

U.S. ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 62

[OAR-2004-0007; FRL- ]

RIN 2060-AM11

**Emission Guidelines and Compliance Times for Large  
Municipal Waste Combustors That are Constructed on or  
Before September 20, 1994 and Federal Plan Requirements  
for Large Municipal Waste Combustors Constructed on or  
Before September 20, 1994**

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

**ACTION:** Proposed rule; amendments.

**SUMMARY:** We are proposing to amend the large municipal waste combustor (MWC) emission guidelines to add a carbon monoxide (CO) emission limit for one type of MWC technology that was not previously addressed. When the large MWC emission guidelines were developed, all existing MWC units using the fluidized bed, mixed fuel (wood/refuse-derived fuel) technology were judged to be small MWC units, i.e., having a design combustion capacity of 35 to 250 tons per day (tpd) of municipal solid waste (MSW). Two existing MWC units have since been determined to be large MWC units, i.e., having a design combustion capacity of 250 or more tpd MSW, and thus subject to the large MWC emission guidelines. The

proposed rule would amend the emission guidelines to add a CO emission limit specific to this technology. The proposed rule also would amend the large MWC Federal plan, which implements the emission guidelines. The CO emission limit being added of 200 parts per million (ppm) by dry volume (24-hour geometric mean) for fluidized bed, mixed fuel (wood/refuse-derived fuel) type MWC unit is the same CO limit used for this technology in the emission guidelines for small MWC units. Low CO levels indicate good combustion, and thus good control of other pollutants. Good combustion combined with air pollution control devices significantly reduces the release of air pollutants to the environment.

In the Rule and Regulations section of today's Federal Register, we are taking direct final action on the proposed amendments because we view the revisions as noncontroversial, and we anticipate no significant adverse comments. We have explained our reasons for the amendments in the preamble to the direct final rule. If we receive no significant adverse comments, we will take no further action on the proposed rule. If we receive significant adverse comments, we will publish a timely withdrawal of the direct final rule in the Federal

Register and address comments in a subsequent Federal Register action based on the proposal.

**DATES:** Comments. Submit comments on or before [INSERT THE DATE 30 DAYS AFTER PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER].

Public Hearing. If anyone contacts us by [INSERT THE DATE 20 DAYS AFTER PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER] requesting to speak at a public hearing, we will hold a public hearing on [INSERT THE DATE 30 DAYS AFTER PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER]. Persons interested in attending the public hearing should contact Ms. Kelly Hayes at (919) 541-5578 to verify that a hearing will be held.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2004-0007, by one of the following methods:

Federal eRulemaking Portal. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Website. <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

By Mail. Send your comments to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode

6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR-2004-0007. Please include a total of two copies. The EPA requests a separate copy also be sent to the contact person identified below (see FOR FURTHER INFORMATION CONTACT).

By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center (EPA/DC), EPA West Building, Room B108, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR-2004-0007. Such deliveries are accepted only during the normal hours of operation as identified above. Special arrangements should be made for deliveries of boxed information.

By Facsimile. Fax your comments to (202) 566-1741, Attention Docket ID No. OAR-2004-0007.

Instructions: Direct your comments to Docket ID No. OAR-2004-0007. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.epa.gov/edocket](http://www.epa.gov/edocket), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or

otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Public Hearing. If a public hearing is held, it will be held at EPA's RTP Campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC, or an alternate site nearby.

Docket. All documents in the docket are listed in the

EDOCKET index at [www.epa.gov/edocket](http://www.epa.gov/edocket). Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the EPA Docket Center (EPA/DC), EPA West Building, Room B102, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walt Stevenson, Combustion Group, Emission Standards Division (C439-01), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5264, e-mail [stevenson.walt@epa.gov](mailto:stevenson.walt@epa.gov).

**SUPPLEMENTARY INFORMATION:** Regulated Entities.

Categories and entities potentially regulated by the proposed rule are existing MWC units with a design

combustion capacity of greater than 250 tpd of MSW. The MWC emission guidelines and the MWC Federal plan affect the following categories of sources:

Category	NAICS Code	SIC Code	Examples of potentially regulated entities
Industry, Federal government, and State/local/ tribal governments	562213 92411	4953 9511	Solid waste combustors or incinerators at waste-to-energy facilities that generate electricity or steam from the combustion of garbage (typically municipal solid waste); and solid waste combustors or incinerators at facilities that combust garbage (typically municipal solid waste) and do not recover energy from the waste.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the proposed rule. To determine whether your facility is regulated by the proposed rule, you should examine the applicability criteria in section 60.32b of 40 CFR part 60, subpart Cb, and section 62.14102 of 40 CFR part 62, subpart FFF. If you have any questions regarding the applicability of the proposed rule to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Submitting CBI. Do not submit information that you consider to be CBI electronically through EDocket, regulations.gov, or e-mail. Send or deliver information identified as CBI to only the following address: Mr. Walt Stevenson, c/o OAQPS Document Control Officer (Room C439-01), U.S. EPA, Research Triangle Park, 27711, Attention Docket ID No. OAR-2004-0007. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Docket. The docket number for the proposed amendment to the emission guidelines (40 CFR part 60, subpart Cb) and Federal plan (40 CFR part 62, subpart FFF) is Docket ID No. OAR-2004-0007. Other dockets incorporated by reference include Docket ID Nos. A-89-08, A-90-45, and A-

98-18 for the emission guidelines amendment and Docket ID Nos. A-97-45 and A-2000-39 for the Federal plan amendment. The docket includes background information and supported the proposal and promulgation of the emission guidelines (40 CFR part 60, subparts Ca and Ea) and large MWC Federal plan (40 CFR part 62, subpart FFF). Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the promulgated direct final rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at [www.epa.gov/ttn/oarpg](http://www.epa.gov/ttn/oarpg). The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN Help line at (919) 541-5384.

#### **I. Background and Summary of Amendments**

The proposed rule amends the MWC emission guidelines and the MWC Federal plan for large MWC units to add a CO emission limit for bubbling fluidized bed combustors that burn a mixture of wood and refuse-derived fuel (RDF). This is the same combustor technology and CO emission

limit that appear in the small MWC emission guidelines. In developing the emission guidelines for small MWC units, we recognized the unique characteristics of the existing bubbling fluidized bed MWC units combusting a mixture of wood and RDF and included a CO emission limit specific to that technology. Since promulgation of the emission guidelines for large MWC units, two existing fluidized bed MWC units combusting a mixture of wood and RDF were determined to be large MWC units, subject to the large MWC emission guidelines. However, the large MWC emission guidelines did not include bubbling fluidized bed MWC units combusting a mixture of wood and RDF because none were judged to be in the large category when the large MWC emission guidelines were developed and adopted in 1995. The proposed amendments recognize bubbling fluidized bed (wood/RDF) MWC units as an MWC technology in the large MWC category and add a CO emission limit of 200 ppm by dry volume (24-hour geometric mean). This is the same CO emission limit, and is based on the same analysis for this technology, that appears in the small MWC emission guidelines. The proposed amendments similarly revise the large MWC Federal plan, which implements the emission guidelines.

## II. Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements of the proposed rule, see the direct final rule in the Rules and Regulations section of today's Federal Register.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) as amended by the Small business Regulatory Enforcement Fairness Act (SBREFA) of 1996, 5 U.S.C. 601 et seq., generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small government organizations, and small government jurisdictions.

For purposes of assessing the impacts of the proposed rule on small entities, small entity is defined as follows: (1) A small business in the regulated industry that has a gross annual revenue less than \$6 million;

(2) a small governmental jurisdiction that is a

government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Section 605 of the RFA requires Federal agencies to give special consideration to the impacts of regulations on small entities, which are small businesses, small organizations, and small governments. During the 1995 MWC rulemaking, EPA estimated that few, if any, small entities would be affected by the promulgated guidelines and standards and, therefore, a regulatory flexibility analysis was not required (see 60 FR 65413).

After considering the economic impacts of today's proposed rule on small entities, I certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

**List of Subjects in 40 CFR Parts 60 and 62**

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

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Dated:

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Michael O. Leavitt,  
Administrator