



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R04-OAR-2021-0258; FRL-9562-02-R4]

#### **South Carolina; Approval of State 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 South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC) on December 19, 2014, and supplemented on September 17, 2018, June 19, 2019, and November 5, 2019, 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 also incorporates the CISWI technical amendments finalized by EPA on April 16, 2019. The South Carolina State plan establishes emission limits, monitoring, operating, recordkeeping, and reporting requirements for affected CISWI units.

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

R04-OAR-2021-0258. All documents in the docket are listed on the *regulations.gov* website.

Although listed in the index, some information may not be 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 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, GA 30303-8960.

EPA requests that, if at all possible, you contact the person identified 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, Regulatory and Communities Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, Georgia 30303, telephone number: (404) 562-9013, email address: *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 to limit 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 it reconsider numerous provisions in the rule. EPA granted reconsideration on certain issues and, subsequently, on February 7, 2013, it promulgated a CISWI reconsideration rule. *See* 78 FR 9112. Subsequently, 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, it finalized reconsideration of the CISWI NSPS and EG. *See* 81 FR 40956.

Following promulgation of the June 23, 2016, final action, EPA received requests from industry stakeholders and implementing agencies to clarify various issues with implementation of the standards. In addition, EPA identified certain procedural issues, including testing and monitoring issues and inconsistencies within the rules, that required further clarification or correction. To address the issues, EPA proposed amendments on June 15, 2018, to several provisions of the 2016 CISWI NSPS and EG. *See* 83 FR 28068. On April 16, 2019, EPA finalized technical amendments to the June 15, 2018, proposal by promulgating clarifying changes and corrections to the 2016 CISWI rule. *See* 84 FR 15846.

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.

South Carolina submitted a State plan to implement and enforce the EG for existing CISWI units in the State on December 19, 2014, with a subsequent supplemental revision on September 17, 2018, an addendum on June 19, 2019, and a final updated State plan on

November 5, 2019.<sup>1</sup> In a notice of proposed rulemaking published on April 26, 2024 (*See* 89 FR 32387), EPA proposed to approve South Carolina’s State plan. Additional information concerning South Carolina’s State plan submission and the rationale for EPA’s actions for this final rule are explained in the April 26, 2024, proposed rulemaking. Comments on the proposed rulemaking were due on or before May 28, 2024. EPA received no comments on the proposed action.

## **II. Final Action**

EPA is finalizing approval of South Carolina’s section 129 State plan for CISWI units in the State, as submitted on December 19, 2014, and supplemented on September 17, 2018, June 19, 2019, and November 5, 2019. The State plan was submitted in full compliance with the requirements of sections 111(d) and 129 of the CAA, and 40 CFR part 60, subparts B and DDDD. This approval is based on the rationale provided in the NPRM associated with this rulemaking. EPA’s approval is in accordance with the general provisions of plan approval found in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A, and is pursuant to the Agency’s role under 42 U.S.C. sections 7411(d) and 7429(b). EPA’s approval of South Carolina’s State plan is limited to those CISWI units that meet the criteria established in 40 CFR part 60, subpart DDDD, and grants the State authority to implement and enforce the performance standards and source requirements of the EG, except in those cases where authorities are specifically reserved for the EPA Administrator or his designee. Authorities retained by the EPA Administrator are those listed in 40 CFR 60.2542.

## **III. Incorporation by Reference**

In accordance with requirements of 1 CFR 51.5, EPA is finalizing regulatory text that

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<sup>1</sup> On July 1, 2024, SC DHEC was restructured into a health agency, the Department of Public Health, and an environmental agency, the Department of Environmental Services (SC DES). In a letter dated June 20, 2024, South Carolina represented to EPA that all the functions, powers, and duties of the environmental divisions, offices, and programs of SC DHEC, including the authority to administer and enforce State plans, are retained and continued in full force and effect under SC DES. Throughout this proposal, the terms, “Department”, “South Carolina Department of Health and Environmental Services”, “SCDHEC”, “South Carolina Department of Environmental Services”, and “SC DES” are all interchangeable.

includes incorporation by reference of South Carolina Code of Regulations (S.C. Code Regs.) ch. 61-62.60, Subpart DDDD, which became effective in the State of South Carolina on August 23, 2019. This incorporation establishes emission standards and compliance times for the control of air pollutants from certain CISWI units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010, but no later than August 7, 2013. S.C. Code Regs. ch. 61-62.60, Subpart DDDD provides details regarding South Carolina's adoption of the applicability provisions, compliance times, emission guidelines, operational standards, test methods, compliance provisions, monitoring requirements, reporting guidelines, recordkeeping guidelines, and definitions contained in EPA's emission guidelines for existing CISWI units (40 CFR part 60, subpart DDDD). The emissions standards and compliance times established within the South Carolina State plan are at least as stringent as those required by the EG for existing CISWI units subject to Subpart DDDD. EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R04-OAR-2021-0258, at <https://www.regulations.gov> and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). This incorporation by reference has been approved by the Office of the Federal Register as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and the plan is federally enforceable under the CAA as of the effective date of this final rulemaking.

#### **IV. 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 of the CAA and EPA's implementing regulations. 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because state plan approval actions are exempt from review under Executive Order 12866;
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

Because the South Carolina State plan for existing CISWI units is not approved to apply and does not impose additional requirements beyond those imposed by state law, this action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located

within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

This action is subject to the Congressional Review Act (CRA), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 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 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, Aluminum, Fertilizers, Fluoride, Incorporation by reference, Industrial facilities, Intergovernmental relations, Methane, Ozone, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Waste treatment and disposal.

Dated: May 14, 2026.

Kevin McOmber,

*Regional Administrator,*

*Region 4.*

For the reasons stated in the preamble, EPA 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 PP —South Carolina**

2. Amend § 62.10100 by:

- a. Revising paragraph (a); and
- b. Adding paragraphs (b)(6) and (c)(6).

The revision and additions read as follows:

**§ 62.10100 Identification of plan.**

(a) *Identification of plan.* South Carolina Designated Facility Plan.

(b) \* \* \*

(6) South Carolina’s State Plan for Existing Commercial and Industrial Solid Waste Incineration Units, as submitted on December 19, 2014, and supplemented on September 17, 2018, June 19, 2019, and November 5, 2019, by the South Carolina Department of Health and Environmental Control (now the “South Carolina Department of Environmental Services”).

(c) \* \* \*

(6) Existing commercial and industrial solid waste incineration units.

2. Revise § 62.10190 to read as follows:

**§ 62.10190 Identification of Sources.**

(a) *Identification of plan.* South Carolina's State Plan for Existing Commercial and Industrial Solid Waste Incineration Units, as submitted on December 19, 2014, and supplemented on September 17, 2018, June 19, 2019, and November 5, 2019. The plan includes the regulatory provisions cited in paragraph (d) of this section, which EPA incorporates by reference.

(b) *Identification of sources.* The plan applies to each existing commercial and industrial solid waste incineration unit in the State of South Carolina that commenced construction on or before June 4, 2010, or commenced modification or reconstruction 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.

(c) *Effective date.* The effective date of the plan is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(d) *Incorporation by reference.* Material listed in this paragraph (d) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact the EPA at: EPA Region 4 office, 61 Forsyth St., SW, Atlanta, Georgia 30303, 404-562-9900. For information on the availability of this material at NARA, visit [www.archives.gov/federal-register/cfr/ibr-locations](http://www.archives.gov/federal-register/cfr/ibr-locations) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov). The material may be obtained from the State of South Carolina at [https://www.scstatehouse.gov/state\\_register.php](https://www.scstatehouse.gov/state_register.php).

(1) State of South Carolina – The Legislative Council of the General Assembly  
S.C. Code Regs. ch. 61-62.60, Subpart DDDD, South Carolina Code of  
Regulations, ch. 61-62.60, Subpart DDDD – Performance Standards and  
Compliance Times for Existing Commercial and Industrial Solid Waste

Incineration Units, as published in the South Carolina State Register Vol. 43,  
Issue 8, which became effective in the State of South Carolina on August 23,  
2019.

(2) [Reserved].

[FR Doc. 2026-10744 Filed: 5/28/2026 8:45 am; Publication Date: 5/29/2026]