



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2016-0053; FRL-9961-37-Region 3]

Approval and Promulgation of Air Quality Plans; State of Maryland; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revised section 111(d)/129 plan submitted by the State of Maryland for existing hospital/medical/infectious waste incineration (HMIWI) units. The section 111(d)/129 plan contains revisions to a previously-approved State plan for existing HMIWI units that was submitted as a result of the October 6, 2009 promulgation of federal new source performance standards (NSPS) and emission guidelines for HMIWI units, which were subsequently amended on April 4, 2011. This action is being taken under sections 111(d) and 129 of the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2016-0053. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, 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 through <https://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, (215) 814-2039, or by e-mail at gordon.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 28, 2016 (81 FR 85457), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of Maryland’s revised CAA section 111(d)/129 State plan for existing HMIWI units. The formal State plan revision (MD Submittal # 12-11) was submitted by Maryland on January 10, 2013.

II. Summary of SIP Revision

EPA has reviewed the revised Maryland section 111(d)/129 plan submittal in the context of the requirements of 40 CFR part 60, subparts B, Ec and Ce, and part 62, subpart A. EPA has determined that the submitted revised section 111(d)/129 plan meets the above-cited requirements for State plans for existing units covered by the emission guidelines for that source category. Thus, EPA is approving Maryland’s State plan in this action. A detailed explanation of the rationale behind this approval is available in the July 22, 2016 technical support document (TSD) and in the NPR and will not be restated here. No comments were received on the proposed rule.

III. Final Action

EPA is approving the revised Maryland section 111(d)/129 plan for HMIWI units submitted pursuant to 40 CFR part 60, subpart Ce because the plan is at least as stringent as requirements in 40 CFR part 60, subpart Ce for existing HMIWI units. Therefore, EPA is amending 40 CFR part 62, subpart V to reflect this approval action. The scope of the approval of the section 111(d)/129 plan is limited to the provisions of 40 CFR parts 60 and 62 for existing HMIWI units, as referenced in the emission guidelines at 40 CFR part 60, subpart Ce.

As discussed in the NPR, the EPA Administrator continues to retain authority for several tasks affecting the regulation of HMIWI units, as stipulated in 40 CFR 60.32e(k) and 60.50c(i). This retention of authority includes the granting of waivers for performance tests.

IV. Statutory and Executive Order Reviews

A. General Requirements

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rule for existing HMIWI units within the State of Maryland does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the section 111(d)/129 plan is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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 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).

C. Petitions for Judicial Review

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 action 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 Maryland’s CAA Section 111(d)/129 state plan for existing HMIWI units 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 24, 2017.

Cecil Rodrigues
Acting Regional Administrator,
Region III.

40 CFR part 62 is amended as follows:

**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 V--Maryland

2. Revise § 62.5160 to read as follows:

§ 62.5160 Identification of plan.

(a) Section 111(d)/129 plan for HMIWIs and the associated Code of Maryland (COMAR) 26.11.08 regulations, as submitted on April 14, 2000.

(b) Section 111(d)/129 plan for HMIWIs and the associated Code of Maryland (COMAR) regulations, as submitted on January 10, 2013.

3. Revise § 62.5161 to read as follows:

§ 62.5161 Identification of sources.

(a) The plan submitted on April 14, 2000 applies to all existing HMIWIs located in Maryland for which construction was commenced on or before June 20, 1996.

(b) The January 10, 2013 submittal applies to all existing HMIWIs as defined in the approved Maryland Section 111(d)/129 plan.

4. Revise § 62.5162 to read as follows:

§ 62.5162 Effective date.

(a) The effective date of the plan submitted on April 14, 2000 is October 20, 2000.

(b) The effective date of the plan submitted on January 10, 2013 is **[insert date 30 days after date of publication in the Federal Register]**.

[FR Doc. 2017-08668 Filed: 4/27/2017 8:45 am; Publication Date: 4/28/2017]