



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2015-0514; FRL-9933-97-Region 7]

Approval and Promulgation of Air Quality Implementation Plans for Designated Facilities and Pollutants; Missouri; Commercial and Industrial Solid Waste Incineration (CISWI) Units

AGENCY: Environmental Protection Agency.

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 the emissions guidelines for Commercial and Industrial Solid Waste Incineration (CISWI) Units.

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-2015-0514, 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-2015-0514. 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?
- IV. Statutory and Executive Order Reviews

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 solid waste incineration units, including CISWI 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 February 7, 2013, EPA finalized emission limitations for CISWI units and definitions for Non-Hazardous Secondary Materials (NHSM) that are Solid Waste, both under the same notice at 78 FR 9112. This notice was the final decision on the CISWI rule originally published March 21, 2011, and reconsidered after further public comments were solicited and received. The notice also included final amendments to the NHSM rule. The definition of solid waste in the NHSM rule determines whether a particular incinerator is covered under another incinerator rule.

The state submitted a negative declaration on May 9, 2011. Subsequently, the state found that they did have applicable units and therefore, the state issued a new rule and state plan to meet its obligations under this new Federal rule. The state rule, 10 CSR 10-6.161, for CISWI became effective on November 21, 2013. The associated state plan was issued concurrently with the new rule. The state's rule incorporates by reference the

Federal rule.

II. Analysis of State Submittal

The emission guidelines and compliance times are codified in 40 CFR part 60, subpart DDDD. 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 CISWI units, including those that have ceased operation but have not been dismantled.*
- *Inventory of emissions from affected CISWI units in Missouri.*
- *Compliance schedules for each affected CISWI unit with a final compliance date no later than February 7, 2018 or three (3) years after the effective date of state plan approval, whichever is earlier.*
- *Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWI units that are at least as protective as the emission guidelines contained in Subpart DDDD.*
- *Performance testing, recordkeeping, and reporting requirements.*

- *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 DDDD.*
- *Demonstration of Missouri's legal authority to carry out the sections 111(d) and 129 State plan.*

The state's plan was received on March 5, 2014, in accordance with the requirements for adoption and submittal of state plans for designated facilities in 40 CFR part 60, subpart B. The plan establishes emission limits for existing CISWI units, and provides for the implementation and enforcement of those limits. Missouri's plan includes all 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. Missouri rule 10 CSR 10-6.161 contains the applicable requirements. The state provided evidence that it complied with the public notice and comment requirements of 40 CFR part 60, subpart DDDD.

III. What Action is EPA Taking?

Based on the rationale discussed above, EPA is taking direct final action to approve Missouri's March 5, 2014, submittal of its 111(d) plan for commercial and industrial solid waste incineration units. 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.

IV. 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 by the Office of Management and Budget. For this reason, 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 rule 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 rule approves 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). This action 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). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard. In reviewing section 111(d)/129 plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Act. 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 section 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d)/129 plan submission, to use VCS in place

of a section 111(d)/129 plan submission that otherwise satisfies the provisions of the Act. 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 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 action 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. This action approving Missouri's section 111(d)/129 plan revision for CISWI sources 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, Administrative practice and procedure, Air pollution control, Commercial and industrial solid waste incineration units, Intergovernmental relations, Reporting and recordkeeping requirements.

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. Revise §62.6360 to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§62.6360 Identification of plan.

(a) *Identification of plan.* The Missouri Department of Natural Resources approved this revision to the Missouri state plan section 111(d) for the purpose of adopting by reference subpart DDDD of part 62, the Commercial and Industrial Solid Waste Incineration (CISWI) rule, 10 CSR 10-6.161, which became effective on November 21, 2013. This revision was submitted on March 5, 2014.

(b) *Identification of sources.* The plan applies to existing commercial and industrial solid waste incineration (CISWI) units that commenced construction on or before November 30, 1999.

(c) The effective date of the amended plan is [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

[FR Doc. 2015-23390 Filed: 9/17/2015 08:45 am; Publication Date:
9/18/2015]