



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2015-0543; FRL-9933-95-Region 7]

**Approval and Promulgation of Air Quality Implementation Plans
for Designated Facilities and Pollutants; Missouri; Sewage
Sludge Incinerators**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the state plan for designated facilities and pollutants developed under sections 111(d) and 129 of the Clean Air Act for the State of Missouri. This direct final action will amend the state plan to include a new plan and associated rule implementing emission guidelines for Sewage Sludge Incinerators published in the Federal Register on March 21, 2011.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], without further notice, unless EPA receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0543, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: higbee.paula@epa.gov
3. Mail or Hand Delivery: Paula Higbee, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2015-0543. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general

guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>. The www.regulations.gov website is an "anonymous access" system, 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 email comment directly to EPA without going through www.regulations.gov, your email 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.

Docket: All documents in the docket are listed in the www.regulations.gov index. 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, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in

www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Paula Higbee, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7028 or by email at higbee.paula@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Analysis of State Submittal
- III. What Action is EPA taking?

I. Background

The Clean Air Act (CAA) requires that state regulatory agencies implement the emission guidelines and compliance times using a state plan developed under sections 111(d) and 129 of the CAA. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants. Section 129 requires emission guidelines to be promulgated for all categories of sewage sludge

incineration units, including sewage sludge incineration (SSI) units. Section 129 mandates that all plan requirements be at least as protective and restrictive as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and Title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to EPA within one year after EPA's promulgation of the emission guidelines and compliance times.

On March 21, 2011, the EPA established emission guidelines and compliance times for existing SSI units. The emission guidelines and compliance times are codified at 40 CFR 60, Subpart Mmmm.

The state is issuing a new rule, 10 CSR 10-6.191 for SSI to meet its obligation for this Federal rule. The new rule incorporates by reference the Federal rule. The revised state plan is being issued concurrently with this new rulemaking.

The state originally submitted the adopted plan and corresponding state rule to EPA on April 29, 2013. After submission to EPA, Missouri became aware of errors in the state plan and resubmitted a corrected version of the plan which EPA received on September 20, 2013. EPA has analyzed the corrected version.

II. Analysis of State Submittal

The emission guidelines and compliance times are codified

in 40 CFR 60, subpart M. State plans must contain specific information and the legal mechanisms necessary to implement the emission guidelines and compliance times. The requirements are as follows:

- *Inventory of affected SSI units, including to the best of the state's knowledge, SSI units that have shut down and are capable of restarting.*
- *Inventory of emissions from affected SSI units in Missouri.*
- *Compliance schedules for all affected SSI units with a final compliance date no later than March 21, 2016 or three (3) years after the effective date of state plan approval, whichever is earlier.*
- *Emission limitations, emission standards, operator training and qualification requirements, and operating limits for affected SSI units that are at least as protective as the emission guidelines contained in Subpart M.*
- *Testing, monitoring, and inspection requirements at least as protective as those in the emission guidelines.*
- *Performance testing, reporting and recordkeeping requirements at least as protective as those in the emission guidelines.*

- *Certification that the hearing on the State plan was held, a list of witnesses and organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.*
- *Provision for State progress reports to EPA.*
- *Identification of enforceable State mechanisms that were selected for implementing the emission guidelines of Subpart MMMM.*
- *Demonstration of Missouri's legal authority to carry out the sections 111(d) and 129 State plan.*

The Missouri plan includes documentation that all of these requirements have been met. The emission limits, testing, monitoring, reporting and recordkeeping requirements, and other aspects of the Federal rule have been adopted by reference. Missouri rule 10 CSR 10-6.191 contains the applicable requirements for SSI units. The state provided documentation that it complied with the public notice and comment requirements of 40 CFR part 60 Subpart MMMM.

III. What Action is EPA Taking?

Based on the rationale discussed above, EPA is approving Missouri's 111(d) plan for Sewage Sludge Incinerators received on September 20, 2013. We are publishing this direct final rule without a prior proposed rule because we view this as a

noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the revision to the 111(d) plan. If adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state

law. Accordingly, the Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rulemaking would approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard,

and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rulemaking also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report,

which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this proposed rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and

address the comment in the final rulemaking. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

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

Dated: September 3, 2015. Becky Weber,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 62 as set forth below:

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

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

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

Subpart AA - Missouri

2. Add § 62.6363 and an undesignated center heading to read as follows:

Air Emissions from Sewage Sludge Incinerator Units

§62.6363 Identification of plan.

(a) On September 20, 2013, EPA received the Missouri Department of Natural Resources (MDNR) section 111(d)/129 plan for implementation and enforcement of 40 CFR part 60, subpart MMMM, Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units.

(b) Identification of sources: The plan applies to existing sewage sludge incineration (SSI) units that:

- (1) Commenced construction on or before October 14, 2010, or
- (2) Commenced a modification on or before September 21, 2011, primarily to comply with Missouri's plan, and
- (3) Meets the definition of a SSI unit defined in MDNR's plan

(c) The effective date of the plan for existing sewage sludge incineration units is February 5, 2013.

(1) A revision to Missouri's 111(d) plan to incorporate state regulation 10 CSR 10-6.191 Sewage Sludge Incinerators was state effective May 30, 2013. The effective date of the amended plan is [60 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(2) [Reserved]

[FR Doc. 2015-23296 Filed: 9/15/2015 08:45 am; Publication Date: 9/16/2015]