

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
<b>Open Burning Restrictions</b>				
K.A.R. 28-19-650 Emissions Opacity Limits.		1/29/99	1/11/00, 65 FR 1548	New rule. Replaces K.A.R. 28-19-50 and 28-19-52.
<b>Volatile Organic Compound Emissions</b>				
K.A.R. 28-19-717	Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens in Johnson and Wyandotte Counties.	12/22/00	12/22/01	

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 [FR Doc. 01-30579 Filed 12-11-01; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[IA 0144-1144a; FRL-7117-5]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Iowa**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators (HMIWI). The state revised its existing plan to specify certain applicability and compliance dates. Approval of the revised state plan will ensure that it is consistent with the Federal regulations and is Federally enforceable.

**DATES:** This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7

location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Information regarding this action is presented in the following order:

- What is a 111(d) Plan?
- What are the Regulatory Requirements for HMIWIs?
- Why is This Action Necessary?
- What Changes did the State Make to its 111(d) Plan?
- What Action are we Taking in This Action?

**What Is a 111(d) Plan?**

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

**What Are the Regulatory Requirements for HMIWIs?**

Standards and guidelines for new and existing HMIWIs were promulgated under the authority of sections 111 and 129 of the Clean Air Act on September 15, 1997 (62 FR 48374). These standards are 40 CFR part 60, subpart Ec for new sources, and 40 CFR part 60, subpart Ce for existing sources.

The subpart Ce EG is not a direct Federal regulation but is a "guideline" for states to use in regulating existing HMIWIs. The EG requires states to submit for EPA approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

**Why Is This Action Necessary?**

This action will ensure consistency between the state plan and the approved Federal plan, and ensure Federal enforceability of the current state plan.

**What Changes Did the State Make to its 111(d) Plan?**

We originally approved the state's HMIWI 111(d) plan on June 17, 1999 (64 FR 32425), and it became effective on August 16, 1999.

The state's 111(d) plan requirements for HMIWIs are contained in state rule 23.1(5)"b". The state rule, which incorporates the requirements of the EG, makes reference in several places to dates which are tied to EPA's approval of the state's 111(d) plan. Since EPA has subsequently approved the state's 111(d) plan, there is now a fixed date for these rule requirements. Consequently, the state has revised its rules to cite a fixed date for these requirements.

In a rule making action which was effective on March 14, 2001, the state revised rule 23.1(5)"b," subparagraphs (4), (5), (6), (12), and (13) by deleting the reference to EPA's approval date and inserting the appropriate fixed date. The fixed dates refer to requirements for operator training and qualification requirements, waste management requirements, inspection requirements, and compliance times for facilities planning to retrofit or shut down.

In a second state rule making action for HMIWIs which was effective on July 21, 1999, the state corrected a typographical error in rule 23.1(5)"b", subparagraph (1), in the definition of the

term "Hospital/medical/infectious waste incinerator."

These revisions to the state's HMIWIs 111(d) plan were adopted by the Iowa Environmental Protection Commission and became effective on July 21, 1999 and March 14, 2001, respectively.

#### What Action Are We Taking in This Action?

We are approving these revisions to the state's HMIWI 111(d) plan. We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This merely approves a state action as meeting Federal requirements and imposes no additional requirements. 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 a state action and does not impose any additional enforceable duty, 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 action relating to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to

Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. 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, we have 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. 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. We will submit a report containing this rule and other required information to the United States Senate, the United States 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. 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 February 11, 2002. 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, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 2, 2001.

**William Rice,**

*Acting Regional Administrator, Region 7.*

Chapter I, title 40 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 *et seq.*

#### Subpart Q—Iowa

2. Section 62.3914 is amended by adding paragraph (d) to read as follows:

#### § 62.3914 Identification of plan.

\* \* \* \* \*

(d) Amended plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Iowa Department of Natural Resources on September 19, 2001. The effective date of the amended plan is February 11, 2002.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[IA 0143-1143a); FRL-7117-7]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; State of Iowa

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing municipal solid waste (MSW) landfills. The state revised its existing plan to incorporate EPA revisions to the MSW landfill emission guideline (EG) and to make other clarifying changes. Approval