

Dated: April 15, 2003.

Stephen P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MS-200326a; FRL-7497-3]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants: MS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the sections 111(d)/129 plan submitted by the Mississippi Department of Environmental Quality (MDEQ) for the State of Mississippi on August 29, 2002, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) Units that Commenced Construction On or Before November 30, 1999.

DATES: This direct final rule is effective July 11, 2003, unless EPA receives adverse comments by June 11, 2003. If adverse comments are 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: All comments should be addressed to: Joydeb Majumder, EPA Region 4, Air Toxics and Monitoring Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104. Copies of materials submitted to EPA may be examined during normal business hours at the above listed Region 4 location. Anyone interested in examining this document should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562-9121 or Heidi LeSane at (404) 562-9035.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2000, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new CISWIs and EG applicable to existing CISWIs. The NSPS and EG are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. Subparts CCCC and DDDD regulate the following: Particulate

matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins and dibenzofurans.

Section 129(b)(2) of the Act requires States to submit to EPA for approval State Plans that implement and enforce the EG. State Plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules.

This action approves the State Plan submitted by MDEQ for the State of Mississippi to implement and enforce subpart DDDD, as it applies to existing CISWI units only.

II. Discussion

MDEQ submitted to EPA on August 29, 2002, the following in their 111(d)/129 State Plan for implementing and enforcing the EG for existing CISWIs under their direct jurisdiction in the State of Mississippi: Public Participation-Demonstration that the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend the Public Hearing; Emissions Standards and Compliance Schedules; Emission Inventories, Source Surveillance, and Reports; and Legal Authority.

The approval of the Mississippi State Plan is based on finding that: (1) MDEQ provided adequate public notice of public hearings for the EG for CISWIs, and (2) MDEQ also demonstrated legal authority to adopt emission standards and compliance schedules to designated facilities; authority to enforce applicable laws, regulations, standards, and compliance schedules, and authority to seek injunctive relief; authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require record keeping and to make inspections and conduct tests of designated facilities; and authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State

on the nature and amount of emissions from such facilities.

MDEQ cites the following references for the legal authority: The Mississippi Statutes § 49-2-4. Department of Environmental Quality; executive director; qualification, § 49-2-5. Commission on Environmental Quality, § 49-2-13. Powers and duties of executive director, § 49-17-17. Powers and duties, § 49-17-43 Penalties, and § 49-17-21. Inspections and investigations; access to and maintenance of records; testing and sampling; and monitoring equipment.

An enforcement mechanism is a legal instrument by which the MDEQ can enforce a set of standards and conditions. The MDEQ has adopted 40 CFR 60, Subpart DDDD, into Section 13, APC-S-1, of the Mississippi Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants. Therefore, MDEQ's mechanism for enforcing the standards and conditions of 40 CFR 60, subpart DDDD, is Rule APC-S-1, Section 13. On the basis of these statutes and rules of the State of Mississippi, the State Plan is approved as being at least as protective as the Federal requirements for existing CISWI units.

MDEQ adopted all emission standards and limitations applicable to existing CISWI units. These standards and limitation have been approved as being at least as protective as the Federal requirements contained in subpart DDDD for existing CISWI units.

MDEQ submitted the compliance schedule for CISWIs under their jurisdiction in the State of Mississippi. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing CISWI units.

MDEQ submitted an emissions inventory of all designated pollutants for CISWI units under their jurisdiction in the State of Mississippi. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing CISWI units.

MDEQ includes its legal authority to require owners and operators of designated facilities to maintain records and report to their Agency the nature and amount of emissions and any other information that may be necessary to enable their Agency to judge the compliance status of the facilities in Appendix D of the State Plan. In Appendix D, MDEQ also submits its legal authority to provide for periodic inspection and testing and provisions for making reports of CISWI emissions data, correlated with emission standards that apply, available to the general public.

The State Plan outlines the authority to meet the requirements of monitoring, recordkeeping, reporting, and compliance assurance. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing CISWI units.

MDEQ will provide progress reports of plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the plan has been reviewed and approved as meeting the Federal requirement for State Plan reporting.

This action approves the State Plan submitted by MDEQ for the State of Mississippi to implement and enforce subpart DDDD, as it applies to existing CISWI units only.

III. Final Action

This action approves the State Plan submitted by MDEQ for the State of Mississippi to implement and enforce subpart DDDD, as it applies to existing CISWI units only. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should adverse comments be filed. This rule will be effective July 11, 2003, without further notice unless the Agency receives adverse comments by June 11, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 11, 2003, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

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 (Pub. L. 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. 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).

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 July 11, 2003. 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, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: April 30, 2003.

J.I. Palmer, Jr.,
Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulation 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 Z—Mississippi

■ 2. Subpart Z is amended by adding an undesignated center heading and § 62.6127 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration (CISWI) Units—Section 111(d)/129 Plan**§ 62.6127 Identification of Sources.**

The Plan applies to existing Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999.

[FR Doc. 03–11751 Filed 5–9–03; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****45 CFR Parts 301, 302, 303, 304, and 307**

RIN 0970–AB81

Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Computerized Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule responds to comments on, and makes technical corrections to, interim final child support enforcement regulations published in the **Federal Register** on February 9, 1999.

The 1999 interim final rule eliminated regulations, in whole or in part, that were rendered obsolete by, or inconsistent with, welfare reform legislation and a series of related laws that followed.

DATES: These regulations are effective on June 11, 2003.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Deputy Director, Policy Division, OCSE, (202) 401–5369, ebrooks@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:**Statutory Authority**

These regulations are published under the authority granted to the Secretary by section 1102 of the Social Security Act (the Act). Section 1102 of the Act requires the Secretary to publish

regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Interim Final Regulatory Provisions

Interim final regulations published on February 9, 1999 (64 FR 6237) amended Child Support Enforcement program regulations throughout 45 CFR chapter III for conformity with statutory changes enacted in concert with welfare reform. The 1999 regulatory document amended: §§ 301.1, 302.12, 302.31, 302.32, 302.34, 302.35, 302.50, 302.51, 302.52, 302.54, 302.70, 302.75, 302.80, 303.3, 303.5, 303.7, 303.8, 303.15, 303.20, 303.30, 303.31, 303.70, 303.71, 303.72, 303.100, 303.101, 303.102, 304.12, 304.20, 304.21, 304.26, 304.29, and 304.40 and made nomenclature edits throughout parts 301, 302, 303, and 304. In addition, the 1999 interim final rule removed §§ 302.57, 303.21, 303.80, 303.103, 303.105, and former part 305, which were wholly rendered obsolete by, or inconsistent with, statutory changes resulting from welfare reform and related follow-up legislation. These statutes are: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Public Law 105–33, the Balanced Budget Act of 1997 (BBA); Public Law 105–89, the Adoption and Safe Families Act of 1997 (ASFA); and Public Law 105–200, the Child Support Performance and Incentive Act of 1998 (CSPIA).

Response to Comments and Changes to 1999 Interim Final Rule

We received comments from over 20 representatives of Federal, State and local agencies, national organizations, advocacy groups, and private citizens on the interim final rule published on February 9, 1999 in the **Federal Register** (64 FR 6237). We appreciate the care that commenters took in their reviews. No comments were received on the request for comments on the information collection activity published on July 16, 1999 in the **Federal Register** (64 FR 38444).

This final rule includes changes made throughout Child Support Enforcement regulations in response to comments we received in the 1999 document. It also includes additional technical corrections identified after publication of the 1999 interim final rule that are of a nature that we believe would not require additional comment, such as changes in punctuation or spelling.

General

1. *Comment:* We received one comment recommending that the rule be

issued formatted with strikeouts and underlines indicating removals and additions from the current regulation.

Response: The **Federal Register's** publication policy does not allow issuance of regulations with strikeouts and underlines. The annually-updated version of the Code of Federal Regulations (CFR) contains all final revisions to child support program regulations revised as of October 1 of each year. The Government Printing Office web site at www.gpo.gov includes the latest available version of the CFR.

2. *Comment:* We received a comment that we were inconsistent by removing some regulations but adding language in other regulations.

Response: The interim final rule was drafted to minimize restatement of statutory language in Federal regulations. Therefore, we only added language needed for conformity with statutory language. In some cases, the inconsistency between the regulation and PRWORA was so great that the regulation was removed. In response to comments received and to avoid confusion, we have incorporated some statutory requirements in the Federal regulations (*e.g.*, see § 303.8, Review and adjustment of child support orders). In addition, because the rule was issued as an Interim Final Rule, instead of a Notice of Proposed Rulemaking, it was limited to those changes that were required by statute and were non-discretionary. Changes involving policy choices will be issued through separate rulemaking.

3. *Comment:* We received several comments indicating that we missed nomenclature changes needed in various sections of the regulations. For example, changes were needed to replace “absent” parent with “noncustodial” parent and to correct “an” noncustodial to “a” noncustodial parent.

Response: We have made these straightforward corrections to the regulations throughout parts 301 through 304 and 307 and will not repeat these comments and responses individually as we discuss each changed regulation.

4. *Comment:* We received comments on several sections of the regulations that were not included in the interim final rule.

Response: We are unable to address these comments in this final rule, but will retain them for consideration in any future revisions to those sections.

General Definitions—§ 301.1

1. *Comment:* One commenter said that the definitions for “overdue support” and “past-due support” create