Emissions From Existing Small Municipal Waste Combustion Units

§ 62.9645 Identification of plan—negative declaration.

Letter from the Allegheny County Health Department submitted November 21, 2001, certifying that there are no existing small municipal waste combustion units within Allegheny County, Pennsylvania that are subject to 40 CFR part 60, subpart BBBB.

§ 62.9646 Identification of plan—negative declaration.

Letter from the City of Philadelphia, Department of Public Health, submitted February 9, 2001, certifying that there are no existing small municipal waste combustion units within the City of Philadelphia, Pennsylvania that are subject to 40 CFR part 60, subpart BBBB.

[FR Doc. 02–33096 Filed 12–31–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[DC051–7002a; FRL–7434–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia; Control of Emissions From Existing Hospital/Medical/ Infectious Waste Incinerator (HMIWI) Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the section 111(d)/129 negative declaration submitted by the District of Columbia Department of Health, Environmental Health Administration. The negative declaration certifies that HMIWI units, subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA), do not exist within the District of Columbia.

DATES: This final rule is effective March 3, 2003 unless within February 3, 2003 adverse or critical comments are received. If adverse comments are 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 Walter Wilkie, Deputy 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.

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

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor 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. However, section 129 of the CAA, also requires EPA to promulgate EG for HMIWI units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity).

On September 15, 1997 (62 FR 48348), EPA promulgated EG, subpart Ce, that are applicable to all existing HMIWI units (*i.e.*, the designated facilities). An existing HMIWI unit is one which construction commenced on or before June 20, 1996.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Also, 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require the submittal of a 111(d)/129 plan.

II. Final EPA Action

On June 25, 1999, the District of Columbia Department of Health, Environmental Health Administration, submitted to EPA a negative declaration letter certifying that there are no known HMIWI units within its jurisdiction.

Therefore, EPA is amending part 62 to reflect the receipt of the negative declaration letter from the District of Columbia Department of Health, Environmental Health Administration. After publication of this **Federal Register** notice, if a HMIWI facility is later found within the District of Columbia, then the overlooked facility is subject to the Federal HMIWI 111(d)/ 129 plan (65 FR 49868), including the compliance schedule, promulgated on August 15, 2000. The Federal plan would no longer apply if EPA subsequently receives and approves a 111(d)/129 plan from the District of Columbia.

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 state air pollution control agencies under 40 CFR parts 60 and 62. 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 negative declaration should relevant adverse or critical comments be filed.

This rule will be effective March 3, 2003 without further notice unless the Agency receives relevant adverse comments by February 3, 2003. If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did 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.

III. 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 March 3, 2003. 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 District of Columbia Department of Health, Environmental Health Administration, negative declaration for HMIWI units 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, 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: December 20, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 62 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 J—District of Columbia

2. Subpart J is amended by adding an undesignated center heading and § 62.2150 to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units

§ 62.2150 Identification of plan—negative declaration.

Letter from the Department of Health, Environmental Health Administration, submitted to EPA on June 25, 1999, certifying that there are no known existing HMIWI units in the District of Columbia.

[FR Doc. 02–33098 Filed 12–31–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[DC051–7001a; PA186–7001a; FRL–7434–9]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; the District of Columbia, and the City of Philadelphia, Pennsylvania; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the section 111(d) negative declarations submitted by the District of Columbia, and the City of Philadelphia, Pennsylvania. Each negative declaration certifies that municipal solid waste (MSW) landfills, subject to the requirements of section 111(d) of the Clean Air Act (CAA), do not exist within its air pollution control agency's jurisdiction.

DATES: This final rule is effective March 3, 2003 unless within February 3, 2003 adverse or critical comments are received. If adverse comments are 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.