack test?

The commission proposes new §113.2142, which describes the test methods that must be used for stack testing, including the criteria in Table 8 of Division 3 (§113.2174), number of test runs, determining diluent gas levels, calculating emission levels, and procedures for applying for an alternative method.

§113.2143--May I conduct stack testing less often?

The commission proposes new §113.2143, which allows testing less often for a Class II MWC unit for which all stack tests for a given pollutant over 3 consecutive years show compliance with the emission limit. In addition, this proposed section allows testing less often for dioxins/furans emissions for a MWC plant that meets the following two conditions: multiple MWC units are onsite that are subject to this

division; and all those MWC units have demonstrated levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years.

§113.2144--May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

The commission proposes new §113.2144, which does not allow for deviation from the 13-month testing schedules, unless the executive director has approved an alternative schedule.

§113.2145--Must I meet other requirements for continuous monitoring?

The commission proposes new §113.2145, which specifies three other operating parameters for continuous monitoring: load level, flue gas temperature, and carbon feed rate.

§113.2146--How do I monitor the load of my municipal waste combustion unit?

The commission proposes new §113.2146, which specifies two ways to monitor the load of the MWC unit. If the unit generates steam, the owner or operator must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter. If the unit does not generate steam or units have shared steam systems, the owner or operator must determine one or more operating parameters that can be used to continuously estimate load level and receive approval from the executive director.

§113.2147--How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

The commission proposes new §113.2147, which states that to monitor the temperature of the flue gases, a device to continuously measure the temperature must be installed, calibrated, maintained, and operated.

§113.2148--How do I monitor the injection rate of activated carbon?

The commission proposes new §113.2148, which requires that owners or operators of MWC units using activated carbon to control dioxins/furans or mercury emissions do the following: select a carbon injection system operating parameter to calculate carbon feed rate; during stack tests, determine the average carbon feed rate; and continuously monitor the selected operating parameter during all periods when the unit is operating and combusting waste.

§113.2149--What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?

The commission proposes new §113.2149, which details the parameter monitoring data collection requirements. If continuous parameter monitoring is used, a 1-hour arithmetic average must be calculated with at least two data points per hour. Valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter must be obtained. The proposed section states that failure to collect the minimum data requires notification to the executive director.

§113.2150--What records must I keep?

The commission proposes new §113.2150, which states that the four types of records that must be kept are: operator training and certification; stack tests; continuously monitored pollutants and parameters; and carbon feed rate.

§113.2151--Where must I keep my records and for how long?

The commission proposes new §113.2151, which requires that all records be maintained onsite in paper

copy or electronic format for at least 5 years. The proposed section states that these records must be available for submittal to the executive director or for onsite review.

§113.2152--What records must I keep for operator training and certification?

The commission proposes new §113.2152, which requires records for operator training and certification of the following six items: provisional certifications; full certifications; completion of the operator training course; reviews for plant-specific operating manuals; records of when a certified operator is temporarily offsite; and calendar dates on each record.

§113.2153--What records must I keep for stack tests?

The commission proposes new §113.2153, which requires that stack test records contain the following four items: results of stack tests for eight pollutants or parameters; test reports; maximum demonstrated load and temperature; and calendar date of each record.

§113.2154--What records must I keep for continuously monitored pollutants or parameters?

The commission proposes new §113.2154, which requires that eight records be maintained for continuously monitored pollutants or parameters. These eight records are: monitoring data; average concentrations and percent reductions; exceedances; minimum data; exclusions; drift and accuracy; relationship between oxygen and carbon dioxide; and calendar dates.

§113.2155--What records must I keep for municipal waste combustion units that use activated carbon?

The commission proposes new §113.2155, which requires five records for MWC units that use activated carbon to control dioxins/furans or mercury emissions. These five records are: average carbon feed rate;

low carbon feed rates; minimum carbon feed rate data; exclusions; and calendar dates.

§113.2156--What reports must I submit and in what form?

The commission proposes new §113.2156, which states what reports must be submitted and how. These reports include initial, semiannual, and annual reports and the section states that reports must be submitted on paper, postmarked on or before the submittal dates. The section further states that the executive director must approve submission of electronic reports, and that copies of all reports must be maintained onsite for 5 years.

The commission proposes to add, for clarification, that electronic reporting must meet the specifications of 30 TAC Chapter 19 (Electronic Reporting).

§113.2157--What are the appropriate units of measurement for reporting my data?

The commission proposes new §113.2157, which refers readers to Tables 2 through 5 of Division 3 (§113.2174) for appropriate units of measurement to be used when reporting data.

§113.2158--When must I submit the initial report?

The commission proposes new §113.2158, which requires that the initial report be submitted no later than 180 days after the final compliance date. The final compliance date is contained in Table 1 of Division 3 (§113.2174), and for both Class I and Class II units, is no later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval.

§113.2159--What must I include in my initial report?

The commission proposes new §113.2159, which states the seven items that must be included in the initial report. These items include the following: emission levels measured on the date of the initial evaluation of the continuous emission monitoring systems; results of initial stack tests; the test report that documents initial stack tests; the initial performance evaluation of the continuous emissions monitoring systems; the maximum demonstrated load and temperature; the average carbon feed rate recorded during the initial stack tests; and documentation of the relationship between oxygen and carbon dioxide.

§113.2160--When must I submit the annual report?

The commission proposes new §113.2160, which states that annual reports must be submitted no later than February 1 of each year that follows the calendar year in which data was collected.

To clarify and simplify the requirements of this section, the commission proposes to delete the reference to 40 CFR Part 71, since federal requirements are contained within this part and they are not necessary for state implementation of the rules.

§113.2161--What must I include in my annual report?

The commission proposes new §113.2161, which states that a summary of data collected for all pollutants and parameters regulated must be included in the annual report. The 12 items that must be included in the summary are: the results of the annual stack test; a list of the highest average levels recorded; the highest 6-minute opacity level measured; for MWC units that use activated carbon for controlling dioxins/furans or mercury emissions, four records; the total number of days that minimum number of hours of data were not obtained; the number of hours of excluded data from the calculation of average levels; notice of intent to begin a reduced stack testing schedule for dioxins/furans; a summary of any emission or parameter

level that did not meet the limits; a summary of data that gives a summary of the performance of the MWC unit; documentation of the relationship between oxygen and carbon dioxide; and documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§113.2162--What must I do if I am out of compliance with the requirements of this division?

The commission proposes new §113.2162, which requires that a semiannual report be submitted on any recorded emission or parameter level that is out of compliance.

§113.2163--If a semiannual report is required, when must I submit it?

The commission proposes new §113.2163, which requires that the semiannual report be submitted by August 1 of the year for data collected during the first half of the calendar year. The section requires that data collected during the second half of the calendar year be submitted in the semiannual report by February 1 of the following year.

§113.2164--What must I include in the semiannual out-of-compliance reports?

The commission proposes new §113.2164, which requires that three items be included in the semiannual reports: calendar dates in which limits were exceeded, along with averaged and recorded data, the reasons for exceeding the limits, and corrective actions; if stack tests indicate that emissions are above specified limits, a copy of the test report that documents emission levels and corrective actions; and for MWC units that apply activated carbon to control dioxins/furans or mercury emissions, documentation of all dates when the 8-hour block average carbon feed rate is less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test and documentation of each

quarter when total carbon purchased and delivered to the MWC plant is less than the total required quarterly usage of carbon.

§113.2165--Can reporting dates be changed?

The commission proposes new §113.2165, which states that if the executive director agrees, semiannual and annual reporting dates may be changed. The proposed section cites 40 CFR §60.19(c) (General notification and reporting requirements) for procedures to seek approval to change a reporting date.

§113.2166--What is an air curtain incinerator?

The commission proposes new §113.2166, which defines an air curtain incinerator. The proposed section states that an air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. The rules in this division require that owners or operators of air curtain incinerators obtain a Title V permit; however, these units are only required to comply with limited requirements, as opposed to larger entities.

§113.2167--What is yard waste?

The commission proposes new §113.2167, which defines yard waste as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. The proposed section further states that yard waste comes from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Finally, the proposed section states that yard waste does not include construction, renovation, and demolition wastes that are exempt from the definition of "Municipal solid waste" in §113.2100, or clean wood that is exempt from the definition of "Municipal solid waste" in §113.2100.

§113.2168--What are the emission limits for air curtain incinerators that burn 100 percent yard waste?

The commission proposes new §113.2168, which states that air curtain incinerators that burn 100 percent yard waste must meet an opacity limit of 10 percent (6-minute average) and 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation. The section states that the emission limits must be met by 180 days after the final compliance date.

§113.2169--How must I monitor opacity for air curtain incinerators that burn 100 percent yard waste?

The commission proposes new §113.2169, which requires the use of EPA Reference Method 9 in 40 CFR Part 60, Appendix A (Test Methods 1 through 30B), to determine compliance with the opacity limit. The proposed section states that an initial test must also be conducted as specified in 40 CFR §60.8 (Performance tests). Annual tests must be conducted no more than 13 calendar months following the date of the previous test. As discussed in the FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT portion of this preamble, there would be costs associated with training for conducting opacity testing.

§113.2170--What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent yard waste?

The commission proposes new §113.2170, which requires that a notice of construction be provided that includes four items: intent to construct; planned initial startup date; types of fuels to be combusted; and capacity of the incinerator. The proposed section states that records of opacity test results, as well as copies of all reports, must be maintained onsite for each incinerator for at least 5 years and that all records must be made available to the executive director or for onsite review by an inspector. The proposed

section further states that all opacity test results must be submitted by February 1 of the year following the year of the test as a paper copy, unless the executive director approves electronic submission.

§113.2171--What equations must I use?

The commission proposes new §113.2171, which details the equations that must be used in Division 3. Equations are provided to calculate the following: concentration correction to 7 percent oxygen; percent reduction in potential mercury emissions; percent reduction in potential hydrogen chloride emissions; capacity of an MWC unit; capacity of a batch MWC unit; and quarterly carbon usage, for plant basis and unit basis.

§113.2172--Does this subpart require me to obtain an operating permit under Title V of the Federal Clean Air Act?

The commission proposes new §113.2172, which states that units subject to Chapter 113, Subchapter D, Division 3 on the effective date of state plan approval or later are required to apply for and obtain a Title V operating permit. Because these rules and FCAA, §111(d)/129 State Plan are not enforceable by Texas until they are approved by the EPA, the commission proposes to state that applicants are subject to Division 3 on the effective date of state plan approval, rather than on the effective date of the division, which would be 20 days after the commission files the Chapter 113 rule adoption with the Texas Secretary of State's Office. Upon state plan approval, the commission will publish notice in the *Texas Register* and on the TCEQ Web site, to ensure that all affected entities are notified.

This section was not included in the emission guidelines published in the December 6, 2000, issue of the *Federal Register;* however, it was included in the federal plan promulgation that was published in the

January 31, 2003, issue of the *Federal Register* (68 FR 5144), as 40 CFR Part 62, Subpart JJJ, §65.15020 (Can my small municipal waste combustion unit be exempt from this subpart?) and §62.15395 (Does this subpart require me to obtain an operating permit under title V of the Clean Air Act?). The federal plan promulgation, including this Title V requirement, became effective on December 6, 2002. Therefore, to ensure that the incorporated rules are as protective as the EPA's rules, as required by FCAA, §129, the commission included this section regarding the Title V permit requirement into its incorporation in Division 3.

In particular, the commission notes that 40 CFR §60.1555 (Are any small municipal waste combustion units exempt from my State plan?) has added some confusion to whether air curtain incinerators are obligated to apply for and obtain Title V permits, since §60.1555 provides that air curtain incinerators that burn 100 percent yard waste must only meet the requirements under §§60.1910 - 60.1930, which do not include the requirement to apply for and obtain a Title V operating permit. As noted above, the federal plan for these sources, 40 CFR Part 62, Subpart JJJ, in §62.15020, requires that air curtain incinerators that burn 100 yard waste must meet only the requirements of §§62.15365 - 62.15385 *and the Title V operating permit requirements of Subpart 62*.

§113.2173--When must I submit a Title V permit application for my existing small municipal waste combustion unit?

The commission proposes new §113.2173, which contains the deadlines for submitting a complete Title V permit application for existing small MWC units. The Title V application submittal date is based either on the promulgation of 40 CFR Part 60, Subpart BBBB (December 6, 2003), or the effective date of the applicable state, tribal, or federal operating permits program, whichever is later. The section also defines

a "complete" Title V permit application as one that has been determined or deemed complete by the relevant permitting authority under the FCAA, §503(d) and 40 CFR §70.5(a)(2).

To clarify and simplify the requirements of this section, the commission proposes to delete references to 40 CFR Part 71 in subsections (a) and (c), since federal requirements are contained within this part and they are not necessary for state implementation of the rules.

This section was not included in the emission guidelines published in the December 6, 2000, issue of the *Federal Register;* however, it was included in the federal plan promulgation that was published in the January 31, 2003, issue of the *Federal Register* (68 FR 5144), as 40 CFR Part 62, Subpart JJJ, §62.15400 (When must I submit a title V permit application for my existing small municipal waste combustion unit?). The federal plan promulgation, including this Title V requirement, became effective on December 6, 2002. Therefore, to ensure that the incorporated rules are as protective as the EPA's rules, as required by FCAA, §129, the commission included this section regarding the Title V permit requirement into its incorporation in Division 3.

§113.2174--Tables Relating to Division 3.

The commission proposes new §113.2174, which contains the tables referenced in Division 3. These tables include the following: Compliance Schedules and Increments of Progress; Class I Emission Limits for Existing Small Municipal Waste Combustion Units; Class I Nitrogen Oxides Emission Limits for Existing Small Municipal Waste Combustion Units; Class II Emission Limits for Existing Small Municipal Waste Combustion Unit; Carbon Monoxide Emission Limits for Existing Small Municipal Waste Combustion Units; Requirements for Validating Continuous Emission Monitoring Systems

(CEMS); Requirements for Continuous Emission Monitoring Systems (CEMS); and Requirements for Stack Tests.

Table 1 specifies the compliance schedules and increments of progress for Class I and Class II units. The emission guidelines for 40 CFR Part 60, Subpart BBBB define Class I units as small MWC units subject to the subpart that are located at MWC plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. Class II units are defined as small MWC units subject to the subpart that are located at MWC plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. If the owner or operator plans to achieve final compliance for a unit more than 1 year following the effective date of state plan approval, and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operating permit if a permit modification is required, owners or operators of the units must meet the deadlines for defined increments of progress. Five increments of progress are required for Class I units, and two are required for Class II units. The last increment for both types of units is final compliance. The first increment for all units, which is submission of the final control plan, is within 60 days from the date the TCEQ publishes notice in the *Texas Register* of state plan approval. Class I units are required to meet three additional increments of progress before meeting the final compliance date, and these increment deadlines are: no later than 18 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval for Increment 2; no later than 24 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval for Increment 3; no later than 34 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval for Increment 4; and no later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval for Increment 5. Class II units must only meet Increment 1 and then Increment 5, or final progress. Class II

units are also given no later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval to meet Increment 5.

To clarify and simplify the information in the tables contained in this section, the commission proposes minor formatting changes and also proposes to delete information that may confuse regulated entities, such as references to past federal compliance dates.

Division 4, Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before November 30, 1999 (40 CFR Part 60, Subpart DDDD)

§113.2200--Definitions.

The commission proposes new §113.2200, which defines terms used in new Division 4 that are either previously undefined or are used differently by the federal emission guidelines that are the basis for the rules. The definitions are taken from 40 CFR §60.2875 (What definitions must I know?).

For clarification, the commission proposes to modify the wording in paragraph (14)(C), under the definition of deviation. In the portion of the sentence in paragraph (14)(C) that states ". . . regardless or whether or not such failure is permitted by this division. . .," the commission proposes to insert the word "of." Therefore, the sentence would read as ". . .regardless of whether or not such failure is permitted by this division."

Also for clarification, the commission proposes to modify the wording in paragraph (16), under the definition of discard. This definition includes a reference both to Division 4 and to 40 CFR Part 60,

Subpart DDDD, and because the Chapter 113 rules in Division 4 are equivalent to Subpart DDDD, the additional wording is unnecessary. The definition of solid waste, paragraph (30), contains a similar reference to Subpart CCCC, and the commission also proposes to delete this reference, because Subpart CCCC applies to new sources, not existing sources, which is the subject of Division 4.

In the September 22, 2005, issue of the *Federal Register* (70 FR 55568), the EPA published amended versions of the definitions for solid waste, commercial or industrial waste, and CISWI unit. Because a federal court has issued a full vacatur of these three definitions, the versions contained in this rule package are the versions as published in the December 1, 2000, issue of the *Federal Register* (65 FR 75338).

§113.2201--What are my requirements for meeting increments of progress and achieving final compliance?

The commission proposes new §113.2201, which states that to achieve compliance more than 1 year following the effective date of the state plan approval, a final control plan must be submitted and final compliance must be achieved.

§113.2202--When must I complete each increment of progress?

The commission proposes new §113.2202, which states that the compliance dates for each increment of progress are established in Table 1 of Division 4 (§113.2261).

§113.2203--What must I include in the notifications of achievement of increments of progress?

The commission proposes new §113.2203, which requires that the following three items be included in

the notification of achievement of increments of progress: notification that the increment of progress has been achieved; items required to be submitted with each increment of progress; and signature of the owner or operator of the unit.

§113.2204--When must I submit the notifications of achievement of increments of progress?

The commission proposes new §113.2204, which states that the notifications of achievement of increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

§113.2205--What if I do not meet an increment of progress?

The commission proposes new §113.2205, which states that a notification must be submitted to the executive director postmarked within 10 business days if an increment of progress is not met. The proposed section also states that reports must continue to be submitted until the increment of progress is met.

§113.2206--How do I comply with the increment of progress for submittal of a control plan?

The commission proposes new §113.2206, which states that to be in compliance with the increment of progress for submittal of a control plan, the final control plan must include the following: description of control devices and process changes; type of waste burned; maximum design waste burning capacity; maximum charge rate; and petition for site-specific operating limits, if applicable. In addition, a copy of the final control plan must be maintained onsite.

§113.2207--How do I comply with the increment of progress for achieving final compliance?

The commission proposes new §113.2207, which requires that all process changes and retrofit construction be completed for the final compliance of the increment of progress.

§113.2208--What must I do if I close my commercial and industrial solid waste incineration unit and then restart it?

The commission proposes new §113.2208, which states that if a CISWI unit is closed and restarted before the final compliance date, the increments of progress must be met as specified in §113.2201. The section states that if the CISWI is restarted after the final compliance date, emission control retrofits must be completed and the emission limitations and operating limits must be met on the date the unit restarts.

§113.2209--What must I do if I plan to permanently close my commercial and industrial solid waste incineration unit and not restart it?

The commission proposes new §113.2209, which states that if the owner or operator chooses to permanently close the CISWI unit rather than comply with the state plan, a closure notification must be submitted to the executive director by the date the final control plan is due.

§113.2210--What is a waste management plan?

The commission proposes new §113.2210, which states that a waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream to reduce or eliminate toxic emissions from incinerated waste.

§113.2211--When must I submit my waste management plan?

The commission proposes new §113.2211, which specifies that Table 1 of Division 4 (§113.2261)

contains the dates to submit the waste management plan.

§113.2212--What should I include in my waste management plan?

The commission proposes new §113.2212, which details what must be included in the waste management plan, such as consideration of the reduction or separation of waste-stream elements and any additional waste management measures. The proposed section states that measures that are considered practical and feasible, based on certain specific criteria, must be implemented.

§113.2213--What are the operator training and qualification requirements?

The commission proposes new §113.2213, which states that no CISWI unit can be operated unless a fully trained and qualified CISWI unit operator is accessible within 1 hour. The proposed section also states that operator training and qualification must be obtained through a state-approved program or an incinerator operator training course must be completed. The proposed section lists the three elements that the operator training course must include, which are: training on 11 topics as specified in this section; an examination designed and administered by the instructor; and written material covering the training course topics that can serve as a reference following completion of the course.

§113.2214--When must the operator training course be completed?

The commission proposes new §113.2214, which requires that the operator training course be completed by the later of the following: the final compliance date; six months after CISWI unit startup; or six months after an employee assumes responsibility for operating or supervising the operation of the CISWI unit.

§113.2215--How do I obtain my operator qualification?

The commission proposes new §113.2215, which states that operator qualification must be obtained by completing a training course. The proposed section also states that the qualification is valid from the date the training course is completed and the operator passes the examination successfully. As stated in §113.2216, operators must complete an annual review or refresher course to maintain qualification.

§113.2216--How do I maintain my operator qualification?

The commission proposes new §113.2216, which requires completion of an annual review or refresher course to maintain qualification. The section specifies that five topics must be included: update of regulations; incinerator operation; inspection and maintenance; malfunctions; and operating problems.

§113.2217--How do I renew my lapsed operator qualification?

The commission proposes new §113.2217, which requires completion of a standard annual refresher course or a repeat of the initial qualification requirements to renew a lapsed operator qualification. The requirement that applies is based on either a lapse of less than 3 years or 3 years or more.

§113.2218--What site-specific documentation is required?

The commission proposes new §113.2218, which requires the following for site-specific documentation: availability and accessibility of documents at the facility for all CISWI unit operators; establishment of a program for reviewing this information with each incinerator operator; and maintenance of specific CISWI unit operator information in the records.

§113.2219--What if all the qualified operators are temporarily not accessible?

The commission proposes new §113.2219, which states that a CISWI unit may be operated by other plant personnel familiar with the operation if all qualified operators are temporarily not accessible for more than 8 hours, but less than 2 weeks. The proposed section also states that if all qualified operators are not accessible for 2 weeks or more, the executive director must be notified within 10 days and a status report submitted every 4 weeks following the outlined conditions and procedures.

In paragraph (2)(A), the commission proposes to add clarification that the notification to the executive director must be done within 10 days after the end of the 2-week period in which a certified operator is not accessible. The commission proposes the clarification regarding the beginning of the 10-day period to clearly outline the rule requirements for regulated entities, and similar clarification is proposed to be added in §§113.2121, 113.2243, 113.2313, and 113.2341.

§113.2220--What emission limitations must I meet and by when?

The commission proposes new §113.2220, which requires that the emission limits specified in Table 2 of Division 4 (§113.2261) be met on the date the initial performance test is required or completed.

§113.2221--What operating limits must I meet and by when?

The commission proposes new §113.2221, which describes the operating limits based on whether a wet scrubber or fabric filter is used. In both cases, the operating limits established during the initial performance test must be met on the date the initial performance test is required or completed.

For clarification and for consistency with §113.2228, the commission proposes to use the word "hydrogen chloride" rather than HCl in subsection (a)(4).

§113.2222--What if I do not use a wet scrubber to comply with the emission limitations?

The commission proposes new §113.2222, which requires a petition to the executive director for specific operating limits to be established during the initial performance test and continuously monitored thereafter for use of an air pollution control device other than a wet scrubber. The section states that the initial performance test must not be conducted until after the petition has been approved, and specifies five items that must be included in the petition.

§113.2223--What happens during periods of startup, shutdown, and malfunction?

The commission proposes new §113.2223, which requires that emission limitations and operating limits apply at all times except during startups, shutdowns, or malfunctions of the CISWI unit. The proposed section further states that each malfunction must last no longer than 3 hours.

§113.2224--How do I conduct the initial and annual performance test?

The commission proposes new §113.2224, which details the requirements for conducting initial and annual performance tests. The requirements include conducting a minimum of three test runs, and documenting that the waste burned during the test is representative. The proposed section specifies minimum run duration and test methods. The proposed section also includes an equation regarding the pollutant concentration that must be adjusted to 7 percent oxygen, except for opacity.

§113.2225--How are the performance test data used?

The commission proposes new §113.2225, which states that the results of the performance tests must be used to determine compliance with emission limitations in Table 2 of Division 4 (§113.2261).

§113.2226--How do I demonstrate initial compliance with the emission limitations and establish the operating limits?

The commission proposes new §113.2226, which requires an initial performance test to determine compliance with emission limitations and to establish operating limits. The proposed section states that the initial performance test must be conducted using the methods in Table 2 of Division 4 (§113.2261) and §113.2224.

§113.2227--By what date must I conduct the initial performance test?

The commission proposes new §113.2227, which requires that the initial performance test be conducted no later than 180 days after final compliance. The section further states that final compliance dates are specified in Table 1 of Division 4 (§113.2261).

The commission also proposes to add language to clarify that the initial performance test must be conducted no later than 180 days after the deadline for the final compliance date.

§113.2228--How do I demonstrate continuous compliance with the emission limitations and the operating limits?

The commission proposes new §113.2228, which requires an annual performance test for particulate matter, hydrogen chloride, and opacity to determine compliance with emission limitations. The proposed section also states that the operating parameters must be continuously monitored and only the same types of waste used to establish the operating limits must be burned.

§113.2229--By what date must I conduct the annual performance test?

The commission proposes new §113.2229, which requires that the annual performance tests for particulate matter, hydrogen chloride, and opacity be conducted within 12 months following the initial performance test. The proposed section further states that subsequent annual performance tests must be conducted within 12 months following the previous one.

§113.2230--May I conduct performance testing less often?

The commission proposes new §113.2230, which allows performance testing to be conducted less often if there is test data for at least 3 years and all performance tests for the pollutant over 3 consecutive years show compliance. In addition, if the CISWI unit continues to meet the emission limitations, performance tests may be conducted every third year, but within 36 months of the previous performance test, unless there is a deviation.

§113.2231--May I conduct a repeat performance test to establish new operating limits?

The commission proposes new §113.2231, which allows a repeat performance test to establish new values for operating limits. The performance test must be repeated if the feed stream is different than the feed streams during any performance test used to demonstrate compliance.

§113.2232--What monitoring equipment must I install and what parameters must I monitor?

The commission proposes new §113.2232, which specifies that if a wet scrubber is used to comply with emission limitations, devices for monitoring the value of the operating parameters must be installed, calibrated, maintained, and operated so that the wet scrubber complies with the operating limits listed in Table 3 of Division 4 (§113.2261). The proposed section states that if a fabric filter is used, a bag leak

detection system must be installed, calibrated, maintained, and continuously operated as specified in this section and if something other than a wet scrubber is used, equipment necessary to monitor compliance must be installed, calibrated, maintained, and operated.

§113.2233--Is there a minimum amount of monitoring data I must obtain?

The commission proposes new §113.2233, which requires that all monitoring be conducted at all times the CISWI unit is operating, except for monitoring malfunctions, associated repairs, and required quality assurance or quality control activities.

§113.2234--What records must I keep?

The commission proposes new §113.2234, which specifies the 13 items that must be recorded and maintained: calendar date of each record; records of various types of data; identification of calendar dates and times for which monitoring systems used to monitor operating limits were inoperative, inactive, malfunctioning, or out of control; identification of calendar dates, times, and durations of malfunctions; identification of calendar dates and times for which data show a deviation from the operating limits in Table 3 of this division (§113.2261); the results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable; records showing the names of CISWI unit operators who have completed review of the required site-specific documentation; records showing the names of CISWI unit operators who have completed the operator training requirements, met the criteria for qualification, and maintained or renewed qualification; for each qualified operator, a phone and pager number; records of calibration of any required monitoring devices; equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment; the information listed in

§113.2218(a); and on a daily basis, a log of the quantity of waste burned and the types of waste burned. The section states that these records must be maintained for at least 5 years.

§113.2235--Where and in what format must I keep my records?

The commission proposes new §113.2235, which requires that records be available onsite, and in either paper or electronic format that can be printed upon request, unless an alternative format is approved by the executive director.

§113.2236--What reports must I submit?

The commission proposes new §113.2236, which states that the reporting requirements summary is contained in Table 5 of Division 4 (§113.2261).

§113.2237--When must I submit my waste management plan?

The commission proposes new §113.2237, which states that the dates for submittal of the waste management plan are located in Table 1 of Division 4 (§113.2261) for submittal of the final control plan.

§113.2238--What information must I submit following my initial performance test?

The commission proposes new §113.2238, which details the information that must be submitted no later than 60 days following the initial performance test. The proposed section states that these reports must be signed by the facilities manager.

§113.2239--When must I submit my annual report?

The commission proposes new §113.2239, which states that annual reports must be submitted no later than 12 months following the submittal of the information in §113.2238. The section also states that subsequent reports must be submitted no later than 12 months following the previous report.

§113.2240--What information must I include in my annual report?

The commission proposes new §113.2240, which details the ten items that must be included in the annual report. The ten items listed include: company name and address; statement by a responsible official, along with the official's name, title, and signature; date of report and beginning and ending dates of the reporting period; the values for the operating limits; if no deviation from any emission limitation or operating limit that applies to the owner or operator has been reported, a statement to that effect; the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded by calendar year; information recorded under §113.2234(2)(F) and (3) through (5), by calendar year; if a performance test was conducted during the reporting period, the results of that test; if the requirements of §113.2230(a) or (b) were met, and a performance test was not conducted during the reporting period, a statement that the requirements of §113.2230(a) or (b) were met; and documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours, but less than 2 weeks. The section also states that deviation reports must be submitted to record a deviation from the operating limits or the emission limitations.

§113.2241--What else must I report if I have a deviation from the operating limits or the emission limitations?

The commission proposes new §113.2241, which states that a deviation report must be submitted if any recorded 3-hour average parameter level is above the maximum operating limit or below the minimum

operating limit established under this division, if the bag leak detection system alarm sounds for more than 5 percent of the operating time for the 6-month reporting period, or if a performance test was conducted that deviated from any emission limitation. The proposed section specifies that the deadline is August 1 for the first half of the calendar year, and February 1 for the second half of the calendar year.

§113.2242--What must I include in the deviation report?

The commission proposes new §113.2242, which details the six items that must be included in the deviation report: the calendar dates and times the unit deviated from the emission limitations or operating limit requirements; the averaged and recorded data; the duration and causes of each deviation from the emission limitations or operating limits and corrective actions; a copy of the operating limit monitoring date during each deviation and any test report that documents the emission levels; the dates, times, number, duration, and causes for monitoring downtime incidents; and whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

§113.2243--What else must I report if I have a deviation from the requirement to have a qualified operator accessible?

The commission proposes new §113.2243, which requires that if all qualified operators are not accessible for 2 weeks or more, a notification of the deviation must be submitted within 10 days and a status report must be submitted to the executive director every 4 weeks. The proposed section also states that a unit that was shut down by the executive director because of a failure to provide an accessible qualified operator requires notification to the executive director once operations resume and a qualified operator is accessible.

In subsection (a)(1), the commission proposes to add clarification that the notification to the executive director must be done within 10 days after the end of the 2-week period in which a certified operator is not accessible. The commission proposes the clarification regarding the beginning of the 10-day period to clearly outline the rule requirements for regulated entities, and similar clarification is proposed to be added in §§113.2121, 113.2219, 113.2313, and 113.2341.

§113.2244--Are there any other notifications or reports that I must submit?

The commission proposes new §113.2244, which requires that notifications or reports be submitted as required by 40 CFR §60.7 (Notification and record keeping).

§113.2245--In what form can I submit my reports?

The commission proposes new §113.2245, which allows initial, annual, and deviation reports to be submitted electronically or in paper format. The proposed section also specifies that reports must be postmarked on or before the submittal due dates.

§113.2246--Can reporting dates be changed?

The commission proposes new §113.2246, which allows semiannual or annual reporting dates to be changed if approved by the executive director. The section references 40 CFR §60.19(c) for procedures to seek approval to change a reporting date.

§113.2247--Am I required to apply for and obtain a Title V operating permit for my unit?

The commission proposes new §113.2247, which requires each CISWI unit owner or operator to obtain a Title V permit. As required by the model rule, the Title V application submittal date is based either on the

promulgation of 40 CFR Part 60, Subpart DDDD (December 1, 2003), or on the effective date of the Title V permit program to which the unit is subject.

For further clarity and precision, the commission proposes to change the reference to the deadlines "noted above" in paragraph (2) to the deadlines noted in "this section."

§113.2248--What is an air curtain incinerator?

The commission proposes new §113.2248, which states that an air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. The proposed section further states that incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

In particular, the commission notes that 40 CFR §60.2555 (What combustion units are exempt from my State plan?) and this section have added some confusion to whether air curtain incinerators are obligated to apply for and obtain Title V permits, since both sections provide that air curtain incinerators that burn only 100 percent wood waste, 100 percent clean lumber, and 100 percent mixture of only wood waste, clean lumber, and/or yard waste must only meet the requirements under §§60.2810 - 60.2870, which do not include the requirement to apply for and obtain a Title V operating permit. However, the federal plan for these sources, 40 CFR Part 62, Subpart III, §62.14525, requires that air curtain incinerators that burn 100 percent wood waste, 100 percent clean lumber, and 100 percent mixture of only wood waste, clean lumber, and/or yard waste must meet only the requirements of §§62.14765 - 62.14825 *and the Title V operating permit requirements of Subpart 62*. Therefore, to further clarify the requirements for air curtain incinerators under §113.2248, the commission proposes to add the following sentence at the end of

subsection (b): "In addition, air curtain incinerators must meet the requirements of §113.2247 of this title (relating to Am I required to apply for and obtain a Title V operating permit for my unit?)."

§113.2249--What are my requirements for meeting increments of progress and achieving final compliance?

The commission proposes new §113.2249, which states that two increments of progress must be met if achieving compliance more than one year following the effective date of state plan approval: a final control plan must be submitted; and final compliance must be achieved.

§113.2250--When must I complete each increment of progress?

The commission proposes new §113.2250, which specifies that the compliance dates for each increment of progress are contained in Table 1 of Division 4 (§113.2261).

§113.2251--What must I include in the notifications of achievement of increments of progress?

The commission proposes new §113.2251, which states what must be included in the notification of achievement of increments of progress: notification of the achievement; any items required to be submitted with each increment of progress; and signature of the owner or operator of the incinerator.

§113.2252--When must I submit the notifications of achievement of increments of progress?

The commission proposes new §113.2252, which requires that the notifications of achievement of increments of progress be postmarked no later than 10 business days after the compliance date for the increment.

§113.2253--What if I do not meet an increment of progress?

The commission proposes new §113.2253, which states that if an increment of progress is not met, a notification must be submitted to the executive director postmarked within 10 business days after the date for that increment of progress. The proposed section further states that the submittal of reports must continue for each subsequent calendar month until the increment of progress is met.

§113.2254--How do I comply with the increment of progress for submittal of a control plan?

The commission proposes new §113.2254, which states that a control plan increment of progress must include submitting a final control plan and maintaining a copy onsite.

§113.2255--How do I comply with the increment of progress for achieving final compliance?

The commission proposes new §113.2255, which requires that all process changes and retrofit construction of control devices be completed for the final compliance increment of progress.

§113.2256--What must I do if I close my air curtain incinerator and then restart it?

The commission proposes new §113.2256, which states that if the incinerator is closed, but will reopen before the final compliance date, the increments of progress must be met. If the incinerator will restart after the final compliance date, emission control retrofits must be completed and emission limitations met on the date the incinerator restarts.

§113.2257--What must I do if I plan to permanently close my air curtain incinerator and not restart it?

The commission proposes new §113.2257, which states that if the incinerator will be closed rather than comply with the state plan, a closure notification must be submitted to the executive director by the date

the final control plan is due.

§113.2258--What are the emission limitations for air curtain incinerators?

The commission proposes new §113.2258, which states that air curtain incinerators must meet an opacity limit of 10 percent (6-minute average) and 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation. The proposed section states that the requirements apply at all times except during malfunctions, and each malfunction must not exceed three hours.

§113.2259--How must I monitor opacity for air curtain incinerators?

The commission proposes new §113.2259, which requires the use of EPA Reference Method 9 in 40 CFR Part 60, Appendix A to determine compliance with the opacity limit. The proposed section states that an initial test must be conducted no later than 180 days after the final compliance date, and that annual tests must be conducted thereafter, no more than 12 calendar months following the date of the previous test. As discussed in the FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT portion of this preamble, there would be costs associated with training for conducting opacity testing.

§113.2260--What are the recordkeeping and reporting requirements for air curtain incinerators?

The commission proposes new §113.2260, which requires that records of opacity test results be maintained onsite for at least 5 years. The proposed section states that all records must be made available for submittal to the executive director or for an inspector's onsite review. Finally, the proposed section requires that an initial report be submitted no later than 60 days following the initial opacity test and that annual opacity test results be submitted within 12 months following the previous report.

§113.2261--Tables Relating to Division 4.

The commission proposes new §113.2261, which contains the tables as referenced in Division 4. The tables include the following: Increments of Progress and Compliance Schedules; Emission Limitations; Operating Limits for Wet Scrubbers; Toxic Equivalency Factors; and Summary of Reporting Requirements.

Table 1 specifies the compliance schedules and increments of progress for units subject to this division. Increment 1 is for submission of the final control plan, and the compliance date is no later than 12 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval. Increment 2 is for final compliance, and the compliance date is no later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval.

To clarify and simplify the information in the tables contained in this section, the commission proposes minor formatting changes and also proposes to delete information that may confuse regulated entities, such as references to past federal compliance dates.

Division 5, Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004 (40 CFR Part 60, Subpart FFFF)

§113.2300--Definitions.

The commission proposes new §113.2300, which defines terms used in new Division 5 that are either previously undefined or are used differently by the federal emission guidelines that are the basis for the rules. The definitions are taken from 40 CFR §60.3078 (What definitions must I know?).

For clarification, the commission proposes to modify the wording in paragraph (1)(C), under the definition of administrator. The commission proposes to add that the NSPS are located within 40 CFR Part 60.

Also for clarification, the commission proposes to modify the wording in paragraph (2), under the definition of air curtain incinerator. This definition contains a reference both to Division 5 and to 40 CFR Part 60, Subpart EEEE. The commission proposes to delete the subpart reference, because Subpart EEEE applies to new sources, not existing sources, which is the subject of Division 5. The definition of MWC unit, paragraph (28), contains a similar reference to Subpart EEEE, and the commission also proposes to delete the subpart reference.

§113.2301--When must I comply?

The commission proposes new §113.2301, which specifies the final compliance date in Table 1 of Division 5 (§113.2357), as December 16, 2010. The proposed section also states that notification of final compliance must be submitted to the executive director and postmarked within 10 business days after the final compliance date.

§113.2302--What must I do if I close my other solid waste incineration unit and then restart it?

The commission proposes new §113.2302, which requires achievement of final compliance by the date specified in Table 1 of Division 5 (§113.2357) if the OSWI unit closes and then will restart before this date. If the OSWI unit will restart after the final compliance date, an emission control retrofit must be completed and emission limitations met when the OSWI restarts.

§113.2303--What must I do if I plan to permanently close my other solid waste incineration unit and not restart it?

The commission proposes new §113.2303, which states that an OSWI unit must permanently close before the final compliance date specified in Table 1 of Division 5 (§113.2357).

§113.2304--What is a waste management plan?

The commission proposes new §113.2304, which states that a waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream to reduce or eliminate toxic emissions from incinerated waste.

§113.2305--When must I submit my waste management plan?

The commission proposes new §113.2305, which requires that a waste management plan be submitted no later than 60 days following the initial performance test as specified in Table 5 of Division 5 (§113.2357).

§113.2306--What should I include in my waste management plan?

The commission proposes new §113.2306, which specifies what must be included in the waste management plan. The proposed section includes the following components: consideration of the reduction or separation of waste-stream elements; and identification of additional waste management measures and implementation of those measures that are considered practical and feasible, based on certain specific criteria.

§113.2307--What are the operator training and qualification requirements?

The commission proposes new §113.2307, which does not allow an OSWI unit to be operated unless a

fully trained and qualified OSWI unit operator is accessible to the facility within 1 hour. The proposed section also states that operator training and qualification must be obtained through a state-approved program or by completing an incinerator operator training course that includes at least three of the elements listed. The elements include: training on 13 specified subjects; an examination designed and administered by the instructor; and written material covering the training course topics that may be a reference following completion of the course.

§113.2308--When must the operator training course be completed?

The commission proposes new §113.2308, which requires that the operator training be completed by the latest of the following three dates: the final compliance date as specified in Table 1 of Division 5 (§113.2357); six months after OSWI unit startup; or six months after an employee assumes responsibility for operating the OSWI unit or for supervising operation of the OSWI unit.

§113.2309--How do I obtain my operator qualification?

The commission proposes new §113.2309, which requires that operator qualification be obtained by completing a training course that satisfies certain criteria. The proposed section further states that qualification is valid from the date on which the training course is completed and the operator successfully passes the required examination. As stated in §113.2310, operators must complete an annual review or refresher course to maintain qualification.

§113.2310--How do I maintain my operator qualification?

The commission proposes new §113.2310, which states that to maintain operator qualification, an annual review or refresher course must be completed. The proposed section specifies that, at a minimum, five

topics must be included: update of regulations; incinerator operation; inspection and maintenance; responses to malfunctions; and operating problems.

§113.2311--How do I renew my lapsed operator qualification?

The commission proposes new §113.2311, which states that if operator qualification lapses for less than 3 years, a standard annual refresher course must be completed. The proposed section states that if the lapse is 3 years or more, the initial qualification requirements must be repeated.

§113.2312--What site-specific documentation is required?

The commission proposes new §113.2312, which describes the site-specific documentation that is required to be in compliance. The proposed section specifies nine types of documents that must be available at the facility and readily accessible for all OSWI unit operators. The proposed section further states that a program for reviewing the information must be established with each incinerator operator by the dates specified. Finally, the proposed section includes the required training records.

§113.2313--What if all the qualified operators are temporarily not accessible?

The commission proposes new §113.2313, which states that depending on the length of time the qualified operator is not accessible, one of three criteria must be met. The criteria are: for 12 hours or less, the OSWI unit may be operated by other plant personnel familiar with the operation of the OSWI unit; for more than 12 hours, but less than 2 weeks, the OSWI unit may be operated by other plant personnel familiar with the operation of the OSWI unit; however, records of the period when the qualified operator was not accessible must be maintained and reported; for 2 weeks or more, the executive director must be notified of the deviation in writing within 10 days and status reports must be provided to the EPA every 4

weeks. The proposed section also states that status reports must outline what is being done to ensure that a qualified operator is accessible, when a qualified operator might be accessible, and contain a request for approval to continue operation.

In paragraph (3)(A), the commission proposes to add clarification that the notification to the executive director must be done within 10 days after the end of the 2-week period in which a certified operator is not accessible. The commission proposes the clarification regarding the beginning of the 10-day period to clearly outline the rule requirements for regulated entities, and similar clarification is proposed to be added in §§113.2121, 113.2219, 113.2243, and 113.2341.

In paragraph (3)(B) and in paragraph (3)(B)(ii), the commission proposes to change the recipient of status reports and approval of continued operation from the EPA, as is stated in 40 CFR Part 60, Subpart FFFF, to the executive director. The commission proposes this change so that this section is consistent with §113.2121 (40 CFR §60.1685, Subpart BBBB) and with §113.2219 (40 CFR §60.2665, Subpart DDDD). The commission also proposes this change because it is appropriate that the TCEQ be informed of changes in the status of qualified operators for consistent and effective enforcement of the rules.

§113.2314--What emission limitations must I meet and by when?

The commission proposes new §113.2314, which states that the emission limitations that must be met on the date the initial performance test is required or completed are specified in Table 2 of Division 5 (§113.2357).

§113.2315--What operating limits must I meet and by when?

The commission proposes new §113.2315, which, for wet scrubbers, requires that operating limits for four operating parameters be established: maximum charge rate; minimum pressure drop across the wet scrubber; minimum scrubber liquor flow rate; and minimum scrubber liquor pH. The operating limits established during the initial performance test must be met beginning on the date 180 days after the final compliance date.

§113.2316--What if I do not use a wet scrubber to comply with the emission limitations?

The commission proposes new §113.2316, which states that if an air pollution control device other than a wet scrubber is used, or emissions are limited in some other manner to comply with the emission limitations, a petition must be submitted to the EPA for specific operating limits, the values of which are to be established during the initial performance test and then continuously monitored thereafter. The proposed section states that an initial performance test must not be conducted until after the petition has been approved by the EPA. A listing of what must be included in the petition is detailed in this proposed section.

§113.2317--What happens during periods of startup, shutdown, and malfunction?

The commission proposes new §113.2317, which states that emission limitations and operating limits apply at all times, except during OSWI unit startups, shutdowns, or malfunctions.

For clarification, the commission proposes to add that OSWI unit startups, shutdowns, and malfunctions should last no longer than 3 hours. This additional language will make this section consistent with similar sections in Division 3 (§113.2123) and Division 4 (§113.2223).

§113.2318--How do I conduct the initial and annual performance test?

The commission proposes new §113.2318, which requires that all performance tests be conducted using the methods and specifications listed in this proposed section to be in compliance.

§113.2319--How are the performance test data used?

The commission proposes new §113.2319, which requires that the results of performance tests be used to demonstrate compliance with the emission limits in Table 2 of Division 5 (§113.2357).

§113.2320--How do I demonstrate initial compliance with the emission limitations and establish the operating limits?

The commission proposes new §113.2320, which requires that an initial performance test be conducted to determine compliance with the emission limitations and to establish operating limits. The proposed section states that the requirements for emission limitations and the test methods for the initial performance test are found in Table 2 of Division 5 (§113.2357).

§113.2321--By what date must I conduct the initial performance test?

The commission proposes new §113.2321, which requires that the initial performance test be conducted no later than 180 days after the final compliance date listed in Table 1 of Division 5 (§113.2357).

§113.2322--How do I demonstrate continuous compliance with the emission limitations and the operating limits?

The commission proposes new §113.2322, which requires that an annual performance test be conducted for all the pollutants in Table 2 of Division 5 (§113.2357) for each OSWI unit to determine compliance

with the emission limits. The proposed section also states that to determine compliance with the carbon monoxide limits, carbon monoxide emissions and operating parameters must be continuously monitored.

§113.2323--By what date must I conduct the annual performance test?

The commission proposes new §113.2323, which requires that annual performance tests be conducted within 12 months of the initial performance test. The proposed section also states that subsequent annual performance tests must be conducted within 12 months following the previous one.

§113.2324--May I conduct performance testing less often?

The commission proposes new §113.2324, which allows performance tests to be conducted less often for a given pollutant if test data exists for at least three consecutive annual tests, and all performance tests over that period show compliance with the emission limit. The proposed section further states that if a performance test shows a deviation from an emission limitation for any pollutant, annual tests must be conducted for that pollutant until three consecutive annual performance tests for that pollutant all demonstrate compliance.

§113.2325--May I conduct a repeat performance test to establish new operating limits?

The commission proposes new §113.2325, which allows a repeat performance test to be conducted at any time to establish new operating limits. The proposed section also states that the executive director may request a repeat performance test at any time.

§113.2326--What continuous emission monitoring systems must I install?

The commission proposes new §113.2326, which requires that continuous emission monitoring systems

be installed, calibrated, maintained, and operated for carbon monoxide and oxygen. The proposed section states that each continuous emission monitoring system must be in compliance with 40 CFR §60.13.

§113.2327--How do I make sure my continuous emission monitoring systems are operating correctly?

The commission proposes new §113.2327, which details the four requirements for ensuring that the continuous emission monitoring systems are operating correctly. The proposed section specifies evaluation and quality assurance procedures that must be followed.

For clarification in subsection (c), the commission proposes to specify that the reference to EPA Method 3 or 3A is located in 40 CFR Part 60, Appendix A.

§113.2328--What is my schedule for evaluating continuous emission monitoring systems?

The commission proposes new §113.2328, which requires that annual evaluations of the continuous emission monitoring systems be conducted no more than 12 months after the previous evaluation. The proposed section also states that daily and quarterly evaluations must be conducted in accordance with 40 CFR Part 60, Appendix F.

§113.2329--What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems, and is the data collection requirement enforceable?

The commission proposes new §113.2329, which details the minimum amount of monitoring data that is required to be collected from the continuous emission monitoring systems to be in compliance. The proposed section also states that a failure to obtain the minimum required data is a deviation from the data collection requirement. The proposed section further references Table 4 in Division 5 (§113.2357) for

alternatives if continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements.

§113.2330--How do I convert my 1-hour arithmetic averages into the appropriate averaging times and units?

The commission proposes new §113.2330, which requires the use of equations in 30 TAC §113.2356 (What equations must I use?) to calculate emissions at 7 percent oxygen and the 12-hour rolling averages for concentrations of carbon monoxide.

§113.2331--What operating parameter monitoring equipment must I install, and what operating parameters must I monitor?

The commission proposes new §113.2331, which specifies required procedures for using a wet scrubber or a method or air pollution control device other than a wet scrubber to comply with the emission limitations.

§113.2332--Is there a minimum amount of operating parameter monitoring data I must obtain?

The commission proposes new §113.2332, which requires that monitoring be conducted at all times the OSWI unit is operating, except for monitor malfunctions, associated repairs, and required quality assurance or control activities. The proposed section states that valid data must be obtained for at least 75 percent of the operating hours per day for at least 90 percent of the operating days per calendar quarter and that to not obtain the minimum data is a deviation.

§113.2333--What records must I keep?

The commission proposes new §113.2333, which lists the 14 items that must be maintained for a period of at least 5 years: the calendar date of each record; several types of records as specified in the section; an identification of calendar dates and times for which continuous emission monitoring systems or monitoring systems used to monitor operating limits were inoperative, inactive, malfunctioning, or out of control; an identification of calendar dates, times, and durations of malfunctions; an identification of calendar dates and times for which monitoring data show a deviation from the carbon monoxide emissions limit in Table 2 of this division (§113.2357) or a deviation from the operating limits in Table 3 of this division (§113.2357) or a deviation from other operating limits established under §113.2316; calendar dates when continuous monitoring systems did not collect the minimum amount of data required under §113.2329 and §113.2332; for carbon monoxide continuous emissions monitoring systems, documentation of the results of the daily drift tests and quarterly accuracy determinations; records of the calibration of any monitoring devices required under §113.2331; the results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable; records showing the names of OSWI unit operators who have completed review of the information in §113.2312(a) as required by §113.2312(b); records showing the names of the OSWI unit operators who have completed the operator training requirements under §113.2307, met the criteria for qualification under §113.2309, and maintained or renewed their qualification under §113.2310 or §113.2311; for each qualified operator, the phone and/or pager number at which the operator can be reached; equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment; and the information listed in §113.2312(a).

§113.2334--Where and in what format must I keep my records?

The commission proposes new §113.2334, which requires that records be maintained on site for at least 2 years. The proposed section states that the records may be maintained off site for the remaining 3 years, and that all records must be in paper or electronic format that can be printed upon request, unless an alternative format has been approved by the executive director.

For clarification, the commission proposes to state at the beginning of subsection (a) that each record must be maintained for at least five years. This additional language ensures that there is no conflict with the requirements of §113.2333.

§113.2335--What reports must I submit?

The commission proposes new §113.2335, which states that reporting requirements are located in Table 5 of Division 5 (§113.2357).

§113.2336--What information must I submit following my initial performance test?

The commission proposes new §113.2336, which states that the following information must be submitted no later than 60 days following the initial performance test: the complete test report; values for the site-specific operating limits; and the waste management plan.

§113.2337--When must I submit my annual report?

The commission proposes new §113.2337, which requires that the annual report be submitted no later than 12 months following the submission of information required in §113.2336. The proposed section further states that subsequent reports must be submitted no more than 12 months following the previous report.

§113.2338--What information must I include in my annual report?

The commission proposes new §113.2338, which lists the 10 items that are required to be included in the annual report to be in compliance: company name and address; statement by the owner or operator certifying the truth, accuracy, and completeness of the report; the date of the report and beginning and ending dates of the reporting period; the values for the operating limits; if no deviation from any emission limitation or operating limit that applies to the owner or operator has been reported, a statement that there was no deviation from the emission limitations or operating limits during the reporting period; the highest recorded 12-hour average and the lowest recorded 12-hour average, as applicable, for carbon monoxide emissions and the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported; information recorded under §113.2333(2)(F) and (3) through (5) for the calendar year being reported; if a performance test was conducted during the reporting period, the results of that test; if the requirements of §113.2324(a) or (b) were met, and a performance test was not conducted during the reporting period, a statement that the requirements of §113.2324(a) or (b) were met, and therefore, a performance test was not required during the reporting period; and documentation of periods when all qualified OSWI unit operators were unavailable for more than 12 hours, but less than 2 weeks.

To clarify and simplify the requirements of this section, the commission proposes to delete the reference to 40 CFR Part 71 in paragraph (2), since federal requirements are contained within this part and they are not necessary for state implementation of the rules.

§113.2339--What else must I report if I have a deviation from the operating limits or the emission

limitations?

The commission proposes new §113.2339, which requires that a deviation report be submitted if any recorded 3-hour average parameter level is above the maximum operating limit or below the minimum operating limit, if any recorded 12-hour average carbon monoxide emission rate is above the emission limitation, if the control device was bypassed, or if a performance test was conducted that showed a deviation from any emission limitation. The proposed section also states that the deviation report must be submitted by August 1 of the year the data was collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31).

§113.2340--What must I include in the deviation report?

The commission proposes new §113.2340, which details the seven items that must be included in deviation reports for any pollutant or operating parameter that deviated from the emission limitations or operating limits: the calendar dates and times the unit deviated from the emission limitations or operating limit requirements; the averaged and recorded data for those dates; durations and causes of each deviation from the emission limitations or operating limits and your corrective actions; a copy of the operating limit monitoring data during each deviation and any test report that documents the emission levels; the dates, times, number, duration, and causes for monitor downtime incidents; whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period; and the dates, times, and durations of any bypass of the control device.

§113.2341--What else must I report if I have a deviation from the requirement to have a qualified operator accessible?

The commission proposes new §113.2341, which states that if all qualified operators are not accessible for 2 weeks or more, a notification of deviation must be submitted within 10 days and a status report must be submitted to the EPA every 4 weeks. In addition, the proposed section states that a request must be submitted to the EPA to continue operation of the OSWI unit. The proposed section further states that the EPA must be notified once a qualified operator is accessible and operations have resumed if the unit was shut down by the EPA due to a failure to provide an accessible qualified operator.

In subsection (a)(1), the commission proposes to add clarification that the notification to the executive director must be done within 10 days after the end of the 2-week period in which a certified operator is required to be onsite. The commission proposes the clarification regarding the beginning of the 10-day period to clearly outline the rule requirements for regulated entities, and similar clarification is proposed to be added in §§113.2121, 113.2219, 113.2243, and 113.2313.

In subsection (a)(2), subsection (a)(2)(C), and in subsection (b), the commission proposes to change the recipient of status reports and approval of continued operation from the EPA, as is stated in 40 CFR Part 60, Subpart FFFF, to the executive director. The commission proposes this change so that this section is consistent with §113.2243 (40 CFR §60.2785, Subpart DDDD). The commission also proposes this change because it is appropriate that the TCEQ be informed of changes in the status of qualified operators for consistent and effective enforcement of the rules.

§113.2342--Are there any other notifications or reports that I must submit?

The commission proposes new §113.2342, which requires that the notifications in 40 CFR §60.7 also be submitted.

§113.2343--In what form can I submit my reports?

The commission proposes new §113.2343, which requires that initial, annual, and deviation reports be submitted electronically or in paper format, postmarked on or before the submittal due dates.

§113.2344--Can reporting dates be changed?

The commission proposes new §113.2344, which states that if the executive director agrees, the semiannual and annual reporting dates may be changed. The proposed section references 40 CFR §60.19(c) for the required procedures to seek approval to change a reporting date.

§113.2345--Am I required to apply for and obtain a Title V operating permit for my unit?

The commission proposes new §113.2345, which states that unless you meet the requirements for an exemption in 40 CFR §60.2993 (Are any combustion units excluded from my State plan?), if you are subject to an applicable EPA-approved and effective FCAA, §111(d)/129 state or tribal plan or an applicable and effective federal plan, you are required to apply for and obtain a Title V operating permit. The rules in this division require that owners or operators of air curtain incinerators obtain a Title V permit; however, these units are only required to comply with limited requirements, as opposed to larger entities.

§113.2346--When must I submit a Title V permit application for my existing unit?

The commission proposes new §113.2346, which provides the specific dates that a Title V permit application must be submitted for existing units: 12 months after the effective date of any applicable EPA-approved FCAA, §111(d)/129 state or tribal plan; 12 months after the effective date of any

applicable federal plan; or December 16, 2008, whichever is earlier. Because there is currently no approved state or federal plan, December 16, 2008, is the required submission date for federal operating permit applications.

To clarify and simplify the requirements of this section, the commission proposes to delete references to 40 CFR Part 71 in subsections (a), (c), and (d), since federal requirements are contained within this part and they are not necessary for state implementation of the rules.

§113.2347--What are the requirements for temporary-use incinerators and air curtain incinerators used in disaster recovery?

The commission proposes new §113.2347, which states that temporary-use incinerators and air curtain incinerators used in disaster recovery are exempt from Division 5 if they follow certain requirements. The proposed section defines a disaster or emergency as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism, and specifies that the exclusion only applies in an area declared a State of Emergency. The proposed section specifies the periods of time and required notifications for the exclusion from the rules in Division 5.

§113.2348--What is an air curtain incinerator?

The commission proposes new §113.2348, which states that an air curtain incinerator operates by forcefully projecting a curtain of air across an open, integrated combustion chamber (fire box) or open pit or trench (trench burner) in which combustion occurs. The proposed section also states that air curtain incinerators used to burn only 100 percent wood waste, clean lumber, yard waste, or a mixture of the three materials are required to meet only the requirements in §§113.2348 - 113.2355.

For clarification, the commission proposes to modify the wording in subsection (a), which contains a reference both to Division 5 and to 40 CFR Part 60, Subpart EEEE. The commission proposes to delete the subpart reference, because Subpart EEEE applies to new sources, not existing sources, which is the subject of Division 5.

§113.2349--When must I comply if my air curtain incinerator burns only wood waste, clean lumber, and yard waste?

The commission proposes new §113.2349, which requires air curtain incinerators that burn only wood waste, clean lumber, and yard waste to comply with the final compliance date listed in Table 1 of Division 5 (§113.2357). The proposed section states that notification to the executive director is required and must be postmarked within 10 business days after the final compliance date.

§113.2350--What must I do if I close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and then restart it?

The commission proposes new §113.2350, which states that if the incinerator is closed, but will reopen before the final compliance date, the final compliance date specified in Table 1 of Division 5 (§113.2357) must be met. If the incinerator is closed, but will restart after the final compliance date, the emission limitations must be met on the date the incinerator restarts operation.

§113.2351--What must I do if I plan to permanently close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and not restart it?

The commission proposes new §113.2351, which states that if the incinerator is permanently closed and

will not restart, the unit must be closed before the final compliance date listed in Table 1 of Division 5 (§113.2357).

§113.2352--What are the emission limitations for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

The commission proposes new §113.2352, which states that within 180 days after the final compliance date in Table 1 of Division 5 (§113.2357), air curtain incinerators that burn only wood waste, clean lumber, and yard waste must meet an opacity limit of 10 percent (6-minute average) and 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

§113.2353--How must I monitor opacity for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

The commission proposes new §113.2353, which requires the use of EPA Reference Method 9 in 40 CFR Part 60, Appendix A, to determine compliance with the opacity limit. An initial test would be conducted within 180 days after the final compliance date, and annual tests conducted thereafter. As discussed in the FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT portion of this preamble, there would be costs associated with training for conducting opacity testing.

§113.2354--What are the recordkeeping and reporting requirements for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

The commission proposes new §113.2354, which requires that records of results of all initial and annual opacity test results, as well as a copy of the initial and annual reports, be maintained for at least 5 years. The proposed section also states that records of results must be kept in either paper copy or computer-

readable format that can be printed upon request, and that all records must be made available to the executive director or for an inspector's review. The proposed section further states that an initial report must be submitted no later than 60 days following the initial opacity test and annual opacity test results must be submitted within 12 months following the previous report. As specified in the proposed section, initial and annual opacity test reports must be submitted as electronic or paper copy on or before the applicable submittal date.

§113.2355--Am I required to apply for and obtain a Title V operating permit for my air curtain incinerator that burns only wood waste, clean lumber, and yard waste?

The commission proposes new §113.2355, which specifies that if the air curtain incinerator is subject to Division 5, an application for a Title V operating permit must be submitted. 40 CFR §60.2993 contains a listing of types of units that are excluded from the requirements of the state plan, as long as the owner or operator meets the requirements of 40 CFR §60.2993.

§113.2356--What equations must I use?

The commission proposes new §113.2356, which contains the two equations that must be used in Division 5. The equations are for determining the following: pollutant concentration adjusted to 7 percent oxygen and average carbon monoxide pollutant rate for each 12-hour period.

For clarification and for consistency with the equation contained within subsection (a), the commission proposes to use the word "oxygen," rather than using O_2 in subsection (d).

§113.2357--Tables Relating to Division 5.

The commission proposes new §113.2357, which contains the tables relating to Division 5. The tables are as follows: Compliance Schedule; Emission Limitations; Operating Limits for Incinerators and Wet Scrubbers; Requirements for Continuous Emission Monitoring Systems (CEMS); and Summary of Reporting Requirements.

Table 1 specifies the compliance schedule for units subject to this division. Final compliance is required by December 16, 2010.

To clarify and simplify the information in the tables contained in this section, the commission proposes minor formatting changes and also proposes to delete information that may confuse regulated entities, such as references to past federal compliance dates.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, determined that, for the first five-year period the proposed rules are in effect, fiscal implications are anticipated for the agency as a result of administration or enforcement of the proposed rules. Revenue in Account 5094 - Operating Permit Fees - Dedicated will increase due to the collection of annual emissions fees on units that have not previously been required to obtain Title V permits. Any additional revenue collected will be used to offset any additional costs to implement and administer the proposed rules. Other state agencies and local governments that own or operate existing waste combustion or incineration units may also experience fiscal implications under the proposed rules.

The purpose of the proposed rules is to incorporate existing EPA regulations that affect air emissions of

the following waste combustion or incineration units: small MWC units constructed on or before August 30, 1999; CISWI units that commenced construction on or before November 30, 1999; and OSWI units that commenced construction on or before December 9, 2004. The agency is not imposing any new costs in this rulemaking that would not have been imposed by the EPA. The proposed rules will amend 30 TAC Chapter 113, Subchapter D by adding new Divisions 3, 4, and 5 in order to receive delegated authority from the EPA to administer these emission guidelines. In addition to the proposed rules, the agency must submit a corresponding state plan before the EPA will delegate regulatory responsibility to the agency.

In establishing new emission guidelines for these waste combustion and incineration units, the EPA allowed some flexibility with regards to emission and testing requirements and various exclusions and alternative disposal methods in order to minimize the economic impact on small entities that might own or operate these units. For MWC units, the EPA allowed for less frequent testing. For CISWI units, the EPA allowed for alternative disposal methods, such as off-site landfills. For OSWI units, the EPA provided various exclusions or alternative disposal options for some emission sources. For these reasons, the EPA determined that these emission guidelines would have no significant economic impact on the majority of small entities affected by the federal rules.

The agency expects that many of the state agencies, local governments, and businesses owning these types of waste combustion and incineration units will already have complied with the emission guidelines established by the EPA or be able to avail themselves of the alternative methods of compliance provided by the EPA. However, those entities that have not yet complied with these guidelines or cannot utilize alternative methods of compliance will incur additional costs to comply with the proposed rules. Staff

does not have sufficient information to know which regulated entities will choose to implement a control technology, which control will be utilized, or whether an alternate compliance method will be chosen. If controls must be installed, owners or operators of MWC units, CISWI units, and OSWI units may incur training costs, stack testing costs, continuous monitoring costs, public notice costs, and annual emissions fees.

Impact to the Agency

The proposed rules for Divisions 3, 4, and 5 will require regulated parties to obtain a Title V permit. This permit does not require the payment of an application fee, but regulated parties will be required to pay annual emissions fees. The annual emissions fee will vary depending on the size of the combustion or incineration unit and the amount of pollutants emitted. Under current rules, annual emissions fees are $33 per ton of emissions.

The proposed rules for Divisions 3, 4, and 5 will require an estimated 471 owners of air curtain incinerators to obtain a Title V permit and pay annual emissions fees. Staff estimates that annual emissions fees for air curtain incinerators may be as much as $1,000 per unit and that the increase in Account 5094 - Operating Permit Fees - Dedicated for air curtain incinerators may be as much as $471,000 per year for the first five years the proposed rules are in effect.

There may be as many as one local government and four large businesses that will be required to pay annual emissions fees estimated to be $1,000 per unit per year under the proposed Division 3 rules. The increase in revenue for Account 5094 is estimated to be $5,000 per year.

Staff estimates that there may be as many as 201 businesses that own or operate CISWI units that will be subject to the proposed rules in Division 4. Staff expects that many of these units will already have Title V permits since they are mostly located at major sources. However, if a Title V permit must be obtained under the proposed rules, annual emissions fees could range from $400 to $200,000 per unit depending on the type and quantity of air emissions. Data is not available to determine how many of the 201 businesses with CISWI units will have to obtain a new Title V permit under the proposed Division 4 rules, and the total statewide revenue increase to Account 5094 for these units cannot be reasonably estimated at this time.

Staff estimates that as many as 12 institutions will be required to obtain Title V permits under the proposed rules for Division 5. Annual emissions fees are estimated to range from $400 to $8,000 per unit. The total revenue increase to Account 5094 could range from $4,800 to $96,000.

Impact on State and Local Government

The proposed rules for Division 3 regarding MWC units may have fiscal impacts for one state higher education medical facility if EPA emission requirements have not already been met. Costs for the first year of complying with the proposed Division 3 rules are: an estimated $1,000 per unit for emissions fees; public notice costs ranging from $200 - $2,000 depending on the newspaper chosen; cost of monitoring equipment estimated to range from $150,000 to $400,000; operating costs for continuous monitoring of $50,000 to $125,000; and initial stack testing ranging from $30,000 to $100,000 per stack. In years two through five, costs are estimated to be: an estimated $1,000 per unit per year for emissions fees; annual operating costs for continuous monitoring of $50,000 to $125,000; and annual stack testing costs ranging from $20,000 to $30,000 per stack.

Staff estimates that there may be one university that owns an OSWI unit that may incur costs to comply with proposed Division 5 rules. Costs for the first year of complying with the proposed Division 5 rules are: an estimated $400 to $8,000 per unit for emissions fees; public notice costs ranging from $200 - $2,000 depending on the newspaper chosen; cost of monitoring equipment estimated to range from $85,000 to $300,000; operating costs for continuous monitoring of $35,000 to $85,000; and initial stack testing ranging from $30,000 to $100,000 per stack. In years two through five, costs are estimated to be: an estimated $400 to $8,000 per unit per year for emissions fees; annual operating costs for continuous monitoring of $35,000 to $85,000, and annual stack testing costs ranging from $20,000 to $30,000 per stack.

Staff estimates that there may be as many as 27 local governments that own air curtain incinerators that will be subject to the proposed Division 3, 4, or 5 rules. Each local government will be responsible for determining which division will govern any needed Title V permit for their air curtain incinerators. In any case, staff estimates that local governments owning air curtain incinerators will be required to incur the same costs regardless of which proposed division governs their Title V permit. Costs are annual emissions fees of approximately $1,000 per unit per year and approximately $470 of training costs per person per year for Method 9 opacity testing. There will also be public notice costs ranging from $200 to $2,000 when the Title V permit is issued or renewed.

The proposed rules for Division 4 principally affect manufacturers of chemicals, electronic equipment, wholesale trade and durable goods, and lumber and wood furniture and are not expected to have fiscal implications for state agencies and local governments. Local governments do not typically participate in

these activities.

PUBLIC BENEFITS AND COSTS

Nina Chamness also determined that for each year of the first five years the proposed new rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be compliance with federal regulations and increased protection of public health by reducing exposure to air contaminants.

Staff estimates that there may be as many as 444 businesses that own air curtain incinerators that may be required to obtain Title V permits under the proposed rules for either Division 3, 4, or 5. Most of these 444 businesses are thought to be small or micro-businesses, and the fiscal implications of the proposed rules for these owners of air curtain incinerators are discussed in the SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT portion of this fiscal note.

The proposed rules for Division 3 may affect as many as four businesses that own MWC units. If these businesses are not already in compliance with EPA rules or cannot avail themselves of alternate methods proposed by the EPA, they will incur the same types of costs to obtain a Title V permit as those incurred by local governments. Costs for the first year of complying with the proposed Division 3 rules are: an estimated $1,000 per unit for emissions fees; public notice costs ranging from $200 - $2,000 depending on the newspaper chosen; cost of monitoring equipment estimated to range from $150,000 to $400,000; operating costs for continuous monitoring of $50,000 to $125,000; and initial stack testing ranging from $30,000 to $100,000 per stack. In years two through five costs are estimated to be: an estimated $1,000 per unit per year for emissions fees; annual operating costs for continuous monitoring of $50,000 to $125,000; and annual stack testing costs ranging from $20,000 to $30,000 per stack.

Staff estimates that there are 201 manufacturers statewide of chemical, electronic equipment, wholesale trade and durable goods, and lumber and wood furniture that own or operate CISWI units. If these entities do not already have Title V permits, they could incur costs to comply with the proposed Division 4 rules. Costs in the first year would be: public notice costs ranging from $200 to $2,000, depending on the newspaper; annual emissions fees estimated to range from $400 to $200,000 per unit; cost of monitoring equipment estimated to range from $5,000 - $50,000; operating costs for continuous monitoring of approximately $10,000; and initial stack testing ranging from $30,000 to $100,000 per stack. In years two through five, costs are estimated to be: an estimated $400 to $200,000 per unit per year for emissions fees; annual operating costs for continuous monitoring of $10,000; and annual stack testing costs ranging from $20,000 to $30,000 per stack.

Staff estimates that there may be as many as 11 institutions (Department of Defense facilities, hospitals, etc.) that are not local governments that may have to obtain Title V permits for OSWI units. These entities will incur the same costs as local governments required to comply with the proposed Division 5 rules. Costs for the first year of complying with the proposed Division 5 rules are: an estimated $400 to $8,000 per unit for emissions fees; public notice costs ranging from $200 - $2,000 depending on the newspaper chosen; cost of monitoring equipment estimated to range from $85,000 to $300,000; operating costs for continuous monitoring of $35,000 to $85,000; and initial stack testing ranging from $30,000 to $100,000 per stack. In years two through five costs are estimated to be: an estimated $400 to $8,000 per unit per year for emissions fees; annual operating costs for continuous monitoring of $35,000 to $85,000; and annual stack testing costs ranging from $20,000 to $30,000 per stack.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

Adverse fiscal implications, which are not expected to be significant, are anticipated for small or micro-businesses that own or operate air curtain incinerators as a result of the proposed rules. Small or micro-businesses are expected to incur the same annual emissions fees, public notice costs, and Method 9 opacity training costs as those incurred by local governments that own air curtain incinerators. Staff estimates that there may be as many as 444 small or micro-businesses that own or operate air curtain incinerators that have not previously been required to obtain Title V permits. Estimated costs to obtain a Title V permit for air curtain incinerators under the proposed Division 3, 4, or 5 rules are: approximately $1,000 in annual emissions fees, $470 per person per year to train in-house personnel to conduct opacity tests, and public notice costs ranging from $200 to $2,000 when the Title V permit is issued or renewed.

SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to comply with federal rules concerning the protection of the environment. The agency is implementing EPA guidelines for incinerators and combustion units, and the EPA's guidelines include a variety of options that can be utilized by small or micro-businesses to comply with the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules are required to comply with federal law concerning the protection of the environment.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking does not meet the definition of a major environmental rule as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirement to prepare a regulatory impact analysis.

A major environmental rule means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The specific intent of these proposed rules is to adopt emission guidelines for existing certain solid waste incineration units mandated by 42 United States Code (USC), and required to be included in operating permits by 42 USC, §7661a, as specified elsewhere in this preamble. These sources are required to comply with the emission guidelines whether or not the commission adopts the emission guidelines or takes delegation from the EPA, due to the federal plans that are adopted by the EPA to implement and enforce the emission guidelines if states do not adopt state plans to do so. As discussed in the FISCAL NOTE portion of this preamble, the proposed rules are not anticipated to add any significant additional costs to affected individuals or businesses beyond what is already required to comply with these federal standards on the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Additionally, the rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code,

§2001.0225(a). Texas Government Code, §2001.0225, applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

Under 42 USC, §7661a, states are required to have federal operating permit programs that provide authority to issue permits and assure compliance with each applicable standard, regulation, or requirement under the FCAA, including emission guidelines, which are required under 42 USC, §7429. Similar to requirements in 42 USC, §7410, regarding the requirement to adopt and implement plans to attain and maintain the national ambient air quality standards, states are not free to ignore requirements in 42 USC, §7661a, and must develop and submit programs to provide for operating permits for major sources that include all applicable requirements of the FCAA. Additionally, states are required by 42 USC, §7429 to adopt and implement plans to implement and enforce emission guidelines.

The requirement to provide a fiscal analysis of regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th legislative session. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 that concluded "based on an assessment of rules adopted

by the agency in the past, it is not anticipated that the bill will have significant fiscal implications for the agency due to its limited application." The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law.

Because of the ongoing need to meet federal requirements, the commission routinely proposes and adopts rules incorporating or designed to satisfy specific federal requirements. The legislature is presumed to understand this federal scheme. If each rule proposed by the commission to meet a federal requirement was considered to be a major environmental rule that exceeds federal law, then each of those rules would require the full regulatory impact analysis (RIA) contemplated by SB 633. This conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the Legislative Budget Board (LBB) in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes, and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full RIA for rules that are extraordinary in nature. While the proposed rules may have a broad impact, that impact is no greater than is necessary or appropriate to meet the requirements of the FCAA, and in fact creates no additional impacts since the proposed rules do not modify the federal emission guidelines in any substantive aspect, but merely provide for minor administrative changes as described elsewhere in this preamble. For these reasons, the proposed rules fall under the exception in Texas Government Code, §2001.0225(a), because they are required by, and do not exceed, federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code, but left this provision substantially unamended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." (*Central Power & Light Co. v. Sharp*, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), *writ denied with per curiam opinion respecting another issue*, 960 S.W.2d 617 (Tex. 1997); *Bullock v. Marathon Oil Co.*, 798 S.W.2d 353, 357 (Tex. App. Austin 1990, *no writ*). *Cf. Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, *pet. denied*); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).)

The commission's interpretation of the RIA requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance" (Texas Government Code, §2001.035). The legislature specifically identified Texas Government Code, §2001.0225 as falling under this standard. As discussed in this analysis and elsewhere in this preamble, the commission has substantially complied with the requirements of Texas Government Code, §2001.0225.

The proposed rules implement requirements of the FCAA. The emission guidelines being incorporated into state law are federal standards that are required by 42 USC, §7429, required to be included in permits under 42 USC, §7661a, proposed to be adopted with only minor administrative changes, and will not

exceed any standard set by state or federal law. These rules are not an express requirement of state law. The proposed rules do not exceed a requirement of a delegation agreement or a contract between state and federal government, as the EPA will delegate implementation and enforcement of the emission guidelines to Texas if this rulemaking is adopted. The amendments were not developed solely under the general powers of the agency, but are authorized by specific sections of Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act), and the Texas Water Code, which are cited in the STATUTORY AUTHORITY section of this preamble, including Texas Health and Safety Code, §§382.011, 382.012, and 382.017.

Therefore, this proposed rulemaking action is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b). Comments on the draft RIA determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS portion of this preamble.

TAKINGS IMPACT ASSESSMENT

Under Texas Government Code, §2007.002(5), taking means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real

property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The commission completed a takings impact analysis for the proposed rulemaking action under the Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to adopt emission guidelines for certain solid waste incineration units, as specified elsewhere in this preamble, mandated by 42 USC, §7429 and required to be included in operating permits by 42 USC, §7661a and facilitate implementation and enforcement of the emission guidelines by the state. The proposed rules will not create any additional burden on private real property. Under federal law, the affected industries will be required to comply with the emission guidelines regardless of whether the commission or the EPA is the agency responsible for implementation of the emission guidelines. The proposed rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the proposal is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 *et seq*., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the proposed rules in accordance

with Coastal Coordination Act Implementation Rules, 31 TAC §505.22, and found the proposed rulemaking is consistent with the applicable CMP goals and policies.

CMP goals applicable to the proposed rules are to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas. The CMP policy applicable to the proposed rules is the policy that commission rules comply with federal regulations in 40 CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.32). These rules are consistent because the emission guidelines incorporated through this rulemaking implement state rules which are as strict as the minimum emission guidelines found in 40 CFR Part 60, Subparts BBBB, DDDD, and FFFF.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the proposed rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

Comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS portion of this preamble.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

Chapter 113 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits Program. If the proposed rules are adopted, owners or operators subject to the federal operating permit program must, consistent with the revision process in Chapter 122, upon the effective date of the adopted

rulemaking, revise their operating permit to include the new Chapter 113 requirements. Additionally, sources subject to the emission guidelines may become subject to the federal operating permit program.

ANNOUNCEMENT OF PUBLIC HEARING

The commission will hold a public hearing on this proposal and the FCAA, §111(d)/129 State Plan in Austin on January 5, 2009, at 2:00 p.m. in Building B, Room 201A, at the commission's central office. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion is not permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes before the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Michael Parrish, Office of Legal Services, at (512) 239-2548. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Comments may be submitted to Michael Parrish, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at *http://www5.tceq.state.tx.us/rules/ecomments/*. File size restrictions may apply to comments submitted through the eComments system. All comments should reference Rule Project Number 2008-007-113-PR. The comment period closes January 7, 2009. Copies of the proposed rule documents can be obtained from the commission's Web site at *http://www.tceq.state.tx.us/nav/rules/propose_adopt.html*. For further information, please contact Lisa

Martin, Air Permits Division, (512) 239-1966.

SUBCHAPTER D: DESIGNATED FACILITIES AND POLLUTANTS

DIVISION 3: EMISSION GUIDELINES AND COMPLIANCE TIMES FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS CONSTRUCTED ON OR BEFORE AUGUST 30, 1999

§§113.2100 - 113.2174

STATUTORY AUTHORITY

The new sections are proposed under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The new sections are also proposed under Texas Health and Safety Code, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air

contaminants; and §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act. The new sections are also proposed under the Texas Water Code, §7.002, Enforcement Authority, which authorizes the commission to institute legal proceedings to compel compliance; §7.032, Injunctive Relief, which provides that injunctive relief may be sought by the executive director; and §7.302, Grounds for Revocation or Suspension of Permit, which provides authority to the commission to revoke or suspend any air quality permit.

The proposed new sections implement Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.2100. Definitions.

Terms used but not defined in this division are defined in the Federal Clean Air Act and in 40 Code of Federal Regulations Part 60, Subparts A and B.

(1) Administrator - The administrator of the United States Environmental Protection Agency or his/her authorized representative or the administrator of a state air pollution control agency.

(2) Air curtain incinerator - An incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

(3) Batch municipal waste combustion unit - A municipal waste combustion unit designed so it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed during combustion.

(4) Calendar quarter - Three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

(5) Calendar year - 365 (or 366 consecutive days in leap years) consecutive days starting on January 1 and ending on December 31.

(6) Chief facility operator - The person in direct charge and control of the operation of a municipal waste combustion unit. That person is responsible for daily onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit.

(7) Class I units - Small municipal waste combustion units subject to this division that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition in this section of "Municipal waste combustion plant capacity" for specification of which units at a plant site are included in the aggregate capacity calculation.

(8) Class II units - Small municipal combustion units subject to this division that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition in this section of "Municipal waste

combustion plant capacity" for specification of which units at a plant site are included in the aggregate capacity calculation.

(9) Clean wood - Untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(A) "Yard waste," which is defined elsewhere in this section.

(B) Construction, renovation, or demolition wastes (for example, railroad ties and telephone poles) that are exempt from the definition of "Municipal solid waste" in this section.

(10) Co-fired combustion unit - A unit that combusts municipal solid waste with nonmunicipal solid waste fuel (for example, coal, industrial process waste). To be considered a co-fired combustion unit, the unit must be subject to a federally enforceable permit that limits it to combusting a fuel feed stream which is 30 percent or less (by weight) municipal solid waste as measured each calendar quarter.

(11) Continuous burning - The continuous, semicontinuous, or batch feeding of municipal solid waste to dispose of the waste, produce energy, or provide heat to the combustion system in preparation for waste disposal or energy production. Continuous burning does not mean the use of municipal solid waste solely to thermally protect the grate or hearth during the startup period when municipal solid waste is not fed to the grate or hearth.

(12) Continuous emission monitoring system - A monitoring system that continuously measures the emissions of a pollutant from a municipal waste combustion unit.

(13) Dioxins/furans - Tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

(14) Effective date of state plan approval - The effective date that the United States Environmental Protection Agency (EPA) approves the state plan. The *Federal Register* specifies the date in the notice that announces the EPA's approval of the state plan.

(15) Eight-hour block average - The average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of three 8-hour periods of time:

(A) 12:00 midnight to 8:00 a.m.

(B) 8:00 a.m. to 4:00 p.m.

(C) 4:00 p.m. to 12:00 midnight.

(16) Federally enforceable - All limits and conditions the administrator can enforce (including the requirements of 40 Code of Federal Regulations (CFR) Parts 60, 61, and 63), requirements

in a state's implementation plan, and any permit requirements established under 40 CFR §52.21 or under 40 CFR §51.18 and 40 CFR §51.24.

(17) First calendar half - The period that starts on January 1 and ends on June 30 in any year.

(18) Fluidized bed combustion unit - A unit where municipal waste is combusted in a fluidized bed of material. The fluidized bed material may remain in the primary combustion zone or may be carried out of the primary combustion zone and returned through a recirculation loop.

(19) Four-hour block average or 4-hour block average - The average of all hourly emission concentrations or parameter levels when the municipal waste combustion unit operates and combusts municipal solid waste measured over any of six 4-hour periods:

(A) 12:00 midnight to 4:00 a.m.

(B) 4:00 a.m. to 8:00 a.m.

(C) 8:00 a.m. to 12:00 noon.

(D) 12:00 noon to 4:00 p.m.

(E) 4:00 p.m. to 8:00 p.m.

(F) 8:00 p.m. to 12:00 midnight.

(20) Mass burn refractory municipal waste combustion unit - A field-erected municipal waste combustion unit that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, that includes municipal waste combustion units with a cylindrical rotary refractory wall furnace.

(21) Mass burn rotary waterwall municipal waste combustion unit - A field-erected municipal waste combustion unit that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

(22) Mass burn waterwall municipal waste combustion unit - A field-erected municipal waste combustion unit that combusts municipal solid waste in a waterwall furnace.

(23) Maximum demonstrated load of a municipal waste combustion unit - The highest 4-hour block arithmetic average municipal waste combustion unit load achieved during 4 consecutive hours in the course of the most recent dioxins/furans stack test that demonstrates compliance with the applicable emission limit for dioxins/furans specified in this division.

(24) Maximum demonstrated temperature of the particulate matter control device - The highest 4-hour block arithmetic average flue gas temperature measured at the inlet of the particulate matter control device during 4 consecutive hours in the course of the most recent stack test for

dioxins/furans emissions that demonstrates compliance with the limits specified in this division.

(25) Medical/infectious waste - Any waste meeting the definition of "medical/infectious waste" in 40 Code of Federal Regulations §60.51c.

(26) Mixed fuel-fired (pulverized coal/refuse-derived fuel) combustion unit - A combustion unit that combusts coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is combusted in suspension. That includes both conventional pulverized coal and micropulverized coal.

(27) Modification or modified municipal waste combustion unit - A municipal waste combustion unit you have changed after June 6, 2001, and that meets one of two criteria:

(A) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the unit (not including the cost of land) updated to current costs.

(B) Any physical change in the municipal waste combustion unit or change in the method of operating it that increases the emission level of any air pollutant for which new source performance standards have been established under the Federal Clean Air Act, §111 or §129. Increases in the emission level of any air pollutant are determined when the municipal waste combustion unit operates at 100 percent of its physical load capability and are measured downstream of all air pollution control devices. Load restrictions based on permits or other nonphysical operational restrictions cannot be

considered in the determination.

(28) Modular excess-air municipal waste combustion unit - A municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

(29) Modular starved-air municipal waste combustion unit - A municipal waste combustion unit that combusts municipal solid waste, is not field-erected, and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

(30) Municipal solid waste or municipal-type solid waste - Household, commercial/retail, or institutional waste. Household waste includes material discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (nonmedical), by nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste and refuse-derived fuel. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which include railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

(31) Municipal waste combustion plant - One or more municipal waste combustion units at the same location as specified under Applicability of State Plans (40 Code of Federal Regulations §60.1550(a)).

(32) Municipal waste combustion plant capacity - The aggregate municipal waste combustion capacity of all municipal waste combustion units at the plant that are not subject to 40 Code of Federal Regulations Part 60, Subparts Ea, Eb, or AAAA.

(33) Municipal waste combustion unit - Any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved-air or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustion units:

(A) Municipal waste combustion units do not include pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under Applicability of State Plans (40 Code of Federal Regulations §60.1555(h) and (i)). Municipal waste combustion units do not include cement kilns that combust municipal solid waste. Municipal waste combustion units also do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(B) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas.

(i) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(ii) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(iii) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(34) Particulate matter - Total particulate matter emitted from municipal waste combustion units as measured using United States Environmental Protection Agency Reference Method 5 in 40 Code of Federal Regulations Part 60, Appendix A and the procedures specified in §113.2142 of this title (relating to What test methods must I use to stack test?).

(35) Plastics or rubber recycling unit - An integrated processing unit for which plastics, rubber, or rubber tires are the only feed materials (incidental contaminants may be in the feed materials). The feed materials are processed and marketed to become input feed stock for chemical plants or petroleum refineries. The following three criteria further define a plastics or rubber recycling unit:

(A) Each calendar quarter, the combined weight of the feed stock that a plastics or rubber recycling unit produces must be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires that recycling unit processes.

(B) The plastics, rubber, or rubber tires fed to the recycling unit may originate from separating or diverting plastics, rubber, or rubber tires from municipal or industrial solid waste. The feed materials may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards.

(C) The plastics, rubber, and rubber tires fed to the recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles or metal rings on plastic bottle caps).

(36) Potential hydrogen chloride emissions - The level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

(37) Potential mercury emissions - The level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without controls for mercury

emissions.

(38) Potential sulfur dioxide emissions - The level of emissions from a municipal waste combustion unit that would occur from combusting municipal solid waste without emission controls for acid gases.

(39) Pyrolysis/combustion unit - A unit that produces gases, liquids, or solids by heating municipal solid waste. The gases, liquids, or solids produced are combusted and the emissions vented to the atmosphere.

(40) Reconstruction - Rebuilding a municipal waste combustion unit and meeting two criteria:

(A) The reconstruction begins after June 6, 2001.

(B) The cumulative cost of the construction over the life of the unit exceeds 50 percent of the original cost of building and installing the municipal waste combustion unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the municipal waste combustion unit used to calculate the costs, see the definition in this section of "Municipal waste combustion unit."

(41) Refractory unit or refractory wall furnace - A municipal waste combustion unit that has no energy recovery (such as through a waterwall) in the furnace of the municipal waste combustion

unit.

(42) Refuse-derived fuel - A type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. That includes all classes of refuse-derived fuel including two fuels:

(A) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(B) Pelletized refuse-derived fuel.

(43) Same location - The same or contiguous properties under common ownership or control, including those separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof. Entities may include a municipality, other governmental unit, or any quasi-governmental authority (for example, a public utility district or regional authority for waste disposal).

(44) Second calendar half - The period that starts on July 1 and ends on December 31 in any year.

(45) Shift supervisor - The person who is in direct charge and control of operating a municipal waste combustion unit and who is responsible for onsite supervision, technical direction, management, and overall performance of the municipal waste combustion unit during an assigned shift.

(46) Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel) combustion unit - A municipal waste combustion unit that combusts coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

(47) Standard conditions - When referring to units of measure, a temperature of 20 degrees Celsius and a pressure of 101.3 kilopascals.

(48) Startup period - The period when a municipal waste combustion unit begins the continuous combustion of municipal solid waste. It does not include any warmup period during which the municipal waste combustion unit combusts fossil fuel or other solid waste fuel but receives no municipal solid waste.

(49) State - Any of the 50 United States and the protectorates of the United States.

(50) State plan - A plan submitted pursuant to the Federal Clean Air Act, §111(d) and §129(b)(2) and 40 Code of Federal Regulations Part 60, Subpart B, that implements and enforces this division.

(51) Stoker (refuse-derived fuel) combustion unit - A steam generating unit that combusts refuse-derived fuel in a semisuspension combusting mode, using air-fed distributors.

(52) Total mass dioxins/furans or total mass - The total mass of tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans as determined using United States Environmental Protection Agency Reference Method 23 in 40 Code of Federal Regulations Part 60, Appendix A and the procedures specified in §113.2142 of this title (relating to What test methods must I use to stack test?).

(53) Twenty-four hour daily average or 24-hour daily average - Either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the municipal waste combustion unit operates and combusts municipal solid waste measured during the 24 hours between 12:00 midnight and the following midnight.

(54) Untreated lumber - Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(55) Waterwall furnace - A municipal waste combustion unit that has energy (heat) recovery in the furnace (for example, radiant heat transfer section) of the combustion unit.

(56) Yard waste - Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(A) Construction, renovation, and demolition wastes that are exempt from the

definition of "Municipal solid waste" in this section.

(B) Clean wood that is exempt from the definition of "Municipal solid waste" in this section.

§113.2101. What are my requirements for meeting increments of progress and achieving final compliance?

(a) Class I units. If you plan to achieve compliance more than 1 year following the effective date of state plan approval and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operating permit if a permit modification is required, you must meet five increments of progress:

(1) Submit a final control plan.

(2) Submit a notification of retrofit contract award.

(3) Initiate onsite construction.

(4) Complete onsite construction.

(5) Achieve final compliance.

(b) Class II units. If you plan to achieve compliance more than 1 year following the effective date of state plan approval and a permit modification is not required, or more than 1 year following the date of issuance of a revised construction or operating permit if a permit modification is required, you must meet two increments of progress:

(1) Submit a final control plan.

(2) Achieve final compliance.

§113.2102. When must I complete each increment of progress?

Table 1 in §113.2174 of this title (relating to Tables Relating to Division 3) specifies compliance dates for each of the increments of progress for Class I and II units. (See §113.2100 of this title (relating to Definitions) for definitions of classes.)

§113.2103. What must I include in the notifications of achievement of my increments of progress?

Your notification of achievement of increments of progress must include three items:

(1) Notification that the increment of progress has been achieved.

(2) Any items required to be submitted with the increment of progress (§§113.2106 through 113.2110 of this title (relating to How do I comply with the increment of progress for submittal

of a control plan? How do I comply with the increment of progress for awarding contracts? How do I comply with the increment of progress for initiating onsite construction? How do I comply with the increment of progress for completing onsite construction? and How do I comply with the increment of progress for achieving final compliance?)).

(3) The notification must be signed by the owner or operator of the municipal waste combustion unit.

§113.2104. When must I submit the notifications of achievement of increments of progress?

Notifications of the achievement of increments of progress must be postmarked no later than 10 days after the compliance date for the increment.

§113.2105. What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the executive director postmarked within 10 business days after the specified date in Table 1 in §113.2174 of this title (relating to Tables Relating to Division 3) for achieving that increment of progress. The notification must inform the executive director that you did not meet the increment. You must include in the notification an explanation of why the increment of progress was not met and your plan for meeting the increment as expeditiously as possible. You must continue to submit reports on the first day of each subsequent month until the increment of progress is met.

§113.2106. How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must complete two items:

(1) Submit the final control plan, including a description of the devices for air pollution control and process changes that you will use to comply with the emission limits and other requirements of this division.

(2) You must maintain a copy of the final control plan at the same location as the solid waste incineration unit.

§113.2107. How do I comply with the increment of progress for awarding contracts?

You must submit to the executive director a signed copy of the contracts awarded to initiate onsite construction, initiate onsite installation of emission control equipment, and incorporate process changes. Submit the copy of the contracts with the notification that the increment of progress has been achieved to the executive director. You do not need to include documents incorporated by reference or the attachments to the contracts.

§113.2108. How do I comply with the increment of progress for initiating onsite construction?

You must initiate onsite construction and installation of emission control equipment and initiate the process changes outlined in the final control plan.

§113.2109. How do I comply with the increment of progress for completing onsite construction?

You must complete onsite construction and installation of emission control equipment and complete process changes outlined in the final control plan.

§113.2110. How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete two items:

(1) Complete all process changes and complete retrofit construction as specified in the final control plan.

(2) Connect the air pollution control equipment with the municipal waste combustion unit identified in the final control plan and complete process changes to the municipal waste combustion unit so that if the affected municipal waste combustion unit is brought online, all necessary process changes and air pollution control equipment are operating as designed.

§113.2111. What must I do if I close my municipal waste combustion unit and then restart my municipal waste combustion unit?

(a) If you close your municipal waste combustion unit but will reopen it prior to the final compliance date in your state plan, you must meet the increments of progress specified in §113.2101 of

this title (relating to What are my requirements for meeting increments of progress and achieving final compliance?).

(b) If you close your municipal waste combustion unit but will restart it after your final compliance date, you must complete emission control retrofit and meet the emission limits and good combustion practices on the date your municipal waste combustion unit restarts operation.

§113.2112. What must I do if I plan to permanently close my municipal waste combustion unit and not restart it?

(a) If you plan to close your municipal waste combustion unit rather than comply with the state plan, you must submit a closure notification, including the date of closure, to the executive director by the date your final control plan is due.

(b) If the closure date is later than 1 year after the effective date of state plan approval, you must enter into a legally binding closure agreement with the executive director by the date your final control plan is due. The agreement must specify the date by which operation will cease.

§113.2113. What types of training must I do?

There are two types of required training:

(1) Training of operators of municipal waste combustion units using the United States

Environmental Protection Agency or a state-approved training course.

(2) Training of plant personnel using a plant-specific training course.

§113.2114. Who must complete the operator training course? By when?

(a) Three types of employees must complete the United States Environmental Protection Agency (EPA) or state-approved operator training course:

(1) Chief facility operators.

(2) Shift supervisors.

(3) Control room operators.

(b) Those employees must complete the operator training course by the later of three dates:

(1) One year after the effective date of state plan approval.

(2) Six months after your municipal waste combustion unit starts up.

(3) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(c) The requirement in subsection (a) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval.

(d) You may request that the EPA waive the requirement in subsection (a) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of state plan approval.

§113.2115. Who must complete the plant-specific training course?

All employees with responsibilities that affect how a municipal waste combustion unit operates must complete the plant-specific training course. Include at least six types of employees:

(1) Chief facility operators.

(2) Shift supervisors.

(3) Control room operators.

(4) Ash handlers.

(5) Maintenance personnel.

(6) Crane or load handlers.

§113.2116. What plant-specific training must I provide?

For plant-specific training, you must do four things:

(1) For training at a particular plant, develop a specific operating manual for that plant by the later of two dates:

(A) Six months after your municipal waste combustion unit starts up.

(B) One year after the effective date of state plan approval.

(2) Establish a program to review the plant-specific operating manual with people whose responsibilities affect the operation of your municipal waste combustion unit. Complete the initial review by the later of three dates:

(A) One year after the effective date of state plan approval.

(B) Six months after your municipal waste combustion unit starts up.

(C) The date before an employee assumes responsibilities that affect operation of the municipal waste combustion unit.

(3) Update your manual annually.

(4) Review your manual with staff annually.

§113.2117. What information must I include in the plant-specific operating manual?

You must include 11 items in the operating manual for your plant:

(1) A summary of all applicable requirements in this division.

(2) A description of the basic combustion principles that apply to municipal waste combustion units.

(3) Procedures for receiving, handling, and feeding municipal solid waste.

(4) Procedures to be followed during periods of startup, shutdown, and malfunction of the municipal waste combustion unit.

(5) Procedures for maintaining a proper level of combustion air supply.

(6) Procedures for operating the municipal waste combustion unit in compliance with the requirements contained in this division.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing carryover of particulate matter.

(9) Procedures for handling ash.

(10) Procedures for monitoring emissions from the municipal waste combustion unit.

(11) Procedures for recordkeeping and reporting.

§113.2118. Where must I keep the plant-specific operating manual?

You must keep your operating manual in an easily accessible location at your plant. It must be available for review or inspection by all employees who must review it and by the executive director.

§113.2119. What types of operator certification must the chief facility operator and shift supervisor obtain and by when must they obtain it?

(a) Each chief facility operator and shift supervisor must obtain and keep a current provisional operator certification from the American Society of Mechanical Engineers (QRO - 1 - 1994)

(incorporated by reference in 40 Code of Federal Regulations (CFR) §60.17(h)(1)) or a current provisional operator certification from your state certification program.

(b) Each chief facility operator and shift supervisor must obtain a provisional certification by the later of three dates:

(1) For Class I units, 12 months after the effective date of state plan approval. For Class II units, 18 months after the effective date of state plan approval.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

(c) Each chief facility operator and shift supervisor must take one of three actions:

(1) Obtain a full certification from the American Society of Mechanical Engineers or a state certification program in your state.

(2) Schedule a full certification exam with the American Society of Mechanical Engineers (QRO - 1 - 1994) (incorporated by reference in 40 CFR §60.17(h)(1)).

(3) Schedule a full certification exam with your state certification program.

(d) The chief facility operator and shift supervisor must obtain the full certification or be scheduled to take the certification exam by the later of the following dates:

(1) For Class I units, 12 months after the effective date of state plan approval. For Class II units, 18 months after the effective date of state plan approval.

(2) Six months after the municipal waste combustion unit starts up.

(3) Six months after they transfer to the municipal waste combustion unit or 6 months after they are hired to work at the municipal waste combustion unit.

§113.2120. After the required date for operator certification, who may operate the municipal waste combustion unit?

After the required date for full or provisional certification, you must not operate your municipal waste combustion unit unless one of four employees is on duty:

(1) A fully certified chief facility operator.

(2) A provisionally certified chief facility operator who is scheduled to take the full certification exam.

(3) A fully certified shift supervisor.

(4) A provisionally certified shift supervisor who is scheduled to take the full certification exam.

§113.2121. What if all the certified operators must be temporarily offsite?

If the certified chief facility operator and certified shift supervisor both are unavailable, a provisionally certified control room operator at the municipal waste combustion unit may fulfill the certified operator requirement. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, you must meet one of three criteria:

(1) When the certified chief facility operator and certified shift supervisor are both offsite for 12 hours or less and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the executive director.

(2) When the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without notice to, or approval by, the executive director. However, you must record the periods when the certified chief facility operator and certified shift supervisor are offsite and include the information in the annual report as specified under §113.2161(12) of this title (relating to What must I include in my annual report?).

(3) When the certified chief facility operator and certified shift supervisor are offsite for more than 2 weeks, and no other certified operator is onsite, the provisionally certified control room operator may perform those duties without prior notice to, or approval by, the executive director. However, you must take two actions:

(A) Notify the executive director in writing within 10 days after the end of the 2-week period. In the notice, state what caused the absence and what you are doing to ensure that a certified chief facility operator or certified shift supervisor is onsite.

(B) Submit a status report and corrective action summary to the executive director every 4 weeks following the initial notification. If the executive director notifies you that your status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the executive director withdraws the disapproval, municipal waste combustion unit operation may continue.

§113.2122. What are the operating practice requirements for my municipal waste combustion unit?

(a) You must not operate your municipal waste combustion unit at loads greater than 110 percent of the maximum demonstrated load of the municipal waste combustion unit (4-hour block average), as specified in §113.2100 of this title (relating to Definitions).

(b) You must not operate your municipal waste combustion unit so that the temperature at the inlet of the particulate matter control device exceeds 17 degrees Celsius above the maximum demonstrated temperature of the particulate matter control device (4-hour block average), as specified in §113.2100 of this title.

(c) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must maintain an 8-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins/furans or mercury test.

(d) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must evaluate total carbon usage for each calendar quarter. The total amount of carbon purchased and delivered to your municipal waste combustion plant must be at or above the required quarterly usage of carbon. At your option, you may choose to evaluate required quarterly carbon usage on a municipal waste combustion unit basis for each individual municipal waste combustion unit at your plant. Calculate the required quarterly usage of carbon using equation 4 or 5 in §113.2171(f) of this title (relating to What equations must I use?).

(e) Your municipal waste combustion unit is exempt from limits on load level, temperature at the inlet of the particulate matter control device, and carbon feed rate during any of five situations:

(1) During your annual tests for dioxins/furans.

(2) During your annual mercury tests (for carbon feed rate requirements only).

(3) During the 2 weeks preceding your annual tests for dioxins/furans.

(4) During the 2 weeks preceding your annual mercury tests (for carbon feed rate requirements only).

(5) Whenever the executive director permits you to do any of five activities:

(A) Evaluate system performance.

(B) Test new technology or control technologies.

(C) Perform diagnostic testing.

(D) Perform other activities to improve the performance of your municipal waste combustion unit.

(E) Perform other activities to advance the state of the art for emission controls for your municipal waste combustion unit.

§113.2123. What happens to the operating requirements during periods of startup, shutdown, and malfunction?

(a) The operating requirements of this division apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

§113.2124. What pollutants are regulated by this division?

Eleven pollutants, in four groupings, are regulated:

(1) Organics. Dioxins/furans.

(2) Metals.

(A) Cadmium.

(B) Lead.

(C) Mercury.

(D) Opacity.

(E) Particulate matter.

(3) Acid gases.

(A) Hydrogen chloride.

(B) Nitrogen oxides.

(C) Sulfur dioxide.

(4) Other.

(A) Carbon monoxide.

(B) Fugitive ash.

§113.2125. What emission limits must I meet? By when?

(a) After the date the initial stack test and continuous emission monitoring system evaluation are required or completed (whichever is earlier), you must meet the applicable emission limits specified in the four tables of this division:

(1) For Class I units, see Tables 2 and 3 in §113.2174 of this title (relating to Tables Relating to Division 3).

(2) For Class II units, see Table 4 in §113.2174 of this title.

(3) For carbon monoxide emission limits for both classes of units, see Table 5 in §113.2174 of this title.

(b) If your Class I municipal waste combustion unit began construction, reconstruction, or modification after June 26, 1987, then you must comply with the dioxins/furans and mercury emission limits specified in Table 2 in §113.2174 of this title as applicable by the later of the following two dates:

(1) One year after the effective date of state plan approval.

(2) One year after the issuance of a revised construction or operating permit, if a permit modification is required. Final compliance with the dioxins/furans limits must be achieved no later than December 6, 2005, even if the date 1 year after the issuance of a revised construction or operating permit is later than December 6, 2005.

§113.2126. What happens to the emission limits during periods of startup, shutdown, and malfunction?

(a) The emission limits of this division apply at all times except during periods of municipal waste combustion unit startup, shutdown, or malfunction.

(b) Each startup, shutdown, or malfunction must not last for longer than 3 hours.

(c) A maximum of 3 hours of test data can be dismissed from compliance calculations during periods of startup, shutdown, or malfunction.

(d) During startup, shutdown, or malfunction periods longer than 3 hours, emissions data cannot be discarded from compliance calculations and all provisions under 40 Code of Federal Regulations §60.11(d) apply.

§113.2127. What types of continuous emission monitoring must I perform?

To continuously monitor emissions, you must perform four tasks:

(1) Install continuous emission monitoring systems for certain gaseous pollutants.

(2) Make sure your continuous emission monitoring systems are operating correctly.

(3) Make sure you obtain the minimum amount of monitoring data.

(4) Install a continuous opacity monitoring system.

§113.2128. What continuous emission monitoring systems must I install for gaseous pollutants?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for

oxygen (or carbon dioxide), sulfur dioxide, and carbon monoxide. If you operate a Class I municipal waste combustion unit, also install, calibrate, maintain, and operate a continuous emission monitoring system for nitrogen oxides. Install the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and oxygen (or carbon dioxide) at the outlet of the air pollution control device.

(b) You must install, evaluate, and operate each continuous emission monitoring system according to the "Monitoring Requirements" in 40 Code of Federal Regulations (CFR) §60.13.

(c) You must monitor the oxygen (or carbon dioxide) concentration at each location where you monitor sulfur dioxide and carbon monoxide. Additionally, if you operate a Class I municipal waste combustion unit, you must also monitor the oxygen (or carbon dioxide) concentration at the location where you monitor nitrogen oxides.

(d) You may choose to monitor carbon dioxide instead of oxygen as a diluent gas. If you choose to monitor carbon dioxide, then an oxygen monitor is not required and you must follow the requirements in §113.2133 of this title (relating to What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?).

(e) If you choose to demonstrate compliance by monitoring the percent reduction of sulfur dioxide, you must also install continuous emission monitoring systems for sulfur dioxide and oxygen (or carbon dioxide) at the inlet of the air pollution control device.

(f) If you prefer to use an alternative sulfur dioxide monitoring method, such as parametric

monitoring, or cannot monitor emissions at the inlet of the air pollution control device to determine percent reduction, you can apply to the executive director for approval to use an alternative monitoring method under 40 CFR §60.13(i).

§113.2129. How are the data from the continuous emission monitoring systems used?

You must use data from the continuous emission monitoring systems for sulfur dioxide, nitrogen oxides, and carbon monoxide to demonstrate continuous compliance with the applicable emission limits specified in Tables 2, 3, 4, and 5 in §113.2174 of this title (relating to Tables Relating to Division 3). To demonstrate compliance for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, see §113.2140 of this title (relating to How are the stack test data used?).

§113.2130. How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure oxygen (or carbon dioxide), sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide.

(b) Complete your initial evaluation of the continuous emission monitoring systems within 180 days after your final compliance date.

(c) For initial and annual evaluations, collect data concurrently (or within 30 to 60 minutes) using your oxygen (or carbon dioxide) continuous emission monitoring system, your sulfur dioxide, nitrogen oxides, or carbon monoxide continuous emission monitoring systems, as appropriate, and the appropriate test methods specified in Table 6 in §113.2174 of this title (relating to Tables Relating to Division 3). Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in 40 Code of Federal Regulations (CFR) Part 60, Appendix B. Table 7 in §113.2174 of this title shows the performance specifications that apply to each continuous emission monitoring system.

(d) Follow the quality assurance procedures in Procedure 1 of 40 CFR Part 60, Appendix F for each continuous emission monitoring system. The procedures include daily calibration drift and quarterly accuracy determinations.

§113.2131. Am I exempt from any 40 Code of Federal Regulations Part 60, Appendix B or Appendix F requirements to evaluate continuous emission monitoring systems?

Yes, the accuracy tests for your sulfur dioxide continuous emission monitoring system require you to also evaluate your oxygen (or carbon dioxide) continuous emission monitoring system. Therefore, your oxygen (or carbon dioxide) continuous emission monitoring system is exempt from two requirements:

(1) Section 2.3 of Performance Specification 3 in 40 Code of Federal Regulations Part 60, Appendix B (relative accuracy requirement).

(2) Section 5.1.1 of 40 Code of Federal Regulations Part 60, Appendix F (relative accuracy test audit).

§113.2132. What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual evaluations of your continuous emission monitoring systems no more than 13 months after the previous evaluation was conducted.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in 40 Code of Federal Regulations Part 60, Appendix F.

§113.2133. What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?

You must establish the relationship between oxygen and carbon dioxide during the initial evaluation of your continuous emission monitoring systems. You may reestablish the relationship during annual evaluations. To establish the relationship use three procedures:

(1) Use United States Environmental Protection Agency (EPA) Reference Method 3A or 3B in 40 Code of Federal Regulations (CFR) Part 60, Appendix A to determine oxygen concentration at the location of your carbon dioxide monitor.

(2) Conduct at least three test runs for oxygen. Make sure each test run represents a 1-hour average and that sampling continues for at least 30 minutes in each hour.

(3) Use the fuel-factor equation in EPA Reference Method 3B in 40 CFR Part 60, Appendix A to determine the relationship between oxygen and carbon dioxide.

§113.2134. What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is the data collection requirement enforceable?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide are in parts per million by dry volume at 7 percent oxygen (or the equivalent carbon dioxide level). Use the 1-hour averages of oxygen (or carbon dioxide) data from your continuous emission monitoring system to determine the actual oxygen (or carbon dioxide) level and to calculate emissions at 7 percent oxygen (or the equivalent carbon dioxide level).

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. 40 Code of Federal Regulations §60.13(e)(2) requires your continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal

solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in subsections (a) through (c) of this section, you are in violation of the data collection requirement regardless of the emission level monitored, and you must notify the executive director according to §113.2161(5) of this title (relating to What must I include in my annual report?).

(e) If you do not obtain the minimum data required in subsections (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations and percent reductions in accordance with §113.2135 of this title (relating to How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?).

§113.2135. How do I convert my 1-hour arithmetic averages into appropriate averaging times and units?

(a) Use the equation in §113.2171(a) of this title (relating to What equations must I use?) to calculate emissions at 7 percent oxygen.

(b) Use United States Environmental Protection Agency (EPA) Reference Method 19 in 40 Code of Federal Regulations (CFR) Part 60, Appendix A, §4.3, to calculate the daily geometric average concentrations of sulfur dioxide emissions. If you are monitoring the percent reduction of sulfur dioxide, use EPA Reference Method 19 in 40 CFR Part 60, Appendix A, §5.4, to determine the daily geometric average percent reduction of potential sulfur dioxide emissions.

(c) If you operate a Class I municipal waste combustion unit, use EPA Reference Method 19 in 40 CFR Part 60, Appendix A, §4.1, to calculate the daily arithmetic average for concentrations of nitrogen oxides.

(d) Use EPA Reference Method 19 in 40 CFR Part 60, Appendix A, §4.1, to calculate the 4-hour or 24-hour daily block averages (as applicable) for concentrations of carbon monoxide.

§113.2136. What is required for my continuous opacity monitoring system and how are the data used?

(a) Install, calibrate, maintain, and operate a continuous opacity monitoring system.

(b) Install, evaluate, and operate each continuous opacity monitoring system according to 40 Code of Federal Regulations (CFR) §60.13.

(c) Complete an initial evaluation of your continuous opacity monitoring system according to Performance Specification 1 in 40 CFR Part 60, Appendix B. Complete the evaluation by 180 days after your final compliance date.

(d) Complete each annual evaluation of your continuous opacity monitoring system no more than 13 months after the previous evaluation.

(e) Use tests conducted according to United States Environmental Protection Agency Reference Method 9 in 40 CFR Part 60, Appendix A, as specified in §113.2142 of this title (relating to What test methods must I use to stack test?), to determine compliance with the opacity limit in Table 2 or 4 in §113.2174 of this title (relating to Tables Relating to Division 3). The data obtained from your continuous opacity monitoring system are not used to determine compliance with the opacity limit.

§113.2137. What additional requirements must I meet for the operation of my continuous emission monitoring systems and continuous opacity monitoring system?

Use the required span values and applicable performance specifications in Table 8 in §113.2174 of this title (relating to Tables Relating to Division 3).

§113.2138. What must I do if any of my continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements?

Refer to Table 8 in §113.2174 of this title (relating to Tables Relating to Division 3). It shows alternate methods for collecting data when systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data.

§113.2139. What types of stack tests must I conduct?

Conduct initial and annual stack tests to measure the emission levels of dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

§113.2140. How are the stack test data used?

You must use results of stack tests for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash to demonstrate compliance with the applicable emission limits in Tables 2 and 4 in §113.2174 of this title (relating to Tables Relating to Division 3). To demonstrate compliance for carbon monoxide, nitrogen oxides, and sulfur dioxide, see §113.2129 of this title (relating to How are the data from the continuous emission monitoring systems used?).

§113.2141. What schedule must I follow for the stack testing?

(a) Conduct initial stack tests for the pollutants listed in §113.2139 of this title (relating to What types of stack tests must I conduct?) by 180 days after your final compliance date.

(b) Conduct annual stack tests for the same pollutants after the initial stack test. Conduct each annual stack test no later than 13 months after the previous stack test.

§113.2142. What test methods must I use to stack test?

(a) Follow Table 8 in §113.2174 of this title (relating to Tables Relating to Division 3) to establish the sampling location and to determine pollutant concentrations, number of traverse points, individual test methods, and other specific testing requirements for the different pollutants.

(b) Make sure that stack tests for all the pollutants consist of at least three test runs, as specified in 40 Code of Federal Regulations (CFR) §60.8. Use the average of the pollutant emission concentrations from the three test runs to determine compliance with the applicable emission limits in Tables 2 and 4 in §113.2174 of this title.

(c) Obtain an oxygen (or carbon dioxide) measurement at the same time as your pollutant measurements to determine diluent gas levels, as specified in §113.2128 of this title (relating to What continuous emission monitoring systems must I install for gaseous pollutants?).

(d) Use the equations in §113.2171(a) of this title (relating to What equations must I use?) to calculate emission levels at 7 percent oxygen (or an equivalent carbon dioxide basis), the percent reduction in potential hydrogen chloride emissions, and the reduction efficiency for mercury emissions. See the individual test methods in Table 6 in §113.2174 of this title for other required equations.

(e) You can apply to the executive director for approval under 40 CFR §60.8(b) to use a reference method with minor changes in methodology, use an equivalent method, use an alternative method the results of which the executive director has determined are adequate for demonstrating compliance, waive the requirement for a performance test because you have demonstrated by other means that you are in compliance, or use a shorter sampling time or smaller sampling volume.

§113.2143. May I conduct stack testing less often?

(a) You may test less often if you own or operate a Class II municipal waste combustion unit and

if all stack tests for a given pollutant over 3 consecutive years show you comply with the emission limit. In that case, you are not required to conduct a stack test for that pollutant for the next 2 years. However, you must conduct another stack test within 36 months of the anniversary date of the third consecutive stack test that shows you comply with the emission limit. Thereafter, you must perform stack tests every 3rd year but no later than 36 months following the previous stack tests. If a stack test shows noncompliance with an emission limit, you must conduct annual stack tests for that pollutant until all stack tests over 3 consecutive years show compliance with the emission limit for that pollutant. The provision applies to all pollutants subject to stack testing requirements: dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash.

(b) You can test less often for dioxins/furans emissions if you own or operate a municipal waste combustion plant that meets two conditions. First, you have multiple municipal waste combustion units onsite that are subject to this division. Second, all those municipal waste combustion units have demonstrated levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for 2 consecutive years. In that case, you may choose to conduct annual stack tests on only one municipal waste combustion unit per year at your plant. The provision only applies to stack testing for dioxins/furans emissions.

(1) Conduct the stack test no more than 13 months following a stack test on any municipal waste combustion unit subject to this division at your plant. Each year, test a different municipal waste combustion unit subject to this division and test all municipal waste combustion units subject to this division in a sequence that you determine. Once you determine a testing sequence, it must

not be changed without approval by the executive director.

(2) If each annual stack test shows levels of dioxins/furans emissions less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, you may continue stack tests on only one municipal waste combustion unit subject to this division per year.

(3) If any annual stack test indicates levels of dioxins/furans emissions greater than 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, conduct subsequent annual stack tests on all municipal waste combustion units subject to this division at your plant. You may return to testing one municipal waste combustion unit subject to this division per year if you can demonstrate dioxins/furans emissions levels less than or equal to 15 nanograms per dry standard cubic meter (total mass) for Class I units, or 30 nanograms per dry standard cubic meter (total mass) for Class II units, for all municipal waste combustion units at your plant subject to this division for 2 consecutive years.

§113.2144. May I deviate from the 13-month testing schedule if unforeseen circumstances arise?

You may not deviate from the 13-month testing schedules specified in §113.2141(b) and §113.2143(b)(1) of this title (relating to What schedule must I follow for the stack testing? and May I conduct stack testing less often?) unless you apply to the executive director for an alternative schedule, and the executive director approves your request for alternate scheduling prior to the date on which you would otherwise have been required to conduct the next stack test.

§113.2145. Must I meet other requirements for continuous monitoring?

You must also monitor three operating parameters:

(1) Load level of each municipal waste combustion unit.

(2) Temperature of flue gases at the inlet of your particulate matter air pollution control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

§113.2146. How do I monitor the load of my municipal waste combustion unit?

(a) If your municipal waste combustion unit generates steam, you must install, calibrate, maintain, and operate a steam flowmeter or a feed water flowmeter and meet five requirements:

(1) Continuously measure and record the measurements of steam (or feed water) in kilograms (or pounds) per hour.

(2) Calculate your steam (or feed water) flow in 4-hour block averages.

(3) Calculate the steam (or feed water) flow rate using the method in "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1 - 1964 (R1991)," section 4 (incorporated by reference in 40 Code of Federal Regulations (CFR) §60.17(h)(2)).

(4) Design, construct, install, calibrate, and use nozzles or orifices for flow rate measurements, using the recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters," 6th Edition (1971), chapter 4 (incorporated by reference in 40 CFR §60.17(h)(3)).

(5) Before each dioxins/furans stack test, or at least once a year, calibrate all signal conversion elements associated with steam (or feed water) flow measurements according to the manufacturer instructions.

(b) If your municipal waste combustion units do not generate steam, or, if your municipal waste combustion units have shared steam systems and steam load cannot be estimated per unit, you must determine, to the satisfaction of the executive director, one or more operating parameters that can be used to continuously estimate load level (for example, the feed rate of municipal solid waste or refuse-derived fuel). You must continuously monitor the selected parameters.

§113.2147. How do I monitor the temperature of flue gases at the inlet of my particulate matter control device?

You must install, calibrate, maintain, and operate a device to continuously measure the temperature of the flue gas stream at the inlet of each particulate matter control device.

§113.2148. How do I monitor the injection rate of activated carbon?

If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, you must meet three requirements:

(1) Select a carbon injection system operating parameter that can be used to calculate carbon feed rate (for example, screw feeder speed).

(2) During each dioxins/furans and mercury stack test, determine the average carbon feed rate in kilograms (or pounds) per hour. Also, determine the average operating parameter level that correlates to the carbon feed rate. Establish a relationship between the operating parameter and the carbon feed rate in order to calculate the carbon feed rate based on the operating parameter level.

(3) Continuously monitor the selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. When calculating the 8-hour block average, do two things:

(A) Exclude hours when the municipal waste combustion unit is not operating.

(B) Include hours when the municipal waste combustion unit is operating but the carbon feed system is not working correctly.

§113.2149. What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?

(a) Where continuous parameter monitoring systems are used, obtain 1-hour arithmetic averages for three parameters:

(1) Load level of the municipal waste combustion unit.

(2) Temperature of the flue gases at the inlet of your particulate matter control device.

(3) Carbon feed rate if activated carbon is used to control dioxins/furans or mercury emissions.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal solid waste or refuse-derived fuel.

(d) If you do not obtain the minimum data required in subsections (a) through (c) of this section,

you are in violation of the data collection requirement, and you must notify the executive director according to §113.2161(5) of this title (relating to What must I include in my annual report?).

§113.2150. What records must I keep?

You must keep four types of records:

(1) Operator training and certification.

(2) Stack tests.

(3) Continuously monitored pollutants and parameters.

(4) Carbon feed rate.

§113.2151. Where must I keep my records and for how long?

(a) Keep all records onsite in paper copy or electronic format unless the executive director approves another format.

(b) Keep all records on each municipal waste combustion unit for at least 5 years.

(c) Make all records available for submittal to the executive director, or for onsite review by an

inspector.

§113.2152. What records must I keep for operator training and certification?

You must keep records of six items:

(1) Records of provisional certifications. Include three items:

(A) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are provisionally certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(B) Dates of the initial provisional certifications.

(C) Documentation showing current provisional certifications.

(2) Records of full certifications. Include three items:

(A) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who are fully certified by the American Society of Mechanical Engineers or an equivalent state-approved certification program.

(B) Dates of initial and renewal full certifications.

(C) Documentation showing current full certifications.

(3) Records showing completion of the operator training course. Include three items:

(A) For your municipal waste combustion plant, names of the chief facility operator, shift supervisors, and control room operators who have completed the United States Environmental Protection Agency or state municipal waste combustion operator training course.

(B) Dates of completion of the operator training course.

(C) Documentation showing completion of operator training course.

(4) Records of reviews for plant-specific operating manuals. Include three items:

(A) Names of persons who have reviewed the operating manual.

(B) Date of the initial review.

(C) Dates of subsequent annual reviews.

(5) Records of when a certified operator is temporarily offsite. Include two main items:

(A) If the certified chief facility operator and certified shift supervisor are offsite for more than 12 hours, but for 2 weeks or less, and no other certified operator is onsite, record the dates that the certified chief facility operator and certified shift supervisor were offsite.

(B) When all certified chief facility operators and certified shift supervisors are offsite for more than 2 weeks and no other certified operator is onsite, keep records of four items:

(i) Your notice that all certified persons are offsite.

(ii) The conditions that cause those people to be offsite.

(iii) The corrective actions you are taking to ensure a certified chief facility operator or certified shift supervisor is onsite.

(iv) Copies of the written reports submitted every 4 weeks that summarize the actions taken to ensure that a certified chief facility operator or certified shift supervisor will be onsite.

(6) Records of calendar dates. Include the calendar date on each record.

§113.2153. What records must I keep for stack tests?

For stack tests required under §113.2139 of this title (relating to What types of stack tests must I

conduct?), you must keep records of four items:

(1) The results of the stack tests for eight pollutants or parameters recorded in the appropriate units of measure specified in Table 2 or 4 in §113.2174 of this title (relating to Tables Relating to Division 3):

(A) Dioxins/furans.

(B) Cadmium.

(C) Lead.

(D) Mercury.

(E) Opacity.

(F) Particulate matter.

(G) Hydrogen chloride.

(H) Fugitive ash.

(2) Test reports including supporting calculations that document the results of all stack

tests.

(3) The maximum demonstrated load of your municipal waste combustion units and maximum temperature at the inlet of your particulate matter control device during all stack tests for dioxins/furans emissions.

(4) The calendar date of each record.

§113.2154. What records must I keep for continuously monitored pollutants or parameters?

You must keep records of eight items.

(1) Records of monitoring data. Document six parameters measured using continuous monitoring systems:

(A) All 6-minute average levels of opacity.

(B) All 1-hour average concentrations of sulfur dioxide emissions.

(C) For Class I municipal waste combustion units only, all 1-hour average concentrations of nitrogen oxides emissions.

(D) All 1-hour average concentrations of carbon monoxide emissions.

(E) All 1-hour average load levels of your municipal waste combustion unit.

(F) All 1-hour average flue gas temperatures at the inlet of the particulate matter control device.

(2) Records of average concentrations and percent reductions. Document five parameters:

(A) All 24-hour daily block geometric average concentrations of sulfur dioxide emissions or average percent reductions of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, all 24-hour daily arithmetic average concentrations of nitrogen oxides emissions.

(C) All 4-hour block or 24-hour daily block arithmetic average concentrations of carbon monoxide emissions.

(D) All 4-hour block arithmetic average load levels of your municipal waste combustion unit.

(E) All 4-hour block arithmetic average flue gas temperatures at the inlet of the particulate matter control device.

(3) Records of exceedances. Document three items:

(A) Calendar dates whenever any of the five pollutant or parameter levels recorded in paragraph (2) of this section or the opacity level recorded in paragraph (1)(A) of this section did not meet the emission limits or operating levels specified in this division.

(B) Reasons you exceeded the applicable emission limits or operating levels.

(C) Corrective actions you took, or are taking, to meet the emission limits or operating levels.

(4) Records of minimum data. Document three items:

(A) Calendar dates for which you did not collect the minimum amount of data required under §113.2134 and §113.2149 of this title (relating to What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems and is the data collection requirement enforceable? and What is the minimum amount of data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?). Record those dates for five types of pollutants and parameters:

(i) Sulfur dioxide emissions.

(ii) For Class I municipal waste combustion units only, nitrogen oxides

emissions.

(iii) Carbon monoxide emissions.

(iv) Load levels of your municipal waste combustion unit.

(v) Temperatures of the flue gases at the inlet of the particulate matter control device.

(B) Reasons you did not collect the minimum data.

(C) Corrective actions you took or are taking to obtain the required amount of data.

(5) Records of exclusions. Document each time you have excluded data from your calculation of averages for any of the following five pollutants or parameters and the reasons the data were excluded:

(A) Sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(C) Carbon monoxide emissions.

(D) Load levels of your municipal waste combustion unit.

(E) Temperatures of the flue gases at the inlet of the particulate matter control device.

(6) Records of drift and accuracy. Document the results of your daily drift tests and quarterly accuracy determinations according to Procedure 1 of 40 Code of Federal Regulations Part 60, Appendix F. Keep those records for the sulfur dioxide, nitrogen oxides (Class I municipal waste combustion units only), and carbon monoxide continuous emissions monitoring systems.

(7) Records of the relationship between oxygen and carbon dioxide. If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, document the relationship between oxygen and carbon dioxide, as specified in §113.2133 of this title (relating to What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?).

(8) Records of calendar dates. Include the calendar date on each record.

§113.2155. What records must I keep for municipal waste combustion units that use activated carbon?

For municipal waste combustion units that use activated carbon to control dioxins/furans or mercury emissions, you must keep records of five items:

(1) Records of average carbon feed rate. Document five items:

(A) Average carbon feed rate in kilograms (or pounds) per hour during all stack tests for dioxins/furans and mercury emissions. Include supporting calculations in the records.

(B) For the operating parameter chosen to monitor carbon feed rate, average operating level during all stack tests for dioxins/furans and mercury emissions. Include supporting data that document the relationship between the operating parameter and the carbon feed rate.

(C) All 8-hour block average carbon feed rates in kilograms (or pounds) per hour calculated from the monitored operating parameter.

(D) Total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include supporting documentation.

(E) Required quarterly usage of carbon for the municipal waste combustion plant, calculated using equation 4 or 5 in §113.2171(f) of this title (relating to What equations must I use?). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit basis, record the required quarterly usage for each municipal waste combustion unit at your plant. Include supporting calculations.

(2) Records of low carbon feed rates. Document three items:

(A) The calendar dates when the average carbon feed rate over an 8-hour block was less than the average carbon feed rates determined during the most recent stack test for dioxins/furans or mercury emissions (whichever has a higher feed rate).

(B) Reasons for the low carbon feed rates.

(C) Corrective actions you took or are taking to meet the 8-hour average carbon feed rate requirement.

(3) Records of minimum carbon feed rate data. Document three items:

(A) Calendar dates for which you did not collect the minimum amount of carbon feed rate data required under §113.2149 of this title (relating to What is the minimum amount of monitoring data I must collect with my continuous parameter monitoring systems and is the data collection requirement enforceable?).

(B) Reasons you did not collect the minimum data.

(C) Corrective actions you took or are taking to get the required amount of data.

(4) Records of exclusions. Document each time you have excluded data from your calculation of average carbon feed rates and the reasons the data were excluded.

(5) Records of calendar dates. Include the calendar date on each record.

§113.2156. What reports must I submit and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this division.

(b) Submit all reports on paper, postmarked on or before the submittal dates in §§113.2158, 113.2160, and 113.2163 of this title (relating to When must I submit the initial report?, When must I submit the annual report?, and If a semiannual report is required, when must I submit it?). If the executive director agrees, you may submit electronic reports, as specified in Chapter 19 of this title (relating to Electronic Reporting).

(c) Keep a copy of all reports required by §§113.2159, 113.2161, and 113.2164 of this title (relating to What must I include in my initial report?, What must I include in my annual report?, and What must I include in the semiannual out-of-compliance reports?) onsite for 5 years.

§113.2157. What are the appropriate units of measurement for reporting my data?

See Tables 2, 3, 4, and 5 in §113.2174 of this title (relating to Tables Relating to Division 3) for

appropriate units of measurement.

§113.2158. When must I submit the initial report?

As specified in 40 Code of Federal Regulations §60.7(c), submit your initial report by 180 days after your final compliance date.

§113.2159. What must I include in my initial report?

You must include seven items:

(1) The emission levels measured on the date of the initial evaluation of your continuous emission monitoring systems for all of the following five pollutants or parameters as recorded in accordance with §113.2154(2) of this title (relating to What records must I keep for continuously monitored pollutants or parameters?).

(A) The 24-hour daily geometric average concentration of sulfur dioxide emissions or the 24-hour daily geometric percent reduction of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, the 24-hour daily arithmetic average concentration of nitrogen oxides emissions.

(C) The 4-hour block or 24-hour daily arithmetic average concentration of carbon

monoxide emissions.

(D) The 4-hour block arithmetic average load level of your municipal waste combustion unit.

(E) The 4-hour block arithmetic average flue gas temperature at the inlet of the particulate matter control device.

(2) The results of the initial stack tests for eight pollutants or parameters (use appropriate units as specified in Table 2 or 4 in §113.2174 of this title (relating to Tables Relating to Division 3)):

(A) Dioxins/furans.

(B) Cadmium.

(C) Lead.

(D) Mercury.

(E) Opacity.

(F) Particulate matter.

(G) Hydrogen chloride.

(H) Fugitive ash.

(3) The test report that documents the initial stack tests including supporting calculations.

(4) The initial performance evaluation of your continuous emissions monitoring systems. Use the applicable performance specifications in 40 Code of Federal Regulations Part 60, Appendix B in conducting the evaluation.

(5) The maximum demonstrated load of your municipal waste combustion unit and the maximum demonstrated temperature of the flue gases at the inlet of the particulate matter control device. Use values established during your initial stack test for dioxins/furans emissions and include supporting calculations.

(6) If your municipal waste combustion unit uses activated carbon to control dioxins/furans or mercury emissions, the average carbon feed rates that you recorded during the initial stack tests for dioxins/furans and mercury emissions. Include supporting calculations as specified in §113.2155(1)(A) and (B) of this title (relating to What records must I keep for municipal waste combustion units that use activated carbon?).

(7) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in §113.2133 of this

title (relating to What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?).

§113.2160. When must I submit the annual report?

Submit the annual report no later than February 1 of each year that follows the calendar year in which you collected the data. If you have an operating permit for any unit under Title V of the Federal Clean Air Act, the permit may require you to submit semiannual reports. Title 40 Code of Federal Regulations Part 70 contains program requirements for permits.

§113.2161. What must I include in my annual report?

Summarize data collected for all pollutants and parameters regulated under this division. Your summary must include twelve items:

(1) The results of the annual stack test, using appropriate units, for eight pollutants, as recorded under §113.2153(1) of this title (relating to What records must I keep for stack tests?):

(A) Dioxins/furans.

(B) Cadmium.

(C) Lead.

(D) Mercury.

(E) Opacity.

(F) Particulate matter.

(G) Hydrogen chloride.

(H) Fugitive ash.

(2) A list of the highest average levels recorded, in the appropriate units. List those values for five pollutants or parameters:

(A) Sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(C) Carbon monoxide emissions.

(D) Load level of the municipal waste combustion unit.

(E) Temperature of the flue gases at the inlet of the particulate matter air pollution control device (4-hour block average).

(3) The highest 6-minute opacity level measured. Base the value on all 6-minute average opacity levels recorded by your continuous opacity monitoring system (§113.2154(1)(A) of this title (relating to What records must I keep for continuously monitored pollutants or parameters?)).

(4) For municipal waste combustion units that use activated carbon for controlling dioxins/furans or mercury emissions, include four records:

(A) The average carbon feed rates recorded during the most recent dioxins/furans and mercury stack tests.

(B) The lowest 8-hour block average carbon feed rate recorded during the year.

(C) The total carbon purchased and delivered to the municipal waste combustion plant for each calendar quarter. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant.

(D) The required quarterly carbon usage of your municipal waste combustion plant calculated using equation 4 or 5 in §113.2171(f) of this title (relating to What equations must I use?). If you choose to evaluate required quarterly usage for carbon on a municipal waste combustion unit

basis, record the required quarterly usage for each municipal waste combustion unit at your plant.

(5) The total number of days that you did not obtain the minimum number of hours of data for six pollutants or parameters. Include the reasons you did not obtain the data and corrective actions that you have taken to obtain the data in the future. Include data on:

(A) Sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(C) Carbon monoxide emissions.

(D) Load level of the municipal waste combustion unit.

(E) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(F) Carbon feed rate.

(6) The number of hours you have excluded data from the calculation of average levels (include the reasons for excluding it). Include data for six pollutants or parameters:

(A) Sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, nitrogen oxides emissions.

(C) Carbon monoxide emissions.

(D) Load level of the municipal waste combustion unit.

(E) Temperature of the flue gases at the inlet of the particulate matter air pollution control device.

(F) Carbon feed rate.

(7) A notice of your intent to begin a reduced stack testing schedule for dioxins/furans emissions during the following calendar year if you are eligible for alternative scheduling (§113.2143(a) or (b) of this title (relating to May I conduct stack testing less often?)).

(8) A notice of your intent to begin a reduced stack testing schedule for other pollutants during the following calendar year if you are eligible for alternative scheduling (§113.2143(a) of this title).

(9) A summary of any emission or parameter level that did not meet the limits specified

in this division.

(10) A summary of the data in paragraphs (1) through (4) of this section from the year preceding the reporting year which gives the executive director a summary of the performance of the municipal waste combustion unit over a 2-year period.

(11) If you choose to monitor carbon dioxide instead of oxygen as a diluent gas, documentation of the relationship between oxygen and carbon dioxide, as specified in §113.2133 of this title (relating to What must I do if I choose to monitor carbon dioxide instead of oxygen as a diluent gas?).

(12) Documentation of periods when all certified chief facility operators and certified shift supervisors are offsite for more than 12 hours.

§113.2162. What must I do if I am out of compliance with the requirements of this division?

You must submit a semiannual report on any recorded emission or parameter level that does not meet the requirements specified in this division.

§113.2163. If a semiannual report is required, when must I submit it?

(a) For data collected during the first half of a calendar year, submit your semiannual report by August 1 of that year.

(b) For data you collected during the second half of the calendar year, submit your semiannual report by February 1 of the following year.

§113.2164. What must I include in the semiannual out-of-compliance reports?

You must include three items in the semiannual report:

(1) For any of the following six pollutants or parameters that exceeded the limits specified in this division, include the calendar date they exceeded the limits, the averaged and recorded data for that date, the reasons for exceeding the limits, and your corrective actions:

(A) Concentration or percent reduction of sulfur dioxide emissions.

(B) For Class I municipal waste combustion units only, concentration of nitrogen oxides emissions.

(C) Concentration of carbon monoxide emissions.

(D) Load level of your municipal waste combustion unit.

(E) Temperature of the flue gases at the inlet of your particulate matter air pollution control device.

(F) Average 6-minute opacity level. The data obtained from your continuous opacity monitoring system are not used to determine compliance with the limit on opacity emissions.

(2) If the results of your annual stack tests (as recorded in §113.2153(1) of this title (relating to What records must I keep for stack tests?)) show emissions above the limits specified in Table 2 or 4 in §113.2174 of this title (relating to Tables Relating to Division 3) as applicable for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, include a copy of the test report that documents the emission levels and your corrective actions.

(3) For municipal waste combustion units that apply activated carbon to control dioxins/furans or mercury emissions, include two items:

(A) Documentation of all dates when the 8-hour block average carbon feed rate (calculated from the carbon injection system operating parameter) is less than the highest carbon feed rate established during the most recent mercury and dioxins/furans stack test (as specified in §113.2155(1)(A) of this title (relating to What records must I keep for municipal waste combustion units that use activated carbon?)). Include four items:

(i) Eight-hour average carbon feed rate.

(ii) Reasons for occurrences of low carbon feed rates.

(iii) The corrective actions you have taken to meet the carbon feed rate

requirement.

(iv) The calendar date.

(B) Documentation of each quarter when total carbon purchased and delivered to the municipal waste combustion plant is less than the total required quarterly usage of carbon. If you choose to evaluate total carbon purchased and delivered on a municipal waste combustion unit basis, record the total carbon purchased and delivered for each individual municipal waste combustion unit at your plant. Include five items:

(i) Amount of carbon purchased and delivered to the plant.

(ii) Required quarterly usage of carbon.

(iii) Reasons for not meeting the required quarterly usage of carbon.

(iv) The corrective actions you have taken to meet the required quarterly usage of carbon.

(v) The calendar date.

§113.2165. Can reporting dates be changed?

(a) If the executive director agrees, you may change the semiannual or annual reporting dates.

(b) See 40 Code of Federal Regulations §60.19(c) for procedures to seek approval to change your reporting date.

§113.2166. What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor.

§113.2167. What is yard waste?

Yard waste is grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(1) Construction, renovation, and demolition wastes that are exempt from the definition of "Municipal solid waste" in §113.2100 of this title (relating to Definitions).

(2) Clean wood that is exempt from the definition of "Municipal solid waste" in §113.2100 of this title.

§113.2168. What are the emission limits for air curtain incinerators that burn 100 percent yard waste?

If your air curtain incinerator combusts 100 percent yard waste, you must only meet the emission limits in this section.

(1) By 180 days after your final compliance date, you must meet two limits:

(A) The opacity limit is 10 percent (6-minute average) for air curtain incinerators that can combust at least 35 tons per day of municipal solid waste and no more than 250 tons per day of municipal solid waste.

(B) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(2) Except during malfunctions, the requirements of this division apply at all times. Each malfunction must not exceed 3 hours.

§113.2169. How must I monitor opacity for air curtain incinerators that burn 100 percent yard waste?

(a) Use United States Environmental Protection Agency Reference Method 9 in 40 Code of Federal Regulations (CFR) Part 60, Appendix A to determine compliance with the opacity limit.

(b) Conduct an initial test for opacity as specified in 40 CFR §60.8.

(c) After the initial test for opacity, conduct annual tests no more than 13 calendar months following the date of your previous test.

§113.2170. What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent yard waste?

(a) Provide a notice of construction that includes four items:

(1) Your intent to construct the air curtain incinerator.

(2) Your planned initial startup date.

(3) Types of fuels you plan to combust in your air curtain incinerator.

(4) The capacity of your incinerator, including supporting capacity calculations, as specified in §113.2171(d) and (e) of this title (relating to What equations must I use?).

(b) Keep records of results of all opacity tests onsite in either paper copy or electronic format unless the executive director approves another format.

(c) Keep all records for each incinerator for at least 5 years.

(d) Make all records available for submittal to the executive director or for onsite review by an inspector.

(e) Submit the results (each 6-minute average) of the opacity tests by February 1 of the year following the year of the opacity emission test.

(f) Submit reports as a paper copy on or before the applicable submittal date. If the executive director agrees, you may submit reports on electronic media.

(g) If the executive director agrees, you may change the annual reporting dates (see 40 Code of Federal Regulations §60.19(c)).

(h) Keep a copy of all reports onsite for a period of 5 years.

§113.2171. What equations must I use?

(a) Concentration correction to 7 percent oxygen. Correct any pollutant concentration to 7 percent oxygen using equation 1 of this section:

Figure: 30 TAC §113.2171(a)

$$C_{7\%} = C_{unc} * (13.9) * \left(\frac{1}{(20.9 - CO_2)} \right) \quad \text{(Eq. 1)}$$

Where:

$C_{7\%}$ = concentration corrected to 7 percent oxygen.

C_{unc} = uncorrected pollutant concentration.

CO_2 = concentration of oxygen (percent).

(b) Percent reduction in potential mercury emissions. Calculate the percent reduction in potential mercury emissions ($\%P_{Hg}$) using equation 2 of this section:

Figure: 30 TAC §113.2171(b)

$$\%P_{Hg} = (E_i - E_o) * \left(\frac{100}{E_i} \right) \quad \text{(Eq. 2)}$$

Where:

$\%P_{Hg}$ = percent reduction of potential mercury emissions

E_i = mercury emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = mercury emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(c) Percent reduction in potential hydrogen chloride emissions. Calculate the percent reduction in potential hydrogen chloride emissions ($\%P_{HCl}$) using equation 3 of this section:

Figure: 30 TAC §113.2171(c)

$$\%P_{HCl} = (E_i - E_o) * \left(\frac{100}{E_i} \right) \text{ (Eq. 3)}$$

Where:

$\%P_{HC1}$ = percent reduction of the potential hydrogen chloride emissions

E_i = hydrogen chloride emission concentration as measured at the air pollution control device inlet, corrected to 7 percent oxygen, dry basis

E_o = hydrogen chloride emission concentration as measured at the air pollution control device outlet, corrected to 7 percent oxygen, dry basis

(d) Capacity of a municipal waste combustion unit. For a municipal waste combustion unit that can operate continuously for 24-hour periods, calculate the municipal waste combustion unit capacity based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods:

(1) For municipal waste combustion units with a design based on heat input capacity, calculate the maximum charging rate based on the maximum heat input capacity and one of two heating values:

(A) If your municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).

(B) If your municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(2) For municipal waste combustion units with a design not based on heat input capacity, use the maximum designed charging rate.

(e) Capacity of a batch municipal waste combustion unit. Calculate the capacity of a batch municipal waste combustion unit as the maximum design amount of municipal solid waste it can charge per batch multiplied by the maximum number of batches it can process in 24 hours. Calculate the maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the municipal waste combustion unit can combust 24/16, or 1.5 batches, in 24 hours.

(f) Quarterly carbon usage. If you use activated carbon to comply with the dioxins/furans or mercury limits, calculate the required quarterly usage of carbon using equation 4 of this section for plant basis or equation 5 of this section for unit basis:

(1) Plant basis.

Figure: 30 TAC §113.2171(f)(1)

$$C = \sum_{i=1}^{n} f_i * h_i \quad \text{(Eq. 4)}$$

Where:

C = required quarterly carbon usage for the plant in kilograms (or pounds).

f_i = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h_i = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

n = number of municipal waste combustion units, i, located at your plant.

(2) Unit basis.

Figure: 30 TAC §113.2171(f)(2)

$$C = f * h \quad \text{(Eq. 5)}$$

Where:

C = required quarterly carbon usage for the unit in kilograms (or pounds).

f = required carbon feed rate for the municipal waste combustion unit in kilograms (or pounds) per hour. That is the average carbon feed rate during the most recent mercury or dioxins/furans stack tests (whichever has a higher feed rate).

h = number of hours the municipal waste combustion unit was in operation during the calendar quarter (hours).

§113.2172. Does this subpart require me to obtain an operating permit under Title V of the Federal Clean Air Act?

Yes. If you are subject to this division on the effective date of state plan approval or any time thereafter, you are required to apply for and obtain a Title V operating permit.

§113.2173. When must I submit a Title V permit application for my existing small municipal waste combustion unit?

(a) You must submit a complete Title V permit application within 12 months of when your source

first becomes subject to a Title V permitting program. See 40 Code of Federal Regulations (CFR) §70.3(a) and (b) and §70.5(a)(1). As provided in the Federal Clean Air Act, §503(c), permitting authorities may establish permit application deadlines earlier than the 12-month deadline.

(b) If your existing small municipal waste combustion unit is not subject to an earlier permit application deadline, a complete Title V permit application must be submitted not later than the date 36 months after promulgation of 40 CFR Part 60, Subpart BBBB (December 6, 2003), or by the effective date of the applicable state, tribal, or federal operating permits program, whichever is later. For any existing small municipal waste combustion unit not subject to an earlier application deadline, this final application deadline applies regardless of when the federal plan is effective, or when the relevant state or tribal Federal Clean Air Act, §111(d)/129 plan is approved by the United States Environmental Protection Agency and becomes effective. See the Federal Clean Air Act, §§129(e), 503(c), 503(d), and 502(a).

(c) A "complete" Title V permit application is one that has been determined or deemed complete by the relevant permitting authority under the Federal Clean Air Act, §503(d) and 40 CFR §70.5(a)(2). You must submit a complete permit application by the relevant application deadline in order to operate after this date in compliance with federal law. See the Federal Clean Air Act, §503(d) and §502(a); 40 CFR §70.7(b).

§113.2174. Tables Relating to Division 3.

(a) Table 1 of this subsection specifies the compliance schedules and increments of progress for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(a)

Table 1. Compliance Schedules and Increments of Progress

Affected Units	Increment 1 (Submit Final Control Plan)	Increment 2 (Award Contracts)	Increment 3 (Begin Onsite Construction)	Increment 4 (Complete Onsite Construction)	Increment 5 (Final Compliance)
1. All Class I Units [a] [b]	Within 60 days from the date the TCEQ publishes notice in the *Texas Register* of state plan approval	No later than 18 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval	No later than 24 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval	No later than 34 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval	No later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval[b]
2. All Class II Units[c]	Within 60 days from the date the TCEQ publishes notice in the *Texas Register* of state plan approval	N/A	N/A	N/A	No later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval

[a]Class I units mean small municipal waste combustion units subject to this division that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.

[b]For Class I units that began construction, reconstruction, or modification after June 26, 1987, comply with the dioxins/furans and mercury limits by the later of two dates:

1. One year after the effective date of state plan approval.

2. One year after the issuance of a revised construction or operating permit, if a permit modification is required.

3. Final compliance with the dioxins/furans limits must be achieved no later than December 6, 2005, even if the date one year after the issuance of a revised construction or operating permit is after December 6, 2005.

[c]Class II units mean all small municipal combustion units subject to this division that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.

(b) Table 2 of this subsection specifies the Class I emission limits for existing small municipal waste combustion units for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(b)

Table 2. Class I Emission Limits for Existing Small Municipal Waste Combustion Units[a]

Pollutant	Emission Limits[b]	Averaging Times	Compliance Method
1. Organics: Dioxins/Furans (total mass basis)	30 nanograms per dry standard cubic meter for municipal waste combustion units that do not employ an electrostatic precipitator-based emission control system -or- 60 nanograms per dry standard cubic meter for municipal waste combustion units that employ an electrostatic precipitator-based emission control system	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals: Cadmium	0.040 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Lead	0.490 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Mercury	0.080 milligrams per dry standard cubic meter 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
Opacity	10 percent	Thirty 6-minute averages	Stack test
Particulate Matter	27 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid Gases: Hydrogen Chloride	31 parts per million by dry volume 95 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
Sulfur Dioxide	31 parts per million by dry volume 75 percent reduction of potential sulfur dioxide emissions	24-hour daily block geometric average concentration percent reduction	Continuous emission monitoring system

4. Other: Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a]Class I units mean small municipal waste combustion units subject to this division that are located at municipal waste combustion plants with an aggregate plan combustion capacity greater than 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.
[b]All emission limits (except for opacity) are measured at 7 percent oxygen.

(c) Table 3 of this subsection specifies the Class I nitrogen oxides emission limits for existing small municipal waste combustion units for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(c)

Table 3. Class I Nitrogen Oxides Emission Limits for Existing Small Municipal Waste Combustion Units[a,b,c]

Municipal Waste Combustion Technology	Limits for Class I Municipal Waste Combustion Units
1. Mass burn waterwall	200 parts per million by dry volume
2. Mass burn rotary waterwall	170 parts per million by dry volume
3. Refuse-derived fuel	250 parts per million by dry volume
4. Fluidized bed	220 parts per million by dry volume
5. Mass burn refractory	350 parts per million by dry volume
6. Modular excess air	190 parts per million by dry volume
7. Modular starved air	380 parts per million by dry volume

[a]Class I units mean small municipal waste combustion units subject to this division that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.
[b]Nitrogen oxides limits are measured at 7 percent oxygen.
[c]All limits are 24-hour daily block arithmetic average concentration. Compliance is determined for Class I units by continuous emission monitoring systems.

(d) Table 4 of this subsection specifies the Class II emission limits for existing small municipal waste combustion units for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(d)

Table 4. Class II Emission Limits for Existing Small Municipal Waste Combustion Unit[a]

Pollutant	Emission Limits[b]	Averaging Times	Compliance Method
1. Organics: Dioxins/Furans (total mass basis)	125 nanograms per dry standard cubic meter	3-run average (minimum run duration is 4 hours)	Stack test
2. Metals: Cadmium	0.10 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Lead	1.6 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
Mercury	0.080 milligrams per dry standard cubic meter 85 percent reduction of potential mercury emissions	3-run average (run duration specified in test method)	Stack test
Opacity	10 percent	Thirty 6-minute averages	Stack test
Particulate Matter	70 milligrams per dry standard cubic meter	3-run average (run duration specified in test method)	Stack test
3. Acid Gases: Hydrogen Chloride	250 parts per million by volume -or- 50 percent reduction of potential hydrogen chloride emissions	3-run average (minimum run duration is 1 hour)	Stack test
Sulfur Dioxide	77 parts per million by dry volume -or- 50 percent reduction of potential sulfur dioxide emissions	24-hour daily block geometric average concentration -or- percent reduction	Continuous emission monitoring system
4. Other: Fugitive Ash	Visible emissions for no more than 5 percent of hourly observation period	Three 1-hour observation periods	Visible emission test

[a]Class II units mean all small municipal combustion units subject to this division that are located at municipal waste combustion plants with aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.
[b]All emission limits (except for opacity) are measured at 7 percent oxygen.
[c]No monitoring, testing, recordkeeping or reporting is required to demonstrate compliance with the nitrogen oxides limit for Class II units.

(e) Table 5 of this subsection specifies the carbon monoxide emission limits for existing small municipal waste combustion units for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(e)

Table 5. Carbon Monoxide Emission Limits for Existing Small Municipal Waste Combustion Units

Municipal Waste Combustion Unit	Carbon Monoxide Limits[a]	Averaging Times[b]
1. Fluidized bed	100 parts per million by dry volume	4-hour
2. Fluidized bed, mixed fuel, (wood/refuse-derived fuel)	200 parts per million by dry volume	24-hour[c]
3. Mass burn rotary refractory	100 parts per million by dry volume	4-hour
4. Mass burn rotary waterwall	250 parts per million by dry volume	24-hour
5. Mass burn waterwall and refractory	100 parts per million by dry volume	4-hour
6. Mixed fuel-fired, (pulverized coal/refuse-derived fuel)	150 parts per million by dry volume	4-hour
7. Modular starved-air and excess air	50 parts per million by dry volume	4-hour
8. Spreader stoker, mixed fuel-fired (coal/refuse-derived fuel)	200 parts per million by dry volume	24-hour daily
9. Stoker, refuse-derived fuel	200 parts per million by dry volume	24-hour daily

[a]All emission limits (except for opacity) are measured at 7 percent oxygen. Compliance is determined by continuous emission monitoring systems.
[b]Block averages, arithmetic mean. See §113.2100 of this title for definitions.
[c]24-hour block average, geometric mean.

(f) Table 6 of this subsection specifies the requirements for validating continuous emission monitoring systems for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(f)

Table 6. Requirements for Validating Continuous Emission Monitoring Systems (CEMS)

Continuous Emission Monitoring Systems	Method in 40 CFR Part 60, Appendix A to Validate Pollutant Concentration Levels	Method in 40 CFR Part 60, Appendix A to Measure Oxygen (or Carbon Dioxide)
1. Nitrogen Oxides (Class I units only)[a]	Method 7, 7A, 7B, 7C, 7D, or 7E	Method 3 or 3A
2. Sulfur Dioxide	Method 6 or 6C	Method 3 or 3A
3. Carbon Monoxide	Method 10, 10A, or 10B	Method 3 or 3A

[a]Class I units mean small municipal waste combustion units subject to this division that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See §113.2100 of this title for definitions.

(g) Table 7 of this subsection specifies the requirements for continuous emission monitoring systems for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(g)

Table 7. Requirements for Continuous Emission Monitoring Systems (CEMS)

Pollutant	Span Values for CEMS	Performance Specifications (P.S.) in 40 CFR Part 60, Appendix B for your CEMS	If Needed to Meet Minimum Data Requirements, use the Following Alternate Methods in 40 CFR Part 60, Appendix A to Collect Data
1. Opacity	100 percent opacity	P.S. 1	Method 9
2. Nitrogen Oxides (Class I units only)	Control device outlet: 125 percent of the maximum expected hourly potential nitrogen oxides emissions of the municipal waste combustion unit	P.S. 2	Method 7E
3. Sulfur Dioxide	Inlet to control device: 125 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit Control device outlet: 50 percent of the maximum expected hourly potential sulfur dioxide emissions of the municipal waste combustion unit	P.S. 2	Method 6C
4. Carbon Monoxide	125 percent of the maximum expected hourly potential carbon monoxide emissions of the municipal waste combustion unit	P.S. 4A	Method 10 with alternative interference trap
5. Oxygen or Carbon Dioxide	25 percent oxygen or 25 percent carbon dioxide	P.S. 3	Method 3A or 3B

(h) Table 8 of this subsection specifies the requirements for stack tests for Division 3 of this subchapter.

Figure: 30 TAC §113.2174(h)

Table 8. Requirements for Stack Tests

Pollutant	Method in 40 CFR Part 60, Appendix A to Determine Sampling Location	Method in 40 CFR Part 60, Appendix A to Measure Pollutant Concentration	Also Note the Following Information
1. Organics: Dioxins/Furans	Method 1	Method 23[a]	The minimum sampling time must be 4 hours per test run while the municipal waste combustion unit is operating at full load
2. Metals: Cadmium	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load
Lead	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load
Mercury	Method 1	Method 29[a]	Compliance testing must be performed while the municipal waste combustion unit is operating at full load
Opacity	Method 9	Method 9	Use Method 9 to determine compliance with opacity limits. 3-hour observation period (thirty 6-minute averages)
Particulate Matter	Method 1	Method 5 or 29	The minimum sample volume must be 1.0 cubic meters. The probe and filter holder heating systems in the sample train must be set to provide a gas temperature no

			greater than 160 ±14°C. The minimum sampling time is 1 hour
3. Acid Gases[b] Hydrogen Chloride	Method 1	Method 26 or 26A[a]	Test runs must be at least 1 hour long while the municipal waste combustion unit is operating at full load
4. Other[b] Fugitive Ash	Not applicable	Method 22 (visible emissions)	The three 1-hour observation period must include periods when the facility transfers fugitive ash from the municipal waste combustion unit to the area where the fugitive ash is stored or loaded into containers or trucks

[a]Must simultaneously measure oxygen (or carbon dioxide) using Method 3A or 3B in 40 CFR Part 60, Appendix A.
[b]Use CEMS to test sulfur dioxide, nitrogen oxide, and carbon monoxide. Stack tests are not required except for quality assurance requirements in 40 CFR Part 60, Appendix F.

SUBCHAPTER D: DESIGNATED FACILITIES AND POLLUTANTS

DIVISION 4: EMISSIONS GUIDELINES AND COMPLIANCE TIMES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE NOVEMBER 30, 1999

§§113.2200 - 113.2261

STATUTORY AUTHORITY

The new sections are proposed under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The new sections are also proposed under Texas Health and Safety Code, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act. The new sections are also proposed under the Texas Water Code, §7.002, Enforcement Authority, which authorizes the commission to institute legal

proceedings to compel compliance; §7.032, Injunctive Relief, which provides that injunctive relief may be sought by the executive director; and §7.302, Grounds for Revocation or Suspension of Permit, which provides authority to the commission to revoke or suspend any air quality permit.

The proposed new sections implement Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.2200. Definitions.

Terms used but not defined in this division are defined in the Federal Clean Air Act and 40 Code of Federal Regulations Part 60, Subparts A and B.

(1) Administrator - The administrator of the United States Environmental Protection Agency or his/her authorized representative or administrator of a state air pollution control agency.

(2) Agricultural waste - Vegetative agricultural materials such as nut and grain hulls and chaff (e.g., almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations.

(3) Air curtain incinerator - An incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and

controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(4) Auxiliary fuel - Natural gas, liquified petroleum gas, fuel oil, or diesel fuel.

(5) Bag leak detection system - An instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (i.e., baghouse) 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 principle to monitor relative particulate matter loadings.

(6) Calendar quarter -Three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

(7) Calendar year - 365 consecutive days starting on January 1 and ending on December 31.

(8) Chemotherapeutic waste - Waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(9) Clean lumber - Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(10) Commercial and industrial solid waste incineration (CISWI) unit - Any combustion device that combusts commercial and industrial waste, as defined in this division. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(A) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(11) Commercial and industrial waste - Solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(12) Contained gaseous material - Gases that are in a container when that container is combusted.

(13) Cyclonic barrel burner - A combustion device for waste materials that is attached to a 55 gallon, open-head drum. The device consists of a lid, which fits onto and encloses the drum, and a blower that forces combustion air into the drum in a cyclonic manner to enhance the mixing of waste material and air.

(14) Deviation - Any instance in which an affected source subject to this division, or an owner or operator of such a source:

(A) Fails to meet any requirement or obligation established by this division, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements;

(B) Fails to meet any term or condition that is adopted to implement an applicable requirement in this division and that is included in the operating permit for any affected source required to obtain such a permit; or

(C) Fails to meet any emission limitation, operating limit, or operator qualification and accessibility requirement in this division during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this division.

(15) Dioxins/furans - Tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

(16) Discard - For purposes of this division, only, burned in an incineration unit without energy recovery.

(17) Drum reclamation unit - A unit that burns residues out of drums (e.g., 55 gallon drums) so that the drums can be reused.

(18) Energy recovery - The process of recovering thermal energy from combustion for useful purposes such as steam generation or process heating.

(19) Fabric filter - An add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse.

(20) Low-level radioactive waste - Waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 United States Code, §2014(e)(2)).

(21) Malfunction - Any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

(22) Modification or modified commercial and industrial solid waste incineration

(CISWI) unit - A CISWI unit you have changed later than June 1, 2001, and that meets one of two criteria:

(A) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including the cost of land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

(B) Any physical change in the CISWI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which the Federal Clean Air Act, §111 or §129 has established standards.

(23) Part reclamation unit - A unit that burns coatings off parts (e.g., tools, equipment) so that the parts can be reconditioned and reused.

(24) Particulate matter - Total particulate matter emitted from commercial and industrial solid waste incineration units as measured by Method 5 or Method 29 of 40 Code of Federal Regulations Part 60, Appendix A.

(25) Pathological waste - Waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

(26) Rack reclamation unit - A unit that burns the coatings off racks used to hold small items for application of a coating. The unit burns the coating overspray off the rack so the rack can be reused.

(27) Reconstruction - Rebuilding a commercial and industrial solid waste incineration (CISWI) unit and meeting two criteria:

(A) The reconstruction begins on or after June 1, 2001.

(B) The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

(28) Refuse-derived fuel - A type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(A) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(B) Pelletized refuse-derived fuel.

(29) Shutdown - The period of time after all waste has been combusted in the primary

chamber.

(30) Solid waste - Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under the Federal Water Pollution Control Act, §402, as amended (33 United States Code (USC), §1342), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 USC, §2014). For purposes of this division, only, solid waste does not include the waste burned in the fifteen types of units described in 40 Code of Federal Regulations §60.2555.

(31) Standard conditions - When referring to units of measure, a temperature of 68 degrees Fahrenheit (20 degrees Celsius) and a pressure of 1 atmosphere (101.3 kilopascals).

(32) Startup period - The period of time between the activation of the system and the first charge to the unit.

(33) Wet scrubber - An add-on air pollution control device that utilizes an aqueous or alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

(34) Wood waste - Untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

(A) Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

(B) Construction, renovation, or demolition wastes.

(C) Clean lumber.

§113.2201. What are my requirements for meeting increments of progress and achieving final compliance?

If you plan to achieve compliance more than 1 year following the effective date of state plan approval, you must meet the two increments of progress specified in paragraphs (1) and (2) of this section.

(1) Submit a final control plan.

(2) Achieve final compliance.

§113.2202. When must I complete each increment of progress?

Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4) specifies compliance dates for each of the increments of progress.

§113.2203. What must I include in the notifications of achievement of increments of progress?

Your notification of achievement of increments of progress must include the three items specified in paragraphs (1) through (3) of this section.

(1) Notification that the increment of progress has been achieved.

(2) Any items required to be submitted with each increment of progress.

(3) Signature of the owner or operator of the commercial and industrial solid waste incineration unit.

§113.2204. When must I submit the notifications of achievement of increments of progress?

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

§113.2205. What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the executive director postmarked within 10 business days after the date for that increment of progress in Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4). You must inform the executive director that you did not meet the increment, and you must continue to submit reports each subsequent calendar month until the increment of progress is met.

§113.2206. How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must satisfy the two requirements specified in paragraphs (1) and (2) of this section.

(1) Submit the final control plan that includes the five items described in subparagraphs (A) through (E) of this paragraph.

(A) A description of the devices for air pollution control and process changes that you will use to comply with the emission limitations and other requirements of this division.

(B) The type(s) of waste to be burned.

(C) The maximum design waste burning capacity.

(D) The anticipated maximum charge rate.

(E) If applicable, the petition for site-specific operating limits under §113.2222 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?).

(2) Maintain an onsite copy of the final control plan.

§113.2207. How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected commercial and industrial solid waste incineration unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

§113.2208. What must I do if I close my commercial and industrial solid waste incineration unit and then restart it?

(a) If you close your commercial and industrial solid waste incineration (CISWI) unit but will restart it prior to the final compliance date in your state plan, you must meet the increments of progress specified in §113.2201 of this title (relating to What are my requirements for meeting increments of progress and achieving final compliance?).

(b) If you close your CISWI unit but will restart it after your final compliance date, you must complete emission control retrofits and meet the emission limitations and operating limits on the date

your unit restarts operation.

§113.2209. What must I do if I plan to permanently close my commercial and industrial solid waste incineration unit and not restart it?

If you plan to close your commercial and industrial solid waste incineration unit rather than comply with the state plan, submit a closure notification, including the date of closure, to the executive director by the date your final control plan is due.

§113.2210. What is a waste management plan?

A waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.

§113.2211. When must I submit my waste management plan?

You must submit a waste management plan no later than the date specified in Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4) for submittal of the final control plan.

§113.2212. What should I include in my waste management plan?

A waste management plan must include consideration of the reduction or separation of waste-

stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The plan must identify any additional waste management measures, and the source must implement those measures considered practical and feasible, based on the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other environmental or energy impacts they might have.

§113.2213. What are the operator training and qualification requirements?

(a) No commercial and industrial solid waste incineration (CISWI) unit can be operated unless a fully trained and qualified CISWI unit operator is accessible, either at the facility or can be at the facility within 1 hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified CISWI unit operators are temporarily not accessible, you must follow the procedures in §113.2219 of this title (relating to What if all the qualified operators are temporarily not accessible?).

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in subsection (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (1) through (3) of this subsection.

(1) Training on the eleven subjects listed in subparagraphs (A) through (K) of this paragraph.

(A) Environmental concerns, including types of emissions.

(B) Basic combustion principles, including products of combustion.

(C) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures.

(D) Combustion controls and monitoring.

(E) Operation of air pollution control equipment and factors affecting performance (if applicable).

(F) Inspection and maintenance of the incinerator and air pollution control devices.

(G) Actions to correct malfunctions or conditions that may lead to malfunction.

(H) Bottom and fly ash characteristics and handling procedures.

(I) Applicable federal, state, and local regulations, including Occupational Safety and Health Administration workplace standards.

(J) Pollution prevention.

(K) Waste management practices.

(2) An examination designed and administered by the instructor.

(3) Written material covering the training course topics that can serve as reference material following completion of the course.

§113.2214. When must the operator training course be completed?

The operator training course must be completed by the later of the three dates specified in paragraphs (1) through (3) of this section.

(1) The final compliance date (Increment 2).

(2) Six months after commercial and industrial solid waste incineration (CISWI) unit startup.

(3) Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

§113.2215. How do I obtain my operator qualification?

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under §113.2213(b) of this title (relating to What are the operator training and qualification requirements?).

(b) Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under §113.2213(c)(2) of this title.

§113.2216. How do I maintain my operator qualification?

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the five topics described in paragraphs (1) through (5) of this section.

(1) Update of regulations.

(2) Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

(3) Inspection and maintenance.

(4) Responses to malfunctions or conditions that may lead to malfunction.

(5) Discussion of operating problems encountered by attendees.

§113.2217. How do I renew my lapsed operator qualification?

You must renew a lapsed operator qualification by one of the two methods specified in paragraphs (1) and (2) of this section.

(1) For a lapse of less than 3 years, you must complete a standard annual refresher course described in §113.2216 of this title (relating to How do I maintain my operator qualification?).

(2) For a lapse of 3 years or more, you must repeat the initial qualification requirements in §113.2215(a) of this title (relating to How do I obtain my operator qualification?).

§113.2218. What site-specific documentation is required?

(a) Documentation must be available at the facility and readily accessible for all commercial and industrial solid waste incineration (CISWI) unit operators that addresses the ten topics described in paragraphs (1) through (10) of this subsection. You must maintain this information and the training records required by subsection (c) of this section in a manner that they can be readily accessed and are suitable for inspection upon request.

(1) Summary of the applicable standards under this division.

(2) Procedures for receiving, handling, and charging waste.

(3) Incinerator startup, shutdown, and malfunction procedures.

(4) Procedures for maintaining proper combustion air supply levels.

(5) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this division.

(6) Monitoring procedures for demonstrating compliance with the incinerator operating limits.

(7) Reporting and recordkeeping procedures.

(8) The waste management plan required under §§113.2210 through 113.2212 of this title (relating to What is a waste management plan? When must I submit my waste management plan? and What should I include in my waste management plan?).

(9) Procedures for handling ash.

(10) A list of the wastes burned during the performance test.

(b) You must establish a program for reviewing the information listed in subsection (a) of this section with each incinerator operator.

(1) The initial review of the information listed in subsection (a) of this section must be conducted by the later of the three dates specified in subparagraphs (A) through (C) of this paragraph.

(A) The final compliance date (Increment 2).

(B) Six months after CISWI unit startup.

(C) Six months after being assigned to operate the CISWI unit.

(2) Subsequent annual reviews of the information listed in subsection (a) of this section must be conducted no later than 12 months following the previous review.

(c) You must also maintain the information specified in paragraphs (1) through (3) of this subsection.

(1) Records showing the names of CISWI unit operators who have completed review of the information in subsection (a) of this section as required by subsection (b) of this section, including the date of the initial review and all subsequent annual reviews.

(2) Records showing the names of the CISWI operators who have completed the operator training requirements under §113.2213 of this title (relating to What are the operator training and qualification requirements?), met the criteria for qualification under §113.2215 of this title (relating to

How do I obtain my operator qualification?), and maintained or renewed their qualification under §113.2216 or §113.2217 of this title (relating to How do I maintain my operator qualification? or How do I renew my lapsed operator qualification?). Records must include documentation of training, the dates of the initial refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(3) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

§113.2219. What if all the qualified operators are temporarily not accessible?

If all qualified operators are temporarily not accessible (i.e., not at the facility and not able to be at the facility within 1 hour), you must meet one of the two criteria specified in paragraphs (1) and (2) of this section, depending on the length of time that a qualified operator is not accessible.

(1) When all qualified operators are not accessible for more than 8 hours, but less than 2 weeks, the commercial and industrial solid waste incineration (CISWI) unit may be operated by other plant personnel familiar with the operation of the CISWI unit who have completed a review of the information specified in §113.2218(a) of this title (relating to What site-specific documentation is required?) within the past 12 months. However, you must record the period when all qualified operators were not accessible and include this deviation in the annual report as specified under §113.2240 of this title (relating to What information must I include in my annual report?).

(2) When all qualified operators are not accessible for 2 weeks or more, you must take the two actions that are described in subparagraphs (A) and (B) of this paragraph.

(A) Notify the executive director of this deviation in writing within 10 days after the end of the 2-week period. In the notice, state what caused this deviation, what you are doing to ensure that a qualified operator is accessible, and when you anticipate that a qualified operator will be accessible.

(B) Submit a status report to the executive director every 4 weeks outlining what you are doing to ensure that a qualified operator is accessible, stating when you anticipate that a qualified operator will be accessible, and requesting approval from the executive director to continue operation of the CISWI unit. You must submit the first status report 4 weeks after you notify the executive director of the deviation under subparagraph (A) of this paragraph. If the executive director notifies you that your request to continue operation of the CISWI unit is disapproved, the CISWI unit may continue operation for 90 days, then must cease operation. Operation of the unit may resume if you meet the two requirements in clauses (i) and (ii) of this subparagraph.

(i) A qualified operator is accessible as required under §113.2213(a) of this title (relating to What are the operator training and qualification requirements?).

(ii) You notify the executive director that a qualified operator is accessible and that you are resuming operation.

§113.2220. What emission limitations must I meet and by when?

You must meet the emission limitations specified in Table 2 in §113.2261 of this title (relating to Tables Relating to Division 4) on the date the initial performance test is required or completed (whichever is earlier).

§113.2221. What operating limits must I meet and by when?

(a) If you use a wet scrubber to comply with the emission limitations, you must establish operating limits for four operating parameters (as specified in Table 3 in §113.2261 of this title (relating to Tables Relating to Division 4)) as described in paragraphs (1) through (4) of this subsection during the initial performance test.

(1) Maximum charge rate, calculated using one of the two different procedures in subparagraph (A) or (B) of this paragraph, as appropriate.

(A) For continuous and intermittent units, maximum charge rate is 110 percent of the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(B) For batch units, maximum charge rate is 110 percent of the daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(2) Minimum pressure drop across the wet scrubber, which is calculated as 90 percent of the average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as 90 percent of the average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations.

(3) Minimum scrubber liquor flow rate, which is calculated as 90 percent of the average liquor flow rate at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(4) Minimum scrubber liquor pH, which is calculated as 90 percent of the average liquor pH at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with the hydrogen chloride emission limitation.

(b) You must meet the operating limits established during the initial performance test on the date the initial performance test is required or completed (whichever is earlier).

(c) If you use a fabric filter to comply with the emission limitations, you must operate each fabric filter system such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during a 6-month period. In calculating this operating time percentage, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm shall be counted as a minimum of 1 hour. If you take longer than 1 hour to

initiate corrective action, the alarm time shall be counted as the actual amount of time taken by you to initiate corrective action.

§113.2222. What if I do not use a wet scrubber to comply with the emission limitations?

If you use an air pollution control device other than a wet scrubber, or limit emissions in some other manner, to comply with the emission limitations under §113.2220 of this title (relating to What emission limitations must I meet and by when?), you must petition the executive director for specific operating limits to be established during the initial performance test and continuously monitored thereafter. You must not conduct the initial performance test until after the petition has been approved by the executive director. Your petition must include the five items listed in paragraphs (1) through (5) of this section.

(1) Identification of the specific parameters you propose to use as additional operating limits.

(2) A discussion of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants.

(3) A discussion of how you will establish the upper and/or lower values for these parameters which will establish the operating limits on these parameters.

(4) A discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments.

(5) A discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

§113.2223. What happens during periods of startup, shutdown, and malfunction?

(a) The emission limitations and operating limits apply at all times except during commercial and industrial solid waste incineration unit startups, shutdowns, or malfunctions.

(b) Each malfunction must last no longer than 3 hours.

§113.2224. How do I conduct the initial and annual performance test?

(a) All performance tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) You must document that the waste burned during the performance test is representative of the waste burned under normal operating conditions by maintaining a log of the quantity of waste burned (as required in §113.2234(2)(A) of this title (relating to What records must I keep?)) and the types of waste burned during the performance test.

(c) All performance tests must be conducted using the minimum run duration specified in Table 2 in §113.2261 of this title (relating to Tables Relating to Division 4).

(d) Method 1 of 40 Code of Federal Regulations (CFR) Part 60, Appendix A must be used to select the sampling location and number of traverse points.

(e) Method 3A or 3B of 40 CFR Part 60, Appendix A must be used for gas composition analysis, including measurement of oxygen concentration. Method 3A or 3B of 40 CFR Part 60, Appendix A must be used simultaneously with each method.

(f) All pollutant concentrations, except for opacity, must be adjusted to 7 percent oxygen using equation 1 of this subsection:

Figure: 30 TAC §113.2224(f)

$$C_{adj} = C_{meas} \frac{(20.9 - 7)}{(20.9 - \%O_2)} \quad \text{(Eq. 1)}$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;

C_{meas} = pollutant concentration measured on a dry basis;

(20.9-7) = 20.9 percent oxygen-7 percent oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

(g) You must determine dioxins/furans toxic equivalency by following the procedures in paragraphs (1) through (3) of this subsection.

(1) Measure the concentration of each dioxin/furan tetra- through octa-congener emitted using United States Environmental Protection Agency Method 23 in 40 CFR Part 60, Appendix A.

(2) For each dioxin/furan congener measured in accordance with paragraph (1) of this subsection, multiply the congener concentration by its corresponding toxic equivalency factor specified in Table 4 in §113.2261 of this title.

(3) Sum the products calculated in accordance with paragraph (2) of this subsection to

obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

§113.2225. How are the performance test data used?

You use results of performance tests to demonstrate compliance with the emission limitations in Table 2 in §113.2261 of this title (relating to Tables Relating to Division 4).

§113.2226. How do I demonstrate initial compliance with the emission limitations and establish the operating limits?

You must conduct an initial performance test, as required under 40 Code of Federal Regulations §60.8, to determine compliance with the emission limitations in Table 2 in §113.2261 of this title (relating to Tables Relating to Division 4) and to establish operating limits using the procedure in §113.2221 or §113.2222 of this title (relating to What operating limits must I meet and by when? or What if I do not use a wet scrubber to comply with the emission limitations?). The initial performance test must be conducted using the test methods listed in Table 2 in §113.2261 of this title and the procedures in §113.2224 of this title (relating to How do I conduct the initial and annual performance test?).

§113.2227. By what date must I conduct the initial performance test?

The initial performance test must be conducted no later than 180 days after the deadline for your final compliance date. Your final compliance date is specified in Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4).

§113.2228. How do I demonstrate continuous compliance with the emission limitations and the operating limits?

(a) You must conduct an annual performance test for particulate matter, hydrogen chloride, and opacity for each commercial and industrial solid waste incineration unit as required under 40 Code of Federal Regulations §60.8 to determine compliance with the emission limitations. The annual performance test must be conducted using the test methods listed in Table 2 in §113.2261 of this title (relating to Tables Relating to Division 4) and the procedures in §113.2224 of this title (relating to How do I conduct the initial and annual performance test?).

(b) You must continuously monitor the operating parameters specified in §113.2221 of this title (relating to What operating limits must I meet and by when?) or established under §113.2222 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?). Operation above the established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. Three-hour rolling average values are used to determine compliance (except for baghouse leak detection system alarms) unless a different averaging period is established under §113.2222 of this title. Operating limits do not apply during performance tests.

(c) You must only burn the same types of waste used to establish operating limits during the performance test.

§113.2229. By what date must I conduct the annual performance test?

You must conduct annual performance tests for particulate matter, hydrogen chloride, and opacity within 12 months following the initial performance test. Conduct subsequent annual performance tests within 12 months following the previous one.

§113.2230. May I conduct performance testing less often?

(a) You can test less often for a given pollutant if you have test data for at least 3 years, and all performance tests for the pollutant (particulate matter, hydrogen chloride, or opacity) over 3 consecutive years show that you comply with the emission limitation. In this case, you do not have to conduct a performance test for that pollutant for the next 2 years. You must conduct a performance test during the third year and no more than 36 months following the previous performance test.

(b) If your commercial and industrial solid waste incineration unit continues to meet the emission limitation for particulate matter, hydrogen chloride, or opacity, you may choose to conduct performance tests for these pollutants every third year, but each test must be within 36 months of the previous performance test.

(c) If a performance test shows a deviation from an emission limitation for particulate matter, hydrogen chloride, or opacity, you must conduct annual performance tests for that pollutant until all performance tests over a 3-year period show compliance.

§113.2231. May I conduct a repeat performance test to establish new operating limits?

(a) Yes. You may conduct a repeat performance test at any time to establish new values for the operating limits. The executive director may request a repeat performance test at any time.

(b) You must repeat the performance test if your feed stream is different than the feed streams used during any performance test used to demonstrate compliance.

§113.2232. What monitoring equipment must I install and what parameters must I monitor?

(a) If you are using a wet scrubber to comply with the emission limitation under §113.2220 of this title (relating to What emission limitations must I meet and by when?), you must install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in Table 3 in §113.2261 of this title (relating to Tables Relating to Division 4). These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in Table 3 in §113.2261 of this title at all times except as specified in §113.2233(a) of this title (relating to Is there a minimum amount of monitoring data I must obtain?).

(b) If you use a fabric filter to comply with the requirements of this division, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (1) through (8) of this subsection.

(1) You must install and operate a bag leak detection system for each exhaust stack of the

fabric filter.

(2) Each bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(3) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

(4) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings.

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

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

(7) For positive pressure fabric filter systems, a bag leak detection system must be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

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

shared among detectors.

(c) If you are using something other than a wet scrubber to comply with the emission limitations under §113.2220 of this title, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in §113.2222 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?).

§113.2233. Is there a minimum amount of monitoring data I must obtain?

(a) Except for monitoring malfunctions, associated repairs, and required quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments of the monitoring system), you must conduct all monitoring at all times the commercial and industrial solid waste incineration unit is operating.

(b) Do not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or quality control activities for meeting the requirements of this division, including data averages and calculations. You must use all the data collected during all other periods in assessing compliance with the operating limits.

§113.2234. What records must I keep?

You must maintain the 13 items (as applicable) as specified in paragraphs (1) through (13) of this

section for a period of at least 5 years:

(1) Calendar date of each record.

(2) Records of the data described in subparagraphs (A) through (F) of this paragraph:

(A) The commercial and industrial solid waste incineration (CISWI) unit charge dates, times, weights, and hourly charge rates.

(B) Liquor flow rate to the wet scrubber inlet every 15 minutes of operation, as applicable.

(C) Pressure drop across the wet scrubber system every 15 minutes of operation or amperage to the wet scrubber every 15 minutes of operation, as applicable.

(D) Liquor pH as introduced to the wet scrubber every 15 minutes of operation, as applicable.

(E) For affected CISWI units that establish operating limits for controls other than wet scrubbers under §113.2222 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?), you must maintain data collected for all operating parameters used to determine compliance with the operating limits.

(F) If a fabric filter is used to comply with the emission limitations, you must record the date, time, and duration of each alarm and the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of operating time during each 6-month period that the alarm sounds, calculated as specified in §113.2221(c) of this title (relating to What operating limits must I meet and by when?).

(3) Identification of calendar dates and times for which monitoring systems used to monitor operating limits were inoperative, inactive, malfunctioning, or out of control (except for downtime associated with zero and span and other routine calibration checks). Identify the operating parameters not measured, the duration, reasons for not obtaining the data, and a description of corrective actions taken.

(4) Identification of calendar dates, times, and durations of malfunctions, and a description of the malfunction and the corrective action taken.

(5) Identification of calendar dates and times for which data show a deviation from the operating limits in Table 3 in §113.2261 of this title (relating to Tables Relating to Division 4) or a deviation from other operating limits established under §113.2222 of this title with a description of the deviations, reasons for such deviations, and a description of corrective actions taken.

(6) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable. Retain a copy of the complete test report including calculations.

(7) Records showing the names of CISWI unit operators who have completed review of the information in §113.2218(a) of this title (relating to What site-specific documentation is required?) as required by §113.2218(b) of this title, including the date of the initial review and all subsequent annual reviews.

(8) Records showing the names of the CISWI operators who have completed the operator training requirements under §113.2213 of this title (relating to What are the operator training and qualification requirements?), met the criteria for qualification under §113.2215 of this title (relating to How do I obtain my operator qualification?), and maintained or renewed their qualification under §113.2216 or §113.2217 of this title (relating to How do I maintain my operator qualification? or How do I renew my lapsed operator qualification?). Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(9) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

(10) Records of calibration of any monitoring devices as required under §113.2232 of this title (relating to What monitoring equipment must I install and what parameters must I monitor?).

(11) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

(12) The information listed in §113.2218(a) of this title.

(13) On a daily basis, keep a log of the quantity of waste burned and the types of waste burned (always required).

§113.2235. Where and in what format must I keep my records?

All records must be available onsite in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the executive director.

§113.2236. What reports must I submit?

See Table 5 in §113.2261 of this title (relating to Tables Relating to Division 4) for a summary of the reporting requirements.

§113.2237. When must I submit my waste management plan?

You must submit the waste management plan no later than the date specified in Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4) for submittal of the final control plan.

§113.2238. What information must I submit following my initial performance test?

You must submit the information specified in paragraphs (1) through (3) of this section no later than 60 days following the initial performance test. All reports must be signed by the facilities manager.

(1) The complete test report for the initial performance test results obtained under §113.2226 of this title (relating to How do I demonstrate initial compliance with the emission limitations and establish the operating limits?), as applicable.

(2) The values for the site-specific operating limits established in §113.2221 or §113.2222 of this title (relating to What operating limits must I meet and by when? or What if I do not use a web scrubber to comply with the emission limitations?).

(3) If you are using a fabric filter to comply with the emission limitations, documentation that a bag leak detection system has been installed and is being operated, calibrated, and maintained as required by §113.2232(b) of this title (relating to What monitoring equipment must I install and what parameters must I monitor?).

§113.2239. When must I submit my annual report?

You must submit an annual report no later than 12 months following the submittal of the information in §113.2238 of this title (relating to What information must I submit following my initial performance test?). You must submit subsequent reports no more than 12 months following the previous report. (If the unit is subject to permitting requirements under Title V of the Federal Clean Air Act, you may be required by the permit to submit these reports more frequently.)

§113.2240. What information must I include in my annual report?

The annual report required under §113.2239 of this title (relating to When must I submit my annual report?) must include the ten items listed in paragraphs (1) through (10) of this section. If you have a deviation from the operating limits or the emission limitations, you must also submit deviation reports as specified in §§113.2241, 113.2242, and 113.2243 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations?, What must I include in the deviation report?, and What else must I report if I have a deviation from the requirement to have a qualified operator accessible?).

(1) Company name and address.

(2) Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) The values for the operating limits established pursuant to §113.2221 or §113.2222 of this title (relating to What operating limits must I meet and by when? or What if I do not use a wet scrubber to comply with the emission limitations?).

(5) If no deviation from any emission limitation or operating limit that applies to you has

been reported, a statement that there was no deviation from the emission limitations or operating limits during the reporting period, and that no monitoring system used to determine compliance with the operating limits was inoperative, inactive, malfunctioning, or out of control.

(6) The highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported.

(7) Information recorded under §113.2234(2)(F) and (3) through (5) of this title (relating to What records must I keep?) for the calendar year being reported.

(8) If a performance test was conducted during the reporting period, the results of that test.

(9) If you met the requirements of §113.2230(a) or (b) of this title (relating to May I conduct performance testing less often?), and did not conduct a performance test during the reporting period, you must state that you met the requirements of §113.2230(a) or (b) of this title, and, therefore, you were not required to conduct a performance test during the reporting period.

(10) Documentation of periods when all qualified commercial and industrial solid waste incineration unit operators were unavailable for more than 8 hours, but less than 2 weeks.

§113.2241. What else must I report if I have a deviation from the operating limits or the emission limitations?

(a) You must submit a deviation report if any recorded 3-hour average parameter level is above the maximum operating limit or below the minimum operating limit established under this division, if the bag leak detection system alarm sounds for more than 5 percent of the operating time for the 6-month reporting period, or if a performance test was conducted that deviated from any emission limitation.

(b) The deviation report must be submitted by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data you collected during the second half of the calendar year (July 1 to December 31).

§113.2242. What must I include in the deviation report?

In each report required under §113.2241 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations?), for any pollutant or parameter that deviated from the emission limitations or operating limits specified in this division, include the six items described in paragraphs (1) through (6) of this section.

(1) The calendar dates and times your unit deviated from the emission limitations or operating limit requirements.

(2) The averaged and recorded data for those dates.

(3) Duration and causes of each deviation from the emission limitations or operating

limits and your corrective actions.

(4) A copy of the operating limit monitoring data during each deviation and any test report that documents the emission levels.

(5) The dates, times, number, duration, and causes for monitoring downtime incidents (other than downtime associated with zero, span, and other routine calibration checks).

(6) Whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

§113.2243. What else must I report if I have a deviation from the requirement to have a qualified operator accessible?

(a) If all qualified operators are not accessible for 2 weeks or more, you must take the two actions in paragraphs (1) and (2) of this subsection.

(1) Submit a notification of the deviation within 10 days after the end of the 2-week period that includes the three items in subparagraphs (A) through (C) of this paragraph.

(A) A statement of what caused the deviation.

(B) A description of what you are doing to ensure that a qualified operator is

accessible.

(C) The date when you anticipate that a qualified operator will be available.

(2) Submit a status report to the executive director every 4 weeks that includes the three items in subparagraphs (A) through (C) of this paragraph.

(A) A description of what you are doing to ensure that a qualified operator is accessible.

(B) The date when you anticipate that a qualified operator will be accessible.

(C) Request approval from the executive director to continue operation of the commercial and industrial solid waste incineration unit.

(b) If your unit was shut down by the executive director, under the provisions of §113.2219(2)(B) of this title (relating to What if all the qualified operators are temporarily not accessible?), due to a failure to provide an accessible qualified operator, you must notify the executive director that you are resuming operation once a qualified operator is accessible.

§113.2244. Are there any other notifications or reports that I must submit?

Yes. You must submit notifications as provided by 40 Code of Federal Regulations §60.7.

§113.2245. In what form can I submit my reports?

Submit initial, annual, and deviation reports electronically or in paper format, postmarked on or before the submittal due dates.

§113.2246. Can reporting dates be changed?

If the executive director agrees, you may change the semiannual or annual reporting dates. See 40 Code of Federal Regulations §60.19(c) for procedures to seek approval to change your reporting date.

§113.2247. Am I required to apply for and obtain a Title V operating permit for my unit?

Yes. Each commercial and industrial solid waste incineration unit must operate pursuant to a permit issued under §129(e) and Title V of the Federal Clean Air Act by the later of the two dates in paragraphs (1) and (2) of this section.

(1) Thirty-six months after December 1, 2000.

(2) The effective date of the Title V permit program to which your unit is subject. If your unit is subject to Title V as a result of some triggering requirement(s) other than this division (for example, being a major source), then your unit may be required to apply for and obtain a Title V permit prior to the deadlines noted in this section. If more than one requirement triggers the requirement to apply

for a Title V permit, the 12-month time frame for filing a Title V application is triggered by the requirement which first causes the source to be subject to Title V.

§113.2248. What is an air curtain incinerator?

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Air curtain incinerators that burn only the materials listed in paragraphs (1) through (3) of this subsection are only required to meet the requirements under "Air Curtain Incinerators" (this section and §§113.2249 through 113.2260 of this title (relating to What are my requirements for meeting increments of progress and achieving final compliance?, When must I complete each increment of progress?, What must I include in the notifications of achievement of increments of progress?, When must I submit the notifications of achievement of increments of progress?, What if I do not meet an increment of progress?, How do I comply with the increment of progress for submittal of a control plan?, How do I comply with the increment of progress for achieving final compliance?, What must I do if I close my air curtain incinerator and then restart it?, What must I do if I plan to permanently close my air curtain incinerator and not restart it?, What are the emission limitations for air curtain incinerators?, How must I monitor opacity for air curtain incinerators?, and What are the recordkeeping and reporting requirements for air curtain incinerators?)). In addition, air curtain incinerators must meet the requirements of §113.2247 of

this title (relating to Am I required to apply for and obtain a Title V operating permit for my unit?).

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

§113.2249. What are my requirements for meeting increments of progress and achieving final compliance?

If you plan to achieve compliance more than 1 year following the effective date of state plan approval, you must meet the two increments of progress specified in paragraphs (1) and (2) of this section.

(1) Submit a final control plan.

(2) Achieve final compliance.

§113.2250. When must I complete each increment of progress?

Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4) specifies compliance dates for each of the increments of progress.

§113.2251. What must I include in the notifications of achievement of increments of progress?

Your notification of achievement of increments of progress must include the three items described in paragraphs (1) through (3) of this section.

(1) Notification that the increment of progress has been achieved.

(2) Any items required to be submitted with each increment of progress (see §113.2254 of this title (relating to How do I comply with the increment of progress for submittal of a control plan?)).

(3) Signature of the owner or operator of the incinerator.

§113.2252. When must I submit the notifications of achievement of increments of progress?

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

§113.2253. What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the executive director postmarked within 10 business days after the date for that increment of progress in Table 1 in §113.2261 of this title (relating to Tables Relating to Division 4). You must inform the executive director

that you did not meet the increment, and you must continue to submit reports each subsequent calendar month until the increment of progress is met.

§113.2254. How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must satisfy the two requirements specified in paragraphs (1) and (2) of this section.

(1) Submit the final control plan, including a description of any devices for air pollution control and any process changes that you will use to comply with the emission limitations and other requirements of this division.

(2) Maintain an onsite copy of the final control plan.

§113.2255. How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

§113.2256. What must I do if I close my air curtain incinerator and then restart it?

(a) If you close your incinerator but will reopen it prior to the final compliance date in your state plan, you must meet the increments of progress specified in §113.2249 of this title (relating to What are my requirements for meeting increments of progress and achieving final compliance?).

(b) If you close your incinerator but will restart it after your final compliance date, you must complete emission control retrofits and meet the emission limitations on the date your incinerator restarts operation.

§113.2257. What must I do if I plan to permanently close my air curtain incinerator and not restart it?

If you plan to close your incinerator rather than comply with the state plan, submit a closure notification, including the date of closure, to the executive director by the date your final control plan is due.

§113.2258. What are the emission limitations for air curtain incinerators?

(a) After the date the initial stack test is required or completed (whichever is earlier), you must meet the limitations in paragraphs (1) and (2) of this subsection.

(1) The opacity limitation is 10 percent (6-minute average), except as described in paragraph (2) of this subsection.

(2) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Except during malfunctions, the requirements of this division apply at all times, and each malfunction must not exceed 3 hours.

§113.2259. How must I monitor opacity for air curtain incinerators?

(a) Use Method 9 of 40 Code of Federal Regulations (CFR) Part 60, Appendix A to determine compliance with the opacity limitation.

(b) Conduct an initial test for opacity as specified in 40 CFR §60.8 no later than 180 days after your final compliance date.

(c) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of your previous test.

§113.2260. What are the recordkeeping and reporting requirements for air curtain incinerators?

(a) Keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format, unless the executive director approves another format, for at least 5 years.

(b) Make all records available for submittal to the executive director or for an inspector's onsite

review.

(c) Submit an initial report no later than 60 days following the initial opacity test that includes the information specified in paragraphs (1) and (2) of this subsection.

(1) The types of materials you plan to combust in your air curtain incinerator.

(2) The results (each 6-minute average) of the initial opacity tests.

(d) Submit annual opacity test results within 12 months following the previous report.

(e) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date and keep a copy onsite for a period of 5 years.

§113.2261. Tables Relating to Division 4.

(a) Table 1 specifies the increments of progress and compliance schedules for Division 4 of this subchapter.

Figure: 30 TAC §113.2261(a)

Table 1. Increments of Progress and Compliance Schedules

Increments of Progress	Compliance Dates
Increment 1: Submit Final Control Plan	No later than 12 months from the date the TCEQ

	publishes notice in the *Texas Register* of state plan approval
Increment 2: Final Compliance	No later than 36 months from the date the TCEQ publishes notice in the *Texas Register* of state plan approval

(b) Table 2 of this subsection specifies the emission limitations for Division 4 of this subchapter.

Figure: 30 TAC §113.2261(b)

Table 2. Emission Limitations

Pollutant	Emission Limitation[a]	Averaging Time	Method to Determine Compliance
Cadmium	0.004 milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Carbon monoxide	157 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Performance test (Method 10, 10A, or 10B, of 40 CFR Part 60, Appendix A)
Dioxins/furans (toxic equivalency basis)	0.41 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Performance test (Method 23 of 40 CFR Part 60, Appendix A)
Hydrogen chloride	62 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Performance test (Method 26A of 40 CFR Part 60, Appendix A)
Lead	0.04 milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Mercury	0.47 milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Opacity	10 percent	6-minute averages	Performance test (Method 9 of 40 CFR Part 60, Appendix A)
Oxides of nitrogen	388 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Performance test (Methods 7, 7A, 7C, 7D, or 7E of 40 CFR Part 60, Appendix A)
Particulate matter	70 milligrams per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Performance test (Method 5 or 29 of 40 CFR Part 60, Appendix A)
Sulfur dioxide	20 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Performance test (Method 6 or 6C of 40 CFR Part 60, Appendix A)

[a]All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions.

(c) Table 3 of this subsection specifies operating limits for wet scrubbers for Division 4 of this

subchapter.

Figure: 30 TAC §113.2261(c)

Table 3. Operating Limits for Wet Scrubbers

For these operating parameters	You must establish these operating limits	And monitor using these minimum frequencies		
		Data Measurement	Data Recording	Averaging Time
Charge rate	Maximum charge rate	Continuous	Every hour	Daily (batch units). 3-hour rolling (continuous and intermittent units)[a]
Pressure drop across the wet scrubber or amperage to wet scrubber	Minimum pressure drop or amperage	Continuous	Every 15 minutes	3-hour rolling[a]
Scrubber liquor flow rate	Minimum flow rate	Continuous	Every 15 minutes	3-hour rolling[a]
Scrubber liquor pH	Minimum pH	Continuous	Every 15 minutes	3-hour rolling[a]

[a]Calculated each hour as the average of the previous 3 operating hours.

(d) Table 4 of this subsection specifies the toxic equivalency factors for Division 4 of this subchapter.

Figure: 30 TAC §113.2261(d)

Table 4. Toxic Equivalency Factors

Dioxin/Furan Congener	Toxic Equivalency Factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5
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	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran	0.05
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	0.001

(e) Table 5 of this subsection is a summary of reporting requirements for Division 4 of this subchapter.

Figure: 30 TAC §113.2261(e)

Table 5. Summary of Reporting Requirements [a]

Report	Due Date	Contents	Reference
Waste Management Plan	No later than the date specified in Table 1 for submittal of the final control plan	• Waste management plan	§113.2237 of this title (relating to When must I submit my waste management plan?)
Initial Test Report	No later than 60 days following the initial performance test	• Complete test report for the initial performance test • The values for the site-specific operating limits • Installation of bag leak detection systems for fabric filters	§113.2238 of this title (relating to What information must I submit following my initial performance test?)
Annual Report	No later than 12 months following the submittal of the initial test report. Subsequent reports are to be submitted no more than 12 months following the previous report	• Name and address • Statement and signature by responsible official • Date of report • Values for the operating limits • If no deviations or malfunctions were reported, a statement that no deviations occurred during the reporting period • Highest recorded 3-hour average and the lowest 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported • Information for deviations or malfunctions recorded under	§113.2239 and §113.2240 of this title (relating to When must I submit my annual report? and What information must I include in

		§113.2234(2)(F) and (3) through (5) • If a performance test was conducted during the reporting period, the results of the test • If a performance test was not conducted during the reporting period, a statement that the requirements of 40 CFR §60.2155(a) or (b) were met • Documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours but less than 2 weeks	my annual report?)
Emission Limitation or Operating Limit Deviation Report	By August 1 of that year for data collected during the first half of the calendar year. By February 1 of the following year for data collected during the second half of the calendar year	• Dates and times of deviations • Averaged and recorded data for these dates • Duration and causes for each deviation and the corrective actions taken • Copy of operating limit monitoring data and any test reports • Dates, times, and causes for monitor downtime incidents • Whether each deviation occurred during a period of startup, shutdown, or malfunction	§113.2241 and §113.2242 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations? and What must I include in the deviation report?)
Qualified Operator Deviation Notification	Within 10 days of deviation	• Statement of cause of deviation • Description of efforts to have an accessible qualified operator • The date a qualified operator will be accessible	§113.2243(a)(1) of this title (relating to What else must I report if I have a deviation from the requirement to have a qualified

			operator accessible?)
Qualified Operator Deviation Status Report	Every 4 weeks following deviation	• Description of efforts to have an accessible qualified operator • The date a qualified operator will be accessible • Request for approval to continue operation	§113.2243(a)(2) of this title
Qualified Operator Deviation Notification of Resumed Operation	Prior to resuming operation	• Notification that you are resuming operation	§113.2243(b) of this title

[a]This table is only a summary, see the referenced sections of the rule for the complete requirements.

SUBCHAPTER D: DESIGNATED FACILITIES AND POLLUTANTS

DIVISION 5: EMISSION GUIDELINES AND COMPLIANCE TIMES FOR OTHER SOLID WASTE INCINERATION UNITS THAT COMMENCED CONSTRUCTION ON OR BEFORE DECEMBER 9, 2004

§§113.2300 - 113.2357

STATUTORY AUTHORITY

The new sections are proposed under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The new sections are also proposed under Texas Health and Safety Code, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act. The new sections are also proposed under the Texas Water Code, §7.002, Enforcement Authority, which authorizes the commission to institute legal

proceedings to compel compliance; §7.032, Injunctive Relief, which provides that injunctive relief may be sought by the executive director; and §7.302, Grounds for Revocation or Suspension of Permit, which provides authority to the commission to revoke or suspend any air quality permit.

The proposed new sections implement Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.2300. Definitions.

Terms used but not defined in this division are defined in the Federal Clean Air Act and 40 Code of Federal Regulations Part 60, Subpart A (General Provisions).

(1) Administrator - As follows:

(A) For approved and effective state §111(d)/129 plans, the director of the state air pollution control agency, or his or her delegatee;

(B) For federal §111(d)/129 plans, the administrator of the United States Environmental Protection Agency (EPA), an employee of the EPA, the director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the administrator of the EPA to perform the specified task; and

(C) For New Source Performance Standards in 40 Code of Federal Regulations

Part 60, the administrator of the EPA, an employee of the EPA, the director of the state air pollution control agency, or employee of the state air pollution control agency to whom the authority has been delegated by the administrator of the EPA to perform the specified task.

(2) Air curtain incinerator - An incineration unit operating by forcefully projecting a curtain of air across an open, integrated combustion chamber (fire box) or open pit or trench (trench burner) in which combustion occurs. For the purpose of this division, air curtain incinerators include both firebox and trench burner units.

(3) Auxiliary fuel - Natural gas, liquified petroleum gas, fuel oil, or diesel fuel.

(4) Batch other solid waste incineration (OSWI) unit - An OSWI unit that is designed such that neither waste charging nor ash removal can occur during combustion.

(5) Calendar quarter - Three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

(6) Calendar year - 365 consecutive days starting on January 1 and ending on December 31.

(7) Chemotherapeutic waste - Waste material resulting from the production or use of anti-neoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(8) Class II municipal solid waste landfill - A landfill that meets four criteria:

(A) Accepts, for incineration or disposal, less than 20 tons per day of municipal solid waste or other solid wastes based on an annual average;

(B) Is located on a site where there is no evidence of groundwater pollution caused or contributed to by the landfill;

(C) Is not connected by road to a Class I municipal solid waste landfill, as defined by Alaska regulatory code 18 AAC 60.300(c) or, if connected by road, is located more than 50 miles from a Class I municipal solid waste landfill; and

(D) Serves a community that meets one of two criteria:

(i) Experiences for at least 3 months each year, an interruption in access to surface transportation, preventing access to a Class I municipal solid waste landfill; or

(ii) Has no practicable waste management alternative, with a landfill located in an area that annually receives 25 inches or less of precipitation.

(9) Class III municipal solid waste landfill - A landfill that is not connected by road to a Class I municipal solid waste landfill, as defined by Alaska regulatory code 18 AAC 60.300(c) or, if connected by road, is located more than 50 miles from a Class I municipal solid waste landfill, and that

accepts, for disposal, either of the following two criteria:

(A) Ash from incinerated municipal waste in quantities less than one ton per day on an annual average, which ash must be free of food scraps that might attract animals; or

(B) Less than five tons per day of municipal solid waste, based on an annual average, and is not located in a place that meets either of the following criteria:

(i) Where public access is restricted, including restrictions on the right to move to the place and reside there; or

(ii) That is provided by an employer and that is populated totally by persons who are required to reside there as a condition of employment and who do not consider the place to be their permanent residence.

(10) Clean lumber - Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or manufactured wood products that contain adhesives or resins (e.g., plywood, particle board, flake board, and oriented strand board).

(11) Collected from - The transfer of material from the site at which the material is generated to a separate site where the material is burned.

(12) Contained gaseous material - Gases that are in a container when that container is combusted.

(13) Continuous emission monitoring system or CEMS - A monitoring system for continuously measuring and recording the emissions of a pollutant from an other solid waste incineration unit.

(14) Continuous other solid waste incineration (OSWI) unit - An OSWI unit that is designed to allow waste charging and ash removal during combustion.

(15) Deviation - Any instance in which a unit that meets the requirements in 40 Code of Federal Regulations (CFR) §60.2991, or an owner or operator of such a source:

(A) Fails to meet any requirement or obligation established by this division, including but not limited to any emission limitation, operating limit, or operator qualification and accessibility requirements;

(B) Fails to meet any term or condition that is adopted to implement an applicable requirement in this division and that is included in the operating permit for any unit that meets requirements in 40 CFR §60.2991 and is required to obtain such a permit; or

(C) Fails to meet any emission limitation, operating limit, or operator

qualification and accessibility requirement in this division during startup, shutdown, or malfunction, regardless of whether or not such failure is allowed by this division.

(16) Dioxins/furans - Tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

(17) Energy recovery - The process of recovering thermal energy from combustion for useful purposes such as steam generation or process heating.

(18) United States Environmental Protection Agency or EPA - The administrator of the EPA or employee of the EPA that is delegated the authority to perform the specified task.

(19) Institutional facility - A land-based facility owned and/or operated by an organization having a governmental, educational, civic, or religious purpose such as a school, hospital, prison, military installation, church, or other similar establishment or facility.

(20) Institutional waste - Solid waste (as defined in this division) that is combusted at any institutional facility using controlled flame combustion in an enclosed, distinct operating unit: whose design does not provide for energy recovery (as defined in this division); operated without energy recovery (as defined in this division); or operated with only waste heat recovery (as defined in this division). Institutional waste also means solid waste (as defined in this division) combusted on site in an air curtain incinerator that is a distinct operating unit of any institutional facility.

(21) Institutional waste incineration unit - Any combustion unit that combusts institutional waste (as defined in this division) and is a distinct operating unit of the institutional facility that generated the waste. Institutional waste incineration units include field-erected, modular, cyclonic burn barrel, and custom built incineration units operating with starved or excess air, and any air curtain incinerator that is a distinct operating unit of the institutional facility that generated the institutional waste (except those air curtain incinerators listed in 40 Code of Federal Regulations §60.2994(b)).

(22) Intermittent other solid waste incineration (OSWI) unit - An OSWI unit that is designed to allow waste charging, but not ash removal, during combustion.

(23) Low-level radioactive waste - Waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material as defined by the Atomic Energy Act of 1954 (42 United States Code 2014(e)(2)).

(24) Malfunction - Any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

(25) Metropolitan Statistical Area - Any areas listed as metropolitan statistical areas in Office of Management and Budget Bulletin No. 05 - 02 entitled "Update of Statistical Area Definitions and Guidance on Their Uses" dated February 22, 2005 (available on the Web at

http://www.whitehouse.gov/omb/bulletins/).

(26) Modification or modified unit - An incineration unit you have changed on or after June 16, 2006, and that meets one of two criteria:

(A) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the unit (not including the cost of land) updated to current costs (current dollars). For an other solid waste incineration (OSWI) unit, to determine what systems are within the boundary of the unit used to calculate these costs, see the definition of OSWI unit.

(B) Any physical change in the OSWI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which the Federal Clean Air Act, §129 or §111 has established standards.

(27) Municipal solid waste - Refuse (and refuse-derived fuel) collected from the general public and from residential, commercial, institutional, and industrial sources consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and non-combustible materials such as metal, glass, and rock, provided that:

(A) The term does not include industrial process wastes or medical wastes that are segregated from such other wastes; and

(B) an incineration unit shall not be considered to be combusting municipal solid

waste for purposes of this division if it combusts a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal solid waste, as determined by 40 Code of Federal Regulations §60.2993(b).

(28) Municipal waste combustion unit - For the purpose of this division, any setting or equipment that combusts municipal solid waste (as defined in this division) including, but not limited to, field-erected, modular, cyclonic burn barrel, and custom built incineration units (with or without energy recovery) operating with starved or excess air, boilers, furnaces, pyrolysis/combustion units, and air curtain incinerators (except those air curtain incinerators listed in 40 Code of Federal Regulations §60.2994(b)).

(29) Other solid waste incineration (OSWI) unit - Either a very small municipal waste combustion unit or an institutional waste incineration unit, as defined in this division. Unit types listed in 40 Code of Federal Regulations §60.2993 as being excluded from the division are not OSWI units subject to this division. While not all OSWI units will include all of the following components, an OSWI unit includes, but is not limited to, the municipal or institutional solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The OSWI unit does not include air pollution control equipment or the stack. The OSWI unit boundary starts at the municipal or institutional waste hopper (if applicable) and extends through two areas:

(A) The combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The OSWI unit includes all ash handling systems connected to the bottom ash handling system.

(30) Particulate matter - Total particulate matter emitted from other solid waste incineration units as measured by Method 5 or Method 29 of 40 Code of Federal Regulations Part 60, Appendix A.

(31) Pathological waste - Waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

(32**)** Reconstruction - Rebuilding an incineration unit and meeting two criteria:

(A) The reconstruction begins on or after June 16, 2006.

(B) The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the unit (not including land) updated to current costs (current dollars). For an other solid waste incineration (OSWI) unit, to determine what systems are within the boundary of the unit used to calculate these costs, see the definition of OSWI unit.

(33) Refuse-derived fuel - A type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived

fuel including two fuels:

(A) Low-density fluff refuse-derived fuel through densified refuse-derived fuel. and

(B) Pelletized refuse-derived fuel.

(34) Shutdown - The period of time after all waste has been combusted in the primary chamber. For continuous other solid waste incineration (OSWI), shutdown shall commence no less than 2 hours after the last charge to the incinerator. For intermittent OSWI, shutdown shall commence no less than 4 hours after the last charge to the incinerator. For batch OSWI, shutdown shall commence no less than 5 hours after the high-air phase of combustion has been completed.

(35) Solid waste - Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under the Federal Water Pollution Control Act, §402 as amended (33 United States Code (USC), §1342), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 USC, §2014).

(36) Standard conditions - When referring to units of measure, a temperature of 68 degrees Fahrenheit (20 degrees Celsius) and a pressure of 1 atmosphere (101.3 kilopascals).

(37) Startup period - The period of time between the activation of the system and the first charge to the other solid waste incineration (OSWI) unit. For batch OSWI, startup means the period of time between activation of the system and ignition of the waste.

(38) Very small municipal waste combustion unit - Any municipal waste combustion unit that has the capacity to combust less than 35 tons per day of municipal solid waste or refuse-derived fuel, as determined by the calculations in §113.2356 of this title (relating to What equations must I use?).

(39) Waste heat recovery - The process of recovering heat from the combustion flue gases outside of the combustion firebox by convective heat transfer only.

(40) Wet scrubber - An add-on air pollution control device that utilizes an aqueous or alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

(41) Wood waste - Untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

(A) Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

(B) Construction, renovation, or demolition wastes.

(C) Clean lumber.

(D) Treated wood and treated wood products, including wood products that have been painted, pigment-stained, or pressure treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote, or manufactured wood products that contain adhesives or resins (e.g., plywood, particle board, flake board, and oriented strand board).

(42) Yard waste - Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. Yard waste comes from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include two items:

(A) Construction, renovation, and demolition wastes.

(B) Clean lumber.

§113.2301. When must I comply?

Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5) specifies the final compliance date. You must submit a notification to the executive director stating whether final compliance has been achieved, postmarked within 10 business days after the final compliance date in Table 1 in §113.2357 of this title.

§113.2302. What must I do if I close my other solid waste incineration unit and then restart it?

(a) If you close your other solid waste incineration (OSWI) unit but will reopen it prior to the final compliance date in your state plan, you must meet the final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(b) If you close your OSWI unit but will restart it after your final compliance date, you must complete emission control retrofit and meet the emission limitations on the date your OSWI unit restarts operation. You must conduct your initial performance test within 30 days of restarting your OSWI unit.

§113.2303. What must I do if I plan to permanently close my other solid waste incineration unit and not restart it?

You must close the unit before the final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

§113.2304. What is a waste management plan?

A waste management plan is a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.

§113.2305. When must I submit my waste management plan?

You must submit a waste management plan no later than 60 days following the initial performance test as specified in Table 5 in §113.2357 of this title (relating to Tables Relating to Division 5). Section 113.2321 of this title (relating to By what date must I conduct the initial performance test?) specifies the date by which you are required to conduct your performance test.

§113.2306. What should I include in my waste management plan?

A waste management plan must include consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The plan must identify any additional waste management measures and implement those measures the source considers practical and feasible, considering the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other environmental or energy impacts they might have.

§113.2307. What are the operator training and qualification requirements?

(a) No other solid waste incineration (OSWI) unit can be operated unless a fully trained and qualified OSWI unit operator is accessible, either at the facility or can be at the facility within 1 hour. The trained and qualified OSWI unit operator may operate the OSWI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified OSWI unit operators are

temporarily not accessible, you must follow the procedures in §113.2313 of this title (relating to What if all the qualified operators are temporarily not accessible?).

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in subsection (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (1) through (3) of this subsection.

(1) Training on the 13 subjects listed in subparagraphs (A) through (M) of this paragraph.

(A) Environmental concerns, including types of emissions.

(B) Basic combustion principles, including products of combustion.

(C) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures.

(D) Combustion controls and monitoring.

(E) Operation of air pollution control equipment and factors affecting performance (if applicable).

(F) Inspection and maintenance of the incinerator and air pollution control devices.

(G) Methods to monitor pollutants (including monitoring of incinerator and control device operating parameters) and monitoring equipment calibration procedures, where applicable.

(H) Actions to correct malfunctions or conditions that may lead to malfunction.

(I) Bottom and fly ash characteristics and handling procedures.

(J) Applicable federal, state, and local regulations, including Occupational Safety and Health Administration workplace standards.

(K) Pollution prevention.

(L) Waste management practices.

(M) Recordkeeping requirements.

(2) An examination designed and administered by the instructor.

(3) Written material covering the training course topics that may serve as reference material following completion of the course.

§113.2308. When must the operator training course be completed?

The operator training course must be completed by the latest of the three dates specified in paragraphs (1) through (3) of this section.

(1) The final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(2) Six months after your other solid waste incineration (OSWI) unit startup.

(3) Six months after an employee assumes responsibility for operating the OSWI unit or assumes responsibility for supervising the operation of the OSWI unit.

§113.2309. How do I obtain my operator qualification?

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under §113.2307(c) of this title (relating to What are the operator training and qualification requirements?).

(b) Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under §113.2307(c)(2) of this title.

§113.2310. How do I maintain my operator qualification?

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the five topics described in paragraphs (1) through (5) of this section.

(1) Update of regulations.

(2) Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

(3) Inspection and maintenance.

(4) Responses to malfunctions or conditions that may lead to malfunction.

(5) Discussion of operating problems encountered by attendees.

§113.2311. How do I renew my lapsed operator qualification?

You must renew a lapsed operator qualification by one of the two methods specified in paragraphs (1) and (2) of this section.

(1) For a lapse of less than 3 years, you must complete a standard annual refresher course described in §113.2310 of this title (relating to How do I maintain my operator qualification?).

(2) For a lapse of 3 years or more, you must repeat the initial qualification requirements in §113.2309(a) of this title (relating to How do I obtain my operator qualification?).

§113.2312. What site-specific documentation is required?

(a) Documentation must be available at the facility and readily accessible for all other solid waste incineration (OSWI) unit operators that addresses the nine topics described in paragraphs (1) through (9) of this subsection. You must maintain this information and the training records required by subsection (c) of this section in a manner that they can be readily accessed and are suitable for inspection upon request.

(1) Summary of the applicable standards under this division.

(2) Procedures for receiving, handling, and charging waste.

(3) Incinerator startup, shutdown, and malfunction procedures.

(4) Procedures for maintaining proper combustion air supply levels.

(5) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this division.

(6) Monitoring procedures for demonstrating compliance with the operating limits

established under this division.

(7) Reporting and recordkeeping procedures.

(8) The waste management plan required under §§113.2304 through 113.2306 of this title (relating to What is a waste management plan? When must I submit my waste management plan? and What should I include in my waste management plan?).

(9) Procedures for handling ash.

(b) You must establish a program for reviewing the information listed in subsection (a) of this section with each incinerator operator.

(1) The initial review of the information listed in subsection (a) of this section must be conducted by the latest of three dates specified in subparagraphs (A) through (C) of this paragraph.

(A) The final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(B) Six months after your OSWI unit startup.

(C) Six months after an employee assumes responsibility for operating the OSWI unit or assumes responsibility for supervising the operation of the OSWI unit.

(2) Subsequent annual reviews of the information listed in subsection (a) of this section must be conducted not later than 12 months following the previous review.

(c) You must also maintain the information specified in paragraphs (1) through (3) of this subsection.

(1) Records showing the names of OSWI unit operators who have completed review of the information in subsection (a) of this section as required by subsection (b) of this section, including the date of the initial review and all subsequent annual reviews.

(2) Records showing the names of the OSWI unit operators who have completed the operator training requirements under §113.2307 of this title (relating to What are the operator training and qualification requirements?), met the criteria for qualification under §113.2309 of this title (relating to How do I obtain my operator qualification?), and maintained or renewed their qualification under §113.2310 or §113.2311 of this title (relating to How do I maintain my operator qualification? or How do I renew my lapsed operator qualification?). Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such qualifications.

(3) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

§113.2313. What if all the qualified operators are temporarily not accessible?

If all qualified operators are temporarily not accessible (i.e., not at the facility and not able to be at the facility within 1 hour), you must meet one of the three criteria specified in paragraphs (1) through (3) of this section, depending on the length of time that a qualified operator is not accessible.

(1) When all qualified operators are not accessible for 12 hours or less, the other solid waste incineration (OSWI) unit may be operated by other plant personnel familiar with the operation of the OSWI unit who have completed review of the information specified in §113.2312(a) of this title (relating to What site-specific documentation is required?) within the past 12 months. You do not need to notify the executive director or include this as a deviation in your annual report.

(2) When all qualified operators are not accessible for more than 12 hours, but less than 2 weeks, the OSWI unit may be operated by other plant personnel familiar with the operation of the OSWI unit who have completed a review of the information specified in §113.2312(a) of this title within the past 12 months. However, you must record the period when all qualified operators were not accessible and include this deviation in the annual report as specified under §113.2338 of this title (relating to What information must I include in my annual report?).

(3) When all qualified operators are not accessible for 2 weeks or more, you must take the two actions that are described in subparagraphs (A) and (B) of this paragraph.

(A) Notify the executive director of this deviation in writing within 10 days after

the end of the 2-week period. In the notice, state what caused this deviation, what you are doing to ensure that a qualified operator is accessible, and when you anticipate that a qualified operator will be accessible.

(B) Submit a status report to the executive director every 4 weeks outlining what you are doing to ensure that a qualified operator is accessible, stating when you anticipate that a qualified operator will be accessible, and requesting approval from the executive director to continue operation of the OSWI unit. You must submit the first status report 4 weeks after you notify the executive director of the deviation under subparagraph (A) of this paragraph. If the executive director notifies you that your request to continue operation of the OSWI unit is disapproved, the OSWI unit may continue operation for 90 days, then must cease operation. Operation of the unit may resume if you meet the two requirements in clauses (i) and (ii) of this subparagraph.

(i) A qualified operator is accessible as required under §113.2307(a) of this title (relating to What are the operator training and qualification requirements?)

(ii) You notify the executive director that a qualified operator is accessible and that you are resuming operation.

§113.2314. What emission limitations must I meet and by when?

You must meet the emission limitations specified in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5) on the date the initial performance test is required or completed (whichever is earlier). Section 113.2321 of this title (relating to By what date must I conduct the initial performance

test?) specifies the date by which you are required to conduct your performance test.

§113.2315. What operating limits must I meet and by when?

(a) If you use a wet scrubber to comply with the emission limitations, you must establish operating limits for four operating parameters (as specified in Table 3 in §113.2357 of this title (relating to Tables Relating to Division 5)) as described in paragraphs (1) through (4) of this subsection during the initial performance test.

(1) Maximum charge rate, calculated using one of the two different procedures in subparagraphs (A) or (B) of this paragraph, as appropriate.

(A) For continuous and intermittent units, maximum charge rate is the average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(B) For batch units, maximum charge rate is the charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(2) Minimum pressure drop across the wet scrubber, which is calculated as the average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations; or minimum amperage to the wet scrubber, which is calculated as the average amperage to the wet scrubber measured during the most recent

performance test demonstrating compliance with the particulate matter emission limitations.

(3) Minimum scrubber liquor flow rate, which is calculated as the average liquor flow rate at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with all applicable emission limitations.

(4) Minimum scrubber liquor pH, which is calculated as the average liquor pH at the inlet to the wet scrubber measured during the most recent performance test demonstrating compliance with the hydrogen chloride and sulfur dioxide emission limitations.

(b) You must meet the operating limits established during the initial performance test beginning on the date 180 days after your final compliance date in Table 1 in §113.2357 of this title.

§113.2316. What if I do not use a wet scrubber to comply with the emission limitations?

If you use an air pollution control device other than a wet scrubber or limit emissions in some other manner to comply with the emission limitations under §113.2314 of this title (relating to What emission limitations must I meet and by when?), you must petition the United States Environmental Protection Agency (EPA) for specific operating limits, the values of which are to be established during the initial performance test and then continuously monitored thereafter. You must not conduct the initial performance test until after the petition has been approved by the EPA. Your petition must include the five items listed in paragraphs (1) through (5) of this section.

(1) Identification of the specific parameters you propose to use as operating limits.

(2) A discussion of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants.

(3) A discussion of how you will establish the upper and/or lower values for these parameters that will establish the operating limits on these parameters.

(4) A discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments.

(5) A discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

§113.2317. What happens during periods of startup, shutdown, and malfunction?

The emission limitations and operating limits apply at all times except during other solid waste incineration unit startups, shutdowns, or malfunctions, which should last no longer than 3 hours.

§113.2318. How do I conduct the initial and annual performance test?

(a) All performance tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) All performance tests must be conducted using the methods in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5).

(c) All performance tests must be conducted using the minimum run duration specified in Table 2 in §113.2357 of this title.

(d) Method 1 of 40 Code of Federal Regulations (CFR) Part 60, Appendix A must be used to select the sampling location and number of traverse points.

(e) Method 3A or 3B of 40 CFR Part 60, Appendix A must be used for gas composition analysis, including measurement of oxygen concentration. Method 3A or 3B of 40 CFR Part 60, Appendix A must be used simultaneously with each method.

(f) All pollutant concentrations, except for opacity, must be adjusted to 7 percent oxygen using equation 1 in §113.2356 of this title (relating to What equations must I use?).

(g) Method 26A of 40 CFR Part 60, Appendix A must be used for hydrogen chloride concentration analysis, with the additional requirements specified in paragraphs (1) through (3) of this subsection.

(1) The probe and filter must be conditioned prior to sampling using the procedure described in subparagraphs (A) through (C) of this paragraph.

(A) Assemble the sampling train(s) and conduct a conditioning run by collecting between 14 liters per minute (0.5 cubic feet per minute) and 30 liters per minute (1.0 cubic feet per minute) of gas over a 1-hour period. Follow the sampling procedures outlined in section 8.1.5 of Method 26A of 40 CFR Part 60, Appendix A. For the conditioning run, water can be used as the impinger solution.

(B) Remove the impingers from the sampling train and replace with a fresh impinger train for the sampling run, leaving the probe and filter (and cyclone, if used) in position. Do not recover the filter or rinse the probe before the first run. Thoroughly rinse the impingers used in the preconditioning run with deionized water and discard these rinses.

(C) The probe and filter assembly are conditioned by the stack gas and are not recovered or cleaned until the end of testing.

(2) For the duration of sampling, a temperature around the probe and filter (and cyclone, if used) between 120 degrees Celcius (248 degrees Fahrenheit) and 134 degrees Celsius (273 degrees Fahrenheit) must be maintained.

(3) If water droplets are present in the sample gas stream, the requirements specified in subparagraphs (A) and (B) of this paragraph must be met.

(A) The cyclone described in section 6.1.4 of Method 26A of 40 CFR Part 60, Appendix A must be used.

(B) The post-test moisture removal procedure described in section 8.1.6 of Method 26A of 40 CFR Part 60, Appendix A must be used.

§113.2319. How are the performance test data used?

You use results of performance tests to demonstrate compliance with the emission limitations in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5).

§113.2320. How do I demonstrate initial compliance with the emission limitations and establish the operating limits?

You must conduct an initial performance test, as required under 40 Code of Federal Regulations §60.8, to determine compliance with the emission limitations in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5) and to establish operating limits using the procedure in §113.2315 or §113.2316 of this title (relating to What operating limits must I meet and by when? or What if I do not use a wet scrubber to comply with the emission limitations?). The initial performance test must be conducted using the test methods listed in Table 2 in §113.2357 of this title and the procedures in §113.2318 of this title (relating to How do I conduct the initial and annual performance test?).

§113.2321. By what date must I conduct the initial performance test?

The initial performance test must be conducted no later than 180 days after your final compliance date. Your final compliance date is specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

§113.2322. How do I demonstrate continuous compliance with the emission limitations and the operating limits?

(a) You must conduct an annual performance test for all of the pollutants in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5) for each other solid waste incineration unit to determine compliance with the emission limitations. The annual performance test must be conducted using the test methods listed in Table 2 in §113.2357 of this title and the procedures in §113.2318 of this title (relating to How do I conduct the initial and annual performance test?).

(b) You must continuously monitor carbon monoxide emissions to determine compliance with the carbon monoxide emissions limitation. Twelve-hour rolling average values are used to determine compliance. A 12-hour rolling average value above the carbon monoxide emission limit in Table 2 in §113.2357 of this title constitutes a deviation from the emission limitation.

(c) You must continuously monitor the operating parameters specified in §113.2315 of this title (relating to What operating limits must I meet and by when?) or established under §113.2316 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?). Three-hour

rolling average values are used to determine compliance with the operating limits unless a different averaging period is established under §113.2316 of this title. A 3-hour rolling average value (unless a different averaging period is established under §113.2316 of this title) above the established maximum or below the established minimum operating limits constitutes a deviation from the established operating limits. Operating limits do not apply during performance tests.

§113.2323. By what date must I conduct the annual performance test?

You must conduct annual performance tests within 12 months following the initial performance test. Conduct subsequent annual performance tests within 12 months following the previous one.

§113.2324. May I conduct performance testing less often?

(a) You can test less often for a given pollutant if you have test data for at least three consecutive annual tests, and all performance tests for the pollutant over that period show that you comply with the emission limitation. In this case, you do not have to conduct a performance test for that pollutant for the next 2 years. You must conduct a performance test during the 3rd year and no more than 36 months following the previous performance test.

(b) If your other solid waste incineration unit continues to meet the emission limitation for the pollutant, you may choose to conduct performance tests for that pollutant every 3rd year, but each test must be within 36 months of the previous performance test.

(c) If a performance test shows a deviation from an emission limitation for any pollutant, you must conduct annual performance tests for that pollutant until three consecutive annual performance tests for that pollutant all show compliance.

§113.2325. May I conduct a repeat performance test to establish new operating limits?

Yes, you may conduct a repeat performance test at any time to establish new values for the operating limits. The executive director may request a repeat performance test at any time.

§113.2326. What continuous emission monitoring systems must I install?

(a) You must install, calibrate, maintain, and operate continuous emission monitoring systems for carbon monoxide and for oxygen. You must monitor the oxygen concentration at each location where you monitor carbon monoxide.

(b) You must install, evaluate, and operate each continuous emission monitoring system according to the "Monitoring Requirements" in 40 Code of Federal Regulations §60.13.

§113.2327. How do I make sure my continuous emission monitoring systems are operating correctly?

(a) Conduct initial, daily, quarterly, and annual evaluations of your continuous emission monitoring systems that measure carbon monoxide and oxygen.

(b) Complete your initial evaluation of the continuous emission monitoring systems within 180 days after your final compliance date in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(c) For initial and annual evaluations, collect data concurrently (or within 30 to 60 minutes) using your carbon monoxide and oxygen continuous emission monitoring systems. To validate carbon monoxide concentration levels, use United States Environmental Protection Agency (EPA) Method 10, 10A, or 10B of 40 Code of Federal Regulations (CFR) Part 60, Appendix A. Use EPA Method 3 or 3A of 40 CFR Part 60, Appendix A to measure oxygen. Collect the data during each initial and annual evaluation of your continuous emission monitoring systems following the applicable performance specifications in 40 CFR Part 60, Appendix B. Table 4 in §113.2357 of this title shows the required span values and performance specifications that apply to each continuous emission monitoring system.

(d) Follow the quality assurance procedures in Procedure 1 of 40 CFR Part 60, Appendix F for each continuous emission monitoring system. The procedures include daily calibration drift and quarterly accuracy determinations.

§113.2328. What is my schedule for evaluating continuous emission monitoring systems?

(a) Conduct annual evaluations of your continuous emission monitoring systems no more than 12 months after the previous evaluation was conducted.

(b) Evaluate your continuous emission monitoring systems daily and quarterly as specified in 40 Code of Federal Regulations Part 60, Appendix F.

§113.2329. What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems, and is the data collection requirement enforceable?

(a) Where continuous emission monitoring systems are required, obtain 1-hour arithmetic averages. Make sure the averages for carbon monoxide are in parts per million by dry volume at 7 percent oxygen. Use the 1-hour averages of oxygen data from your continuous emission monitoring system to determine the actual oxygen level and to calculate emissions at 7 percent oxygen.

(b) Obtain at least two data points per hour in order to calculate a valid 1-hour arithmetic average. Title 40 Code of Federal Regulations §60.13(e)(2) requires your continuous emission monitoring systems to complete at least one cycle of operation (sampling, analyzing, and data recording) for each 15-minute period.

(c) Obtain valid 1-hour averages for at least 75 percent of the operating hours per day for at least 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal or institutional solid waste.

(d) If you do not obtain the minimum data required in subsections (a) through (c) of this section, you have deviated from the data collection requirement regardless of the emission level monitored.

(e) If you do not obtain the minimum data required in subsections (a) through (c) of this section, you must still use all valid data from the continuous emission monitoring systems in calculating emission concentrations.

(f) If continuous emission monitoring systems are temporarily unavailable to meet the data collection requirements, refer to Table 4 in §113.2357 of this title (relating to Tables Relating to Division 5). It shows alternate methods for collecting data when systems malfunction or when repairs, calibration checks, or zero and span checks keep you from collecting the minimum amount of data.

§113.2330. How do I convert my 1-hour arithmetic averages into the appropriate averaging times and units?

(a) Use equation 1 in §113.2356 of this title (relating to What equations must I use?) to calculate emissions at 7 percent oxygen.

(b) Use equation 2 in §113.2356 of this title to calculate the 12-hour rolling averages for concentrations of carbon monoxide.

§113.2331. What operating parameter monitoring equipment must I install, and what operating parameters must I monitor?

(a) If you are using a wet scrubber to comply with the emission limitations under §113.2314 of this title (relating to What emission limitations must I meet and by when?), you must install, calibrate (to

manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the value of the operating parameters used to determine compliance with the operating limits listed in Table 3 in §113.2357 of this title (relating to Tables Relating to Division 5). These devices (or methods) must measure and record the values for these operating parameters at the frequencies indicated in Table 3 in §113.2357 of this title at all times.

(b) You must install, calibrate (to manufacturers' specifications), maintain, and operate a device or method for measuring the use of any stack that could be used to bypass the control device. The measurement must include the date, time, and duration of the use of the bypass stack.

(c) If you are using a method or air pollution control device other than a wet scrubber to comply with the emission limitations under §113.2314 of this title, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor compliance with the site-specific operating limits established using the procedures in §113.2316 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?).

§113.2332. Is there a minimum amount of operating parameter monitoring data I must obtain?

(a) Except for monitor malfunctions, associated repairs, and required quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments of the monitoring system), you must conduct all monitoring at all times the other solid waste incineration unit is operating.

(b) You must obtain valid monitoring data for at least 75 percent of the operating hours per day for at least 90 percent of the operating days per calendar quarter. An operating day is any day the unit combusts any municipal or institutional solid waste.

(c) If you do not obtain the minimum data required in subsections (a) and (b) of this section, you have deviated from the data collection requirement regardless of the operating parameter level monitored.

(d) Do not use data recorded during monitor malfunctions, associated repairs, and required quality assurance or quality control activities for meeting the requirements of this division, including data averages and calculations. You must use all the data collected during all other periods in assessing compliance with the operating limits.

§113.2333. What records must I keep?

You must maintain the 14 items (as applicable) as specified in paragraphs (1) through (14) of this section for a period of at least 5 years.

(1) Calendar date of each record.

(2) Records of the data described in subparagraphs (A) through (H) of this paragraph.

(A) The other solid waste incineration (OSWI) unit charge dates, times, weights, and hourly charge rates.

(B) Liquor flow rate to the wet scrubber inlet every 15 minutes of operation, as applicable.

(C) Pressure drop across the wet scrubber system every 15 minutes of operation or amperage to the wet scrubber every 15 minutes of operation, as applicable.

(D) Liquor pH as introduced to the wet scrubber every 15 minutes of operation, as applicable.

(E) For OSWI units that establish operating limits for controls other than wet scrubbers under §113.2316 of this title (relating to What if I do not use a wet scrubber to comply with the emission limitations?), you must maintain data collected for all operating parameters used to determine compliance with the operating limits.

(F) All 1-hour average concentrations of carbon monoxide emissions.

(G) All 12-hour rolling average values of carbon monoxide emissions and all 3-hour rolling average values of continuously monitored operating parameters.

(H) Records of the dates, times, and durations of any bypass of the control device.

(3) Identification of calendar dates and times for which continuous emission monitoring systems or monitoring systems used to monitor operating limits were inoperative, inactive, malfunctioning, or out of control (except for downtime associated with zero and span and other routine calibration checks). Identify the pollutant emissions or operating parameters not measured, the duration, reasons for not obtaining the data, and a description of corrective actions taken.

(4) Identification of calendar dates, times, and durations of malfunctions, and a description of the malfunction and the corrective action taken.

(5) Identification of calendar dates and times for which monitoring data show a deviation from the carbon monoxide emissions limit in Table 2 in §113.2357 of this title (relating to Tables Relating to Division 5) or a deviation from the operating limits in Table 3 in §113.2357 of this title or a deviation from other operating limits established under §113.2316 of this title with a description of the deviations, reasons for such deviations, and a description of corrective actions taken.

(6) Calendar dates when continuous monitoring systems did not collect the minimum amount of data required under §113.2329 and §113.2332 of this title (relating to What is the minimum amount of monitoring data I must collect with my continuous emission monitoring systems, and is the data collection requirement enforceable? and Is there a minimum amount of operating parameter monitoring data I must obtain?).

(7) For carbon monoxide continuous emissions monitoring systems, document the results of your daily drift tests and quarterly accuracy determinations according to Procedure 1 of 40 Code of

Federal Regulations Part 60, Appendix F.

(8) Records of the calibration of any monitoring devices required under §113.2331 of this title (relating to What operating parameter monitoring equipment must I install, and what operating parameters must I monitor?).

(9) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating limits, as applicable. Retain a copy of the complete test report including calculations and a description of the types of waste burned during the test.

(10) Records showing the names of OSWI unit operators who have completed review of the information in §113.2312(a) of this title (relating to What site-specific documentation is required?) as required by §113.2312(b) of this title, including the date of the initial review and all subsequent annual reviews.

(11) Records showing the names of the OSWI unit operators who have completed the operator training requirements under §113.2307 of this title (relating to What are the operator training and qualification requirements?), met the criteria for qualification under §113.2309 of this title (relating to How do I obtain my operator qualification?), and maintained or renewed their qualification under §113.2310 or §113.2311 of this title (relating to How do I maintain my operator qualification? or How do I renew my lapsed operator qualification?). Records must include documentation of training, the dates of the initial and refresher training, and the dates of their qualification and all subsequent renewals of such

qualifications.

(12) For each qualified operator, the phone and/or pager number at which they can be reached during operating hours.

(13) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

(14) The information listed in §113.2312(a) of this title.

§113.2334. Where and in what format must I keep my records?

(a) You must keep each record for a period of at least five years; on site for at least 2 years. You may keep the records off site for the remaining 3 years.

(b) All records must be available in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the executive director.

§113.2335. What reports must I submit?

See Table 5 in §113.2357 of this title (relating to Tables Relating to Division 5) for a summary of the reporting requirements.

§113.2336. What information must I submit following my initial performance test?

You must submit the information specified in paragraphs (1) through (3) of this section no later than 60 days following the initial performance test. All reports must be signed by the facilities manager.

(1) The complete test report for the initial performance test results obtained under §113.2320 of this title (relating to How do I demonstrate initial compliance with the emission limitations and establish the operating limits?), as applicable.

(2) The values for the site-specific operating limits established in §113.2315 or §113.2316 of this title (relating to What operating limits must I meet and by when? or What if I do not use a wet scrubber to comply with the emission limitations?).

(3) The waste management plan, as specified in §§113.2304 through 113.2306 of this title (relating to What is a waste management plan? When must I submit my waste management plan? and What should I include in my waste management plan?).

§113.2337. When must I submit my annual report?

You must submit an annual report no later than 12 months following the submission of the information in §113.2336 of this title (relating to What information must I submit following my initial performance test?). You must submit subsequent reports no more than 12 months following the previous report.

§113.2338. What information must I include in my annual report?

The annual report required under §113.2337 of this title (relating to When must I submit my annual report?) must include the ten items listed in paragraphs (1) through (10) of this section. If you have a deviation from the operating limits or the emission limitations, you must also submit deviation reports as specified in §§113.2339 through 113.2341 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations?, What must I include in the deviation report?, and What else must I report if I have a deviation from the requirement to have a qualified operator accessible?).

(1) Company name and address.

(2) Statement by the owner or operator, with the name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the requirements of 40 Code of Federal Regulations §70.5(d).

(3) Date of report and beginning and ending dates of the reporting period.

(4) The values for the operating limits established pursuant to §113.2315 or §113.2316 of this title (relating to What operating limits must I meet and by when? or What if I do not use a wet scrubber to comply with the emission limitations?).

(5) If no deviation from any emission limitation or operating limit that applies to you has been reported, a statement that there was no deviation from the emission limitations or operating limits during the reporting period, and that no monitoring system used to determine compliance with the emission limitations or operating limits was inoperative, inactive, malfunctioning, or out of control.

(6) The highest recorded 12-hour average and the lowest recorded 12-hour average, as applicable, for carbon monoxide emissions and the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable, for each operating parameter recorded for the calendar year being reported.

(7) Information recorded under §113.2333(2)(F) and (3) through (5) of this title (relating to What records must I keep?) for the calendar year being reported.

(8) If a performance test was conducted during the reporting period, the results of that test.

(9) If you met the requirements of §113.2324(a) or (b) of this title (relating to May I conduct performance testing less often?), and did not conduct a performance test during the reporting period, you must state that you met the requirements of §113.2324(a) or (b) of this title, and, therefore, you were not required to conduct a performance test during the reporting period.

(10) Documentation of periods when all qualified other solid waste incineration unit operators were unavailable for more than 12 hours, but less than 2 weeks.

§113.2339. What else must I report if I have a deviation from the operating limits or the emission limitations?

(a) You must submit a deviation report if any recorded 3-hour average parameter level is above the maximum operating limit or below the minimum operating limit established under this division, if any recorded 12-hour average carbon monoxide emission rate is above the emission limitation, if the control device was bypassed, or if a performance test was conducted that showed a deviation from any emission limitation.

(b) The deviation report must be submitted by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data you collected during the second half of the calendar year (July 1 to December 31).

§113.2340. What must I include in the deviation report?

In each report required under §113.2339 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations?), for any pollutant or operating parameter that deviated from the emission limitations or operating limits specified in this division, include the seven items described in paragraphs (1) through (7) of this section.

(1) The calendar dates and times your unit deviated from the emission limitations or operating limit requirements.

(2) The averaged and recorded data for those dates.

(3) Durations and causes of each deviation from the emission limitations or operating limits and your corrective actions.

(4) A copy of the operating limit monitoring data during each deviation and any test report that documents the emission levels.

(5) The dates, times, number, duration, and causes for monitor downtime incidents (other than downtime associated with zero, span, and other routine calibration checks).

(6) Whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

(7) The dates, times, and durations of any bypass of the control device.

§113.2341. What else must I report if I have a deviation from the requirement to have a qualified operator accessible?

(a) If all qualified operators are not accessible for 2 weeks or more, you must take the two actions in paragraphs (1) and (2) of this subsection.

(1) Submit a notification of the deviation within 10 days after the end of the 2-week period that includes the three items in subparagraphs (A) through (C) of this paragraph.

(A) A statement of what caused the deviation.

(B) A description of what you are doing to ensure that a qualified operator is accessible.

(C) The date when you anticipate that a qualified operator will be available.

(2) Submit a status report to the executive director every 4 weeks that includes the three items in subparagraphs (A) through (C) of this paragraph.

(A) A description of what you are doing to ensure that a qualified operator is accessible.

(B) The date when you anticipate that a qualified operator will be accessible.

(C) Request approval from the executive director to continue operation of the other solid waste incineration unit.

(b) If your unit was shut down by the executive director, under the provisions of §113.2313(3)(B) of this title (relating to What if all the qualified operators are temporarily not accessible?), due to a failure

to provide an accessible qualified operator, you must notify the executive director that you are resuming operation once a qualified operator is accessible.

§113.2342. Are there any other notifications or reports that I must submit?

Yes, you must submit notifications as provided by 40 Code of Federal Regulations §60.7.

§113.2343. In what form can I submit my reports?

Submit initial, annual, and deviation reports electronically or in paper format, postmarked on or before the submittal due dates.

§113.2344. Can reporting dates be changed?

If the executive director agrees, you may change the semiannual or annual reporting dates. See 40 Code of Federal Regulations §60.19(c) for procedures to seek approval to change your reporting date.

§113.2345. Am I required to apply for and obtain a Title V operating permit for my unit?

Yes, if you are subject to an applicable United States Environmental Protection Agency-approved and effective Federal Clean Air Act, §111(d)/129 state or tribal plan or an applicable and effective federal plan, you are required to apply for and obtain a Title V operating permit unless you meet the relevant requirements for an exemption specified in 40 Code of Federal Regulations §60.2993.

§113.2346. When must I submit a Title V permit application for my existing unit?

(a) If your existing unit is not subject to an earlier permit application deadline, a complete Title V permit application must be submitted on or before the earlier of the dates specified in paragraphs (1) through (3) of this subsection. (See the Federal Clean Air Act, §§129(e), 503(c), 503(d), and 502(a) and 40 Code of Federal Regulations (CFR) §70.5(a)(1)(i).)

(1) 12 months after the effective date of any applicable United States Environmental Protection Agency (EPA)-approved Federal Clean Air Act, §111(d)/129 state or tribal plan.

(2) 12 months after the effective date of any applicable federal plan.

(3) December 16, 2008.

(b) For any existing unit not subject to an earlier permit application deadline, the application deadline of 36 months after the promulgation of 40 CFR Part 60, Subpart FFFF, applies regardless of whether or when any applicable federal plan is effective, or whether or when any applicable Federal Clean Air Act, §111(d)/129 state or tribal plan is approved by the EPA and becomes effective.

(c) If your existing unit is subject to Title V as a result of some triggering requirement(s) other than those specified in subsection (a) or (b) of this section (for example, a unit may be a major source or part of a major source), then your unit may be required to apply for a Title V permit prior to the deadlines

specified in subsections (a) and (b). If more than one requirement triggers a source's obligation to apply for a Title V permit, the 12-month timeframe for filing a Title V permit application is triggered by the requirement which first causes the source to be subject to Title V. (See the Federal Clean Air Act, §503(c) and 40 CFR §70.3(a) and (b) and §70.5(a)(1)(i).)

(d) A "complete" Title V permit application is one that has been determined or deemed complete by the relevant permitting authority under the Federal Clean Air Act, §503(d) and 40 CFR §70.5(a)(2). You must submit a complete permit application by the relevant application deadline in order to operate after this date in compliance with federal law. (See the Federal Clean Air Act, §503(d) and §502(a) and 40 CFR §70.7(b).)

§113.2347. What are the requirements for temporary-use incinerators and air curtain incinerators used in disaster recovery?

Your incinerator or air curtain incinerator is excluded from the requirements of this division if it is used on a temporary basis to combust debris from a disaster or emergency such as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism. To qualify for this exclusion, the incinerator or air curtain incinerator must be used to combust debris in an area declared a State of Emergency by a local or state government, or the President, under the authority of the Stafford Act, has declared that an emergency or a major disaster exists in the area, and you must follow the requirements specified in paragraphs (1) through (3) of this section.

(1) If the incinerator or air curtain incinerator is used during a period that begins on the

date the unit started operation and lasts 8 weeks or less within the boundaries of the same emergency or disaster declaration area, then it is excluded from the requirements of this division. You do not need to notify the executive director of its use or meet the emission limitations or other requirements of this division.

(2) If the incinerator or air curtain incinerator will be used during a period that begins on the date the unit started operation and lasts more than 8 weeks within the boundaries of the same emergency or disaster declaration area, you must notify the executive director that the temporary-use incinerator or air curtain incinerator will be used for more than 8 weeks and request permission to continue to operate the unit as specified in subparagraphs (A) and (B) of this paragraph.

(A) The notification must be submitted in writing by the date 8 weeks after you start operation of the temporary-use incinerator or air curtain incinerator within the boundaries of the current emergency or disaster declaration area.

(B) The notification must contain the date the incinerator or air curtain incinerator started operation within the boundaries of the current emergency or disaster declaration area, identification of the disaster or emergency for which the incinerator or air curtain incinerator is being used, a description of the types of materials being burned in the incinerator or air curtain incinerator, a brief description of the size and design of the unit (for example, an air curtain incinerator or a modular starved-air incinerator), the reasons the incinerator or air curtain incinerator must be operated for more than 8 weeks, and the amount of time for which you request permission to operate including the date you expect to cease operation of the unit.

(3) If you submitted the notification containing the information in paragraph (2)(B) of this section by the date specified in paragraph (2)(A) of this section, you may continue to operate the incinerator or air curtain incinerator for another 8 weeks, which is a total of 16 weeks from the date the unit started operation within the boundaries of the current emergency or disaster declaration area. You do not have to meet the emission limitations or other requirements of this division during this period.

(A) At the end of 16 weeks from the date the incinerator or air curtain incinerator started operation within the boundaries of the current emergency or disaster declaration area, you must cease operation of the unit or comply with all requirements of this division, unless the executive director has approved in writing your request to continue operation.

(B) If the executive director has approved in writing your request to continue operation, then you may continue to operate the incinerator or air curtain incinerator within the boundaries of the current emergency or disaster declaration area until the date specified in the approval, and you do not need to comply with any other requirements of this division during the approved time period.

§113.2348. What is an air curtain incinerator?

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open, integrated combustion chamber (fire box) or open pit or trench (trench burner) in which combustion occurs. For the purpose of this division only, air curtain incinerators include both firebox and trench

burner units.

(b) Air curtain incinerators that burn only the materials listed in paragraphs (1) through (4) of this subsection are required to meet only the requirements in this section and §§113.2349 through 113.2355 of this title (relating to When must I comply if my air curtain incinerator burns only wood waste, clean lumber, and yard waste?, What must I do if I close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and then restart it?, What must I do if I plan to permanently close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and not restart it?, What are the emission limitations for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?, How must I monitor opacity for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?, What are the recordkeeping and reporting requirements for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?, and Am I required to apply for and obtain a Title V operating permit for my air curtain incinerator that burns only wood waste, clean lumber, and yard waste?) and are exempt from all other requirements of this division.

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent yard waste.

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

§113.2349. When must I comply if my air curtain incinerator burns only wood waste, clean lumber, and yard waste?

Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5) specifies the final compliance date. You must submit a notification to the executive director postmarked within 10 business days after the final compliance date in Table 1 in §113.2357 of this title.

§113.2350. What must I do if I close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and then restart it?

(a) If you close your incinerator but will reopen it prior to the final compliance date in your state plan, you must meet the final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(b) If you close your incinerator but will restart it after your final compliance date, you must meet the emission limitations on the date your incinerator restarts operation.

§113.2351. What must I do if I plan to permanently close my air curtain incinerator that burns only wood waste, clean lumber, and yard waste and not restart it?

You must close the unit before the final compliance date specified in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

§113.2352. What are the emission limitations for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

(a) Within 180 days after your final compliance date in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5), you must meet the two limitations specified in paragraphs (1) and (2) of this subsection.

(1) The opacity limitation is 10 percent (6-minute average), except as described in paragraph (2) of this subsection.

(2) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) The limitations in subsection (a) of this section apply at all times except during malfunctions.

§113.2353. How must I monitor opacity for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

(a) Use Method 9 of 40 Code of Federal Regulations (CFR) Part 60, Appendix A to determine compliance with the opacity limitation.

(b) Conduct an initial test for opacity as specified in 40 CFR §60.8 within 180 days after the final compliance date in Table 1 in §113.2357 of this title (relating to Tables Relating to Division 5).

(c) After the initial test for opacity, conduct annual tests no more than 12 months following the date of your previous test.

(d) If the air curtain incinerator has been out of operation for more than 12 months following the date of your previous test, then you must conduct a test for opacity upon startup of the unit.

§113.2354. What are the recordkeeping and reporting requirements for air curtain incinerators that burn only wood waste, clean lumber, and yard waste?

(a) Keep records of results of all initial and annual opacity tests in either paper copy or computer-readable format that can be printed upon request, unless the executive director approves another format, for at least 5 years. You must keep each record on site for at least 2 years. You may keep the records off site for the remaining 3 years.

(b) Make all records available for submittal to the executive director or for an inspector's review.

(c) You must submit the results (each 6-minute average) of the initial opacity tests no later than 60 days following the initial test. Submit annual opacity test results within 12 months following the previous report.

(d) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date.

(e) Keep a copy of the initial and annual reports for a period of 5 years. You must keep each report on site for at least 2 years. You may keep the reports off site for the remaining 3 years.

§113.2355. Am I required to apply for and obtain a Title V operating permit for my air curtain incinerator that burns only wood waste, clean lumber, and yard waste?

Yes, if your air curtain incinerator is subject to this division, you are required to apply for and obtain a Title V operating permit as specified in §113.2345 and §113.2346 of this title (relating to Am I required to apply for and obtain a Title V operating permit for my unit? and When must I submit a Title V permit application for my existing unit?).

§113.2356. What equations must I use?

(a) Percent oxygen. Adjust all pollutant concentrations to 7 percent oxygen using equation 1 of this section.

Figure: 30 TAC §113.2356(a)

$$C_{adj} = C_{meas} * \frac{(20.9 - 7)}{(20.9 - \%O_2)} \quad \text{(Eq.1)}$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen

C_{meas} = pollutant concentration measured on a dry basis

(20.9–7) = 20.9 percent oxygen–7 percent oxygen (defined oxygen correction basis)

20.9 = oxygen concentration in air, percent

$\%O_2$ = oxygen concentration measured on a dry basis, percent

(b) Capacity of a very small municipal waste combustion unit. For very small municipal waste combustion units that can operate continuously for 24-hour periods, calculate the unit capacity based on 24 hours of operation at the maximum charge rate. To determine the maximum charge rate, use one of two methods:

(1) For very small municipal waste combustion units with a design based on heat input capacity, calculate the maximum charging rate based on the maximum heat input capacity and one of two heating values:

(A) If your very small municipal waste combustion unit combusts refuse-derived fuel, use a heating value of 12,800 kilojoules per kilogram (5,500 British thermal units per pound).

(B) If your very small municipal waste combustion unit combusts municipal solid waste, use a heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

(2) For very small municipal waste combustion units with a design not based on heat input capacity, use the maximum design charging rate.

(c) Capacity of a batch very small municipal waste combustion unit. Calculate the capacity of a batch other solid waste incineration (OSWI) unit as the maximum design amount of municipal solid waste it can charge per batch multiplied by the maximum number of batches it can process in 24 hours. Calculate the maximum number of batches by dividing 24 by the number of hours needed to process one batch. Retain fractional batches in the calculation. For example, if one batch requires 16 hours, the OSWI unit can combust 24/16, or 1.5 batches, in 24 hours.

(d) Carbon monoxide pollutant rate. When hourly average pollutant rates (E_h) are obtained (e.g., continuous emission monitoring system values), compute the rolling average carbon monoxide pollutant rate (E_a) for each 12-hour period using the following equation:

Figure: 30 TAC §113.2356(d)

$$E_a = \frac{1}{12}\sum_{j=1}^{12} E_{hj} \quad \text{(Eq. 2)}$$

Where:

E_a = Average carbon monoxide pollutant rate for the 12-hour period, ppm corrected to 7 percent oxygen.

E_{hj} = Hourly arithmetic average pollutant rate for hour "j," parts per million corrected to 7 percent oxygen.

§113.2357. Tables Relating to Division 5.

(a) Table 1 of this subsection specifies the compliance schedule for Division 5 of this subchapter.

Figure: 30 TAC §113.2357(a)

Table 1. Compliance Schedule

Compliance Action	Date
Final Compliance[a]	December 16, 2010

[a]Final compliance means that you complete all process changes and retrofit of control devices so that, when the incineration unit is brought on line, all process changes and air pollution control devices necessary to meet the emission limitations operate as designed.

(b) Table 2 of this subsection specifies the emission limitations for Division 5 of this subchapter.

Figure: 30 TAC §113.2357(b)

Table 2. Emission Limitations

Pollutant	Emission Limitation[a]	Averaging Time	Method to Determine Compliance
1. Cadmium	18 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of 40 CFR Part 60, Appendix A
2. Carbon monoxide	40 parts per million by dry volume	3-run average (1 hour minimum sample time per run during performance test), and 12-hour rolling averages measured using CEMS[b]	Method 10, 10A, or 10B of 40 CFR Part 60, Appendix A and CEMS
3. Dioxins/furans (total basis)	33 nanograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 23 of 40 CFR Part 60, Appendix A
4. Hydrogen chloride	15 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 26A of 40 CFR Part 60, Appendix A
5. Lead	226 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of 40 CFR Part 60, Appendix A
6. Mercury	74 micrograms per dry standard cubic meter	3-run average (1 hour minimum sample time per run)	Method 29 of 40 CFR Part 60, Appendix A
7. Opacity	10 percent	6-run average (1 hour minimum sample time per run)	Method 9 of 40 CFR Part 60, Appendix A
8. Oxides of nitrogen	103 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 7, 7A, 7C, 7D, or 7E of 40 CFR Part 60, Appendix A or ANSI/ASME PTC 19.10-1981 (IBR, see 40 CFR §60.17(h)) in lieu of Methods 7 and 7C only
9. Particulate matter	0.013 grains per dry standard cubic foot	3-run average (1 hour minimum sample time per run)	Method 5 or 29 of 40 CFR Part 60, Appendix A
10. Sulfur dioxide	3.1 parts per million by dry volume	3-run average (1 hour minimum sample time per run)	Method 6 or 6C of 40 CFR Part 60, Appendix A or ANSI/ASME PTC 19.10-1981 (IBR, see 40 CFR §60.17(h)) in lieu of Method 6 only

[a]All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard

conditions.
[b]Calculated each hour as the average of the previous 12 operating hours.

(c) Table 3 of this subsection specifies the operating limits for incinerators and wet scrubbers for Division 5 of this subchapter.

Figure: 30 TAC §113.2357(c)

Table 3. Operating Limits for Incinerators and Wet Scrubbers

For these operating parameters	You must establish operating limits	And monitoring using these minimum frequencies		
		Data Measurement	Data Recording	Averaging Time
1. Charge rate	Maximum charge rate	Continuous	Every hour	Daily for batch units. 3-hour rolling for continuous and intermittent units[a]
2. Pressure drop across the wet scrubber or amperage to wet scrubber	Minimum pressure drop or amperage	Continuous	Every 15 minutes	3-hour rolling[a]
3. Scrubber liquor flow rate	Minimum flow rate	Continuous	Every 15 minutes	3-hour rolling[a]
4. Scrubber liquor pH	Minimum pH	Continuous	Every 15 minutes	3-hour rolling[a]

[a]Calculated each hour as the average of the previous 3 operating hours.

(d) Table 4 of this subsection specifies the requirements for continuous emission monitoring systems for Division 5 of this subchapter.

Figure: 30 TAC §113.2357(d)

Table 4. Requirements for Continuous Emission Monitoring Systems (CEMS)

Pollutant	Span Values for your CEMS	Performance Specifications (P.S.) in 40 CFR Part 60, Appendix B for your CEMS	If Needed to Meet Minimum Data Requirements, use the Following Alternate Methods in 40 CFR Part 60, Appendix A to Collect Data
1. Carbon Monoxide	125 percent of the maximum hourly potential carbon monoxide emissions of the waste combustion unit	P.S. 4A	Method 10
2. Oxygen	25 percent oxygen	P.S. 3	Method 3A or 3B, or ANSI/ASME PTC 19.10-1981 (IBR, see 40 CFR §60.17(h)) in lieu of Method 3B only

(e) Table 5 of this subsection is a summary of the reporting requirements for Division 5 of this subchapter.

Figure: 30 TAC §113.2357(e)

Table 5. Summary of Reporting Requirements

Report	Due Date	Contents	Reference
1. Initial Test Report	No later than 60 days following the initial performance test	Complete test report for the initial performance test The values for the site-specific operating limits	§113.2336 of this title (relating to What information must I submit following my initial performance test?)
2. Waste Management Plan	No later than 60 days following the initial performance test	Reduction or separation of recyclable materials Identification of additional waste management measures and how they will be implemented	§§113.2304 through 113.2306 of this title (relating to What is a waste management plan? When must I submit my waste management plan? and What should I include in my waste management plan?)
3. Annual Report	No later than 12 months following the submittal of the initial test report.	Company Name and address; Statement and signature by the owner or operator; Date of report and beginning and ending dates of the reporting period;	§113.2337 and §113.2338 of this title

	Subsequent reports are to be submitted no more than 12 months following the previous report	Values for the operating limits; If no deviations or malfunctions were reported, a statement that no deviations occurred during the reporting period; Highest and lowest recorded 12-hour averages, as applicable, for carbon monoxide emissions and highest and lowest recorded 3-hour averages, as applicable, for each operating parameter recorded for the calendar year being reported; Information for deviations or malfunctions recorded under 40 CFR §60.2949(b)(6) and (c) through (e); If a performance test was conducted during the reporting period, the results of the test; If a performance test was not conducted during the reporting period, a statement that the requirements of 40 CFR §60.2934(a) or (b) were met; Documentation of periods when all qualified OSWI unit operators were unavailable for more than 12 hours but less than 2 weeks	(relating to When must I submit my annual report? and What information must I include in my annual report?)
4. Emission Limitation or Operating Limit Deviation Report	By August 1 of that year for data collected during the first half of the calendar year. By February 1 of the following year for data collected during the second half of the calendar year	Dates and times of deviation from the emission limitations or operating limit requirements; Averaged and recorded data for those dates; Duration and causes of each deviation and the corrective actions taken; Copy of operating limit monitoring data during each deviation and any test report that documents the emission levels; Dates, times, and causes for monitor downtime incidents; Whether each deviation occurred during a period of startup, shutdown, or malfunction; and Dates, times, and duration of any bypass of the control device	§113.2339 and §113.2340 of this title (relating to What else must I report if I have a deviation from the operating limits or the emission limitations? and What must I include in the deviation report?)
5. Qualified	Within 10 days of	Statement of cause of deviation;	§113.2341(a)(1)

Operator Deviation Notification	deviation	Description of efforts to have an accessible qualified operator; and The date a qualified operator will be accessible	of this title (relating to What else must I report if I have a deviation from the requirement to have a qualified operator accessible?)
6. Qualified Operation Deviation Status Report	Every 4 weeks following deviation	Description of efforts to have an accessible qualified operator; The date a qualified operator will be accessible; and Request to continue operation	§113.2341(a)(2) of this title
7. Qualified Operator Deviation Notification of Resumed Operation	Prior to resuming operation	Notification that you are resuming operation	§113.2341(b) of this title

Note: This table is only a summary, see the referenced sections of the rule for the complete requirements.