



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60 and 62

[EPA-HQ-OAR-2003-0119; FRL-12232-04-OAR]

RIN 2060-AW43

### **Commercial and Industrial Solid Waste Incineration Units: Temporary-Use Incinerators and Air Curtain Incinerators Used in Disaster Recovery; Rescission of Interim Final Rule**

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

**ACTION:** Final rule; rescission of interim final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is rescinding the interim final rule (IFR) titled “Commercial and Industrial Solid Waste Incineration Units: Temporary-Use Incinerators and Air Curtain Incinerators Used in Disaster Recovery.” The IFR added temporary-use provisions that excluded certain commercial and industrial solid waste incineration (CISWI) units from otherwise applicable requirements when used on a temporary basis to combust non-hazardous debris in specified emergency or disaster circumstances. The EPA is rescinding those provisions and intends to address the same subject matter through notice-and-comment rulemaking culminating in a final rule.

**DATES:** This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2003-0119. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (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 through <https://www.regulations.gov/>, or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday. 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:** For information about this action, contact Dr. Felica Davis, Waste Management Branch, Natural Resources Division (E143-03), Office of Clean Air Programs, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4857; and email address: [davis.felica@epa.gov](mailto:davis.felica@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Preamble acronyms and abbreviations.* Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ACI	air curtain incinerator
CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
CISWI	commercial and industrial solid waste incineration
EG	Emission Guidelines
EO	Executive Order
EPA	Environmental Protection Agency
FR	<i>Federal Register</i>
IFR	interim final rule
NSPS	New Source Performance Standards
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
UMRA	Unfunded Mandates Reform Act

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## I. General Information

*A. Does this action apply to me?*

This action applies to owners and operators of commercial and industrial solid waste incineration (CISWI) units (including air curtain incinerators (ACIs)) subject to the New Source Performance Standards (NSPS) (40 CFR part 60, subpart CCCC), Federal Plan (40 CFR part 62, subpart IIIa), or Emissions Guidelines (EG) (40 CFR part 60, subpart DDDD). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket (Docket ID No. EPA-HQ-OAR-2003-0119), an electronic copy of this action will be available on the internet at <https://www.epa.gov/stationary-sources-air-pollution/commercial-and-industrial-solid-waste-incineration-units-ciswi-new>.

## **II. Background**

### *A. What is the statutory authority for this action?*

The Clean Air Act (CAA), and CAA section 129 in particular (42 U.S.C. 7429), provides the statutory authority to issue this action.

### *B. What rule is being rescinded?*

On August 26, 2025, the EPA published an IFR titled “Commercial and Industrial Solid Waste Incineration Units: Temporary-Use Incinerators and Air Curtain Incinerators Used in Disaster Recovery.”<sup>1</sup> The IFR was effective upon publication and provided an opportunity for public comment. The IFR added temporary-use provisions to the CISWI NSPS, EG, and Federal Plan at 40 CFR 60.2041, 40 CFR 60.2556, and 40 CFR 62.14531a, respectively. The temporary-use provisions provided an exclusion from otherwise applicable requirements when a CISWI unit, including an ACI, temporarily combusts non-hazardous debris from a disaster or emergency in specified circumstances. The IFR also included conditions related to the operation of control devices, notifications, and the duration and scope of the temporary-use exclusion.

## **III. Why is the EPA Rescinding the IFR?**

The EPA issued the IFR to ensure that more incinerators were available for recovery efforts before the 2025 hurricane and wildfire disaster seasons arrived.<sup>2</sup> Now that the 2025 hurricane and wildfire disaster seasons have passed, the immediate near-term context that motivated expedited issuance has changed, and the EPA has determined that it is appropriate to revisit the temporary-use provisions through notice-and-comment rulemaking. Accordingly, the EPA is rescinding the IFR and addressing the same subject matter in a separate notice-and-comment rulemaking. This action is prospective only and

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<sup>1</sup> 90 FR 41508.

<sup>2</sup> *Id.* at 41513.

does not alter the compliance status of any owner or operator for conduct occurring before the effective date of this final rule.

This rescission removes the IFR amendments and returns the regulatory text to the requirements in effect immediately prior to the IFR. As mentioned above, the EPA is proceeding under a separate proposal published today that will provide the public with an opportunity to submit comments, input and data for EPA's consideration before the Agency issues a final rule.

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

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and therefore was not submitted to the Office of Management and Budget for review. The EPA prepared an Economic Impact Analysis (EIA) for the IFR that is being rescinded in this action. The EIA explained that facilities that elected to use the disaster recovery temporary use provisions were not subject to additional control requirements and, accordingly, the EPA anticipated that there would be no additional compliance costs. The EPA was unable to quantify any overall nationwide cost savings because the Agency could not determine how many units would be subject to, or would elect to use, the temporary use provisions. The EIA also explained that if a disaster made operation of emission controls technically infeasible, emissions increases could occur but could not be quantified due to uncertainty in the volume and composition of combusted debris. This action rescinds the IFR; therefore, the EPA no longer anticipates the previously unquantified cost and emissions implications associated with the temporary use provisions.

##### *B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. This action does not change the information collection requirements.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

*E. Unfunded Mandates Reform Act of 1995 (UMRA)*

This action does not contain an unfunded mandate of \$100 million (adjusted annually for inflation) or more as described in UMRA, 2 U.S.C. 1531-1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments. Although this action creates an enforceable duty on the private sector, the cost does not exceed \$100 million or more.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175. This rule will implement revisions to the compliance dates for certain provisions. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explains why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

This action does not involve technical standards; therefore, the NTTAA does not apply.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, 5 U.S.C. 801-808, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This is not a major action as defined by 5 U.S.C. 804(2).

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

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

**Lee Zeldin,**  
*Administrator.*

For the reasons stated in the preamble, the Environmental Protection Agency amends parts 60 and 62 of title 40, chapter I, of the Code of Federal Regulations as follows:

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

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

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

**Subpart CCCC—Standards of Performance for Commercial and Industrial Solid Waste Incineration Units**

**§ 60.2041 [Removed and Reserved]**

2. Remove and reserve § 60.2041.

**Subpart DDDD—Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units**

**§ 60.2556 [Removed and Reserved]**

3. Remove and reserve § 60.2556.

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

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

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

**Subpart III—Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction On or Before November 30, 1999**

**§ 62.14531a [Removed and Reserved]**

5. Remove and reserve § 62.14531a.

