

Clean Air Act Section 111(d)/129 State Plan Evaluation
For the November 16, 2020 Oklahoma State Plan
Submittal for the Control of Emissions From Existing
Commercial and Industrial Solid Waste Incineration
Units

FDMS Docket ID: EPA-R06-OAR-2020-0610

EPA Technical Support Document

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Introduction

In this Technical Support Document (TSD), the Environmental Protection Agency (EPA) provides a detailed discussion and rationale for the proposed approval of the State of Oklahoma's November 16, 2020, submittal for the control of emission from incinerators subject to the Commercial and Industrial Solid Waste Incineration units (CISWI) Emission Guidelines (EG). The Oklahoma CISWI state plan was first approved by EPA in 2005 and addresses how the State implements and enforces provisions of the CISWI EG, codified in 40 CFR part 60, subpart DDDD, in accordance with the Clean Air Act (CAA or Act) sections 111(d) and 129 requirements. Oklahoma's 2020 CISWI plan addresses revisions to the CISWI EG, most recently amended in 2019. In order for the CISWI state plan or plan revision to be approvable, the plan or plan revision must meet the requirements of the current CISWI EG, as well as the requirements of the implementing regulations codified at 40 CFR part 60, subpart B. The following subsections provides additional background information on federal requirements under CAA sections 111(d) and 129, and the CISWI EG. Some of the material contained in this background information is also provided in the proposed rulemaking for this TSD. Throughout this document, "we," "us," and "our" means EPA.

I. Background

A. Clean Air Act Sections 111(d) and 129

Sections 111(d) and 129 of the CAA require 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 the EPA has established emission guidelines for such existing sources. CAA section 129 directs the EPA to establish standards of performance for new sources (NSPS) and emissions guidelines (EG) for existing¹ sources for each category of solid waste incinerator specified in CAA section 129. Under CAA section 129, NSPS and EG must contain numerical emissions limitations for particulate matter, opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. While NSPS are directly applicable to new sources, EG for existing sources (designated facilities) are intended for states to use to develop a state plan to submit to the EPA. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutants.

¹ In this context and for purposes under CAA section 111(d)/129, the term "existing" source is synonymous with designated facility. These are sources that were constructed, reconstructed, or modified on or before the date specified in the emission guideline the source applies to.

B. The Implementing Regulations at 40 CFR Part 60, Subpart B, and Procedural Requirements at 40 CFR Part 62, Subpart A

State plan submittals and revisions under CAA section 111(d) must be consistent with the applicable EG and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A. The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans and plan revisions under CAA section 111(d). Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which the EPA will approve or disapprove such plans and plan revisions submitted by a state. Once approved by the EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a federal plan. However, 40 CFR 60.23(b) and 40 CFR 62.06 provide that if there are no designated facilities of the designated pollutant(s) 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 CAA section 111(d)/129 plan.

C. Commercial and Industrial Solid Waste Incineration Rules

On December 1, 2000, EPA promulgated the CISWI NSPS at 40 CFR part 60, subpart CCCC, and the CISWI EG at 40 CFR part 60, subpart DDDD (65 FR 75338). On March 21, 2011, after voluntarily remanding the 2000 CISWI NSPS and EG, the EPA promulgated revised CISWI NSPS and EG in a final rule (76 FR 15704). Correspondingly, on the same date, EPA promulgated a final rule under the Resource Conservation and Recovery Act (RCRA) to identify which non-hazardous secondary materials, when used as fuels or ingredients in combustion units, are “solid wastes” (76 FR 15456).² EPA subsequently promulgated amendments to both March 21, 2011 rules on February 7, 2013, to clarify several provisions in order to implement the non-hazardous secondary materials rule as EPA originally intended (78 FR 9112). Reconsideration of certain aspects of the final CISWI rule resulted in minor amendments (81 FR 40956, June 23, 2016).³ On April 16, 2019, EPA finalized further amendments to the CISWI NSPS and EG in order to provide clarity and address implementation issues (84 FR 15846).⁴

The CISWI NSPS and EG were significantly revised in the March 21, 2011, and February

² See 40 CFR part 241, Solid Wastes Used as Fuels or Ingredients in Combustion Units, also known as the “Non-Hazardous Secondary Material Rule.” The identification of solid waste in the Non-Hazardous Secondary Material Rule is used to determine whether a combustion unit is required to meet the emissions standards for solid waste incineration units issued under sections 111 and 129 of the Act, or meet the emissions standards for commercial, industrial, and institutional boilers issued under section 112 of the Act.

³ In the June 23, 2016, final action, the EPA finalized amendments on these four topics: Definition of “continuous emission monitoring system (CEMS) data during startup and shutdown periods;” particulate matter (PM) limit for the waste-burning kiln subcategory; fuel variability factor (FVF) for coal-burning energy recovery units (ERUs); and the definition of “kiln.”

⁴ In the April 16, 2019, final action, the EPA made technical amendments to correct and clarify various parts of the June 23, 2016, final rule; this includes issues with implementation of the standards, testing and monitoring issues and inconsistencies, and other regulatory provisions.

7, 2013, rulemakings, and the subsequent final rulemakings on June 23, 2016, and April 16, 2019, contained minor amendments to the CISWI rules that did not make any changes to the applicability of the designated facilities, including 40 CFR 60.2505, “Am I affected by this subpart?”. As provided by 40 CFR 60.2505, the designated facilities to which the CISWI EG apply are CISWI and air curtain incinerators (ACI)⁵ that commenced construction on or before June 4, 2010, or for which modification or reconstruction was commenced on or before August 7, 2013, with limited exceptions as provided under 40 CFR 60.2555.

D. Oklahoma CAA Section 111(d)/129 CISWI Plan Approval History

On June 29, 2005, the Oklahoma Department of Environmental Quality (ODEQ) submitted a CISWI state plan to address the 2000 CISWI EG requirements and fulfill obligations under CAA sections 111(d) and 129. Oklahoma’s 2005 CISWI plan controlled emissions from sources subject to the 2000 CISWI EG, found at 40 CFR part 60, subpart DDDD, within the State of Oklahoma. Oklahoma’s 2005 CISWI plan was approved by EPA on October 4, 2005 (70 FR 57764).

II. The State’s Submittal and EPA’s Analysis

In order to address the most recent CISWI EG requirements and fulfill obligations under CAA sections 111(d) and 129, ODEQ submitted a state plan revision for the control of emissions from sources subject to the CISWI EG for the State of Oklahoma on November 16, 2020. The Oklahoma 2020 CISWI plan implements and enforces the applicable provisions under the CISWI EG at 40 CFR part 60, subpart DDDD, most recently amended on April 16, 2019, and additionally meets the relevant requirements of the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. A copy of the Oklahoma submittal is included in the docket for this rulemaking.

The EPA has evaluated the Oklahoma CISWI plan to determine whether the plan meets applicable requirements from the CISWI EG at 40 CFR part 60, subpart DDDD, and the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. The EPA’s detailed rationale and discussion on the Oklahoma CISWI plan can be found in this TSD. The requirements under 40 CFR part 60, subpart DDDD and B are as follows.

CISWI EG at 40 CFR part 60, subpart DDDD (§§60.2500 - 60.2875, plus Tables 1 - 9) requirements for state plans:

Section 60.2515 of the CISWI EG addresses what must be included in state plan submittals. Specifically, §60.2515(a) states plans must include:

- (1) Inventory of affected CISWI, including those that have ceased operation but have not

⁵ These air curtain incinerators (ACI) that are subject to the CISWI EG at 40 CFR part 60, subpart DDDD, are those ACI that may not fit the definition of a “CISWI” under the CISWI EG. See 40 CFR 60.2875.

been dismantled.

(2) Inventory of emissions from affected CISWI in the State.

(3) Compliance schedules for each affected CISWI.

(4) Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWIs that are at least as protective as the emission guidelines contained in this subpart.

(5) Performance testing, recordkeeping, and reporting requirements.

(6) Certification that the hearing on the state plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(7) Provision for State progress reports to EPA.

(8) Identification of enforceable State mechanisms that the State selected for implementing the emission guidelines of this subpart.

(9) Demonstration of the state's legal authority to carry out the sections 111(d) and 129 in the state plan.

In addition, §60.2515(b) provides the following: *“Your state plan may deviate from the format and content of the emission guidelines contained in this subpart. However, if your state plan does deviate in content, you must demonstrate that your state plan is at least as protective as the emission guidelines contained in this subpart. Your state plan must address regulatory applicability, increments of progress for retrofit, operator training and qualification, a waste management plan, emission limitations, performance testing, operating limits, monitoring, recordkeeping and reporting, and ACI requirements.”*

Finally, §60.2515(c) provides that: *“You must follow the requirements of subpart B of this part (Adoption and Submittal of State Plans for Designated Facilities) in your state plan.”*

CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B, requirements for state plans:

- §60.23 Adoption and submittal of State plans; public hearings.
- §60.24 Emission standards and compliance schedules.
- §60.25 Emission inventories, source surveillance, reports.
- §60.26 Legal authority.

The CISWI state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR part 60, subpart B. Oklahoma has chosen to author a state plan document (“State of Oklahoma Commercial and Industrial Solid Waste Incinerators 111(d)/129 Plan, September 17, 2020”) and provide

revisions to the **Oklahoma Administrative Code (OAC) Title 252: “Department of Environmental Quality”, Chapter 100: “Air Pollution Control”, Subchapter 17: “Incinerators”, Part 9: “Commercial and Industrial Solid Waste Incineration Units” (OAC 252:100-17, Part 9, which includes OAC 252:100-17-60 through 252:100-17-76)**. Oklahoma additionally incorporated by reference the Model Rule from the CISWI EG at 40 CFR part 60, subpart DDDD, §§60.2575 - 60.2875 plus Tables 1 - 9, in **OAC 252:100-2-3, “Incorporation by Reference”, and OAC 252:100, Appendix Q, “Incorporation by Reference”** to provide the enforceable mechanism in the State Plan. The State had previously incorporated applicable requirements from the 2000 CISWI EG into OAC 252:100-17, Part 9. The state plan narrative and the adopted changes to the applicable Oklahoma regulations at OAC 252:100:2-3 as well as all other relevant submittal materials may be found in the docket for today's action. Necessary State legal and enforcement authorities required for plan approval are located elsewhere in Oklahoma’s statute, rules and regulations and have been reviewed and approved of by the EPA in the course of prior state implementation plan as well as CAA section 111(d)/129 state plan approvals. See 40 CFR part 52, subpart LL, and 40 CFR part 62, subpart LL.

The Oklahoma CISWI plan revision provided in its November 17, 2020 submittal has been evaluated in detail in this TSD. EPA’s evaluation of Oklahoma’s submittal is provided in Table 1, shown below. The left-most column provides the relevant federal requirement, the middle column provides how the state addressed this requirement in the state submittal, and the right-most column summarizes our evaluation of that portion of the state’s submittal.

Table 1: Table for the Review of the Oklahoma CISWI Plan

Table for the Review of Clean Air Act Section 111(d)/129 State Plan Submittals For Commercial and Industrial Solid Waste Incineration Units (CISWI) For the Oklahoma Plan submitted November 16, 2020								
Emission Guideline Requirements for CISWI State Plans (40 CFR Part 60, Subpart DDDD)								
CISWI Emission Guideline Required Item ⁶ under 40 CFR §60.2515(a)	State Plan Addressing Required Item	Comments by EPA (Note if approvable or note deficiency)						
<p>(1) Inventory of affected CISWIs, including those that have ceased operation but have not been dismantled;</p> <p>[See 40 CFR 60.25(a) below as well.] [See 40 CFR 60.2550 and 60.2555 for a description of the incineration units that must be addressed in the plan and exclusions.]</p>	<p>The inventory of affected units in Oklahoma is included in the table in Appendix C of the Oklahoma plan titled “2019 Oklahoma CISWI Source Status Table”.</p> <p>Oklahoma identified one facility subject to the plan.</p> <table border="1"> <thead> <tr> <th>Name/Description</th> <th>Unit Type</th> <th>Status</th> </tr> </thead> <tbody> <tr> <td>Henryetta Pallet Company, Inc.</td> <td>Air curtain incinerator</td> <td>Operating</td> </tr> </tbody> </table> <p>See also the Oklahoma state plan narrative, Section III.A. As provided in the narrative, Henryetta Pallet Company (HPC) in Henryetta, Oklahoma, the remaining incinerator identified in Oklahoma, is an ACI that burns wood waste which consists of untreated lumber. All the other CISWI units from the source inventory in the 2005 Oklahoma CISWI plan have either been shut down</p>	Name/Description	Unit Type	Status	Henryetta Pallet Company, Inc.	Air curtain incinerator	Operating	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p> <p>Any update to the list of affected units will be addressed in future annual progress reports to EPA, once the Oklahoma CISWI plan approval is finalized, and the plan is effective.</p>
Name/Description	Unit Type	Status						
Henryetta Pallet Company, Inc.	Air curtain incinerator	Operating						

⁶ In addition, 40 CFR 60.2515 states that:

“(b) Your state plan may deviate from the format and content of the emission guidelines contained in this subpart. However, if your state plan does deviate in content, you must demonstrate that your state plan is at least as protective as the emission guidelines contained in this subpart. Your state plan must address regulatory applicability, increments of progress for retrofit, operator training and qualification, a waste management plan, emission limitations, performance testing, operating limits, monitoring, recordkeeping and reporting, and ACI requirements.

(c) You must follow the requirements of subpart B of this part (Adoption and Submittal of State Plans for Designated Facilities) in your state plan.”

	or the facility has closed.	
<p>(2) Inventory of emissions from affected CISWIs in your state;</p> <p>[See 40 CFR 60.25(a) below as well.]</p>	<p>The emissions inventory from affected units in Oklahoma is included in the table in Appendix C of the Oklahoma plan titled “2018 Oklahoma CISWI Source Emissions Inventory Table”.</p> <p>See also the Oklahoma state plan narrative, Section III.B.</p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p> <p>Any update to the emissions inventory of affected units will be addressed in future annual progress reports to EPA, once the Oklahoma CISWI plan approval is finalized, and the plan is effective.</p>
<p>(3) Compliance schedules for each affected CISWI;</p> <p>[See 40 CFR 60.24 below as well.] [See also 40 CFR 60.2535 and 60.2540.] [Note: 40 CFR 60.2575-60.2615 of the Model Rule provides additional information concerning compliance schedules and increments of progress.]</p>	<p>Compliance schedules for each affected incinerator unit are listed in the Oklahoma state plan narrative (Section III.C.) as well as in the state regulations at OAC 252:100-17-60(d). The compliance schedule in the state plan at OAC 252:100-17-60(d)(2)(c) states that <i>“the owner or operator shall submit a final control plan not more than 1 year following the effective date of State plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier.”</i> This part of the state plan coincides with 40 CFR 60.2535 and 60.2540 of the CISWI EG.</p> <p>The state regulations incorporating the CISWI EG requirements also provide that <i>“[t]he owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DODD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3”</i>. 40 CFR 60.2575-60.2875 are the model rule portions of the CISWI EG.</p>	<p>Required item has been included in the plan and adopted in the state regulations appropriately.</p> <p>According to with 40 CFR 60.2535(b), state plans for the specified incinerators must include <i>“compliance schedules that require CISWIs to achieve final compliance as expeditiously as practicable after approval of the state plan but not later than the earlier of the two dates specified in paragraphs (b)(1) and (2) of this section: (1) February 7, 2018; and (2) Three years after the effective date of State plan approval.”</i></p> <p>In addition, 40 CFR 60.2535(c) provides that <i>“[f]or compliance schedules more than 1 year following the effective date of State plan approval, State plans must include dates for enforceable increments of progress as specified in § 60.2580.”</i> 40 CFR 60.2580 is incorporated by reference in the Oklahoma state regulations.</p> <p>The compliance schedule provided by the state plan is considered approvable, as these elements have been included appropriately in the state plan.</p>
<p>(4) Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for</p>	<p>The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the</p>	<p>Approvable.</p>

<p>affected CISWIs that are at least as protective as the emission guidelines contained in this subpart; [See 40 CFR 60.24 below as well.]</p> <p>[General Note: 40 CFR 60.2565 states, “Use the model rule to satisfy the state plan requirements specified in §60.2515(a)(4) and (5) of this part.”]</p> <p>[Note: See 40 CFR 60.2670 – 60.2680 of the Model Rule for requirements relating to emission limitations and operating limits.]</p> <p>[Note: See 40 CFR 60.2635 – 60.2665 of the Model Rule for requirements relating to operator training and qualification.]</p> <p>[Note: See 40 CFR 60.2620 – 60.2630 of the Model Rule for requirements relating to waste management plans.]</p>	<p>model rule portions of CISWI EG in OAC 252:100-2-3. OAC 252:100-17-60(d) provide that “[t]he owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DODD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3”. 40 CFR 60.2575-60.2875 are the model rule portions of the CISWI EG. See also the Oklahoma state plan narrative, Section IV.A-D.</p> <table border="1" data-bbox="751 488 1350 922"> <thead> <tr> <th>CISWI EG Model Rule CFR Citation</th> <th>Description</th> <th>Oklahoma Regulations</th> </tr> </thead> <tbody> <tr> <td>40 CFR 60.2670 – 60.2680</td> <td>Emission limitations and operating limits</td> <td>Incorporated by reference</td> </tr> <tr> <td>40 CFR 60.2635 – 60.2665</td> <td>Operator training and qualification</td> <td>Incorporated by reference</td> </tr> <tr> <td>40 CFR 60.2620 – 60.2630</td> <td>Waste management plans</td> <td>Incorporated by reference</td> </tr> </tbody> </table>	CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations	40 CFR 60.2670 – 60.2680	Emission limitations and operating limits	Incorporated by reference	40 CFR 60.2635 – 60.2665	Operator training and qualification	Incorporated by reference	40 CFR 60.2620 – 60.2630	Waste management plans	Incorporated by reference	<p>Required item has been included in the plan appropriately.</p>
CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations												
40 CFR 60.2670 – 60.2680	Emission limitations and operating limits	Incorporated by reference												
40 CFR 60.2635 – 60.2665	Operator training and qualification	Incorporated by reference												
40 CFR 60.2620 – 60.2630	Waste management plans	Incorporated by reference												
<p>(5) Performance testing, recordkeeping, and reporting requirements; [See 40 CFR 60.25(b) below as well.]</p> <p>[General Note: 40 CFR 60.2565 states, “Use the model rule to satisfy the state plan requirements specified in §60.2515(a)(4) and (5) of this part.”]</p> <p>[Note: See 40 CFR 60.2690 – 60.2695 of the Model Rule for requirements relating to performance testing.]</p> <p>[Note: See 40 CFR 60.2740 – 60.2800 of the Model Rule for recordkeeping requirements and reporting requirements.]</p>	<p>The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule portions of CISWI EG in OAC 252:100-2-3. OAC 252:100-17-60(d) provide that “[t]he owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DODD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3”. 40 CFR 60.2575-60.2875 are the model rule portions of the CISWI EG. See also the Oklahoma state plan narrative, Section IV.E.</p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>												

	CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations	
	40 CFR 60.2690 – 60.2695	Performance testing	Incorporated by reference	
	40 CFR 60.2740 – 60.2800	Recordkeeping requirements and reporting requirements	Incorporated by reference	
(6) Certification that the hearing on the state plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; [See 40 CFR 60.23 below as well.]	The state plan includes certifications that public hearings for the state plan were held during the Oklahoma Air Quality Air Council Meetings on January 15, 2014, and January 15, 2020. Copies of the meeting agenda, list of witnesses and their organizational affiliation, meeting minutes and transcripts were included in Appendix A and B of the state plan. See the Oklahoma state plan narrative, Section IV.G.			Approvable. Required item has been included in the plan appropriately.
(7) Provision for state progress reports to EPA; [See 40 CFR 60.25(e) below as well.]	The Oklahoma state plan includes a statement that the ODEQ “will commence annual reporting pursuant to 40 C.F.R. § 60.2515(a)(7) one year after EPA publishes approval in the Federal Register of the State Plan if DEQ has identified an applicable CISWI unit. The manner and form of reporting will be coordinated with the State 111(d)/129 Plan Coordinator at EPA Region 6.” (Oklahoma state plan narrative, Section IV.H.)			Approvable. Required item has been included in the plan appropriately.
(8) Identification of enforceable state mechanisms that you selected for implementing the emission guidelines of this subpart; and [See 40 CFR 60.26 below as well.]	The Oklahoma state plan provides that ODEQ “promulgated OAC 252:100-17, Part 9, Commercial and Industrial Solid Waste Incineration Units, and incorporated by reference the Model Rule from 40 C.F.R. Part 60, Subpart DDDD in OAC 252:100-2-3 and Appendix Q to provide the enforceable mechanism in the State Plan.” (Oklahoma state plan narrative, Section IV.I.1.)			Approvable. Required item has been included in the plan appropriately.
(9) Demonstration of your state's legal authority to carry out the sections 111(d) and 129	The Oklahoma state plan provides that:			Approvable.

<p>state plan. [See 40 CFR 60.26 below as well.]</p>	<p><i>“Upon recommendation of the AQAC, the Environmental Quality Board has the authority under Oklahoma law to adopt air quality regulations for the DEQ. Under Oklahoma law, the DEQ has the authority to enforce those regulations and orders of the DEQ, to maintain and update an inventory of air emissions from stationary sources, to establish a permitting program, and to carry out all other duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and the fulfillment of the requirements of the Federal Clean Air Act. Specifically, the Board and the DEQ have the existing authority to:</i></p> <ol style="list-style-type: none"> <i>1. Adopt emission standards (including stack opacity), enforceable conditions, and compliance schedules applicable to designated CISWI units and the pollutants for which the State Plan is submitted;</i> <i>2. Enforce the relevant laws, regulations, standards, and compliance schedules referenced in Sections 111(d) and 129 of the Clean Air Act and seek injunctive relief and prevent restart of CISWI units that have shut down;</i> <i>3. Require reporting, recordkeeping, operator training and qualifications, equipment inspections, and testing;</i> <i>4. Require the use of monitors and require emission reports of CISWI owners or operators;</i> <i>5. Conduct inspections and testing;</i> <i>6. Obtain information necessary to determine compliance;</i> <i>7. Make emission data available to the public; and</i> <i>8. Require a Waste Management Plan through their rulemaking authority.</i> <p><i>The laws that give the Environmental Quality Board and the DEQ these authorities are located in</i></p>	<p>Required item has been included in the plan appropriately.</p>
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	<i>Title 27A OS §§ 1-3-101, 2-2-101 and -104, 2-3-101, 2-5-105, -106, -107, -110, -112, -114, -117, and 4-1-3... The legal authorities and Oklahoma Open Records Act were in effect on the date of the submission of the State Plan.” (Oklahoma state plan narrative, Section IV.J.)</i>	
Additional Emission Guideline Requirements in Subpart DDDD		
Model Rule – Initial Compliance Requirements 40 CFR 60.2700 – 60.2706	The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule provisions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d).	Approvable. Required item has been included in the plan appropriately.
Model Rule – Continuous Compliance Requirements 40 CFR 60.2710 – 60.2725	The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule provisions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d).	Approvable. Required item has been included in the plan appropriately.
Model Rule – Monitoring 40 CFR 60.2730 – 60.2735	The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule provisions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d).	Approvable. Required item has been included in the plan appropriately.
Model Rule – Title V Operating Permits 40 CFR 60.2805	The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule provisions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d).	Approvable. Required item has been included in the plan appropriately.
Model Rule – Air Curtain Incinerators (ACIs) 40 CFR 60.2810 – 60.2870	The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule provisions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d) and 74.	Approvable. Required item has been included in the plan appropriately.

<p>Definitions</p> <p>40 CFR 60.2875</p>	<p>The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule portions of the CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3, as provided under OAC 252:100-17-60(d).</p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>
<p>Tables</p> <p>40 CFR Part 60, Subpart DDDD, Tables 1 thru 9 as referenced in other sections of the EG</p>	<p>The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address state plan requirements and incorporated by reference the model rule portions of CISWI EG (40 CFR 60.2575-60.2875, including Tables 1-9) in OAC 252:100-2-3. The model rule at 40 CFR 60.2575-60.2875 references Tables 1-9 from the CISWI EG.</p> <p>OAC 252:100-2-3 provides that <i>“Except as provided under this section, the provisions of 40 CFR listed in Appendix Q are hereby incorporated by reference as they existed on June 30, 2020.”</i> Appendix Q of OAC 252:100 contains a list of federal provisions that are incorporated by reference into the OAC, including 40 CFR part 60, subpart DDDD, Model Rule only, sections 60.2575 through 60.2875, including Tables 1 through 9.</p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>
<p>Additional Requirements from 40 CFR Part 60, Subpart B</p>		
<p><u>40 CFR Part 60, Subpart B</u> Requirements</p>	<p>State Plan Addressing Requirement</p>	<p>Comments by EPA (Note if approvable or note deficiency)</p>
<p>40 CFR § 60.23 Adoption and submittal of State plans; public hearings.</p> <p>(a) . . .</p> <p>(b) . . .</p> <p>(c)(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the State shall, prior to the adoption of any plan or revision thereof, conduct one or more public hearings within the State on such plan or plan revision.</p> <p>(2) No hearing shall be required for any change to an increment of progress in an approved</p>	<p>See also the response to §60.2515(a)(6), above.</p> <p>The Oklahoma CISWI plan addressed the public hearing requirements in subpart B and the CISWI EG. The state plan includes a certification that the hearing on the State plan was held, a list of witnesses and their organizational affiliations if they appeared at the hearing, and brief summary of each presentation or written submission.</p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>

<p>compliance schedule unless the change is likely to cause the facility to be unable to comply with the final compliance date in the schedule.</p> <p>(3) No hearing shall be required on an emission standard in effect prior to the effective date of this subpart if it was adopted after a public hearing and is at least as stringent as the corresponding emission guideline specified in the applicable guideline document published under §60.22(a).</p> <p>(d) Any hearing required by paragraph (c) of this section shall be held only after reasonable notice. Notice shall be given at least 30 days prior to the date of such hearing and shall include:</p> <ol style="list-style-type: none"> (1) Notification to the public by prominently advertising the date, time, and place of such hearing in each region affected; (2) Availability, at the time of public announcement, of each proposed plan or revision thereof for public inspection in at least one location in each region to which it will apply; (3) Notification to the Administrator; (4) Notification to each local air pollution control agency in each region to which the plan or revision will apply; and (5) In the case of an interstate region, notification to any other State included in the region. <p>(e) . . .</p> <p>(f) The State shall submit with the plan or revision:</p> <ol style="list-style-type: none"> (1) Certification that each hearing required by paragraph (c) of this section was held in accordance with 	<p>According to the state plan submittal regarding how the plan met public hearing requirements (Section IV.G.): <i>“A notice of the January 15, 2014 public hearing for the State Plan was published in the Oklahoma Register on December 16, 2013 in accordance with 40 C.F.R. § 60.23(d). OAC 252:100-17, Part 9 was presented to the AQAC on January 15, 2014...</i></p> <p><i>On December 2, 2019, a notice was published in the Oklahoma Register to announce a public hearing set for January 15, 2020, in accordance with 40 C.F.R. § 60.23(d). OAC 252:100-17, Incinerators, was presented to the AQAC on January 15, 2020 to clarify the applicability of Part 9, CISWI and existing ACIs. Additionally, the hearing provided opportunity for public participation prior to the adoption of the State Plan for CISWI as required in 40 C.F.R. §§ 60.2515(a)(6) and 60.23.”</i></p> <p>Copies of the meeting agenda, list of witnesses and their organizational affiliation, meeting minutes and transcripts were included in Appendix A and B of the state plan.</p>	
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<p>the notice required by paragraph (d) of this section; and</p> <p>(2) A list of witnesses and their organizational affiliations, if any, appearing at the hearing and a brief written summary of each presentation or written submission.</p> <p>[See 40 CFR 60.2515(a)(6) above.]</p>														
<p>40 CFR § 60.24 Emission standards and compliance schedules.</p> <p>(a) Each plan shall include (i) <u>emission standards</u> and (ii) <u>compliance schedules</u>.</p> <p>(b) (1) Emission standards shall either be based on an allowance system or prescribe allowable rates of emissions except when it is clearly impracticable. Such cases will be identified in the guideline documents issued under §60.22. Where emission standards prescribing equipment specifications are established, the plan shall, to the degree possible, set forth the emission reductions achievable by implementation of such specifications, and may permit compliance by the use of equipment determined by the State to be equivalent to that prescribed.</p> <p>(2) Test methods and procedures for determining compliance with the emission standards shall be specified in the plan. Methods other than those specified in appendix A to this part may be specified in the plan if shown to be equivalent or alternative</p>	<p>See also the response to 60.2515(a)(3)-(5), above.</p> <p>The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address this requirement and incorporated by reference the model rule portions of CISWI EG in OAC 252:100-2-3. OAC 252:100-17-60(d) provide that “[t]he owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DODD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3”. 40 CFR 60.2575-60.2875 are the model rule portions of the CISWI EG.</p> <table border="1" data-bbox="743 1024 1354 1453"> <thead> <tr> <th>CISWI EG Model Rule CFR Citation</th> <th>Description</th> <th>Oklahoma Regulations</th> </tr> </thead> <tbody> <tr> <td>40 CFR 60.2575 – 60.2615</td> <td>Increments of Progress</td> <td>Incorporated by reference</td> </tr> <tr> <td>40 CFR 60.2670 – 60.2680</td> <td>Emission limitations and operating limits</td> <td>Incorporated by reference</td> </tr> <tr> <td>40 CFR 60.2635 – 60.2665</td> <td>Operator training and qualification</td> <td>Incorporated by reference</td> </tr> </tbody> </table>	CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations	40 CFR 60.2575 – 60.2615	Increments of Progress	Incorporated by reference	40 CFR 60.2670 – 60.2680	Emission limitations and operating limits	Incorporated by reference	40 CFR 60.2635 – 60.2665	Operator training and qualification	Incorporated by reference	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>
CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations												
40 CFR 60.2575 – 60.2615	Increments of Progress	Incorporated by reference												
40 CFR 60.2670 – 60.2680	Emission limitations and operating limits	Incorporated by reference												
40 CFR 60.2635 – 60.2665	Operator training and qualification	Incorporated by reference												

<p>methods as defined in §60.2 (t) and (u).</p> <p>(3) Emission standards shall apply to all designated facilities within the State. A plan may contain emission standards adopted by local jurisdictions provided that the standards are enforceable by the State.</p> <p>(c) Except as provided in paragraph (f) of this section, where the Administrator has determined that a designated pollutant may cause or contribute to endangerment of public health, emission standards shall be no less stringent than the corresponding emission guideline(s) specified in subpart C of this part, and final compliance shall be required as expeditiously as practicable but no later than the compliance times specified in subpart C of this part.</p> <p>(d) Where the Administrator has determined that a designated pollutant may cause or contribute to endangerment of public welfare but that adverse effects on public health have not been demonstrated, States may balance the emission guidelines, compliance times, and other information provided in the applicable guideline document against other factors of public concern in establishing emission standards, compliance schedules, and variances. Appropriate consideration shall be given to the factors specified in §60.22(b) and to information presented at the public hearing(s) conducted under</p>	<p>40 CFR 60.2620 – 60.2630</p>	<p>Waste management plans</p>	<p>Incorporated by reference</p>	
	<p>40 CFR 60.2690 – 60.2695</p>	<p>Performance testing</p>	<p>Incorporated by reference</p>	
<p>Compliance schedules for each affected incinerator unit are listed in the state plan narrative as well as in the state regulations at OAC 252:100-17-60(d). The compliance schedule in the state plan at OAC 252:100-17-60(d)(2)(c) states that <i>“the owner or operator shall submit a final control plan not more than 1 year following the effective date of State plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier.”</i> This part of the state plan coincides with 40 CFR 60.2535 and 60.2540 of the CISWI EG.</p>				

§60.23(c).

- (e) **[This requirement is not applicable due to 40 CFR 60.2540(b); see Note below]** (1) ~~Any compliance schedule extending more than 12 months from the date required for submittal of the plan must include legally enforceable increments of progress to achieve compliance for each designated facility or category of facilities. Unless otherwise specified in the applicable subpart, increments of progress must include, where practicable, each increment of progress specified in §60.21(h) and must include such additional increments of progress as may be necessary to permit close and effective supervision of progress toward final compliance.~~

[Note: 40 CFR 60.2540(b) states:

(b) State plans developed to implement this subpart are required to include two increments of progress for the affected CISWIs. These two minimum increments are the final control plan submittal date and final compliance date in §60.21(h)(1) and (5). This applies instead of the requirement of §60.24(e)(1) that would require a state plan to include all five increments of progress for all CISWIs.]

- (2) A plan may provide that compliance schedules for individual sources or categories of sources will be formulated after plan submittal. Any such schedule shall be the subject of a public hearing held according to §60.23 and shall be submitted to the Administrator within 60 days after the date of adoption of the schedule but in

no case later than the date prescribed for submittal of the first semiannual report required by §60.25(e).

(f) **[This requirement is not applicable due to 40 CFR 60.2540(a); see Note below]**
~~Unless otherwise specified in the applicable subpart on a case-by-case basis for particular designated facilities or classes of facilities, States may provide for the application of less stringent emissions standards or longer compliance schedules than those otherwise required by paragraph (c) of this section, provided that the State demonstrates with respect to each such facility (or class of facilities):~~

- ~~(1) Unreasonable cost of control resulting from plant age, location, or basic process design;~~
- ~~(2) Physical impossibility of installing necessary control equipment; or~~
- ~~(3) Other factors specific to the facility (or class of facilities) that make application of a less stringent standard or final compliance time significantly more reasonable.~~

[Note: 40 CFR 60.2540(a) states:

(a) State plans developed to implement this subpart must be as protective as the emission guidelines contained in this subpart. State plans must require all CISWIs to comply by the dates specified in §60.2535. This applies instead of the option for case-by-case less stringent emission standards and longer compliance schedules in §60.24(f); and...]

<p>(g) Nothing in this subpart shall be construed to preclude any State or political subdivision thereof from adopting or enforcing (1) emission standards more stringent than emission guidelines specified in subpart C of this part or in applicable guideline documents or (2) compliance schedules requiring final compliance at earlier times than those specified in subpart C or in applicable guideline documents.</p> <p>[See also 40 CFR 60.2515(a)(3)-(4) above.]</p>								
<p>§60.25 Emission inventories, source surveillance, reports.</p> <p>(a) <u>Each plan shall include an inventory of all designated facilities, including emission data for the designated pollutants</u> and information related to emissions as specified in appendix D to this part. Such data shall be summarized in the plan, and emission rates of designated pollutants from designated facilities shall be correlated with applicable emission standards. As used in this subpart, “correlated” means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under applicable emission standards.</p> <p>[See 40 CFR 60.2515(a)(1)-(2) above.]</p>	<p>See also the response to 60.2515(a)(1)-(2), above.</p> <p>Appendix C of the Oklahoma state plan submittal contains an inventory of affected incineration units and an inventory of emissions in ODEQ’s jurisdiction.</p> <p>The inventory of affected units is included in the table in Appendix C of the Oklahoma plan titled “2019 Oklahoma CISWI Source Status Table”.</p> <p>Oklahoma identified one facility subject to the plan.</p> <table border="1" data-bbox="743 1084 1346 1195"> <thead> <tr> <th>Name/Description</th> <th>Unit Type</th> <th>Status</th> </tr> </thead> <tbody> <tr> <td>Henryetta Pallet Company, Inc.</td> <td>Air curtain incinerator</td> <td>Operating</td> </tr> </tbody> </table> <p>The emissions inventory from affected units is included in the table in Appendix C of the Oklahoma plan titled “2018 Oklahoma CISWI Source Emissions Inventory Table”.</p>	Name/Description	Unit Type	Status	Henryetta Pallet Company, Inc.	Air curtain incinerator	Operating	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p> <p>Any update to the list of affected units and emissions inventory will be addressed in future annual progress reports to EPA, once the Oklahoma CISWI plan approval is finalized, and the plan is effective.</p>
Name/Description	Unit Type	Status						
Henryetta Pallet Company, Inc.	Air curtain incinerator	Operating						
<p>§60.25(b) <u>Each plan shall provide for monitoring the status of compliance with applicable emission</u></p>	<p>See also the response to 60.2515(a)(5), above.</p>	<p>Approvable.</p>						

standards. Each plan shall, as a minimum, provide for:

- (1) Legally enforceable procedures for requiring owners or operators of designated facilities to maintain records and periodically report to the State information on the nature and amount of emissions from such facilities, and/or such other information as may be necessary to enable the State to determine whether such facilities are in compliance with applicable portions of the plan. Submission of electronic documents shall comply with the requirements of 40 CFR part 3— (Electronic reporting).
- (2) Periodic inspection and, when applicable, testing of designated facilities.

[**Note:** See Emission Guidelines Model Rule Provisions of Subpart DDDD above.]

[See 40 CFR 60.2515(a)(5) above.]

§60.25(c) Each plan shall provide that information obtained by the State under paragraph (b) of this section shall be correlated with applicable emission standards (see §60.25(a)) and made available to the general public.

§60.25(d) The provisions referred to in paragraphs (b) and (c) of this section shall be specifically identified. Copies of such provisions shall be submitted with the plan unless:

- (1) They have been approved as portions of a preceding plan submitted under this subpart or as portions of an implementation plan submitted under section 110 of the Act, and

The Oklahoma CISWI state plan used the model rule provided in the CISWI EG to address the recordkeeping and reporting requirements and incorporated by reference the model rule portions of CISWI EG (40 CFR 60.2575-60.2875) in OAC 252:100-2-3.

The model rule addressing recordkeeping and reporting requirements for affected units are codified in 40 CFR 60.2740 – 60.2800.

CISWI EG Model Rule CFR Citation	Description	Oklahoma Regulations
40 CFR 60.2740 – 60.2800	Recordkeeping requirements and reporting requirements	Incorporated by reference

The state plan provides that provisions under 27A O.S. § 2-5-105(16) allow ODEQ to: *“Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by the Department, for the purpose of obtaining samples or determining compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder or permit condition prescribed pursuant thereto, or to examine any records kept or required to be kept pursuant to the Oklahoma Clean Air Act.”*

Provisions under 51 O.S. §§ 24A.1 through 24A.30 allow ODEQ to make emissions data available to the public.

Required item has been included in the plan appropriately.

<p>(2) The State demonstrates:</p> <p>(i) That the provisions are applicable to the designated pollutant(s) for which the plan is submitted, and</p> <p>(ii) That the requirements of §60.26 are met.</p>		
<p>§60.25(e) The State shall submit reports on progress in plan enforcement to the Administrator on an annual (calendar year) basis, commencing with the first full report period after approval of a plan or after promulgation of a plan by the Administrator. Information required under this paragraph must be included in the annual report required by §51.321 of this chapter. [See 40 CFR 60.2515(a)(7) above.]</p>	<p>See also the response to 60.2515(a)(7), above.</p> <p>The Oklahoma state plan includes a statement that the ODEQ <i>“will commence annual reporting pursuant to 40 C.F.R. § 60.2515(a)(7) one year after EPA publishes approval in the Federal Register of the State Plan if DEQ has identified an applicable CISWI unit. The manner and form of reporting will be coordinated with the State 111(d)/129 Plan Coordinator at EPA Region 6.”</i></p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>
<p>§60.26 Legal authority.</p> <p>(a) <u>Each plan shall show that the State has legal authority to carry out the plan</u>, including authority to:</p> <p>(1) Adopt emission standards and compliance schedules applicable to designated facilities.</p> <p>(2) Enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.</p> <p>(3) Obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.</p>	<p>See also the response to 60.2515(a)(9), above.</p> <p>Section IV-J of the Oklahoma state plan provided a demonstration of the state’s legal authority:</p> <p><i>“Upon recommendation of the AQAC, the Environmental Quality Board has the authority under Oklahoma law to adopt air quality regulations for the DEQ. Under Oklahoma law, the DEQ has the authority to enforce those regulations and orders of the DEQ, to maintain and update an inventory of air emissions from stationary sources, to establish a permitting program, and to carry out all other duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and the fulfillment of the requirements of the Federal Clean Air Act. Specifically, the Board and the DEQ have the existing authority to:</i></p>	<p>Approvable.</p> <p>Required item has been included in the plan appropriately.</p>

<p>(4) Require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable emission standards.</p> <p>(b) The provisions of law or regulations which the State determines provide the authorities required by this section shall be specifically identified. Copies of such laws or regulations shall be submitted with the plan unless:</p> <p>(1) They have been approved as portions of a preceding plan submitted under this subpart or as portions of an implementation plan submitted under section 110 of the Act, and</p> <p>(2) The State demonstrates that the laws or regulations are applicable to the designated pollutant(s) for which the plan is submitted.</p> <p>(iii) (c) The plan shall show that the legal authorities specified in this section are available to the State at the time of submission of the plan. Legal authority adequate to meet the requirements of paragraphs (a)(3) and (4) of this section may be delegated to the State under section 114 of the Act.</p> <p>[See 40 CFR 60.2515(a)(9) above.]</p>	<ol style="list-style-type: none"> 1. <i>Adopt emission standards (including stack opacity), enforceable conditions, and compliance schedules applicable to designated CISWI units and the pollutants for which the State Plan is submitted;</i> 2. <i>Enforce the relevant laws, regulations, standards, and compliance schedules referenced in Sections 111(d) and 129 of the Clean Air Act and seek injunctive relief and prevent restart of CISWI units that have shut down;</i> 3. <i>Require reporting, recordkeeping, operator training and qualifications, equipment inspections, and testing;</i> 4. <i>Require the use of monitors and require emission reports of CISWI owners or operators;</i> 5. <i>Conduct inspections and testing;</i> 6. <i>Obtain information necessary to determine compliance;</i> 7. <i>Make emission data available to the public; and</i> 8. <i>Require a Waste Management Plan through their rulemaking authority.</i> <p><i>The laws that give the Environmental Quality Board and the DEQ these authorities are located in Title 27A OS §§ 1-3-101, 2-2-101 and -104, 2-3-101, 2-5-105, -106, -107, -110, -112, -114, -117, and 4-1-3... The legal authorities and Oklahoma Open Records Act were in effect on the date of the submission of the State Plan."</i></p> <p>More details on Oklahoma's legal authority are provided in Appendix D of the Oklahoma CISWI state plan submittal.</p>	
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III. EPA's Recommendation

We reviewed Oklahoma's November 16, 2020 CISWI plan, and the accompanying Oklahoma regulations incorporating the relevant CISWI EG requirements for compliance with applicable CAA sections 111(d) and 129 requirements. These applicable CAA section 111(d)/129 requirements include the CISWI EG at 40 CFR part 60, subpart DDDD, and the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. Based on these evaluations, the EPA is proposing to approve the Oklahoma CISWI plan submitted by ODEQ on November 16, 2020, and amend 40 CFR part 62 in accordance with the requirements under sections 111(d) and 129 of the CAA. The EPA is proposing to find that the Oklahoma CISWI plan is at least as protective as the Federal requirements provided under the CISWI EG, codified at 40 CFR part 60, subpart DDDD. Once approved by the EPA, the Oklahoma CISWI plan will become federally enforceable.