

**§ 60.538**

**40 CFR Ch. I (7-1-07 Edition)**

certification, including the full test report and raw data sheets, laboratory technician notes, calculations, and the test results for all test runs.

(ii) Where a model line is certified under §60.533(h) and later certified under §60.533(e), all documentation pertaining to the certification test used to obtain certification in each instance shall be retained.

(3) For parameter inspections conducted pursuant to §60.533(o)(2), information indicating the extent to which tolerances for components that affect emissions as listed in §60.533(k)(2) were inspected, and at what frequency, the results of such inspections, remedial actions taken, if any, and any follow-up actions such as additional inspections,

(4) For emissions tests conducted pursuant to §60.533(o)(3), all test reports, data sheets, laboratory technician notes, calculations, and test results for all test runs, the remedial actions taken, if any, and any follow-up actions such as additional testing,

(5) The number of affected facilities that are sold each year, by certified model line,

(b)(1) Each accredited laboratory shall maintain records consisting of all documentation pertaining to each certification test, including the full test report and raw data sheets, technician notes, calculations, and the test results for all test runs.

(2) [Reserved]

(3) Each accredited laboratory shall report to the Administrator within 24 hours whenever a manufacturer which has notified the laboratory that it intends to apply for alternative certification for a model line fails to submit on schedule a representative unit of that model line for certification testing.

(c) Any wood heater upon which certification tests were performed based upon which certification was granted under §60.533(e) shall be retained (sealed and unaltered) at the manufacturer's facility for as long as the model line in question is manufactured. Any such wood heater shall be made available upon request to the Administrator for inspection and testing.

(d)-(e) [Reserved]

(f) Each manufacturer of an affected facility certified under §60.533 shall submit a report to the Administrator every 2 years following issuance of a certificate of compliance for each model line. This report shall certify that no changes in the design or manufacture of this model line have been made that require recertification under §60.533(k).

(g) Each manufacturer shall maintain records of the model and number of wood heaters exempted under §60.530(f).

(h) Each commercial owner of a wood heater previously owned by a non-commercial owner for his personal use shall maintain records of the name and address of the previous owner.

(i)(1) Unless otherwise specified, all records required under this section shall be maintained by the manufacturer or commercial owner of the affected facility for a period of no less than 5 years.

(2) Unless otherwise specified, all reports to the Administrator required under this subpart shall be made to: Stationary Source Compliance Division (EN-341), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460 Attention: Wood Heater Program.

(3) A report to the Administrator required under this subpart shall be deemed to have been made when it is properly addressed and mailed, or placed in the possession of a commercial courier service.

[53 FR 5873, Feb. 26, 1988, as amended at 60 FR 33925, June 29, 1995]

**§ 60.538 Prohibitions.**

(a) No person shall operate an affected facility that does not have affixed to it a permanent label pursuant to §60.536 (b), (c), (e), (f)(2), (f)(3), or (g)(2).

(b) No manufacturer shall advertise for sale, offer for sale, or sell an affected facility that—

(1) Does not have affixed to it a permanent label pursuant to §60.536, and

(2) Has not been tested when required by §60.533(n).

(c) On or after July 1, 1990, no commercial owner shall advertise for sale, offer for sale, or sell an affected facility that does not have affixed to it a permanent label pursuant to §60.536 (b),

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(c), (e), (f)(1), (f)(3), (g)(1) or (g)(2). No person shall advertise for sale, offer for sale, or sell an affected facility labeled under § 60.536(f)(1) except for export.

(d)(1) No commercial owner shall advertise for sale, offer for sale or sell an affected facility permanently labeled under § 60.536 (b) or (c) unless:

(i) The affected facility has affixed to it a removable label pursuant to § 60.536 of this subpart,

(ii) He provides any purchaser or transferee with an owner's manual pursuant to § 60.536(k) of this subpart, and

(iii) He provides any purchaser or transferee with a copy of the catalytic combustor warranty (for affected facilities with catalytic combustors).

(2) No commercial owner shall advertise for sale, offer for sale, or sell an affected facility permanently labeled under § 60.536 (e), (f)(3), or (g), unless the affected facility has affixed to it a removable label pursuant to § 60.536 of this subpart. This prohibition does not apply to wood heaters affected by this subpart that have been previously owned and operated by a noncommercial owner.

(3) A commercial owner other than a manufacturer complies with the requirements of paragraph (d) of this section if he—

(i) Receives the required documentation from the manufacturer or a previous commercial owner and

(ii) Provides that documentation unaltered to any person to whom the wood heater that it covers is sold or transferred.

(e)(1) In any case in which the Administrator revokes a certificate of compliance either for the knowing submission of false or inaccurate information or other fraudulent acts, or based on a finding under § 60.533(l)(1)(ii) that the certification test was not valid, he may give notice of that revocation and the grounds for it to all commercial owners.

(2) From and after the date of receipt of the notice given under paragraph (e)(1) of this section, no commercial owner may sell any wood heater covered by the revoked certificate (other than to the manufacturer) unless

(i) The wood heater has been tested as required by § 60.533(n) and labeled as required by § 60.536(g) or

(ii) The model line has been recertified in accordance with this subpart.

(f) No person shall install or operate an affected facility except in a manner consistent with the instructions on its permanent label and in the owner's manual pursuant to § 60.536(l) of this subpart.

(g) No person shall operate an affected facility which was originally equipped with a catalytic combustor if the catalytic element is deactivated or removed.

(h) No person shall operate an affected facility that has been physically altered to exceed the tolerance limits of its certificate of compliance.

(i) No person shall alter, deface, or remove any permanent label required to be affixed pursuant to § 60.536 of this subpart.

[53 FR 5873, Feb. 26, 1988; 53 FR 14889, Apr. 26, 1988, as amended at 63 FR 64874, Nov. 24, 1998]

### § 60.539 Hearing and appeal procedures.

(a)(1) In any case where the Administrator—

(i) Denies an application under § 60.530(c) or § 60.533(e),

(ii) Issues a notice of revocation of certification under § 60.533(l),

(iii) Denies an application for laboratory accreditation under § 60.535, or

(iv) Issues a notice of revocation of laboratory accreditation under § 60.535(e), the manufacturer or laboratory affected may request a hearing under this section within 30 days following receipt of the required notification of the action in question.

(2) In any case where the Administrator issues a notice of revocation under § 60.533(p), the manufacturer may request a hearing under this section with the time limits set out in § 60.533(p)(5).

(b) Any hearing request shall be in writing, shall be signed by an authorized representative of the petitioning manufacturer or laboratory, and shall include a statement setting forth with particularity the petitioner's objection to the Administrator's determination or proposed determination.

(c)(1) Upon receipt of a request for a hearing under paragraph (a) of this section, the Administrator shall request the Chief Administrative Law Judge to