

601 et seq.). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

Congressional Review Act

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. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore. EPA has submitted reports containing these rules 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 10, 2002.

Oscar Morales,

Director, Collection Strategies Division, Office of Information Collection.

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 et seq., 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

2. In § 9.1 the table is amended to revise existing entries for " National Primary Drinking Water Regulations" and "National Primary Drinking Water Regulations Implementation" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act

\* \* \* \* \*

NATIONAL PRIMARY DRINKING WATER REGULATIONS

Table with 2 columns: Regulation Number and Year. Rows include 141.2 through 141.571.

NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

Table with 2 columns: Regulation Number and Year. Rows include 142.2-142.3 through 142.15(c)(1)-(5).

NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION—Continued

Table with 2 columns: Regulation Number and Year. Rows include 142.16(b) through 142.311-142.312.

\* \* \* \* \*

[FR Doc. 02-11007 Filed 5-2-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA-131-4090a; FRL-7205-6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Pennsylvania; Control of Emissions From Existing Hospital/Medical/ Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the Commonwealth of Pennsylvania 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 Pennsylvania Department of Environmental Protection (PADEP), Bureau of Air Quality, on October 26, 1998, and as amended on December 3, 1999, May 4, August 9, and October 22, 2001. The plan covers all affected facilities in the geographic area of the Commonwealth of Pennsylvania, except for Allegheny County where designated facilities are regulated under the Allegheny County Health Department HMIWI 111(d)/129 plan, approved by EPA on April 7, 2000, and amended on May 26, 2000. Also, EPA is approving the PADEP requested delegation of the increments of progress and compliance schedules promulgated under the

August 15, 2000, Federal HMIWI 111(d)/129 plan (65 FR 49868).

**DATES:** This final rule is effective June 17, 2002 unless by June 3, 2002 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:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. 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 Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania 17105-8465.

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale at (215) 814-2190, or by e-mail at [topsale.jim@epa.gov](mailto: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 action is EPA approving?

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

What is a Federal 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 Pennsylvania HMIWI 111(d)/129 Plan Must Meet for Approval**

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

What does the Pennsylvania plan contain?

Does the Pennsylvania plan meet all EPA requirements for approval?

**III. Requirements Affected HMIWI Owners/Operators Must Meet**

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

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 air pollution 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 action is EPA approving?

A. EPA is approving the Commonwealth of Pennsylvania 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 Pennsylvania Department of Environmental Protection (PADEP), Bureau of Air Quality, on October 26, 1998, and as amended on December 3, 1999, May 4, August 9, and October 22, 2001. Also, EPA is approving the requested delegation of the August 15, 2000 Federal HMIWI 111(d)/129 plan (65 FR 49868) increments of progress and compliance schedules. The plan covers all affected facilities in the geographic area of the Commonwealth of Pennsylvania, except for Allegheny County where affected facilities are regulated under the Allegheny County Health Department HMIWI 111(d)/129 plan, approved (65 FR 18249 and 34104) by EPA on April 7, 2000, and amended (65 FR 340104) on May 26, 2000.

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 Clean Air Act (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 emission guideline (EG) document for HMIWIs, and then requires states to develop 111(d)/129 plans that implement the EG requirements. The HMIWI EG under 40 CFR part 60, subpart Ce, establish emission and operating requirements under the authority of the CAA, sections 111(d) and 129. 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 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 is a Federal 111(d)/129 plan?

A. As required by section 129(b)(3) of the CAA, on August 15, 2000, EPA promulgated a Federal plan for HMIWIs for which construction commenced on or before June 20, 1996. The Federal plan is a set of MACT requirements that implement the 1998 HMIWI emission guidelines. The Federal plan is applicable to those existing HMIWIs not specifically covered by an approved State plan under sections 111(d) and 129 of the CAA. It fills an EPA EG enforceability gap until state plans are approved and assures that the HMIWI units stay on track to complete pollution control equipment retrofits and other requirements on or before the statutory compliance date of September 15, 2002. This compliance date is based on the September 15, 1997 EG promulgation date and the requirements of section 129(f)(2) of the CAA. The Federal plan no longer applies once a state plan is fully approved. Unlike a Federal plan for sources regulated under sections 110 or 172 of the CAA, the section 111(d)/129 Federal plan imposes no statutory or other sanctions because of deficient or unapproved state plans. However, EPA approval of a state plan does not void or negate the need for affected sources to achieve expeditious compliance as required under section 129(f)(2) of the CAA, and the Federal plan compliance schedules. Approval of the subject Pennsylvania plan will be the first step in the removal of Pennsylvania from the list of states that are now subject to Federal plan requirements.

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 Pennsylvania (PA) 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 Pennsylvania HMIWI 111(d)/129 Plan Must Meet for Approval

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

A. The plan must meet the requirements of 40 CFR part 60, subparts B, and Ce; and the Federal plan, 40 CFR part 62, subpart HHH. Subpart B specifies detailed procedures for the adoption and submittal of State plans for designated facilities. The EG, subpart Ce, and the related new source performance standard (NSPS), subpart Ec, both promulgated on September 15, 1997, contain the requirements for the control of specific designated pollutants in accordance with sections 111(d) and 129 of the CAA. Subpart Ce cross-references applicable provisions of subpart Ec, related to compliance and performance testing, monitoring, reporting, and recordkeeping. State plans, approved after the promulgation date of the Federal plan, must include expeditious compliance schedules that are no less stringent than those in the Federal plan. In summary, the Pennsylvania plan must meet the requirements of (1) 40 CFR part 60, subpart B, §§ 60.23 through 60.26; (2) 40 CFR part 60, subpart Ce, §§ 60.30e through 60.39e, and related subpart Ec provisions, as noted above; and (3) part 62, subpart HHH, enforceable compliance dates and increments of progress. In addition, any State requesting delegation of authority under the Federal plan must demonstrate that it has adequate resources and the legal authority to administer and enforce the program. The PADEP has made the required demonstration with respect to

the task of implementing the cited Federal plan compliance schedules.

Q. What does the Pennsylvania plan contain?

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

1. A demonstration of Pennsylvania's legal authority to implement the plan;
2. Identification of the enforceable mechanism(s)—Federally enforceable state operating permits, Federally enforceable state plan approvals, and Title V operating permits;
3. Source and emission inventories, as required;
4. Emission limitation requirements that are no less stringent than those in subpart Ce;
5. Source compliance schedules, including increments of progress, no less stringent than those stipulated in subpart HHH;
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 PA plan;
10. Provision for PADEP submittal to EPA of annual reports on progress in plan enforcement; and
11. A Title V permit application due date (if permit not issued).

The emission standards and other applicable requirements, including Federally enforceable compliance schedules and increments of progress will be enforced through either the Federally enforceable plan approvals (*i.e.*, construction permits), operating permits, or Title V permits issued under 25 Pa. Code Chapter 127, subchapters B, F, and G, respectively.

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

A. Yes. The PADEP has submitted a plan that conforms to all EPA requirements—40 CFR part 60, subparts B, Ce, Ec, including the expeditious compliance schedule requirements of 40 CFR part 62, subpart HHH. 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 Pennsylvania 111(d)/129 plan?

A. If construction commenced on your HMIWI on or before June 20, 1996, then 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 40 CFR part 60, subpart Ce, section 60.32e. These 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. What general requirements must I meet under the approved EPA 111(d)/129 plan?

A. The PADEP plan contains enforceable mechanisms that include operating permits, plan approvals (*i.e.*, construction permits), and Title V permits. These permits establish the following requirements:

- Emission limitations for particulate matter (PM), opacity, carbon monoxide (CO), dioxins/furans (CDD/CDF), hydrogen chloride (HCl), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), lead (Pb), cadmium (Cd), and mercury (Hg)
- Compliance and performance testing
- Operating parameter limitations and monitoring
- Operator training and qualification
- Development of a waste management plan
- Recordkeeping and reporting
- Title V permit application submittal date (if an application has not been submitted)

A full and comprehensive statement of the above requirements is incorporated in each of the submitted HMIWI air quality permits.

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

A. The pollutant emission limitations and compliance schedules are stipulated in your PADEP facility air quality permit that was submitted to EPA as part of the 111(d)/129 plan. Your 111(d)/129 plan emission limitations are determined by the size category of your HMIWI unit—small, medium, or large. HMIWI size categories are defined in subpart Ec, § 60.51, and are determined by either the “maximum design waste burning capacity,” or by the “maximum charge rate.”

Since PADEP's initial submittal of its plan, EPA has promulgated a Federal plan (40 CFR part 62, subpart HHH) that contains expeditious compliance schedules and increments of progress. As a result, the Federal plan, promulgated on August 15, 2000, may

contain more stringent compliance schedules than what is now required under your PADEP air quality permit. This is because some permit compliance schedules are linked to EPA's approval of the Pennsylvania 111(d)/129 plan. As a result, some existing permit schedules may now be no longer expeditious and consistent with CAA section 129(f)(2) requirements. Accordingly, in order to meet the requirements of section 129(f)(2), the PADEP has requested EPA

authority to implement the Federal plan's (65 FR 49868) increments of progress and compliance schedules. As noted above, EPA is granting the requested authority.

If you chose to continue operating your HMIWI rather than shut it down, then you must install an emissions control system or make process changes in order to meet the maximum available control technology (MACT) emission limitations for the pollutants identified

in the previous answer above. As a HMIWI owner/operator, you must either (1) achieve compliance on or before August 15, 2001, or (2) meet certain specific increments of progress and achieve compliance by September 15, 2002, the statutory compliance date, based on the requirements of the CAA Section 129(f)(2). The delegated PA plan increments of progress for the noted extended compliance date are given in the table below.

EXTENDED COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS UNDER THE PENNSYLVANIA 111(d)/129 PLAN

Increments(s)	Compliance date(s)
Submit a final control plan .....	On or before September 15, 2000
Award contracts for onsite construction, installation of on or before control equipment, or incorporation of process changes.	On or before April 15, 2001.
Begin onsite construction, installation of control equipment, or incorporation of process changes.	On or before December 15, 2001.
Complete onsite construction, installation of control equipment, or incorporation of process changes.	On or before July 15, 2002
Achieve final compliance .....	On or before September 15, 2002.

The first increment of progress, the final control plan, must have been submitted to EPA (or the PADEP) on or before September 15, 2000. If you have submitted a final control plan to EPA with a compliance date extension request, it is now the responsibility of the PADEP to respond to your request and take appropriate action.

Nevertheless, if your extended compliance schedule was submitted after September 15, 2000, there is no expressed authority, under the provisions of either the Federal or Pennsylvania plan, to allow approval of such request by either EPA or PADEP.

If your plan has been to shut down your HMIWI facility after August 15, 2001, but no later than September 15, 2002, then you are subject to certain petition, compliance schedule documentation, and reporting requirements, as stipulated in the Federal plan (subpart HHH), §§ 62.14471 and 62.14472. All petitions for allowing HMIWI operations after August 15, 2001 must have been submitted to the EPA (or PADEP) no later than November 13, 2000. See the Federal plan § 62.14471, relating to compliance schedules. If your petition was submitted after that date, neither the EPA or the PADEP have the authority under the provisions of the Federal plan to approve a shutdown plan and schedule submitted after that date.

Whether your final compliance date is (1) on or before August 15, 2001, or (2) after August 15, 2001, but on or before September 15, 2002, the initial performance test must be completed

within 180 days after the date when you are required to achieve final compliance with all applicable emission limitations. Also, you must submit to PADEP the initial compliance report, including the results of the initial performance test, and the waste management plan no later than 60 days following the initial performance test.

Further details regarding compliance schedule requirements can be found in the Federal plan, subpart HHH, §§ 62.14470, 62.14471, and 62.14472.

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 operator (s).

Failure to operate the HMIWI and/or 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 your air

quality permit and subpart Ce, § 60.37e(b)(5).

Consistent with the Federal plan requirements of §§ 62.14425(b), on or before February 15, 2001, you were required to conduct an initial review of the training documents (e.g., operation and maintenance manual) with each operator on site under the provisions of 40 CFR 60.34e and 60.53c(h), which also requires an annual update and review of the documentation. Also, under both the Pennsylvania and Federal plan compliance dates, beginning no later than August 15, 2001, a fully trained and qualified operator is required on site whenever your HMIWI unit is in operation. See the Federal plan §§ 62.14425, 62.14470(b)(1), and 62.14471(b)(3). In order to be classified as a qualified operator, one must complete an appropriate HMIWI operator training course that meets the criteria referenced in 40 CFR part 60, subparts Ce and Ec, §§ 60.34e and 60.53c, respectively.

The Pennsylvania 111(d)/129 plan HMIWI air quality permits incorporate by reference all applicable operational requirements of the EG, subpart Ce, and the related NSPS, subpart Ec.

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. As noted

above, 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 sulfur dioxide and nitrogen oxides. Nevertheless, both the PADEP 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, opacity, 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., activated 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 Pennsylvania plan HMIWI operating permits incorporate by reference 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 Service, Inc., Post Office Box 92683, Chicago, Illinois 60675-2683. For more details regarding these requirements see 40 CFR part 60, subpart Ec, § 60.55c.

Submittal of the WMP to PADEP (or EPA) is required no later than 60 days following the initial performance tests required under subpart HHH, § 62.14432.

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 PADEP no later than September 15, 2000.

#### IV. Final EPA Action

EPA is approving the Pennsylvania 111(d)/129 plan for controlling HMIWI emissions from designated facilities. This approval is based upon the rationale discussed above and in further detail in the TSD associated with this action. Also, EPA is approving PADEP's request for delegation of authority to implement and enforce the Federal plan increments of progress and compliance schedules for HMIWI, as codified at 40 CFR part 62, subpart HHH.

As provided by 40 CFR 60.28(c), any revisions to the Pennsylvania plan or associated permits will not be considered part of the applicable plan until submitted by the PADEP 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. This action simply reflects already existing Federal requirement for existing HMIWIs that are subject to the provisions of the Federal HMIWI 111(d)/129 plan. 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 June 17, 2002 without further notice unless the Agency receives relevant adverse comments by June 3, 2002. If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

#### 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. 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 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 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). This action also does not have Federalism implications because it does 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). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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 July 2, 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 approving the Pennsylvania 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, Sulfur oxides.

Dated: April 25, 2002.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

40 CFR Part 62, Subpart NN, 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 NN—Pennsylvania**

2. Amend Subpart NN-Pennsylvania, by adding the subheading and §§ 62.9650, 62.9651 and 62.9652 after § 62.9644 to read as follows:

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

##### **§ 62.9650 Identification of plan.**

Section 111(d)/129 plan for designated HMIWIs and the associated state issued air quality construction and operating permits, as submitted on October 26, 1998, amended December 3, 1999, May 4, August 9, and October 22, 2001.

##### **§ 62.9651 Identification of sources.**

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

##### **§ 62.9652 Effective date.**

The effective date of the plan is June 17, 2002.

[FR Doc. 02-10873 Filed 5-2-02; 8:45 am]

BILLING CODE 6560-50-P

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 622**

[Docket No. 011015252-2081-02; I.D. 053001E]

RIN 0648-AO23

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Golden Crab Fishery off the Southern Atlantic States; Amendment 3**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 3 to the Fishery Management Plan for the Golden Crab

Fishery of the South Atlantic Region (FMP). This rule extends through December 31, 2002, the allowed use of cable for a mainline attached to golden crab traps; clarifies the size of the required escape panel or door on a golden crab trap; removes the historical catch requirement for renewing a commercial vessel permit for golden crab; allows the issuance of a commercial vessel permit for golden crab for the southern zone for a vessel that held a valid permit for the southern zone in October 2000 but did not meet the 5,000-lb (2,268-kg) requirement for renewal in the following year; allows a vessel with a documented length overall greater than 65 ft (19.8 m) that is permitted to fish in the southern zone to fish also in the northern zone; allows two new commercial vessel permits to be issued for the northern zone; provides that a commercial vessel permit will not be renewed if the Regional Administrator (RA) does not receive an application for renewal by June 30 each year; liberalizes the allowed increase in the size of a permitted vessel; creates a small-vessel sub-zone in the southern zone in which only permitted vessels 65 feet (19.8 m) or less in length may fish for golden crab but may not do so in the remainder of the southern zone; and adds measures related to the proposed sub-zone to the list of management measures that may be modified via the FMP's framework procedure for regulatory adjustments. The intended effect is to protect the golden crab resource while allowing development of the fishery that is dependent on that resource.

**DATES:** This final rule is effective June 3, 2002, except for the amendments to § 622.17(b)(1) and (2) that are effective May 3, 2002.

**ADDRESSES:** Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Dr. Peter J. Eldridge, Southeast Regional Office, NMFS; phone: 727-570-5305; fax: 727-570-5583; e-mail: [Peter.Eldridge@noaa.gov](mailto:Peter.Eldridge@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The golden crab fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management