

requirements of section 3(b) of E.O. 13084 do not apply to this rule.

**E. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

**F. Unfunded Mandates**

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes

no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**G. 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).

**H. 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 October 18, 1999. 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 RACT for the control of VOC emissions from reinforced plastics manufacturing under the Maryland SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: August 2, 1999.

**W. Michael McCabe**,  
*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart V—Maryland**

2. Section 52.1070 is amended by adding paragraphs (c)(139) to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(139) Revisions to the Maryland State Implementation Plan, submitted on August 28, 1998, by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of August 28, 1998, from the Maryland Department of the Environment transmitting additions to Code of Maryland Administrative Regulations (COMAR) 26.11.19 Volatile Organic Compounds from Specific Processes.

(B) Addition of COMAR 26.11.19.26 Control of Volatile Organic Compounds from Reinforced Plastic Manufacturing, effective August 11, 1997.

(ii) Additional Material: Remainder of August 28, 1998, State submittal pertaining to the addition of COMAR 26.11.19.26 Control of Volatile Organic Compounds from Reinforced Plastic Manufacturing to COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[MO 080-1080a; FRL-6421-6]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the state of Missouri's section 111(d) plan for controlling emissions from existing HMIWIs. The plan was submitted to fulfill the requirements of sections 111 and 129 of the Clean Air Act (CAA). The state plan establishes emission limits and controls for sources constructed on or before June 20, 1996.

**DATES:** This direct final rule is effective on October 18, 1999, without further notice, unless EPA receives adverse comment by September 20, 1999. 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:** All comments should be addressed to: Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

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

**SUPPLEMENTARY INFORMATION:**

Information regarding this action is presented in the following order:

What are the requirements of section 129 of the CAA?

What is a section 111(d) state plan?

What is Subpart Ce?

What are the requirements for the HMIWI state plan?

What is contained in the Missouri state plan?

What are the approval criteria for the state plan?

**What Are the Requirements of Section 129 of the CAA?**

Section 129 of the CAA Amendments of 1990 requires EPA to set air emission standards and emission guidelines (EG) under the authority of section 111 of the CAA to reduce pollution from incinerators that burn solid waste. Incinerators that burn medical waste are classified as solid waste incinerators and therefore must be regulated.

**What is a Section 111(d) State Plan?**

Section 111(d) of the CAA, "Standards of Performance for New Stationary Sources," authorizes EPA to set air emissions standards for certain categories of sources. These standards are called new source performance standards (NSPS). When an NSPS is promulgated for new sources, EPA also publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a state plan to adopt the EG into its body of regulations and submit it to EPA for approval. The state plan is called a 111(d) plan.

**What is Subpart Ce?**

EPA issued regulations to reduce air pollution from incinerators that are used

to burn hospital waste and/or medical/infectious waste. The NSPS at 40 CFR part 60, subpart Ec, and the EG, subpart Ce, were promulgated by EPA on September 15, 1997 (62 FR 48374). These rules apply to new and existing incinerators used by hospitals and health care facilities, as well as to incinerators used by commercial waste disposal companies to burn hospital waste and/or medical/infectious waste. The EG applies to existing HMIWIs that commenced construction on or before June 20, 1996.

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 HMIWI.

**What Are the Requirements for the HMIWI State Plan?**

A section 111(d) state plan submittal must meet the requirements of 40 CFR part 60, subpart B, sections 60.23 through 60.26, and subpart Ce. Subpart B addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules, emission inventories, source surveillance, and compliance assurance and enforcement requirements. The technical requirements for existing HMIWI sources are contained in subpart Ce. A state will generally address the HMIWI technical requirements by adopting by reference subpart Ce. The section 111(d) state plan is required to be submitted within one year of the EG promulgation date, i.e., by September 15, 1998.

Prior to submittal to EPA, the state must make available to the public the state plan and provide opportunity for public comment. If a state fails to have an approvable plan in place by September 15, 1999, sources will be subject to a Federal plan on that date.

**What Is Contained in the Missouri State Plan**

The state of Missouri submitted its section 111(d) state plan to EPA for approval on June 15, 1999. The state adopted the EG requirements into state Rule 10 CSR 10-6.200, "Hospital, Medical, Infectious Waste Incinerators," which was effective July 30, 1999. The section 111(d) state plan contains:

1. A demonstration of the state's legal authority to implement the section 111(d) state plan.

2. State Rule 10 CSR 10-6.200, "Hospital, Medical, Infectious Waste Incinerators," as the enforceable mechanism.

3. An inventory of sources on pages 7 and 8.

4. An emissions inventory in Appendix G.

5. Emission limits, as protective as the EG, that are contained in state Rule 10 CSR 10-6.200.

6. A compliance date of September 1, 2000.

7. Testing, monitoring, and inspection requirements that are contained in Rule 10 CSR 10-6.200.

8. Reporting and recordkeeping requirements for the designated facilities that are contained in Rule 10 CSR 10-6.200.

9. Operator training and qualification requirements that are contained in Rule 10 CSR 10-6.200.

10. Requirements for the development of waste management plans that are contained in Rule 10 CSR 10-6.200.

11. A record of the public notice and hearing requirements that is contained in appendix E.

12. Provisions for progress reports to EPA that are contained in section L.

13. Title V permit application due date requirements that are contained in section M.

14. A final compliance date of September 1, 2000.

**What Are the Approval Criteria for the State Plan?**

The 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," and 40 CFR 60.30e through 60.39e, subpart Ce, "Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators." A detailed discussion of our evaluation of the state plan is included in our technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The state plan meets all of the applicable approval criteria.

**Final Action**

Based on the rationale discussed above and in further detail in the TSD associated with this action, we are approving Missouri's June 15, 1999, section 111(d) state plan for the control of HMIWI emissions, except for those facilities located in Indian country. Any facilities located in Indian country will be subject to a Federal plan. In Missouri there are no known HMIWIs in Indian country.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. 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 SIP revision should adverse comments be filed. This rule will be effective October 18, 1999, without further notice unless the Agency receives adverse comments by September 20, 1999.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 18, 1999, and no further action will be taken on the proposed rule.

#### **Administrative Requirements**

##### *A. Executive Order (E.O.) 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

##### *B. E.O. 12875*

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, a summary of the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

##### *C. E.O. 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

##### *D. E.O. 13084*

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

##### *E. Regulatory Flexibility Act (RFA)*

Under the RFA, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State plan approvals under section 111 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal state plan approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

##### *F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

##### *G. 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 U.S. Comptroller General 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).

*H. Petitions for Judicial Review*

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 October 18, 1999. 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: August 4, 1999.

**William Rice,**

*Acting Regional Administrator, Region VII.*

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 AA—Missouri**

2. Subpart AA is amended by adding section 62.6358 and an undesignated center heading to read as follows:

**Air Emissions From Existing Hospital/Medical/Infectious Waste Incinerators**

**§ 62.6358 Identification of plan.**

(a) Identification of plan. Missouri plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Missouri

Department of Natural Resources on June 15, 1999.

(b) Identification of sources. The plan applies to existing hospital/medical/infectious waste incinerators constructed on or before June 20, 1996.

(c) Effective date. The effective date of the plan is October 18, 1999.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-6419-5]

**National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning**

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

**ACTION:** Direct final rule.

**SUMMARY:** On December 2, 1994, the EPA issued the "National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning" (59 FR 61801). Today's action offers compliance options for continuous web cleaning machines, as well as amendments to the national emission standards for hazardous air pollutants (NESHAP) that apply to steam-heated vapor cleaning machines and to cleaning machines used to clean transformers. The EPA is approving these amendments to ensure that all owners or operators of solvent cleaning machines have appropriate and attainable requirements for their cleaning machines.

**DATES:** This direct final rule will be effective on October 18, 1999 without further notice, unless the EPA receives adverse comments by September 20, 1999. If we receive any adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC-6102), Attention Docket Number A-92-39, Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA

requests that a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** For information concerning the standards and the proposed changes, contact Mr. Paul Almodóvar, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-0283. For information regarding the applicability of this action to a particular entity, contact Ms. Acquanetta Delaney, Manufacturing Branch, Office of Compliance (2223A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564-7061.

**SUPPLEMENTARY INFORMATION:** The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and do not anticipate adverse comment. The changes to the compliance requirements for continuous web cleaning machines provide the only reasonable method available to those cleaning machines to comply with the maximum achievable control technology (MACT) level of control. The EPA considers these revised requirements to be comparable to the requirements previously promulgated for other cleaning machines. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. This rule will be effective on October 18, 1999 without further notice unless we receive any adverse comment by September 20, 1999. If we receive any adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**Regulated Entities**

The following entities are potentially regulated by this direct final rule.

Category	SIC codes	Examples of potentially regulated entities
Industry .....	33, 34, 36, and 37 .....	Facilities engaging in cleaning operations using halogenated solvent cleaning machines.