

adding a comma between the words "thermometer" and "other" and by revising paragraph (b)(1) to read as follows:

§ 60.756 Monitoring of operations.

* * * * *

(b) * * *

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or ± 0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

* * * * *

5. Section 60.757 is amended by revising paragraph (c) introductory text to read as follows:

§ 60.757 Reporting requirements.

* * * * *

(c) Each owner or operator subject to the provisions of § 60.752(b)(2)(i) shall submit a collection and control system design plan to the Administrator within 1 year of the first report required under paragraph (b) of this section in which the emission rate equals or exceeds 50 megagrams per year, except as follows:

* * * * *

6. Section 60.758 is amended by revising paragraphs (b)(2) introductory text and (c)(1)(ii) to read as follows:

§ 60.758 Recordkeeping requirements.

* * * * *

(b) * * *

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.752(b)(2)(iii) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

* * * * *

(c) * * *

(1) * * *

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

* * * * *

§ 60.759 [Amended]

7. In § 60.759 (a)(3)(ii), the term "C_{NMOC}" is revised to read "C_{NMOC}".

[FR Doc. 00-8151 Filed 4-7-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AL52-200014; FRL-6568-6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Alabama Department of Environmental Management (ADEM) for the State of Alabama on April 20, 1999, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This direct final rule is effective on June 9, 2000, without further notice, unless EPA receives adverse comment by May 10, 2000. If EPA receives adverse comment, we 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: You should address comments on this action to Kimberly Bingham, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104. Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104; and at the Alabama Department of Environmental Management, Air Division, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham at (404) 562-9038, Bingham.Kimberly@epa.gov or Scott Davis at (404) 562-9127, Davis.ScottR@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What action is being taken by EPA today?
- II. The HMIWI State Plan Requirement:
 - What is a HMIWI State Plan?
 - Why are we requiring Alabama to submit a HMIWI State Plan?
 - Why do we need to regulate air emissions from HMIWIs?
 - What criteria must a HMIWI State Plan meet to be approved?
- III. What does the Alabama State Plan contain?
- IV. Is my HMIWI subject to these regulations?

V. What steps do I need to take?

VI. Why Is the Alabama HMIWI State Plan approvable?

VII. Administrative Requirements.

I. What Action is Being Taken by EPA Today?

We are approving the Alabama State Plan, as submitted on April 20, 1999, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. (See 62 FR 48348-48391, September 15, 1997, 40 CFR part 60, subpart Ce [Emission Guidelines and Compliance Times for HMIWIs] and subpart Ec [Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996]). The ADEM developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective June 9, 2000, unless by May 10, 2000, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed 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 on this action should do so at this time. If no such comments are received, this action is effective June 9, 2000.

II. The HMIWI State Plan Requirement

What is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.

Why Are We Requiring Alabama To Submit a HMIWI State Plan?

States are required under sections 111(d) and 129 of the Act to submit State Plans to control emissions from existing HMIWIs in the State. The State Plan requirement was triggered when

EPA published the EG for HMIWIs under 40 CFR part 60, subpart Ce (see 62 FR 48348, September 15, 1997).

Under section 129, EPA is required to promulgate EG for several types of existing solid waste incinerators. These EG establish the Maximum Achievable Control Technology (MACT) standards that States must adopt to comply with the Act. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in State Plans.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWIs?

The State Plan establishes control requirements which reduce the following emissions from HMIWIs: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI State Plan Meet To Be Approved?

The criteria for approving a HMIWI State Plan include requirements from sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the requirements of sections 111(d) and 129 of the Act, a State Plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and recordkeeping and reporting. Under

section 129(e), State Plans must ensure that affected HMIWI facilities submit Title V permit applications to the State by September 15, 2000. Under the requirements of 40 CFR part 60, subpart B, the criteria for an approvable section 111(d) plan include demonstration of legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a State progress report commitment.

III. What Does the Alabama State Plan Contain?

The ADEM adopted the Federal EG into the ADEM Administrative Code, Rule 335-3-3-.04 and the Federal NSPS into the ADEM Administrative Code, Rule 335-3-10-.02(c). The State rules were effective on April 13, 1999. The Alabama State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. State rules, Rule 335-3-3-.04 and Rule 335-3-10-.02(c), as the enforceable mechanism;
3. An inventory of approximately 56 known designated facilities, along with estimates of their potential air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of one year from the effective date of this State Plan approval;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing on the State Plan; and,
8. Provisions for progress reports to EPA.

IV. Is My HMIWI Subject to These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

V. What Steps Do I Need to Take?

You must meet the requirements listed in the ADEM Administrative Code, Rule 335-3-3-.04, summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which your incinerator must meet. See Table 1 of Rule 335-3-3-.04 to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.

3. There are provisions to address small rural incinerators (if your unit is applicable).

4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block.

5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under 40 CFR part 60.53(c).

6. Your operator must be certified, as discussed in 5 above, no later than one year after EPA approval of this Alabama State Plan.

7. You must develop and submit to ADEM a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, *An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities*, 1993, and must be submitted to ADEM no later than 60 days following the initial performance test for the affected unit.

8. You must conduct an initial performance test to determine your incinerator's compliance with these emission limits. This performance test must be completed as required under 40 CFR 60.8.

9. You must install and maintain devices to monitor the parameters listed under Table 4 of Rule 335-3-3-.04.

10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years.

11. You must submit an annual report to ADEM containing records of site-specific operating parameters, performance test results, and exceedance information, and for small HMIWI units records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager.

VI. Why Is the Alabama HMIWI State Plan Approvable?

EPA compared the Alabama rules (ADEM Administrative Code, Rule 335-3-3-.04) against our HMIWI EG. EPA finds the Alabama rules to be at least as protective as the EG. The Alabama 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, 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious*

Waste Incinerators. The Alabama State Plan satisfies the requirements for an approvable section 111(d) plan under subparts B and C of 40 CFR part 60. For these reasons, we are approving the Alabama HMIWI State Plan.

VII. 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. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. 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 pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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, EPA has 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. 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**. 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 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 June 9, 2000. 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, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 16, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart B—Alabama

2. Section 62.100 is amended by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.100 Identification of plan.

* * * * *

(b) * * *

(5) Alabama Department of Environmental Management Plan for the Control of Hospital/Medical/Infectious Waste Incinerators, submitted on April 20, 1999, by the Alabama Department of Environmental Management.

(c) * * *

(5) Existing hospital/medical/infectious waste incinerators.

3. Subpart B is amended by adding a new § 62.104 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.104 Identification of sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart C.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL-6574-7]

RIN 2060-A176

Transportation Conformity Amendment: Deletion of Grace Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this final rule we (EPA) are eliminating a provision of the transportation conformity rule that was overturned by the U.S. Court of Appeals for the District of Columbia Circuit (*Sierra Club v. EPA, et al.*, 129 F.3d 137 (D.C. Cir. 1997)). In compliance with the court's ruling, today's final rule formally deletes the 1995 amendment that allowed new nonattainment areas a one-year grace period before transportation conformity began applying.

In addition, we discuss in the preamble four issues that were raised in