

TABLE 4.—DEADLINES FOR TITLE V PERMITS—Continued

If a small MWC unit is a major source or is part of a major source, is subject to an EPA approved and effective State or tribal section 111(d)/129 plan for small MWC units, and is covered by a title V permit with a remaining permit term of 3 or more years on the effective date of the EPA approved section 111(d)/129 plan.	then the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of this EPA approved and effective section 111(d)/129 plan not later than 18 months after the effective date of this plan. See CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).
If a small MWC unit is a major source or is part of a major source, is subject to the small MWC Federal plan (subpart JJJ of 40 CFR part 62), and is covered by a title V permit with a remaining permit term of 3 or more years on the effective date of this Federal plan.	then the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of subpart JJJ of 40 CFR part 62 not later than 18 months after the effective date of the small MWC Federal plan. See CAA section 502(b)(9); 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).
Updating Existing Title V Permit Applications	
If a small MWC unit is subject to the small MWC NSPS (subpart AAAA of 40 CFR part 60), but first became subject to title V permitting prior to the promulgation of this NSPS, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of 40 CFR part 60, subpart AAAA in accordance with 40 CFR 70.5(b) or 71.5(b).
If a small MWC unit is subject to an EPA approved and effective State or tribal section 111(d)/129 plan for small MWC units, but first became subject to title V permitting prior to the effective date of the section 111(d)/129 plan, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of the approved and effective section 111(d)/129 plan in accordance with 40 CFR 70.5(b) or 71.5(b).
If a small MWC unit is subject to the small MWC Federal plan (subpart JJJ of 40 CFR part 62), but first became subject to title V permitting prior to the effective date of this Federal plan, and the owner or operator of the unit has submitted a timely and complete title V permit application, but the draft title V permit has not yet been released by the permitting authority.	then the owner or operator must supplement the title V application by including the applicable requirements of 40 CFR part 62, subpart JJJ in accordance with 40 CFR 70.5(b) or 71.5(b).

^aA title V application from a major source must address all emission units at the title V source, not just the section 129 emission unit. See 40 CFR 70.3(c)(1) and 71.3(c)(1). (For information on aggregating emission units to determine what is a source under title V, see the definition of *major source* in 40 CFR 70.2, 71.2 and 63.2.)

^bConsistent with 40 CFR 70.3(c)(2) and 71.3(c)(2), a permit application from a nonmajor title V source is only required to address the emission units which caused the source to be subject to title V. The requirements which trigger the need for the owner or operator of a nonmajor source to apply for a title V permit are found in 40 CFR 70.3(a) and (b) and 71.3(a) and (b). Permits issued to these nonmajor sources must include *all* of the applicable requirements that apply to the triggering units, e.g., State Implementation Plan requirements, not just the requirements which caused the source to be subject to title V. See footnote #2 in *Change to Definition of Major Source* rule, November 27, 2001 (66 FR 59161, 59163).

^cIf a small MWC unit becomes subject to an approved and effective State or tribal section 111(d)/129 plan after being subject to an effective Federal plan, the small MWC unit is still required to file a complete title V application consistent with the application deadlines for units subject to the small MWC Federal plan.

A. Clarification to the Rule

The language in § 62.15020(k) regarding air curtain incinerators has been clarified to be consistent with the language in § 62.15395 regarding title V permitting. In that air curtain incinerators are subject to this subpart, they are required to apply for and obtain a title V permit consistent with the requirements of §§ 62.15395 and 62.15400. As a result, the language in § 62.15020(k) has been modified to specify that air curtain incinerators which meet the definition of air curtain incinerator found in § 62.15410 must meet only the requirements of §§ 62.15365 through 62.15385 and the operating permit requirements of this subpart.

B. Delegation of a Federal Plan

During the development of the Federal plan for Hospital/Medical/

Infectious Waste Incinerators (HMIWI), a State agency raised the question of whether a title V operating permits program could be used as a mechanism for transferring the authority to implement and enforce section 111/129 requirements from EPA to State and local agencies. See "Transfer of Authority" section of final Federal plan for HMIWI, August 15, 2000 (65 FR 49868, 49873). The State agency noted that the proposal for that rulemaking described two mechanisms for transferring authority to State and local agencies following promulgation of the Federal plan. Those two mechanisms were: (1) The approval of a State or tribal plan after the Federal plan is in effect; and (2) if a State or tribe does not submit or obtain approval of its own plan, EPA delegation to a State or tribe of the authority to implement and enforce the HMIWI Federal plan. The

State asked EPA to recognize the title V operating permits program as a third mechanism for transferring authority to State and local agencies. The commenter said that State and local agencies implement title V programs and that title V permits must include the requirements of the Federal plan. The commenter concluded that title V permitting authorities already have implementation responsibility for the Federal plan through their title V permits programs, regardless of whether the authority to implement the Federal plan is delegated to the State or local agency.

In its response to the State, the EPA explained why the issuance of a title V permit is not equivalent to the approval of a State plan or delegation of a Federal plan by focusing on situations in which a title V permitting authority without delegation of a Federal plan could not