

COMAR 26.11.19.28, effective October 2, 2000.

(ii) Additional Material.—Remainder of the October 31, 2000 submittal.

(158) Revision to the Maryland Regulations which adopt by reference the EPA definition of VOC found at 40 CFR 51.100(s), update the Maryland regulation references to the federal PSD regulations at 40 CFR 52.21 and include other miscellaneous revisions submitted on February 6, 1998 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of February 6, 1998 from the Maryland Department of the Environment transmitting the adoption of the federal definition of VOC, federal reference updates and other miscellaneous revisions.

(B) The amendment to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 which updates the references for incorporation of the federal PSD regulations found at 40 CFR 52.21 from the 1993 to the 1996 edition of the CFR and include other miscellaneous revisions (COMAR 26.11.01.01B(6–1) and COMAR 26.11.06.06A(1)(d)), effective June 30, 1997.

(C) The amendment to COMAR 26.11.01.01B(53) which adopts by reference the EPA definition of VOC found at 40 CFR 51.100(s), 1996 edition of CFR, effective September 22, 1997.

(ii) Additional Material.—Remainder of the February 6, 1998 submittal.

(159) Revision to the Maryland Regulations updating the references to the federal definition of VOC at 40 CFR 51.100(s) and the federal PSD regulations at 40 CFR 52.21, submitted on November 16, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 16, 2000 from the Maryland Department of the Environment transmitting the updates to the Maryland regulation references to the federal definition of VOC at 40 CFR 51.100(s) and the federal PSD regulations at 40 CFR 52.21.

(B) The amendments to COMAR 26.11.01.01B(37) and COMAR 26.11.06.14 which update the reference for incorporation of the federal PSD regulations found at 40 CFR 52.21 from the 1996 to the 1999 edition of the CFR and the amendment to COMAR 26.11.01.01B(53) which updates the federal reference for incorporation of the EPA definition of VOC found at 40 CFR 51.100(s) from the 1996 to the 1999 edition of the CFR, effective October 16, 2000.

(ii) Additional Material.—Remainder of the November 16, 2000 submittal.

[FR Doc. 01–11279 Filed 5–4–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[SC–038–200102(a); FRL–6973–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d)/129 Plan submitted by the South Carolina Department of Health and Environmental Control (DHEC) for the State of South Carolina on September 19, 2000, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This direct final rule is effective on July 6, 2001, without further notice, unless EPA receives adverse comment by June 6, 2001. If EPA receives adverse comment, we 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: You should address comments on this action to Gregory Crawford, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; and at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Gregory Crawford at (404) 562–9046 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by EPA Today?

We are approving the South Carolina State Plan, as submitted on September 19, 2000, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. (See 62 FR 48348–48391, September 15, 1997, 40 CFR part 60, subpart Ce [Emission Guidelines and Compliance Times for HMIWIs] and subpart Ec [Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996]). The South Carolina DHEC developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective July 6, 2001, unless by June 6, 2001, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective July 6, 2001.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.

Why Are We Requiring South Carolina To Submit a HMIWI State Plan?

States are required under sections 111(d) and 129 of the Act to submit State Plans to control emissions from existing HMIWIs in the State. The State Plan requirement was triggered when EPA published the EG for HMIWIs under 40 CFR part 60, subpart Ce (see 62 FR 48348, September 15, 1997).

Under section 129, EPA is required to promulgate EG for several types of existing solid waste incinerators. These EG establish the Maximum Achievable Control Technology (MACT) standards that States must adopt to comply with the Act. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in State Plans.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWIs?

The State Plan establishes control requirements which reduce the following emissions from HMIWIs: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI State Plan Meet To Be Approved?

The criteria for approving a HMIWI State Plan include requirements from sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the requirements of sections 111(d) and 129

of the Act, a State Plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and recordkeeping and reporting. Under section 129(e), State Plans must ensure that affected HMIWI facilities submit Title V permit applications to the State by September 15, 2000. Under the requirements of 40 CFR part 60, subpart B, the criteria for an approvable section 111(d) plan include demonstration of legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a State progress report commitment.

III. What Does the South Carolina State Plan Contain?

The South Carolina DHEC adopted the Federal EG and NSPS into Chapter 61 of the South Carolina Code, Regulation No. 61-62.5, Standard Number 3.1, "Hospital/Medical/Infectious Waste Incinerators." The State rules were effective on May 26, 2000. The South Carolina State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d)/129 State Plan;
2. State rule, Standard Number 3.1, as the enforceable mechanism;
3. An inventory of approximately 4 known designated facilities, along with estimates of their potential air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of May 26, 2001;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing on the State Plan; and,
8. Provisions for progress reports to EPA.

IV. Is My HMIWI Subject To These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

V. What Steps Do I Need To Take?

You must meet the requirements listed in South Carolina Regulation No. 61-62.5, Standard Number 3.1, summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established

which your incinerator must meet. See Table I of Section III (Emission Limitations) of Standard Number 3.1, to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.

3. There are provisions to address small rural incinerators (if your unit is applicable).

4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block.

5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under Section IX (Operator Training and Qualification Requirements) of Standard Number 3.1.

6. Your operator must be certified, as discussed in 5 above, no later than May 26, 2001.

7. You must develop and submit to South Carolina DHEC a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, *An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities*, 1993, and must be submitted to South Carolina DHEC no later than 60 days following the initial performance test for the affected unit.

8. You must conduct an initial performance test to determine your incinerators compliance with these emission limits. This performance test must be completed no later than May 26, 2001, and as required under 40 CFR 60.37e and Section IV (Performance Specifications) of Standard Number 3.1.

9. You must install and maintain devices to monitor the parameters listed under Table IV of Section V (Monitoring Requirements) of Standard 3.1.

10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years.

11. You must submit an annual report to South Carolina DHEC containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager.

VI. Why Is the South Carolina HMIWI State Plan Approvable?

EPA compared the South Carolina rules (Chapter 61 of the South Carolina Code, Regulation No. 61-62.5, Standard

Number 3.1) against our HMIWI EG. EPA finds the South Carolina rules to be at least as protective as the EG. The South Carolina State Plan was reviewed for approval against the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities*; 40 CFR 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators*; and, 40 CFR 62.14400 through 62.14495, *Subpart HHH—Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996*. The South Carolina State Plan satisfies the requirements for an approvable section 111(d)/129 plan under subparts B and Ce of 40 CFR part 60 and subpart HHH of 40 CFR part 62. For these reasons, we are approving the South Carolina HMIWI State Plan.

VII. Administrative 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). This rule also does 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), nor will it 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 SIP 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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.*)

The Congressional Review Act, 5 U.S.C. section 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**. 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. section 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 2001. 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 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, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart PP—South Carolina

2. Section 62.10100 is amended by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.10100 Identification of plan.

* * * * *

(b) * * *

(5) South Carolina Designated Facility Plan (Section 111(d)/129) for Hospital/Medical/Infectious Waste Incinerators, submitted on September 19, 2000, by the South Carolina Department of Health and Environmental Control.

(c) * * *

(5) Existing hospital/medical/infectious waste incinerators.

3. Subpart PP is amended by adding a new § 62.10170 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.10170 Identification of sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

[FR Doc. 01–10988 Filed 5–4–01; 8:45 am]

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