

Dated: September 20, 2002.
Larry Starfield,
Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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 T—Louisiana

2. In § 52.970 the table in paragraph (c) is amended by revising the entry for

Section 504 under chapter 5 to read as follows:
§ 52.970 Identification of plan.
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 (c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
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Chapter 5—Permit Procedures				
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Section 504	Nonattainment New Source Review Procedures	Dec. 2001, LR 27:2225	Sept. 30, 2002 and [FR Cite].	
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 [FR Doc. 02-24637 Filed 9-27-02; 8:45 am]
BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62
[OH153-1a; FRL-7386-9]

Approval and Promulgation of State Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).
ACTION: Direct final rule.

SUMMARY: The EPA is approving a negative declaration submitted by the State of Ohio which indicates that the State does not need regulations covering existing Small Municipal Waste Combustors (MWC) units. Ohio submitted its negative declaration regarding this category of sources in a letter dated June 25, 2002. The declaration was based on a systematic search of the State's internal databases and follow-up discussions with local air offices, which resulted in the determination that there are no affected small MWC units in Ohio.

DATES: This direct final rule is effective on November 29, 2002, without further notice unless EPA receives adverse written comments by October 30, 2002. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the negative declaration is available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone John Paskevicz at (312) 886-6084 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), EPA, Region 5, Chicago, Illinois 60604, (312) 886-6084.

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

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I. What Is the Background for This Action?

On December 6, 2000, the EPA finalized a rule for small MWC units. EPA promulgated this rule based on sections 111(d) and 129 of the Clean Air Act (Act) Amendments of 1990. The federal rule includes emission

guidelines for existing units and standards of performance for new, modified or reconstructed sources. EPA published the rule for existing small MWC units in the **Federal Register** on December 6, 2000, (65 FR 76378), to be codified at 40 CFR part 60, subpart BBBB (Emission Guidelines for Small Municipal Waste Combustion Units.) EPA published rules for new, modified and reconstructed small MWC units in the **Federal Register** on December 6, 2000, (65 FR 76350), to be codified at 40 CFR part 60, subpart AAAA (New Source Performance Standards for New Small Municipal Waste Combustion Units). The regulatory text and other background information for these final rulemakings can be accessed electronically from the EPA Technology Transfer Network website. For small MWC the Web site address is: <http://www.epa.gov/ttn/atw/129/mwc/rimwc2.html>.

Sections 111(d) and 129 of the Act require States in which a designated existing facility is operating one or more small MWC units to submit to EPA a plan to implement and enforce the emission guidelines. If, however, there are no small MWC units and the State therefore chooses not to develop and submit such a plan, it must submit a negative declaration letter. (40 CFR 60.1510, 62.06.) Section 129 of the Act requires that the State plan be at least as protective as the emission guidelines and must provide for compliance by the affected facilities no later than 3 years after EPA approves the State plan, but no later than 5 years after EPA

promulgates the emission guidelines. Sections 111(d) and 129 of the Act also require EPA to develop, implement and enforce a Federal Implementation Plan if a State fails to submit an approvable State plan. The small MWC plan must address regulatory applicability, increments of progress for retrofit, operator training and certification, operating practices, emission limits, continuous emission monitoring, stack testing, record keeping, and reporting, and requirements for air curtain combustors. States are required to follow the requirements of 40 CFR part 60, subpart B, and 40 CFR part 62, regarding the adoption and submittal of State plans for designated facilities.

In addition to the publication of the emission guidelines document, EPA notified each of the States of the requirements listed in the rule. On February 23, 2001, EPA, Region 5 asked Ohio to provide information so we could determine if the State was required to develop and submit the required plan. The State began a detailed review of its internal databases to ascertain the status of small MWC facilities. This effort resulted in a determination there were no small MWC units and culminated in the State's request for a negative declaration.

II. Negative Declarations and Their Justification

The EPA does not require States to develop plans or regulations to control emissions from sources for which there are none present in the State (40 CFR 62.06). If the State thinks that there may be some small MWC units in operation, it should examine available records on these sources before initiating the planning and regulation development process. If after a careful examination of available information, the State finds no sources for this source category, then it may prepare and submit to us a negative declaration stating there are no sources in the State which match this source category. This is done in lieu of submitting a control strategy.

On June 25, 2002, the State of Ohio submitted to EPA a negative declaration regarding the need for a regulation covering small MWC units. The Ohio EPA searched for potentially affected sources in its air source Permit to Operate (PTO) databases. A scan of those files disclosed that from over 10,000 sources, a total of 2,478 units were revealed bearing the "N" source code, denoting an incinerator. This number included units placed on registration status as well as those issued PTOs, and includes many units shut down years and even decades ago.

The state reviewed the equipment description on each "N" record which showed that very few of the units have the potential to approach the 35 ton per day threshold for small MWCs. Using this review approach, Ohio found that seven units needed to be studied more closely. Ohio EPA then mailed questionnaires to the facilities and contacted local air offices to discuss the potentially affected units. Following this effort the State concluded there are no existing small MWCs in Ohio either operating or shut down but capable of restarting.

This conclusion is consistent with an inventory review conducted in May 1998 by EPA Regional Offices and State air pollution control agencies. Those agencies did not find any small MWC units in Ohio.

III. EPA Review of Ohio's Negative Declaration

EPA has examined the State's negative declaration regarding the lack of need for a regulation controlling emissions from small MWC units. We agree that, at this time, there appear to be no unregulated small incinerators in Ohio which would require the adoption of rules to control this source category. If a new source chooses to construct in the State, it would be required to comply with new source performance standard requirements published for small MWC units on December 6, 2000 (65 FR 76350). If, at a later date, an existing small MWC unit is identified in the State, the Federal plan implementing the emission guidelines contained in Subpart BBBB will automatically apply to that MWC unit until the State develops a plan and EPA approves it. 40 CFR 60.1530.

EPA is publishing this action without prior proposal because we view this as a noncontroversial revision and we anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State's negative declaration should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by October 30, 2002. Should EPA receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no comments are received, the public is advised that this action will be effective on November 29, 2002.

IV. 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 Ohio's declaration that there are no small MWC's located in Ohio which would be subject to an MWC regulation if one were adopted. Therefore, the State does not need to adopt a MWC regulation. Any new MWC's built in Ohio will be subject to New Source Performance Standards. Because this rule approves state negative declarations and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does 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), nor will it 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 declaration that a rule implementing a federal standard, is unnecessary 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). This rule will be effective November 29, 2002, unless EPA receives adverse written comments by October 30, 2002.

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 29, 2002. 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.

Dated: September 18, 2002.

Steve Rothblatt,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 KK—Ohio

2. A new center heading and § 62.8855 are added to read as follows:

Emissions From Small Municipal Waste Combustion Units With the Capacity To Combust at Least 35 Tons Per Day of Municipal Solid Waste But No More Than 250 Tons Per Day of Municipal Solid Waste and Commenced Construction on or Before August 30, 1999

§ 62.8855 Identification of plan—negative declaration.

On July 25, 2002, the State of Ohio certified to the satisfaction of the United States Environmental Protection Agency that no sources categorized as small Municipal Waste Combustors are located in the State of Ohio.

[FR Doc. 02-24767 Filed 9-27-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7384-3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Standard Steel and Metals Salvage Yard Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 10, announces the deletion of the Standard Steel and Metals Salvage Yard Site which is located in Anchorage, Alaska, from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part

300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Alaska have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT:

Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop ECL-110, Seattle, WA 98101, (206) 553-1066.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Standard Steel and Metals Salvage Yard Site, Anchorage, Alaska.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 14, 2002 (67 FR 52918). The closing date for comments on the Notice of Intent to Delete was September 15, 2002. A comment letter was received after the comment period closed. The commentor opposes EPA's remedy and proposes an alternative remedy using peroxidative treatment. EPA selected its remedy after holding a public comment period between March 18 and April 17, 1996. Pursuant to the National Contingency Plan, EPA selected a stabilization/solidification and containment remedy which is protective of human health and the environment. Because hazardous substances will remain at the site above levels that allow unlimited use and unrestricted exposure, the site will undergo five-year reviews.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping