

TABLE 2.—STATUS OF STATE PLANS

**I. States With EPA-Approved State Plans**

Alabama, Florida, Indiana, Mississippi, New Hampshire, West Virginia.

**II. Negative Declaration Submitted to EPA**

Arizona, Albuquerque in New Mexico, Clark County in Nevada, Colorado, Delaware, District of Columbia, Forsyth County in North Carolina, Kansas, Kentucky, Knox County in Tennessee, Maine, Maricopa County in Arizona, Mecklenburg County in North Carolina, Memphis/Shelby County in Tennessee, Missouri, Montana, New York, Nebraska, New Mexico, City of Philadelphia in Pennsylvania, Pima County in Arizona, Pinal County in Arizona, Rhode Island, South Dakota, Utah, Vermont, Virgin Islands, Washoe County in Nevada, Western County in North Carolina, Wyoming.

**III. Final State Plan Submitted to EPA**

Louisiana, Nashville/Davidson County in Tennessee, North Carolina, South Carolina, Puerto Rico.

**IV. Draft State Plan Submitted to EPA**

Allegheny County in Pennsylvania, Maryland, North Dakota, Ohio, Oklahoma, Virginia.

The EPA is currently reviewing final and draft State plans submitted by the States listed in parts III and IV of Table 2. The Federal plan covers CISWI in these States until these State plans are approved by the EPA and become effective. Other States are making significant progress on their State plans and we expect many State plans to be approved in the next several months. As our Regional Offices approve State plans, they will also, in the same action, amend the appropriate subpart of 40 CFR part 62 to codify their approvals. The EPA is not aware of any Indian Tribes that are developing Tribal plans.

The EPA will maintain a list of State plan submittals and approvals on our Air Toxics Web site at <http://www.epa.gov/ttn/atw/129/ciwi/ciwig.html>. The list will help CISWI owners or operators determine whether their CISWI is affected by a State plan, a Tribal plan, or the Federal plan. Owners and operators of CISWI units can also contact the EPA Regional Office for the State in which their CISWI units are located to determine whether there is an approved and effective State plan in place.

**II. Affected Facilities****A. What Is a CISWI Unit?**

A CISWI unit means any combustion device that combusts commercial and industrial waste, as defined in the final 40 CFR part 62, subpart III. Commercial and industrial waste is defined as solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain

incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility. Fifteen types of combustion units, which are listed in section 62.14525 of subpart III are conditionally exempt from the Federal plan.

**B. Does the Federal Plan Apply to Me?**

The Federal plan applies to you if you are the owner or operator of a combustion device that combusts commercial and industrial waste (as defined in subpart III) and the device is not covered by an approved and effective State or Tribal plan as of December 1, 2002. The Federal plan covers your CISWI unit until the EPA approves a State or Tribal plan that covers your CISWI unit and that plan becomes effective.

If you began the construction of your CISWI unit on or before November 30, 1999, it is considered an existing CISWI unit and could be subject to the Federal plan. If you began the construction of your CISWI unit after November 30, 1999, it is considered a new CISWI unit and is subject to the NSPS. If you began reconstruction or modification of your CISWI unit prior to June 1, 2001, it is considered an existing CISWI unit and could be subject to the Federal plan. Likewise, if you began reconstruction or modification of your CISWI unit on or after June 1, 2001, it is considered a new CISWI unit and is subject to the NSPS.

Your CISWI unit is subject to this Federal plan if on November 3, 2003, the EPA has not approved a State or Tribal plan that covers your unit, or the EPA-approved State or Tribal plan has not become effective. The specific applicability of this plan is described in sections 62.14510 through 62.14531 of subpart III.

Once an approved State or Tribal plan is in effect, the Federal plan no longer applies to a CISWI unit covered by such plan. An approved State or Tribal plan is a plan developed by a State or Tribe that the EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart DDDD. The State or Tribal plan is effective on the date specified in the notice published in the **Federal Register** announcing the EPA's approval of the plan.

Today's promulgation of the CISWI Federal plan does not preclude States or Tribes from submitting a plan. Once the EPA approves a State or Tribal plan, then the Federal plan will no longer apply to CISWI units covered by the State or Tribal plan as of the effective date of the State or Tribal plan. (See the discussion in "*Federal Plan Becomes Effective Prior to Approval of a State or Tribal Plan*" in section VII.C of this preamble.) If a CISWI unit were to be overlooked by a State or Tribe and the State or Tribe submitted a negative declaration letter, or if an individual CISWI unit were not to be covered by an approved and effective State or Tribal plan, the CISWI unit would be subject to this Federal plan.

**C. How Do I Determine if My CISWI Unit Is Covered by an Approved and Effective State or Tribal Plan?**

Part 62 of Title 40 of the Code of Federal Regulations identifies the approval and promulgation of section 111(d) and section 129 State or Tribal plans for designated facilities in each State or area of Indian Country. However, part 62 is updated only once per year. Thus, if part 62 does not indicate that your State or Tribal area has an approved and effective plan, you