

state to revise this provision. The revisions proposed in today's action do not address the sections of the regulation challenged by the Sierra Club in its petition. The revisions proposed in today's action clarify and strengthen the Missouri SIP. By removing the option for oral notification in 10 CSR 10–6.050(3)(B), and requiring written notification, the Missouri SIP is more stringent. The revision in 10 CSR 10–6.050(3)(C)2. A. clarifies the notification requirements for malfunctions by referring to section 10 CSR 10–6.050(3)(A). The revision in 10 CSR 10–6.050 (3)(C)2.B. clarifies the general notification requirements for maintenance, startup, or shutdown activities by referring to the general notification requirements set forth in 10 CSR 10–6.050(3)(B).

The revisions proposed in today's action are consistent with CAA requirements for SIP provisions and do not violate the anti-backsliding provisions in section 110(l) or section 193 of the CAA because they are SIP strengthening and do not interfere with any applicable requirements concerning attainment or reasonable further progress nor do they affect control measures in effect prior to the 1990 CAA Amendments related to nonattainment areas. Further, these proposed revisions are consistent with the action proposed by EPA on February 22, 2013 as mentioned above (78 FR 12459).

## II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## III. What action is EPA taking?

EPA is proposing to approve the request to amend the Missouri SIP by approving the state's request to amend 10 CSR 10–6.050 *Start-Up, Shutdown, and Malfunction* to update written reporting requirements, correct references, and other minor clarifying changes. Approval of these revisions will ensure consistency between state and Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions.

We are processing this as a proposed action because we are soliciting comments on this proposed action.

Final rulemaking will occur after consideration of any comments.

### Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct

costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 20, 2013.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2013–28947 Filed 12–2–13; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R03–OAR–2013–0164; FRL–9903–75–Region 3]

### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Emissions From Existing Sewage Sludge Incineration Units

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a section plan submitted by the Commonwealth of Virginia for sewage sludge incineration (SSI) units. The section plan contains a state rule for existing SSI units and was submitted as a result of the March 21, 2011 promulgation of Federal new source performance standards (NSPS) and emission guidelines for SSI units. This action is being taken under sections of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before January 2, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0164 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email:* [cox.kathleen@epa.gov](mailto:cox.kathleen@epa.gov).

C. *Mail:* EPA–R03–OAR–2013–0164, Kathleen Cox, Associate Director, Office of Air Permits and Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the

Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2013-0164. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Mike Gordon, at (215) 814-2039, or by email at [gordon.mike@epa.gov](mailto:gordon.mike@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

Section 129 of the CAA requires EPA to establish performance standards and emission guidelines for various types of new and existing solid waste incineration units. Section 129(b)(2) requires States to submit to EPA for approval section 111(d)/129 plans that implement and enforce the promulgated emission guidelines. Section 129(b)(3) requires EPA to promulgate a federal plan (FP) within two years from the date on which the emission guidelines, or revision to the emission guidelines, is promulgated. The FP is applicable to affected facilities when the state has failed to receive EPA approval of the section 111(d)/129 plan. The FP remains in effect until the state submits and receives EPA approval of its section 111(d)/129 plan. State submittals under CAA sections 111(d) and 129 must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Mmmm, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A. Section 129 of the CAA regulates air pollutants that include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, and mercury), hydrogen chloride, sulfur dioxide, nitrogen oxides, and particulate matter (which includes opacity).

On December 12, 2012, the Virginia Department of Environmental Quality (VADEQ) submitted to EPA a formal section 111(d)/129 plan for SSI units. The submitted section 111(d)/129 plan was in response to the March 21, 2011 promulgation of Federal NSPS and emission guidelines requirements for SSI units, 40 CFR part 60, subparts LLLL and Mmmm, respectively (76 FR 15372).

### II. Summary of Virginia's Section 111(d)/129 Plan for Existing SSI Units

EPA has reviewed the Virginia section 111(d)/129 plan submittal in the context of the requirements of 40 CFR part 60, subparts B and Mmmm, and part 62, subpart A. In this action, EPA is proposing to determine that the submitted section 111(d)/129 plan meets the above-cited requirements. Included within the section 111(d)/129 plan are regulations under the Virginia Administrative Code (VAC), specifically Article 55 of 9VAC5 Chapter 40, entitled "Emission Standards for Sewage Sludge Incineration Units." A detailed explanation of the rationale behind this proposed approval is available in the Technical Support Document (TSD).

### III. General Information Pertaining to Section 111(d)/129 Plan Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . ." The opinion concludes that "[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1-1199, provides that "[t]o the extent consistent with requirements

imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the section 111(d)/129 plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

#### IV. Proposed Action

EPA is proposing to approve the Virginia section 111(d)/129 plan for SSI units submitted pursuant to 40 CFR part 60, subpart MMMM. Therefore, EPA is proposing to amend 40 CFR part 62, subpart VV to reflect this action. This approval is based on the rationale previously discussed and in further detail in the TSD associated with this action. The scope of the proposed approval of the section 111(d)/129 plan is limited to the provisions of 40 CFR parts 60 and 62 for existing SSI units, as referenced in the emission guidelines, subpart MMMM.

The EPA Administrator continues to retain authority for several tasks, as stipulated in 40 CFR § 60.5050 as well as the “Plan Provisions” section of Virginia’s section 111(d)/129 plan submittal. This retention of federal authority includes the granting of waivers for performance tests.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing VADEQ’s submissions, EPA’s 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), EPA has no authority to disapprove a VADEQ submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a VADEQ submission, to use VCS in place of a VADEQ submission that otherwise satisfies 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 proposed 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 proposed rule for the approval of VADEQ’s section 111(d)/129 plan for SSI units does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: November 15, 2013.

W.C. Early,

Acting, Regional Administrator, Region III.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R05–OAR–2013–0678; FRL–9903–34–Region 5]

### Proposal for Hospital/Medical/ Infectious Waste Incinerator Negative Declaration for Designated Facilities and Pollutants: Michigan and Wisconsin

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is notifying the public that we have received from Michigan and Wisconsin negative declarations for Hospital/Medical/Infectious Waste Incinerators (HMIWI). The Michigan Department of Environmental Quality submitted on August 9, 2013 a negative declaration certifying that there are no HMIWI units currently operating in the