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. section 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. section 804(2). This rule will be effective November 20, 2001 unless EPA receives adverse written comments by October 22, 2001.

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 November 20, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 5, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, part 52, of the Code of Federal Regulations is amended to read as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(92) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(92) On November 5, 1999, the Governor of Colorado submitted Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, 5 CCR 1001–12, as adopted October 15, 1998, effective November 30, 1998.

* * * * *

Subpart BB—Montana

3. Section 52.1370 is amended by adding paragraph (c)(47) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(47) On August 26, 1999, the Governor of Montana submitted Administrative Rules of Montana Sub-Chapter 13, ''Conformity'' that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Administrative Rules of Montana 17.8.1301, 17.8.1303, and 17.8.1305; through 1313, effective June 4, 1999; and 17.8.1304 effective August 23, 1996.

* * * * *

[FR Doc. 01–23596 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket SC–038–200102(a); FRL–7062–1]

Approval and Promulgation of State Plans for DesignatedFacilities and Pollutants: SC

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d)/129 Plan submitted by the South Carolina Department of Health and Environmental Control (DHEC) on September 19, 2000, for the State of South Carolina. The section 111(d)/129 Plan for South Carolina implements and enforces the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This final rule is effective on October 22, 2001.

ADDRESSES: Copies of all materials considered in this rulemaking may be examined during normal business hours at the following location: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Gregory Crawford at EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, (404) 562–9046.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is Being Taken by EPA Today?

We are approving the South Carolina State Plan, as submitted on September 19, 2000, 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 South Carolina DHEC 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.

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 South Carolina 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 of the Act, 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 South Carolina State Plan Contain?

The South Carolina DHEC adopted the Federal EG and NSPS into Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1, ''Hospital/Medical/Infectious Waste Incinerators.'' The State rules were effective on May 26, 2000. The South Carolina State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d)/129 State Plan;
2. State rule, Standard Number 3.1, as the enforceable mechanism;
3. An inventory of approximately 4 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 May 26, 2001;
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 South Carolina Regulation No. 61–62.5, Standard Number 3.1, 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 I of section III (Emission Limitations) of Standard Number 3.1, 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 Section IX (Operator Training and Qualification Requirements) of Standard Number 3.1.
6. Your operator must be certified, as discussed in 5 above, no later than May 26, 2001.
7. You must develop and submit to South Carolina DHEC 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 South Carolina DHEC 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 incinerators compliance with these emission limits. This performance test must be completed no later than May

26, 2001, and as required under 40 CFR 60.37e and Section IV (Performance Specifications) of Standard Number 3.1.

9. You must install and maintain devices to monitor the parameters listed under Table IV of Section V (Monitoring Requirements) of Standard 3.1.

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 South Carolina DHEC containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager.

VI. Significant Issues and Changes?

A total of one comment letter was received during the public comment period for the proposed Plan approval, which ended on June 6, 2001. The issues are summarized below and addressed in a comment and response document contained in the docket:

(1) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (c)(8) contained the requirements of § 60.56c(i) for the approval of site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter. Section 129 of the Act requires section 111(d)/129 State plans to be ''at least as protective as the guidelines.'' In accordance with the section 111(d), section 129, subpart B, and subpart Ce requirements, the South Carolina regulation, specifically subparagraph (c)(8), includes the § 60.56c(i) requirements, in order for the State plan for South Carolina to be deemed an approvable section 111(d)/129 plan for implementing the emission guidelines for HMIWI.

(2) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (a)(1) requires HMIWI facilities constructed before June 20, 1996, to perform a source test no later than 12 months following the effective date of the State standard. Section 60.24(g) of subpart B allows any State to adopt or enforce ''compliance schedules requiring final compliance at earlier times than those specified in subpart C or in applicable guideline documents.'' In accordance with the subpart B requirements, the South Carolina regulation, specifically subparagraph (a)(1), includes a compliance schedule earlier than specified in subpart Ce.

(3) These comments raise no specific issues or arguments affecting approval of the South Carolina section 111(d)/129 plan.

VII. Why Is the South Carolina HMIWI State Plan Approvable?

EPA compared the South Carolina rules (Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1) against our HMIWI EG. EPA finds the South Carolina rules to be at least as protective as the EG. The South Carolina 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;* 40 CFR 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators;* and, 40 CFR 62.14400 through 62.14495, *Subpart HHH—Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996.* The South Carolina State Plan satisfies the requirements for an approvable section 111(d)/129 plan under subparts B and Ce of 40 CFR part 60 and subpart HHH of 40 CFR part 62. For these reasons, we are approving the South Carolina HMIWI State Plan.

VIII. 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 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 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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 November 20, 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 in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: September 7, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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 PP—South Carolina

2. Section 62.10100 is amended by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.10100 Identification of plan.

* * * * *

(b) * * *

(5) South Carolina Designated Facility Plan (Section 111(d)/129) for Hospital/Medical/Infectious Waste Incinerators, submitted on September 19, 2000, by the South Carolina Department of Health and Environmental Control.

(c) * * *

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

3. Subpart PP is amended by adding a new § 62.10170 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.10170 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 Ce.

[FR Doc. 01–23604 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[FRL–7058–2]

RIN 2060–AJ47

Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport—Federal NO_X Budget Trading Program, Rule Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the Federal NO_X Budget Trading Program regulations to revise the allowance allocations for certain NO_X Budget units subject to the program. In January 2000, EPA took final action (the January 2000 final rule) under section 126 of the Clean Air Act (CAA) on petitions filed by eight Northeastern States seeking to mitigate interstate transport of nitrogen oxides (NO_X), one of the precursors of ground-level ozone. EPA determined that a number of large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) named in the petitions emit in violation of the CAA prohibitions against significantly contributing to nonattainment or maintenance problems in the petitioning States. EPA also established the Federal NO_X Budget Trading Program as the control remedy for these sources, determined allowable emissions for the sources, and allocated authorizations to emit NO_X (*i.e.,* NO_X allowances) to the sources.

After promulgation of EPA's January 2000 final rule, some owners, or associations of owners, of EGUs or non-EGUs filed petitions with the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) challenging, among other things, the allowance allocations for certain units under the rule. Subsequently, EPA entered into settlements with these owners or associations of owners. Today's action finalizes revised allocations for these units in a manner consistent with the settlements.

In addition, after promulgation of the January 2000 final rule, owners of non-EGUs requested EPA to correct allowance allocations for two other units under the rule. EPA responded that it was treating the requests as requests for reconsideration of the two units' allocations under the rule and would propose to revise the allocations. Today's action finalizes revised allocations for these units.

DATES: The final rule is effective October 22, 2001.

ADDRESSES: Docket No. A–97–43, containing supporting information used in developing today's final rule, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center at the above address. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, at (202) 564–9151, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW (6204J), Washington, DC 20460; or the Acid Rain Hotline at (202) 564–9089.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under Docket No. A–97–43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, that does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in the **ADDRESSES** section. In addition, the **Federal Register** rulemaking actions under section 126 and the associated documents are located at *http://www.epa.gov/ttn/rto/126.*

EPA has issued a separate rule on NO_X transport entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (the NO_X State implementation plan (NO_X SIP) call). The rulemaking docket for that rule contains information and analyses that were relied on in the January 2000 final rule. In promulgating the January 2000 proposed rule, EPA incorporated by reference the entire NO_X SIP call record. Documents related to the NO_X SIP call are available for inspection in Docket No. A–96–56 at the address and times given above. In addition, certain documents associated with the NO_X SIP