

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[MD-103-3055a; FRL-6862-4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerators**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving Maryland's 111(d)/129 plan (the "plan") for the control of air pollutant emissions from hospital/medical/infectious waste incinerators (HMIWIs). The plan was developed and submitted to EPA by the Maryland Department of the Environment, Air and Radiation Management Administration (MARMA), on April 14, 2000. EPA is publishing this approval action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments.

DATES: This final rule is effective October 20, 2000 unless by October 5, 2000 adverse or critical comments are received. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Denis M. Lohman, Acting Chief, Technical Assessment Branch, Mailcode 3AP22, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029; and the Maryland Air and Radiation Management Administration, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION: This document is divided into sections I through V and answers the questions posed below.

I. General Provisions

What is EPA approving?

What is a State/local 111(d)/129 plan?

What pollutant(s) will this action control?

What are the expected environmental and public health benefits from controlling HMIWI emissions?

II. Federal Requirements the HMIWI 111(d)/129 Plan Must Meet for Approval

What general EPA requirements must the MARMA meet in order to receive approval of its HMIWI 111(d)/129 plan?

What does the Maryland plan contain?

Does the Maryland plan meet all EPA requirements for approval?

III. Requirements for Affected HMIWI Owners/Operators

How do I determine if my HMIWI is a designated facility subject to the MD 111(d)/129 plan?

As an affected HMIWI owner/operator, what general requirements must I meet under the approved EPA 111(d)/129 plan?

What emissions limits must I meet, and in what time frame?

Are there any operational requirements for my HMIWI and emissions control system?

What are the testing, monitoring, recordkeeping, and reporting requirements for my HMIWI?

What must be included in my Waste Management Plan (WMP), and when must it be completed?

Is there a requirement for obtaining a Title V permit?

IV. Final EPA Action**V. Administrative Requirements****I. General Provisions**

Q. What is EPA approving?

A. EPA is approving the Maryland 111(d)/129 plan (the "plan") for the control of air pollutant emissions from hospital/medical/infectious waste incinerators (HMIWIs). The plan was developed and submitted to EPA by the Maryland Department of the Environment, Air and Radiation Management Administration (MARMA), on April 14, 2000. EPA is publishing this approval action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments.

Q. What is a State/local 111(d)/129 plan?

A. Section 111(d) of the Clean Air Act (CAA) requires that "designated" pollutants, controlled under standards of performance for new stationary sources by section 111(b) of the CAA, must also be controlled at existing sources in the same source category to a level stipulated in an emission guidelines (EG) document. Section 129 of the CAA specifically addresses solid waste combustion and emissions controls based on what is commonly referred to as maximum achievable control technology (MACT). Section 129 requires EPA to promulgate a MACT-based EG document, and then requires states to develop 111(d)/129 plans that

implement and enforce the EG requirements. The HMIWI EG at 40 CFR part 60, subpart Ce, establish the MACT requirements under the authority of both sections 111(d) and 129 of the CAA. These requirements must be incorporated into a State/local 111(d)/129 plan that is "at least as protective" as the EG, and is Federally enforceable upon approval by EPA.

The procedures for adoption and submittal of State 111(d)/129 plans are codified in 40 CFR part 60, subpart B. Additional information on the submittal of State plans is provided in the EPA document, "Hospital/Medical/Infectious Waste Incinerator Emission Guidelines: Summary of the Requirements for section 111(d)/129 State Plans, EPA-456/R-97-007, November 1997."

Q. What pollutant(s) will this action control?

A. The September 15, 1997 promulgated EG, subpart Ce, are applicable to all existing HMIWIs (*i.e.*, the designated facilities) that emit organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter. This action establishes emission limitations for each of these pollutants, including an opacity limitation.

Q. What are the expected environmental and public health benefits from controlling HMIWI emissions?

A. HMIWI emissions can have adverse effects on both public health and the environment. Dioxin, lead, and mercury can bioaccumulate in the environment. Exposure to dioxins/furans has been linked to reproductive and developmental effects, changes in hormone levels, and chloracne. Respiratory and other effects are associated with exposure to particulate matter, sulfur dioxide, cadmium, hydrogen chloride, and mercury. Health effects associated with exposure to cadmium, and lead include probable carcinogenic effects. Acid gases contribute to the acid rain that lowers the pH of surface waters and watersheds, harms crops and forests, and damages buildings. Implementation of the emissions control measures required under the Maryland plan will help mitigate most of the noted adverse environmental and public health impacts associated with the operation of HMIWI units.

II. Federal Requirements the Maryland HMIWI 111(d)/129 Plan Must Meet for Approval

Q. What general requirements must the MARMA meet to receive approval of its 111(d)/129 plan?

A. The plan must meet the requirements of both 40 CFR part 60, subparts B, and Ce. Subpart B specifies detailed procedures for the adoption and submittal of State plans for designated pollutants and facilities. The EG, subpart Ce, and the related new source performance standard (NSPS), subpart Ec, contain the requirements for the control of designated pollutants, as listed above, in accordance with sections 111(d) and 129 of the CAA. In general, the applicable provisions of subpart Ec relate to compliance and performance testing, monitoring, reporting, and recordkeeping. More specifically, the Maryland plan must meet the requirements of (1) 40 CFR part 60, subpart Ce, sections 60.30e through 60.39c, and the related subpart Ec provisions; and (2) 40 CFR part 60, subpart B, sections 60.23 through 26.

Q. What does the Maryland D plan contain?

A. Consistent with the requirements of subparts B, Ce and Ec, the Maryland plan contains the following elements:

1. A demonstration of Maryland's legal authority to implement the plan;
2. Identification of the Maryland enforceable mechanism, Code of Maryland (COMAR) 26.11.08 Control of Incinerators, as amended.
3. Source and emission inventories, as required;
4. Emission limitation requirements that are no less stringent than those in subpart Ce;
5. A source compliance schedule, including increments of progress, as required;
6. Source testing, monitoring, recordkeeping, and reporting requirements;
7. HMIWI operator training and qualification requirements;
8. Requirements for development of a Waste Management Plan;
9. Records of the public hearing on the Maryland plan;
10. Provision for MARMA submittal to EPA of annual reports on progress in plan enforcement; and
11. A Title V permit application due date.

On October 22, 1999, the Secretary of the Department of the Environment proposed in the *Maryland Register* to amend COMAR 26.11.08 Control of Incinerators, at .01, .02, .04, .05, and .09 and to add .08-1, specifically relating to HMIWIs. These regulatory amendments

were adopted on March 7, 2000, and became effective on April 17, 2000.

Q. Does the Maryland 111(d)/129 plan meet all EPA requirements for approval?

A. Yes. The MARMA has submitted a plan that conforms to all EPA subparts B and Ce requirements. Each of the above listed plan elements is approvable. Details regarding the approvability of the plan elements are included in the technical support document (TSD) associated with this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Requirements Affected HMIWI Owners/Operators Must Meet

Q. How do I determine if my HMIWI is a designated facility subject to the MD 111(d)/129 plan?

A. If construction commenced on your HMIWI on or before June 20, 1996, it is subject to the plan. The plan contains no lower applicability threshold based on incinerator capacity. However, there are designated facility exemptions, as referenced in COMAR 26.11.08.02H. Those exemptions include incinerators that burn only pathological, low level radioactive, and/or chemotherapeutic waste; co-fired combustors; incinerators permitted under section 3005 of the Solid Waste Disposal Act; municipal waste combustors (MWC) subject to a Clean Air Act combustor rule; pyrolysis units; and cement kilns.

Q. As an affected HMIWI owner/operator, what general requirements must I meet under the approved EPA 111(d)/129 plan?

A. In general, the COMAR for HMIWI establish the following requirements:

- Emission limitations for particulate matter (PM), opacity, carbon monoxide (CO), dioxins/furans (CDD/CDF), hydrogen chloride (HCl), sulfur dioxide (SO₂), nitrogen oxides (NO_x), lead (Pb), cadmium (Cd), and mercury (Hg)
- Compliance and performance testing
- Inspection of small rural HMIWI units
- Operating parameter monitoring
- Operator training and qualification
- Development of a waste management plan
- Recordkeeping and reporting
- Title V permit

A full and comprehensive statement of the above requirements is incorporated in COMAR 26.11.08.08-1, and in related COMAR for incinerators.

Q. What emissions limits must I meet, and in what time frame?

A. You must install an emissions controls system capable of meeting the

maximum available control technology (MACT) emission limitations for the pollutants identified above. The pollutant emission limitations are stipulated in COMAR 26.11.08.08-1A and .08-1B.

The 111(d)/129 plan requires you to achieve compliance with all COMAR requirements for HMIWI on or before March 15, 2001. However, you may petition the MARMA for an extension of the compliance date. The petition request must be submitted on or before September 15, 2000, and must include the following:

(a) Documentation of the analyses undertaken to support the need for an extension, including an explanation of why March 15, 2001 is not sufficient time to comply;

(b) A demonstration of the feasibility to transport the waste offsite to a commercial medical waste treatment and disposal facility on either a temporary or permanent basis; and

(c) A compliance plan and schedule that includes specific increments of progress dates, as required under COMAR 26.11.08.08-1C(1)(b), and a final compliance date that is no later than March 15, 2002.

Under COMAR 26.11.08.08-1.C(1)(b), proposed compliance date extensions beyond March 15, 2001 must be submitted to both MARMA and EPA for approval. EPA will consider approving a proposal for a compliance date extension if the proposed compliance plan and schedule is (1) expeditious, (2) approved by MARMA, and (3) consistent with the provisions of 40 CFR 60.24(f), and 60.28, subpart B, relating to EPA requirements for the adoption and submittal of state 111(d)/129 plans.

Q. Are there any operational requirements for my HMIWI and emissions control system?

A. Yes, there are operational requirements. In summary, the operational requirements relate to: (1) The HMIWI and air pollution control devices (APCD) operating within certain established parameter limits, determined during the initial performance test; (2) the use of a trained and qualified HMIWI operator; and (3) the completion of an annual update of operation and maintenance information, and its review by your HMIWI operators.

Failure to operate the HMIWI and/or air pollution control device (APCD) within certain established operating parameter limits constitutes an emissions violation for the controlled air pollutant. However, as a HMIWI owner/operator, you are provided an opportunity to establish revised operating limits, and demonstrate that

your facility is meeting the required emission limitation, providing a repeat performance test is conducted in a timely manner, as specified in the regulation.

Under the Maryland 111(d)/129 plan, effective April 17, 2000, a fully trained and qualified operator is required on site whenever your HMIWI unit is in operation. In order to be classified as a qualified operator, you must complete an appropriate HMIWI operator training course that meets the criteria referenced in COMAR 26.11.08.09B and C. In addition, effective March 1, 2001, you must maintain documentation of training (operator training manual) on site. The COMAR at 26.11.08.09C(5) requires that the cited documentation be updated annually at the time of the required annual review course, and meet the requirements of 40 CFR 60.53c(h) that define the scope of the required documentation.

The COMAR incorporates by reference (IBR) all applicable operational requirements of the EG and the related NSPS.

Q. What are the testing, monitoring, recordkeeping, and reporting requirements for my HMIWI?

A. Testing, monitoring, recordkeeping, and reporting requirements are summarized below:

You are required to conduct an initial source (stack) test to determine compliance with the emission limitations for PM, opacity, CO, CDD/CDF, HCl, Pb, Cd, and Hg. The initial source test must be completed no later than 180 days after your final compliance date. Consistent with the EG, no initial compliance test is required for the oxides of sulfur and nitrogen. Nevertheless, both the MARMA and the EPA have discretionary authorities under existing state and federal regulations to require, if deemed necessary, source tests for these pollutants. After the initial source test, compliance testing is then required annually (no more than 12 months following the previous test) to determine compliance with the emission limitations for PM, CO, and HCl.

As noted above, operating parameter limits are monitored and established during the initial performance test. Monitored HMIWI operating parameters include, for example, charge rate, secondary chamber and bypass stack temperatures. APCD operating parameters include, for example, CDD/CDF and Hg sorbent (e.g., carbon) flow rate, HCl sorbent (e.g., lime) flow rate, PM control device inlet temperature, pressure drop across the control system, and liquid flow rate, including pH.

Recordkeeping and reporting are required to document the results of the initial and annual performance tests, continuous monitoring of site-specific operating parameters, compliance with the operator training and qualification requirements, and development of a waste management plan (WMP). Records must be maintained for at least five years.

The COMAR also IBR all the applicable testing, monitoring, recordkeeping, and reporting requirements of the EG and the related NSPS.

Q. What must be included in my Waste Management Plan (WMP), and when must it be completed?

A. In summary, your WMP must identify both the feasibility of, and the approach for, separating certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from the incinerated waste. Also, in developing your WMP, you must consider the American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities." This publication (AHA Catalog No. 057007) is available for purchase from the American Hospital Association (AHA) Service, Inc., Post Office Box 92683, Chicago, Illinois 60675-2683. For more details regarding these requirements see 40 CFR part 60, subpart Ec, section 60.55c.

Submission of the WMP to the MARMA is required no later than 60 days following the initial performance tests required under COMAR 26.11.08.08-1A(4) and B(5).

Q. Is there a requirement for obtaining a Title V permit?

A. Yes, if your HMIWI is an affected facility, you must have submitted a complete Title V application to the MARMA no later than July 15, 2000.

IV. Final EPA Action

The Maryland 111(d)/129 plan for controlling HMIWI emissions is approvable. Based upon the rationale discussed above and in further detail in the TSD associated with this action, EPA is approving Maryland's 111(d)/129 plan for the control of HMIWI emissions from designated facilities. As provided by 40 CFR 60.28(c), any revisions to the Maryland plan or associated regulations will not be considered part of the applicable plan until submitted by the MARMA in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective October 20, 2000 without further notice unless the Agency receives relevant adverse comments by October 5, 2000. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 20, 2000 and no further action will be taken on the proposed rule.

V. Administrative Requirements

A. General Requirements

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. 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 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air 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 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

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 rule 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**. This rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 2000. 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 the Maryland 111(d)/129 plan for HMIWI 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 21, 2000.

Bradley M. Campbell,
Regional Administrator, Region III.

40 CFR Part 62, Subpart V, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart V—[Amended]

2. A new center heading and §§ 62.5160, 62.5161, and 62.5162 is added to Subpart V to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerators (HMIWIs)—Section 111(d)/129 Plan

§ 62.5160 Identification of plan.

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

§ 62.5161 Identification of sources.

The plan applies to all existing HMIWIs located in Maryland for which construction was commenced on or before June 20, 1996.

§ 62.5162 Effective date.

The effective date of the plan is October 20, 2000.

[FR Doc. 00-22516 Filed 9-1-00; 8:45 am]

BILLING CODE 6560-50-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2543

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule revises the Corporation's codification of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." OMB issued a final revision to Circular A-110 on September 30, 1999, as required by Public Law 105-277. It was published in the **Federal Register** on October 8, 1999. This interim final rule provides uniform administrative requirements for all grants and cooperative agreements to institutions of higher education, hospitals, and other non-profit organizations.

DATES: This interim final rule is effective October 5, 2000. Comments must be received on or before November 6, 2000.

ADDRESSES: Comments on the interim final rule should be addressed to: Bruce Cline, Director of Grants Management, Corporation for National Service, 1201 New York Avenue NW, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Bruce Cline, (202) 606-5000, ext. 440. T.D.D. (202) 565-2799. We will make this document available in an alternative format upon request.

SUPPLEMENTARY INFORMATION:

Background

Congress included a provision in OMB's appropriation for fiscal year 1999, contained in Public Law 105-277, directing OMB to amend Section .36 of Circular A-110 "to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act." The provision also provides for a reasonable fee to cover the costs incurred in responding to a request. Circular A-110 applies to grants and cooperative agreements to institutions of higher education, hospitals, and non-profit organizations.