

(2) Bethlehem Lukens Plate, OP-46-0011, effective December 11, 1998, except for the expiration date.

(3) Montenay Montgomery Limited Partnership, OP-46-0010A, effective April 20, 1999 and as revised June 20, 2000, except for the expiration date.

(4) Northeast Foods, Inc., OP-09-0014, effective April 9, 1999, except for the expiration date.

(5) Aldan Rubber Company, PA-1561, effective July 21, 2000, except for conditions 1.A.(1), 1.A.(2) and 1.A.(4); and conditions 2.A. and 2.C.

(6) Braceland Brothers, Inc., PA-3679, effective July 14, 2000.

(7) Graphic Arts, Incorporated, PA-2260, effective July 14, 2000.

(8) O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant, PA-1533, effective July 21, 2000.

(9) O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant, PA-1534, effective July 21, 2000.

(10) Pearl Pressman Liberty, PA-7721, effective July 24, 2000.

(11) Arbill Industries, Inc., PA-51-3811, effective July 27, 1999, except for condition 5.

(12) McWhorter Technologies, PA-51-3542, effective July 27, 1999, except for condition 2.B. and condition 5.

(13) Northeast Water Pollution Control Plant, PA-51-9513, effective July 27, 1999, except for condition 1.A.(1), conditions 2.A. and 2.B., and condition 7.

(14) Newman and Company, PA-3489, effective June 11, 1997.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in (c)(185)(i)(B).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL-7052-7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Iowa, Kansas, Missouri, and Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the small Municipal Waste Combustion (MWC) units section 111(d) negative

declarations submitted by the states of Iowa, Kansas, Missouri, and Nebraska. These negative declarations certify that small MWC units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in these states.

DATES: This direct final rule will be effective November 9, 2001 unless EPA receives adverse comments by October 10, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

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

SUPPLEMENTARY INFORMATION: Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

Emission guidelines for small MWC units were originally promulgated in December 1995 but were vacated by the U.S. Court of Appeals for the District of Columbia Circuit in March 1997. In response to the 1997 vacature, on August 30, 1999, EPA proposed to reestablish emission guidelines for small MWC units. On December 6, 2000 (65 FR 76378), EPA finalized the section 111(d) emission guidelines for existing small MWC units. The emission guidelines contained in this final rule are equivalent to the 1995 emission guidelines for small MWC units. The emission guidelines are codified at 40 CFR part 60, subpart BBBBB.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the

development and submission of state plans for controlling designated pollutants. Part 62 of the CFR provides the procedural framework for the submission of these plans. When designated facilities are located in a state, a state must develop and submit a plan for the control of the designated pollutant. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B for that designated pollutant.

The states of Iowa, Kansas, Missouri, and Nebraska have determined there are no existing sources in their states subject to the small MWC units emission guidelines. Consequently, each state has submitted a letter of negative declaration certifying this fact. We are taking final action to approve these negative declarations.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state negative declarations as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves state negative declarations and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves state negative declarations relating to a Federal standard, and does

not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 November 9, 2001. 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 40 CFR Part 62

Environmental protection, Air pollution control, Municipal waste combustion units, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: August 30, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

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 Q—Iowa

2. Subpart Q is amended by adding an undesignated center heading and § 62.3915 to read as follows:

Air Emissions from Small Existing Municipal Waste Combustion Units

§ 62.3915 Identification of plan—negative declaration.

Letter from the Iowa Department of Natural Resources submitted March 21, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart R—Kansas

3. Subpart R is amended by adding an undesignated center heading and § 62.4180 to read as follows:

Air Emissions From Small Existing Municipal Waste Combustion Units

§ 62.4180 Identification of plan—negative declaration.

Letter from the Kansas Department of Health and Environment submitted February 13, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart AA—Missouri

4. Subpart AA is amended by adding an undesignated center heading and § 62.6359 to read as follows:

Air Emissions From Small Existing Municipal Waste Combustion Units

§ 62.6359 Identification of plan—negative declaration.

Letter from the Missouri Department of Natural Resources submitted March 22, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart CC—Nebraska

5. Subpart CC is amended by adding an undesignated center heading and § 62.6915 to read as follows:

Air Emissions from Small Existing Municipal Waste Combustion Units

§ 62.6915 Identification of plan—negative declaration.

Letter from the Nebraska Department of Environmental Quality submitted June 8, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7050–9]

District of Columbia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The District of Columbia has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the District's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize the