

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). This rule will be effective August 16, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 1999. 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, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: June 7, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

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. 7401–7671q.

Subpart SS—Texas

2. Section 62.10850 is amended by adding paragraph (b)(3) to read as follows:

§ 62.10850 Identification of plan.

* * * * *

(b) * * *

(3) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Governor on November 3, 1998.

* * * * *

3. Subpart SS is amended by adding a § 62.10880 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.10880 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at

any time since October 8, 1993, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–15265 Filed 6–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[LA–51–7413a; FRL–6360–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the Louisiana Department of Environmental Quality (LDEQ) on December 30, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (MWI). The EG requires States to develop plans to reduce toxic air emissions from all MWIs. We are also approving a revision to the Louisiana State Plan as it pertains to existing municipal solid waste landfills. This revision adds certain increments of progress so that we can more effectively track facilities' progress towards compliance.

DATES: This direct final rule is effective on August 16, 1999, without further notice, unless we receive adverse comments by July 19, 1999. If EPA receives such comments, it 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 Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Louisiana Department of Environmental Quality offices, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70884–2135.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

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I. What Action Is Being Taken by EPA Today?

We are approving the Louisiana State Plan, as submitted on December 30, 1998, for the control of air emissions from MWIs, except for those MWIs located in Indian Country. When we developed our New Source Performance Standard (NSPS) for MWIs, we also developed EG to control air emissions from older MWIs. See 62 FR 48348–48391, September 15, 1997. The LDEQ developed a State Plan, as required by section 111(d) 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 approved Louisiana's section 111(d) State plan for municipal solid waste landfills on August 29, 1997 (62 FR 45730). In accordance with our EG for this category of sources, LDEQ is allowed to develop increments of progress separately and submit them as a revision to the State Plan. Our detailed discussion of this requirements was discussed in 62 FR 45730.

1. Design plans are due on or before January 28, 1999;

2. Awarding of contracts is due on or before June 28, 1999;

3. Initiation of on-site construction is due on or before March 28, 2000;

4. Initial performance tests must be completed on or before March 28, 2000;

5. Final compliance must be met on or before April 28, 2000. These increments of progress satisfy the requirements of the EG for municipal solid waste landfills, and we are approving them today as a revision to the State Plan.

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 August 16, 1999, unless by July 19, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public

comments received will be addressed in a subsequent final rule based on this action serving as a 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 August 16, 1999.

II. Why Do We Need To Regulate MWI Emissions?

When burned, hospital waste and medical/infectious waste emit various air pollutants, including hydrochloric acid, dioxin/furan, and toxic metals (lead, cadmium, and mercury). Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occurs mainly through the ingestion of fish. When inhaled, mercury vapor attacks the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucination and impair consciousness. Long-term exposure to mercury in certain form can affect the central nervous system and cause kidney damage.

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. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also effect the immune system. We estimate that this State Plan will reduce mercury emissions from MWIs in Louisiana by approximately 94 percent, hydrochloric acid emissions by 98 percent, and dioxin/furan emissions by 95 percent.

III. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled under the NSPS must also be controlled at older sources in the same source category. Once an NSPS is promulgated, we then publish an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a State Plan to adopt the EG into their body of regulations. States must also include in this State Plan other elements, such as inventories, legal authority, and public participation documentation, to demonstrate the ability to enforce it.

IV. What Does the Louisiana State Plan Contain?

The LDEQ adopted the Federal NSPS and EG by reference into its State regulations at LAC 33:III.3003.B, Table 2, and LAC 33:III.3003 C5, as State Rule AQ 178. AQ 178 was published in the *Louisiana Register* on December 20, 1998. The Louisiana State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. State Rule AQ 178 as the enforceable mechanism;
3. An inventory of approximately 56 known designated facilities, along with estimates of their toxic air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date 30 months after the effective date of the Federal approval of this State Plan;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing; and,
8. Provisions for progress reports to EPA.

The Louisiana 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 Part 60, 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators*. A detailed discussion of our evaluation of the Louisiana State Plan is included in our technical support document, located in the official file for this action.

V. Is My MWI Subject to These Regulations?

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

VI. What Steps Do I Need To Take?

You must meet the requirements incorporated by reference in LAC 33:III.3003.B and C5, and summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity; as an alternative, you can elect to accept a permit restriction to limit the amount of waste you may burn per hour.

2. Each size category of MWI has certain emission limits established which your incinerator must meet. See Table 1 of 40 CFR part 60, subpart Ce 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. See 40 CFR 60.33e, as listed at 62 FR 48382, September 15, 1997.

3. There are provisions to address small rural incinerators. See 40 CFR 60.33e(b), 60.36e, 60.37e(c)(d), and 60.38e(b), as listed at 62 FR 48380, September 15, 1997.

4. You must meet a 10 percent opacity limit on your discharge, averaged over a six-minute block. See 40 CFR 60.33e(c), as listed at 62 FR 48380, September 15, 1997.

5. You must have a qualified MWI 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 60.53c(c). See 40 CFR 60.34e, as listed at 62 FR 48380.

6. Your operator must be certified, as discussed in 4 above, no later than one year after we approve this Louisiana State Plan. See 40 CFR 60.39e(e), as listed at 62 FR 48382. You must develop and submit to LDEQ 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 LDEQ no later than one year after we approve this State Plan. See 40 CFR 60.35e, as listed at 62 FR 48380.

7. You must conduct an initial performance test to determine your incinerators compliance with these emission limits. See 40 CFR 60.37e and 60.8, as listed at 62 FR 48380.

8. You must install and maintain devices to monitor the parameters listed under Table 3 to Subpart Ec. See 40 CFR 60.37e(c), as listed at 62 FR 48381.

9. 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. See 40 CFR 60.38e, as listed at 62 FR 48381.

10. You must report to LDEQ the results of your initial performance test, the values for your site-specific operating parameters, and your waste management plan. This information must be reported within 60 days following your initial performance test, and must be signed by the facilities manager. See 40 CFR 60.38e, as listed at 62 FR 48381.

11. In general, you must comply with all the requirements of this State Plan within one year after we approve it; however, there are provisions to extend your compliance date. See 40 CFR 60.39e, as listed at 62 FR 48381.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection in Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Federal Clear Air Act (the Act) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. The 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 can not 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). This rule will be effective August 16, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 1999. 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 60

Environmental protection, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 7, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

40 CFR part 62 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. 7401–7642

Subpart T—Louisiana

2. Section 62.4620 is amended by revising paragraph (b)(4) and adding

paragraphs (b)(5), (c)(5), and (c)(6) to read as follows:

§ 62.4620 Identification of plan.

* * * * *

(b) * * *

(4) Control of landfill gas emissions from existing municipal solid waste landfills, submitted on December 9, 1996 (LAC 33.III.3003.B, Table 2), and revised on December 20, 1998 (LAC 33.III.3003.C.4).

(5) Control of air emissions from designated hazardous/medical/infectious waste incinerators, submitted by the Louisiana Department of Environmental Quality on December 30, 1998 (LAC 33.III.3003.C.5).

(c) * * *

(5) Municipal solid waste landfills.

(6) Hazardous/medical/infectious waste incinerators.

3. Subpart T is amended by adding a new § 62.4633 and a new undesignated center heading to read as follows:

Air Emissions From Hazardous/Medical/Infectious Waste Incinerators

§ 62.4633 Identification of sources.

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

4. Subpart T is amended by adding anew § 62.4634 and a new undesignated center heading to read as follows:

Effective Date

§ 62.4634 Effective date.

The effective date for the portion of the plan applicable to existing hazardous/medical/infectious waste incinerators is August 16, 1999.

[FR Doc. 99–15263 Filed 6–16–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[ND–001a; FRL–6360–3]

Clean Air Act Full Approval of Operating Permit Program; State of North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating full approval of the operating permit program submitted by the State of North Dakota. North Dakota's operating permit program was submitted for the purpose

of meeting the federal Clean Air Act directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction.

DATES: This direct final rule is effective on August 16, 1999, without further notice, unless EPA receives adverse comment by July 19, 1999. If adverse comment is received, EPA 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: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail Code 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the North Dakota State Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, Bismarck, North Dakota 58504–5264.

FOR FURTHER INFORMATION CONTACT: Patricia Reisbeck, EPA, Region 8, (303) 312–6435.

SUPPLEMENTARY INFORMATION:

I. Background

As required under Title V of the Clean Air Act ("the Act") as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V directs states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs states to develop and submit operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. § 7661a) and the part 70 regulations, which together outline criteria for