



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R04-OAR-2018-0183; FRL-9996-80-Region 4]

**Alabama; Approval of Plan for Control of Emissions from Commercial and Industrial
Solid Waste Incineration Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state plan submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM) on May 19, 2017, and supplemented on October 24, 2017, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) units. The State plan provides for implementation and enforcement of the EG, as finalized by EPA on June 23, 2016, applicable to existing CISWI units for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010, but no later than August 7, 2013. The State plan establishes emission limits, monitoring, operating, recordkeeping, and reporting requirements for affected CISWI units.

DATES: This rule will be effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**. The incorporation by reference of documents listed in this rule is approved by the Director of the Federal Register as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2018-0183. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 *www.regulations.gov* or in hard copy form at the Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Bloeth, Communities and Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. Mr. Bloeth can be reached via telephone at 404-562-9013 and via email at bloeth.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the Clean Air Act (CAA or the Act) directs the Administrator to develop regulations under that section and section 111(d) of the Act limiting emissions of nine air pollutants (particulate matter, carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium) from four categories of solid waste incineration units: municipal solid waste incinerators; hospital, medical, and infectious solid waste

incinerators; commercial and industrial solid waste incinerators; and other solid waste incinerators.

On December 1, 2000, EPA promulgated new source performance standards (NSPS) and EG to reduce air pollution from CISWI units, which are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. *See* 65 FR 75338. EPA revised the NSPS and EG for CISWI units on March 21, 2011. *See* 76 FR 15704. Following promulgation of the 2011 CISWI rule, EPA received petitions requesting that EPA reconsider numerous provisions in the rule. EPA granted reconsideration on certain issues, and, subsequently, on February 7, 2013, EPA promulgated a CISWI reconsideration rule. *See* 78 FR 9112. Following the 2013 CISWI reconsideration rule, EPA received petitions to reconsider certain provisions of the NSPS and EG for CISWI units. On January 21, 2015, EPA granted reconsideration on four specific issues and, subsequently, on June 23, 2016, EPA finalized reconsideration of the CISWI NSPS and EG. *See* 81 FR 40956.

Section 129(b)(2) of the CAA requires states to submit to EPA for approval state plans and revisions that implement and enforce the EG—in this case, 40 CFR part 60, subpart DDDD. State plans and revisions must be at least as protective as the EG, and become federally enforceable upon approval by EPA. The procedures for submittal and adoption of state plans and revisions are codified in 40 CFR part 60, subpart B. On March 14, 2014, Alabama submitted a state plan to implement and enforce the EG for existing CISWI units in the State.¹ On May 19, 2017, Alabama submitted a revised plan, which was supplemented on October 24, 2017.²

¹ EPA did not act on the plan submitted by Alabama, at that time.

² The submitted State plan does not apply in Indian country located in the State.

In a notice of proposed rulemaking published on June 5, 2018 (83 FR 25983), EPA proposed to approve Alabama's State plan. Additional information concerning Alabama's State plan submission and the rationale for EPA's actions for this final rule are explained in the June 5, 2018 proposed rulemaking. Comments on the proposed rulemaking were due on or before July 5, 2018. EPA received no comments.

II. Final Action

EPA is taking final action to approve Alabama's State plan to implement and enforce the EG for existing CISWI units in the State, as submitted on May 19, 2017, and supplemented on October 24, 2017. EPA is taking this action because it has concluded that Alabama's State plan is consistent with sections 111(d) and 129 of the CAA. As part of this action, EPA is incorporating by reference Alabama Rule 335-3-3-.05, effective, as a matter of State law, December 8, 2017. Alabama Rule 335-3-3-.05 includes emission limits, operating limits, monitoring requirements, recordkeeping requirements, reporting requirements, and operator training and qualification requirements applicable to affected CISWI units. EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of the preamble for more information).

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the CAA and applicable Federal regulations. In reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided they meet the criteria and objectives of the CAA and EPA's implementing regulations. Accordingly, this action merely approves state law as meeting Federal requirements and, although the plan is federally

enforceable, this action 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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).

In addition, this rule 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. It also 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). And it does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because EPA is not approving the submitted rule to apply in Indian country located in the state and because the submitted rule will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Incorporation by Reference, Intergovernmental relations, Manufacturing, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Authority: 42 U.S.C. 7411.

Dated: December 10, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 62 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 B—[Amended]

2. In subpart B, remove the undesignated center heading “AIR EMISSIONS FROM COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION (CISWI) UNITS (SECTION 111(d)/129 PLAN)”.

3. Revise § 62.107 to read as follows:

§ 62.107 Identification of sources.

(a) *Approval of State Plan for Commercial and Industrial Solid Waste Incineration Units.*

Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL**

REGISTER], EPA approved Alabama’s State Plan for Commercial and Solid Waste

Incineration Units, which is codified at Alabama Rule 335-3-3-.05, amended December 8, 2017,

and which is incorporated by reference. The plan applies to each existing commercial and

industrial solid waste incineration unit and air curtain incineration unit in the State of Alabama

that commenced construction on or before June 4, 2010, or commenced modification or

construction after June 4, 2010, but no later than August 7, 2013, as such incineration units are

defined in 40 CFR 60.2875 and 40 CFR part 60.

(b) *Incorporation by reference.* (1) The material incorporated by reference in this section was approved by the Director of the Federal Register Office in accordance with 5 U.S.C. 552(a)

and 1 CFR part 51. Copies of the material may be inspected or obtained from the EPA Docket Center—Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004 or U.S. EPA, Region 4, Air Analysis and Support Branch, 61 Forsyth Street, Atlanta, GA 30303. The telephone number for the Public Reading Room is (202) 566-1744. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

(2) State of Alabama, Alabama Department of Environmental Management. 1400 Coliseum Boulevard, Montgomery, AL 36110, 334-271-7700, adem.alabama.gov.

(i) Administrative Rule 335-3-3-3.05, Incineration of Commercial and Industrial Solid Waste (Administrative Code division 335-3, Air Division – Air Pollution Control Program), adopted October 20, 2017.

(ii) [Reserved]

[FR Doc. 2019-27671 Filed: 1/8/2020 8:45 am; Publication Date: 1/9/2020]