



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R06-OAR-2020-0315; FRL-10019-25-Region 6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Arkansas, Louisiana, New Mexico, and Albuquerque-Bernalillo County, New Mexico; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is notifying the public that we have received CAA section 111(d)/129 negative declarations from Arkansas, Louisiana, New Mexico, and Albuquerque-Bernalillo County, New Mexico, for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units. These negative declarations certify that HMIWI subject to the requirements of sections 111(d) and 129 of the CAA do not exist within the jurisdictions of Arkansas, Louisiana, New Mexico, and Albuquerque-Bernalillo County. The EPA is accepting the negative declarations and amending the agency's regulations in accordance with the requirements of the CAA.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2020-0315. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division - State Planning and Implementation Branch, 1201 Elm Street, Suite 500, Dallas, TX 75270, (214) 665-7346, *ruan-lei.karolina@epa.gov*. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our July 10, 2020, proposal (85 FR 41484). In that document we proposed to accept the HMIWI negative declarations from the Arkansas Department of Environmental Quality (ADEQ), Louisiana Department of Environmental Quality (LDEQ), Oklahoma Department of Environmental Quality (ODEQ), New Mexico Environment Department (NMED), and City of Albuquerque Environmental Health Department (AEHD), and to amend the Code of Federal Regulations (CFR) in accordance with the requirements of the CAA. In this rulemaking, we are only taking final action on the HMIWI negative declaration letters from Arkansas, Louisiana, New Mexico, and Albuquerque-Bernalillo County, New Mexico, and amending the CFR accordingly. We will take final action on the HMIWI negative declaration submitted by ODEQ for Oklahoma in a future, separate rulemaking.

II. Response to Comments

We received two comments on our proposal. We have determined that one comment has no relevance to the subject of this rulemaking and no further response is required. The other comment recommended that a state plan with the more stringent controls and results in the cleanest air should be adopted. As explained in our proposal, the negative declarations received reflect the absence of any sources subject to the standards of performance in the HMIWI

Emission Guidelines, codified at 40 CFR part 60, subpart Ce, and therefore a plan is not required. If any sources within the stated jurisdictions are later identified as subject to the requirements of 40 CFR part 60, subpart Ce, then such sources would be subject to the federal plan and the associated compliance schedule, unless and until the EPA approves a state plan for those sources.

II. Final Action

The EPA is amending 40 CFR part 62 to reflect receipt of the negative declaration letters from ADEQ, LDEQ, NMED and AEHD certifying that there are no existing HMIWI subject to 40 CFR part 60, subpart Ce, in their respective jurisdictions in accordance with 40 CFR 60.23(b), 40 CFR 62.06, and sections 111(d) and 129 of the CAA. If a designated facility (i.e., existing HMIWI) is later found within the aforementioned jurisdictions after publication of a final action, then the overlooked facility will become subject to the requirements of the federal plan for that designated facility, including the compliance schedule. The federal plan will no longer apply if we subsequently receive and approve the section 111(d)/129 plan from the jurisdiction with the overlooked facility.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a CAA section 111(d)/129 submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. § 7411(d); 42 U.S.C. § 7429; 40 CFR part 60, subparts B and Ce; and 40 CFR part 62, subpart A. With regard to negative declarations for designated facilities received by the EPA from states, the EPA's role is to notify the public of the receipt of such negative declarations and revise 40 CFR part 62 accordingly. 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);
- 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 the 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).

This rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: February 5, 2021.

David Gray,
Acting Regional Administrator, Region 6.

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 E – Arkansas

2. Add an undesignated center heading following §62.867 to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

3. Add 62.868 to read as follows:

§ 62.868 Identification of plan – negative declaration.

Letter from the Arkansas Department of Environmental Quality dated May 21, 2012, certifying that there are no known existing hospital/medical/infectious waste incinerator (HMIWI) units subject to 40 CFR part 60, subpart Ce, within its jurisdiction.

Subpart T – Louisiana

§62.4620 [Amended]

4. Amend § 62.4620 by removing and reserving paragraphs (b)(5) and (c)(6).

5. Revise the undesignated center heading above § 62.4633 to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

6. Revise § 62.4633 to read as follows:

§ 62.4633 Identification of plan – negative declaration.

Letter from the Louisiana Department of Environmental Quality dated June 25, 2012, certifying that there are no known existing hospital/medical/infectious waste incinerator (HMIWI) units subject to 40 CFR part 60, subpart Ce, within its jurisdiction.

7. Remove the undesignated center heading above § 62.4634.

§62.4634 [Removed]

8. Remove § 62.4634.

Subpart GG – New Mexico

9. Revise § 62.7870 to read as follows:

§ 62.7870 Identification of plan – negative declarations.

Letters from the New Mexico Environment Department and the City of Albuquerque Environmental Health Department dated February 11, 2014, and February 4, 2014, respectively, certifying that there are no existing hospital/medical/infectious waste incinerator (HMIWI) units subject to 40 CFR part 60, subpart Ce, within their respective jurisdictions in the State of New Mexico.

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