

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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or are otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that will limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the

docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 Subpart C as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add Temporary § 165.T05–106, to read as follows:

#### § 165.T05–106 Safety Zone: Motts Channel, Wrightsville Beach, North Carolina.

(a) *Location.* The following area is a safety zone: All waters of Motts Channel within 1000 feet of a point on Spoils Island at Wrightsville Beach, NC, located at position 34 deg-12'-17.0" N 077 deg-48'-18.0" W in the Captain of the Port Cape Fear River, Wilmington, North Carolina zone as defined in 33 CFR 3.25–20.

(b) *Definition:* As used in this section *Designated Representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Cape Fear River, Wilmington, North Carolina to act on his behalf.

(c) *Regulation:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Cape Fear River, Wilmington, North Carolina, or designated representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall: (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Cape Fear River, Wilmington, North Carolina can be contacted at telephone number (910) 772–2200 or (910) 512–5830.

(4) Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13

(156.65 MHz) and channel 16 (156.8 MHz).

(d) *Effective Date:* This regulation will be effective from 6 p.m. to 8 p.m. on November 25, 2006.

Dated: October 27, 2006.

**Byron L. Black,**

*Commander, U.S. Coast Guard, Captain of the Port, Cape Fear River, Wilmington, North Carolina.*

[FR Doc. E6–19909 Filed 11–22–06; 8:45 am]

BILLING CODE 4910–15–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 60

[EPA–HQ–OAR–2003–0156; FRL–8246–8]

RIN 2060–AN95

#### Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; technical correction.

**SUMMARY:** EPA is taking direct final action to make a technical correction to the emission guidelines and new source performance standards (NSPS) for other solid waste incineration (OSWI) units. We are correcting the averaging time for measuring opacity.

**DATES:** The direct final rule technical correction is effective on January 23, 2007 unless EPA receives significant material adverse comments by December 26, 2006. If EPA receives significant adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0156, by one of the following methods: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

*E-mail:* Send your comments via electronic mail to *a-and-r-docket@epa.gov*, Attention Docket ID No. EPA–HQ–OAR–2003–0156.

*Mail:* Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2003–0156.

*Hand Delivery:* Deliver your comments to: EPA Docket Center (EPA/DC), EPA West Building, Room B108, 1301 Constitution Ave., NW.,

Washington, DC, 20460, Attention Docket ID No. EPA-HQ-OAR-2003-0156. Such deliveries are accepted only during the normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0156. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulation.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha Smith, Natural Resources and Commerce Group, Sector Policies and Programs Division (E143-03), Environmental Protection Agency, Research Triangle Park, North Carolina

27711; telephone number: (919) 541-2421; e-mail: [smith.martha@epa.gov](mailto:smith.martha@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA is publishing the direct final rule without prior proposal because EPA views this correction as non-controversial and does not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. If an adverse comment applies to this technical correction, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**. If EPA receives no significant adverse comments, we will take no further action.

**Judicial Review.** Under CAA section 307(b)(1), judicial review of the technical correction is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by January 23, 2007. Under CAA section 307(d)(7)(B), only an objection to the final technical correction that was raised with reasonable specificity during the period for public comment may be raised during judicial review. Moreover, under CAA section 307(b)(2), the requirements established by the technical correction may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person

seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

**Organization of This Document.** The following outline is provided to aid in locating information in this preamble.

- I. General Information
  - A. Does the technical correction apply to me?
- II. Summary of the Technical Correction
  - A. Correct Averaging Time for Opacity Measurements
- III. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
  - I. National Technology Transfer Advancement Act
  - J. Congressional Review Act

#### I. General Information

**A. Does the technical correction apply to me?**

**Regulated Entities.** Categories and entities potentially regulated by the direct final rule are very small municipal waste combustion (VSMWC) units and institutional waste incineration (IWI) units. The final OSWI emission guidelines and NSPS potentially affect the following categories of sources:

Category	NAICS code	Examples of potentially regulated entities
Any State, local, or Tribal government using a VSMWC unit as defined in the regulations.	562213, 92411	Solid waste combustion units burning municipal waste collected from the general public and from residential, commercial, institutional, and industrial sources.
Institutions using an IWI unit as defined in the regulations	922, 6111, 623, 7121	Correctional institutions, primary and secondary schools, camps and national parks.
Any Federal government agency using an OSWI unit as defined in the regulations.	928	Department of Defense (labs, military bases, munition facilities).
Any college or university using an OSWI unit as defined in the regulations.	6113, 6112	Universities, colleges and community colleges.
Any church or convent using an OSWI unit as defined in the regulations.	8131	Churches and convents.

Category	NAICS code	Examples of potentially regulated entities
Any civic or religious organization using an OSWI unit as defined in the regulations.	8134	Civic associations and fraternal associations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the direct final rule. To determine whether your facility is regulated by the direct final rule, you should examine the applicability criteria in 40 CFR 60.2885 through 60.2888 of subpart EEEE, and in the emission guidelines for existing sources located at 40 CFR 60.2991 through 60.2994 of subpart FFFF. If you have any questions regarding the applicability of the direct final rule to a particular entity, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*Docket.* The docket number for the direct final rule technical correction to the OSWI NSPS (40 CFR part 60, subpart EEEE) and emission guidelines (40 CFR part 60, subpart FFFF) is Docket ID No. EPA-HQ-OAR-2003-0156. The OSWI NSPS and emission guidelines docket is incorporated by reference (Docket ID No. EPA-HQ-OAR-2003-0156). The docket includes background information and supported the proposal and promulgation of the NSPS and emission guidelines.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of this direct final rule is available on the WWW through the Technology Transfer Network Web site (TTN Web). Following signature, EPA will post a copy of the direct final rule on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

**II. Summary of the Technical Correction**

*A. Correct Averaging Time for Opacity Measurements*

On December 16, 2005, we promulgated standards of performance (70 FR 74892) and emissions guidelines (70 FR 74907) for OSWI units. These standards and guidelines establish maximum achievable control technology (MACT) emission limits for nine pollutants and opacity. Table 1 to subpart EEEE and Table 2 to subpart FFFF of part 60 contain the emission limits, averaging time, and test method for each of the pollutants and opacity. This final rule corrects an inadvertent error to the opacity test averaging time

presented in these tables to the December 16, 2005, final rules.

Compliance with the opacity limits is measured using EPA Method 9. EPA Method 9 specifies some minimum requirements for consecutive observations and the length of time that averages must be calculated over. Observations are made every 15 seconds for a minimum of 24 consecutive observations (*i.e.*, 6 minutes). According to EPA Method 9, rule developers have the discretion to apply whichever averaging time they choose; "If an applicable standard specifies an averaging time requiring more than 24 observations, calculate the average for all observations made during the specified averaging period." The final OSWI rules require opacity be measured as a 6-run average (1-hour minimum sample time per run). Our intent, however, was to apply an averaging and test run time that is consistent with other CAA section 129 source category NSPS and emission guidelines. Therefore, the intended opacity averaging time, which has become the Agency standard under NSPS and emission guidelines using EPA Method 9, was a 6-minute average, observed over three 1-hour test runs (*i.e.*, thirty 6-minute averages). Our intent to use 6-minute averages is further evidenced by the text in 40 CFR Sections 60.2971 and 60.2973 in Subpart EEEE and 40 CFR Sections 60.3066 and 60.3068 in Subpart FFFF, which specifically refer to an opacity limit using a "6-minute average". Therefore, we are correcting Tables 1 and 2 to reflect this averaging time.

**III. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review*

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

We have determined that the direct final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and, therefore, is not subject to review by OMB because the direct final rule will not have an annual effect on the economy of \$100 million or more and does not impose any additional control requirements above the other solid waste incineration unit

NSPS or emission guidelines. The 2005 NSPS and emission guidelines rulemaking (which included requirements for new and existing very small MWC units and requirements for new and existing institutional waste incineration units) was considered "significant" and was reviewed by OMB (see 70 FR 74888, December 16, 2005).

*B. Paperwork Reduction Act*

This action does not impose any new information collection burden. The amendments contained in the direct final rule result in no changes to the information collection requirements of the NSPS or emission guidelines, and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB during the development of the NSPS and emission guidelines. Therefore, the information collection requests have not been revised. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing NSPS (40 CFR part 60, subpart EEEE) and existing emission guidelines (40 CFR part 60, subpart FFFF) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060-0563 (EPA ICR 2163.02) to the NSPS and OMB control number 2060-0562 (EPA ICR 2164.02) to the emission guidelines. Copies of the ICR document(s) may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at [auby.susan@epa.gov](mailto:auby.susan@epa.gov), or by calling (202) 566-1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small government organizations, and small government jurisdictions.

For purposes of assessing the impacts of this direct final rule on small entities, small entity is defined as follows:

(1) A small business in the regulated industry that has a gross annual revenue less than \$6 million (this varies by industry category, ranging up to \$10.5 million for North American Industrial Classification System (NAICS) code 562213 (VSMWC)), based on Small Business Administration's size standards;

(2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or

(3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impact of this direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not propose any changes to the final OSWI rule, in which we determined that the final rule would not have a significant economic impact on a substantial number of small entities.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may

result in expenditures by State, local, and Tribal Governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small Governments, including Tribal Governments, it must have developed a small government agency plan under section 203 of the UMRA. The plan must provide for notifying potentially affected small Governments, enabling officials of affected small Governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small Governments on compliance with the regulatory requirements.

EPA has determined that the direct final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal Governments, in the aggregate, or the private sector in any one year. The direct final rule does not change the burden of the original OSWI rules, which were determined to result in expenditures of less than \$100 million (70 FR 74890, December 16, 2005). Thus, the direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the direct final rule contains no regulatory requirements that might significantly or uniquely affect small Governments because the burden is small and the regulation does not unfairly apply to small Governments.

#### E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism

implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that 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."

This direct final rule does not have Federalism implications. It will 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. Thus, Executive Order 13132 does not apply to this rule.

#### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes."

This direct final rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal Governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this direct final rule.

#### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (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, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other

potentially effective and reasonably feasible alternatives EPA considered.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This direct final rule is not subject to Executive Order 13045 because it is not economically significant, and the original OSWI rules were based on technology performance and not on health and safety risks.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This direct final rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer Advancement Act*

CAA section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory activities unless to do so

would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. EPA's compliance with section 12(d) of the NTTAA has been addressed in the preamble of the underlying final OSWI rule (70 FR 74891, December 16, 2005).

*J. Congressional Review Act*

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 January 23, 2007.

**List of Subjects in 40 CFR Part 60**

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

Dated: November 17, 2006.

**Stephen L. Johnson,**  
*Administrator.*

■ For reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended 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 EEEE—[Amended]**

■ 2. Table 1 to subpart EEEE of part 60 is amended by revising entry 7 for opacity to read as follows:

As stated in § 60.2915, you must comply with the following:

TABLE 1 TO SUBPART EEEE OF PART 60—EMISSION LIMITATIONS

For the air pollutant	You must meet this emission limitation <sup>a</sup>	Using this averaging time	And determining compliance with this method
*	*	*	*
7. Opacity .....	10 percent .....	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages).	Method 9 of appendix A of this part.
*	*	*	*

**Subpart FFFF—[Amended]**

■ 3. Table 2 to subpart FFFF of part 60 is amended by revising entry 7 for opacity to read as follows:

As stated in § 60.3022, you must comply with the following:

TABLE 2 TO SUBPART FFFF OF PART 60—MODEL RULE—EMISSION LIMITATIONS

For the air pollutant	You must meet this emission limitation <sup>a</sup>	Using this averaging time	And determining compliance with this method
*	*	*	*
7. Opacity .....	10 percent .....	6-minute average (observe over three 1-hour test runs; i.e., thirty 6-minute averages).	Method 9 of appendix A of this part.
*	*	*	*

[FR Doc. E6-19865 Filed 11-22-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R06-OAR-2006-0570; FRL-8246-9]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Bernalillo County, NM

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the section 111(d) Plan submitted by City of Albuquerque (Bernalillo County), New Mexico, on May 24, 2006, to implement and enforce the Emission Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require delegated municipalities to develop plans to reduce landfill gas emissions from all MSWs. Finally, this action also approves the concomitant delegation of authority to implement 40 CFR part 60, subparts WWW and Cc.

**DATES:** This rule is effective on January 23, 2007 without further notice, unless EPA receives adverse comment by December 26, 2006. 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:** Submit your comments, identified by File ID No. EPA-R06-OAR-2006-0570, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6comment.htm> Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only

between the hours of 8am and 4pm weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Please include the text "Public comment on File ID No. EPA-R06-OAR-2006-0570" in the subject line of the first page of your comments. EPA's policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through [regulations.gov](http://regulations.gov) or e-mail if you believe that it is CBI or otherwise protected from disclosure.

[Regulations.gov](http://Regulations.gov) is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Official File:** Copies of the documents relevant to this action are in the official file, which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15-cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals and EPA's technical support document are

also available for public inspection at the State Air Agency listed below during official business hours by appointment: Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Kenneth W. Boyce, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7259; fax number 214-665-7263; e-mail address [boyce.kenneth@epa.gov](mailto:boyce.kenneth@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under section 111(d) of the Clean Air Act (CAA or the Act), EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but, which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26). On March 12, 1996, EPA promulgated the NSPS for new municipal solid waste (MSW) landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for Municipal Solid Waste Landfills at 40 CFR part 60, subpart Cc.

The procedures under which States submit these plans to control existing sources are defined in 40 CFR part 60, subpart B. According to subpart B, the States are required to develop plans within Federal guidelines for the control of designated pollutants. The EPA publishes guideline documents for development of State emission