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 direct final 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 this direct final rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

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

Dated: September 20, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

Subpart Db—[Amended]

2. Section 60.41b is amended by revising the definition of *Byproduct/waste* and adding a definition of *Pulp and paper mills* to read as follows:

§ 60.41b Definitions.

* * * * *

Byproduct/waste means any liquid or gaseous substance produced at chemical manufacturing plants, petroleum refineries, or pulp and paper mills (except natural gas, distillate oil, or residual oil) and combusted in a steam generating unit for heat recovery or for disposal. Gaseous substances with carbon dioxide levels greater than 50 percent or carbon monoxide levels greater than 10 percent are not byproduct/waste for the purpose of this subpart.

* * * * *

Pulp and paper mills means industrial plants which are classified by the Department of Commerce under North American Industry Classification System (NAICS) Code 322 or Standard Industrial Classification (SIC) Code 26.

* * * * *

[FR Doc. 01–24075 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TX–128–1–7466a; FRL–7067–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Texas: Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action approving the Texas 111(d) Plan submitted by the Governor of Texas on June 2, 2000, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (HMIWI). The EG requires States to develop plans to reduce toxic air emissions from all HMIWIs. This action also corrects an error in the list of designated facilities in the identification of the Texas 111(d) plan.

DATES: This rule is effective on November 30, 2001 without further notice, unless EPA receives adverse comment by October 31, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. What Action Is Being Taken by EPA Today?

The EPA is approving the Texas State Plan, as submitted on June 2, 2000, for the control of air emissions from HMIWIs. When we 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. The Texas Natural Resource Conservation Commission (TNRCC) developed a State Plan, as required by section 111(d) of the Federal Clean Air Act (the Act), to incorporate the EG requirements into its body of regulations, and we are acting today to approve the State's Plan.

II. Why Do We Need To Regulate HMIWI 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 hallucinations and impair consciousness. Long-term exposure to mercury in certain forms 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 affect the immune system.

III. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled under 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 Texas State Plan Contain?

The State added a control strategy entitled ''Plan for Control of Hospital and Medical/Infectious Waste Incinerators'' to its ''The Texas State Plan for the Control of Designated Facilities and Pollutants'' in order to implement the 1997 EG for HMIWI under 40 CFR part 60, subpart Ce. For the regulatory element of the plan, the TNRCC adopted, on May 17, 2000, revisions to Title 30 of the Texas Administrative Code, Chapter 113 (30 TAC 113) (Regulation III), Control of Air Pollution From Toxic Materials. These revisions amended Section 113.1, Definitions, and added to Subchapter D, Designated Facilities and Pollutants, a new Division 2, Hospital/Medical/Infectious Waste Incinerators, Sections 113.2070 to 113.2072 and 113.2074 to 113.2079. The State effective date of these rules was June 11, 2000. The Governor submitted the Plan to EPA on June 2, 2000.

The Texas State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;

2. State Regulations 30 TAC 113.1; 30 TAC 113.2070 to 113.2072; and 30 TAC 113.2074 to 113.2079 as the enforceable mechanism;

3. An inventory of approximately 101 operating designated facilities subject to the Chapter 113 emission standards, 24 units exempt from control requirements but subject to reporting, and 43 affected facilities which have elected to shut down. An updated inventory of facilities and emissions inventory along with estimates of their toxic air emissions are being collected and will be included in the AIRS database in the future by the State.

4. Emission limits that are as protective as the EG;

5. A compliance date no later than one year after we approve the Plan. See Section 113.2079 and 40 CFR 60.39e, as listed at 62 FR 48381, September 15, 1997.

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 Texas State Plan was reviewed for approval against the following criteria: 40 CFR part 60, subpart B, Adoption and Submittal of State Plans for Designated Facilities; and 40 CFR part 60, subpart Ce, Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators. A detailed discussion of our evaluation of the Texas State Plan is included in our technical support document located in the official file for this action.

V. 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.

VI. What Steps Do I Need To Take?

You must meet the requirements in 30 TAC 113 as set out above and 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 2 in Section 113.2072 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 Section 113.2072.

3. There are provisions to address small-remote incinerators (Sections 113.2070(15)(G), 113.2072, 113.2074, 113.2075, 113.2076(b)).

4. You must meet a five percent opacity limit on your discharge, averaged over a six-minute period (Section 113.2072(b)(2)).

5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator training and qualification requirements are given in Section 113.2078.

6. Your operator must be certified, as discussed in 5 above, no later than one year after we approve the Plan. See Section 113.2079 and 40 CFR 60.39e(e), as listed at 62 FR 48382, September 15, 1997.

7. You must develop and submit to TNRCC 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 TNRCC within 60 days after initial performance test. See Section 113.2077.

8. You must conduct an initial performance test to determine your incinerator's compliance with these emission limits (Section 113.2075).

9. You must install and maintain devices to monitor the parameters listed under Table 6 in Section 113.2075.

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. See Section 113.2076.

11. You must report to TNRCC 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 (Section 113.2076).

12. In general, you must comply with all the requirements of this State Plan within one year after we approve it. See Section 113.2079.

VII. Correction to Identification of Texas 111(d) Plan

On June 17, 1999 (64 FR 32427) we approved the Texas 111(d) plan for municipal solid waste landfills. We inadvertently failed to add municipal solid waste landfills to the list of Texas designated facilities listed in 40 CFR 62.10850(c). This action corrects this error by adding ''Municipal solid waste landfills'' to the list of designated facilities in 40 CFR 62.10850(c).

VIII. Final Action

The EPA is approving the Texas 111(d) plan for the control of air emissions from existing HMIWIs submitted by the Governor on June 2, 2000. This action also corrects an error in 40 CFR 62.10850(c) by adding ''Municipal solid waste landfills'' to the list of Texas designated facilities.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve this revision to the Texas 111(d) Plan if adverse comments are received. This rule will be effective on November 30, 2001 without further notice unless we receive adverse comment by October 31, 2001. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments 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 must do so at this time.

IX. 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 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 state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 state plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan submission, to use VCS in place of a state plan submission that otherwise satisfies the provisions of the 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. 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 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 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) of the Act.

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: September 19, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 62, 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 SS—Texas

2. Section 62.10850 is amended by adding paragraphs (b)(4) and (c)(3) and (c)(4) as follows:

§ 62.10850 Identification of plan.

* * * * *

(b) * * *

(4) Control of air emissions from designated hospital/medical/infectious waste incinerators submitted by the Governor in a letter dated June 2, 2000.

* * * * *

(c) * * *

(3) Municipal solid waste landfills

(4) Hospital/medical/infectious waste incinerators.

3. Subpart SS is amended by adding a new undesignated center heading and §§ 62.10910 and 62.10911 to read as follows:

Air Emissions From Hospital/Medical/Infectious Wastes Incinerators

§ 62.10910 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.

§ 62.10911 Effective date.

The effective date for the portion of the plan applicable to existing hospital/medical/infectious waste incinerators is November 30, 2001.

[FR Doc. 01–24215 Filed 9–28–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FL–T5–2001–02; FRL–7068–5]

Clean Air Act Final Full Approval of Operating Permit Program; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the operating permit program of the Florida Department of Environmental Protection (FDEP). Florida's program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On September 25, 1995, EPA granted interim approval to Florida's operating permit program. The State revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on July 2, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the Florida operating permit program.

EFFECTIVE DATE: October 31, 2001.

ADDRESSES: Copies of Florida's submittals and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Interested persons wanting to examine these documents, which are contained in EPA docket number FL–T5–2001–01, should make an appointment at least 48 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Ms. Gracy R. Danois, EPA Region 4, at (404) 562–9119 or *danois.gracy@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
Why is EPA taking this action?
What is involved in this final action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

Why Is EPA Taking This Action?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because Florida's program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on September 25, 1995 (60 FR 49343). The interim approval notice described the conditions that had to be met in order for the State's program to receive full approval. Interim approval of Florida's program expires on December 1, 2001.

What Is Involved in This Final Action?

The Florida Department of Environmental Protection has fulfilled the conditions of the interim approval granted on September 25, 1995. On July 2, 2001, EPA published a document in the **Federal Register** (see 66 FR 34901) proposing full approval of Florida's title V operating permit program, and proposing approval of other program revisions. Since EPA did not receive any comments on the proposal, this action promulgates final full approval of the State of Florida program and final approval of the other program changes described in the proposal.

Administrative Requirements

A. Docket

Copies of the Florida's submittals and other supporting documentation used in developing the final full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this action. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

C. Executive Order 13045

Protection of 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 Executive Order 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