

California was approved by the Director of the **Federal Register** on July 1, 1982.

Felicia Marcus,

Regional Administrator, Region IX.

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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(31)(vi)(D), (c)(36)(i)(B), (c)(184)(i)(B)(7), and (c)(217)(i)(C) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(31) * * *

(vi) * * *

(D) Previously approved on November 9, 1978 and now deleted without replacement Rule 211.

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(36) * * *

(i) * * *

(B) Previously approved on November 9, 1978 and now deleted without replacement Rule 213, 213.1, and 213.2.

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(184) * * *

(i) * * *

(B) * * *

(7) Rules 201, 203, 205, 209, 214 to 217 amended on January 5, 1990 and Rule 201.1 adopted on January 5, 1990.

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(217) * * *

(i) * * *

(C) South Coast Air Quality Management District.

(J) Rules 204, 206, and 210 amended on October 8, 1993.

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[FR Doc. 99-11999 Filed 5-12-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL-6340-6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Emissions From Existing Hazardous/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the North Dakota Department of Health on October 6, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Hazardous/Medical/Infectious Waste Incinerators (HMIWI). The EG require States to develop plans to reduce toxic air emissions from all HMIWIs.

DATES: This direct final rule is effective on July 12, 1999, without further notice, unless we receive adverse comments by June 14, 1999. If we receive adverse comments, we 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: You should address comments on this action to Richard R. Long, EPA Region 8, Office of Air and Radiation (8P-AR), 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 8 offices, 999 18th Street, Suite 500, Denver, Colorado 80202, and at the North Dakota Department of Health offices, 1200 Missouri Avenue, Bismarck, North Dakota 58504-5264.

FOR FURTHER INFORMATION CONTACT: Kathleen Paser at 303-312-6526.

SUPPLEMENTARY INFORMATION:

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- VI. What steps do I need to take?
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I. What Action Is Being Taken by EPA Today?

We are approving North Dakota's State Plan, as submitted on October 6, 1998 for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When we developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed Emissions Guidelines (EG) to control air emissions from older HMIWIs. (See 62 FR 48348-48391, September 15, 1997). North Dakota developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and

anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective July 12, 1999, unless by June 14, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective July 12, 1999.

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 occur mainly through the ingestion of fish. When inhaled, mercury vapor attacks also 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 the 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 and enforce.

IV. What Does the North Dakota State Plan Contain?

North Dakota adopted the Federal NSPS and EG by reference into its State regulations at NDAC 33-15-12-02. The North Dakota State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. State rules adopted into NDAC 33-15-12 as the mechanism for implementing the emission guidelines. The North Dakota 23-25-10 gives the North Dakota Department of Health the authority to enforce any properly adopted rule.
3. An inventory of approximately 76 known designated facilities, along with estimates of their toxic air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of 3 years after environmental protection agency approval of the state plan but not later than September 16, 2002.
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 North Dakota State Plan was reviewed for approval with respect to the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities*; and, 40 CFR 60.30e through 60.39e, *Subpart C—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators*. A detailed discussion of our evaluation of the North Dakota 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 listed in NDAC 33-15-12-02 Subpart Ce, 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 1 of 40 CFR part 60, subpart Ce 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. (40 CFR 60.33e, as listed at 62 FR 48382, September 15, 1997).
3. There are provisions to address small rural incinerators 40 CFR 60.33e(b), 60.36e, 60.37e(c)(d), and 60.38e(b), as listed at 62 FR 48380, September 15, 1997).
4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block (40 CFR 60.33e(c), as listed at 62 FR 48380, September 15, 1997).
5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under 40 CFR part 60.53c(c) (40 CFR 60.34e, as listed at 62 FR 48380).
6. Your operator must be certified, as discussed in paragraph 5 above, no later than one year after we approve this North Dakota State Plan (40 CFR 60.39e(e), as listed at 62 FR 48382).
7. You must develop and submit to the North Dakota Department of Health 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 the Department of Health no later than one year after we approve this State Plan (40 CFR 60.35e, as listed at 62 FR 48380).
8. You must conduct an initial performance test to determine your incinerator's compliance with these emission limits. This performance test

must be completed within 36 months of North Dakota's State Plan approval (40 CFR 60.37e and 60.8, as listed at 62 FR 48380).

9. You must install and maintain devices to monitor the parameters listed under Table 3 to Subpart Ec (40 CFR 60.37e(c), as listed at 62 FR 48381).

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 (40 CFR 60.38e, as listed at 62 FR 48381).

11. You must report to the North Dakota Health Department 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 (40 CFR 60.38e, as listed at 62 FR 48381).

12. In general, you must comply with all the requirements of this State Plan within one year after we approve it; however, there are provisions to extend your compliance date (40 CFR 60.39e, as listed at 62 FR 48381).

VII. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Executive Order 12875: *Enhancing the Intergovernmental Partnership*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal

governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Today's rule implements requirements specifically set forth by the Congress in sections 111 and 129 of the Clean Air Act, as amended in 1990, without the exercise of any discretion by EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

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 E.O. 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 preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant action under Executive Order 12866.

D. Executive Order 13084

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and

timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's rule implements requirements specifically set forth by the Congress in sections 111 and 129 of the Clean Air Act, as amended in 1990, without the exercise of any discretion by EPA.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Pursuant to section 605(b) of the RFA, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This Federal action approves pre-existing requirements under, State, law and imposes no new requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 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**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 12, 1999. 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: April 30, 1999.

Patricia D. Hull,

Acting Administrator, Region VIII.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart JJ—North Dakota

2. Add a new undesignated center heading and §§ 62.8610, 62.8611, and 62.8612 to subpart JJ to read as follows:

AIR EMISSIONS FROM HAZARDOUS/MEDICAL/INFECTIOUS WASTE INCINERATORS

§ 62.8610 Identification of Plan.

Section 111(d) Plan for Hazardous/Medical/Infectious Waste Incinerators and the associated State regulation in section 33-15-12-02 of the North Dakota Administrative Code submitted by the State on October 6, 1998.

§ 62.8611 Identification of Sources.

The plan applies to all existing hazardous/medical/infectious waste incinerators for which construction was commenced on or before June 20, 1996, as described in 40 CFR Part 60, Subpart Ce.

§ 62.8612 Effective Date.

The effective date for the portion of the plan applicable to existing hazardous/medical/infectious waste incinerators is July 12, 1999.

[FR Doc. 99-12001 Filed 5-12-99; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72 and 73

[FRL-6341-2]

RIN 2060-A127

Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act: Compliance Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Title IV of the Clean Air Act (the Act), as amended by the Clean Air Act Amendments of 1990, authorized the Environmental Protection Agency (EPA or Agency) to establish the Acid Rain Program. The program sets emissions limitations to reduce acidic particles and deposition and their serious, adverse effects on natural resources, ecosystems, materials, visibility, and public health.

The allowance trading component of the Acid Rain Program allows utilities to achieve sulfur dioxide emissions reductions in the most cost-effective way. Utilities trade allowances and EPA records ownership and trades of allowances in the Allowance Tracking System for use in determining compliance at the end of each year. On January 11, 1993, EPA initially promulgated the regulations governing Acid Rain Program permitting and allowance trading. Today's action

revises certain provisions in the regulations concerning the deduction of allowances for determining compliance. The revisions will improve the operation of the Allowance Tracking System and the allowance market generally, while still preserving the Act's environmental goals.

EFFECTIVE DATE: June 14, 1999.

ADDRESSES: *Docket.* Docket No. A-98-15, containing supporting information used in developing the proposed rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st Floor, 401 M Street, S.W., Washington, DC 20460. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Permits and Allowance Market Branch, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460 (202-564-9089).

SUPPLEMENTARY INFORMATION: This preamble contains all of the responses to public comments received on the revisions finalized in today's action.

The information in this preamble is organized as follows:

I. Affected Entities

II. Background

III. Public Participation

IV. Summary of Comments and Responses

- A. Allowance Deductions From Other Units at the Same Source
- B. Role of Authorized Account Representative
- C. Effective Date of Rule Revisions
- D. Impacts of Rule Revisions on Acid Rain Permits

V. Administrative Requirements

- A. Docket
- B. Executive Order 12866: Regulatory Planning and Review
- C. Executive Order 12875: Enhancing Intergovernmental Partnerships
- D. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
- E. Unfunded Mandates Act
- F. Paperwork Reduction Act
- G. Regulatory Flexibility
- H. Applicability of Executive Order 13045: Children's Health Protection
- I. National Technology Transfer and Advancement Act
- J. Congressional Review Act

I. Affected Entities

Entities potentially affected by this action are fossil-fuel fired boilers or turbines that serve generators producing electricity, generating steam, or cogenerating electricity and steam. Regulated categories and entities include:

Category	Examples of regulated entities
Industry: SIC 49—Electric, Gas and Sanitary Services.	Electric service providers, boilers from a wide range of industries.

EPA does not intend this table to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. This action could also affect other types of entities not listed in the table. To determine whether this action affects your facility, you should carefully examine the applicability criteria in § 72.6 and § 74.2 and the exemptions in §§ 72.7, 72.8, and 72.14 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

On January 11, 1993, EPA promulgated the regulations that implemented the major provisions of title IV of the Clean Air Act (CAA or the Act), including the Permits rule (40 CFR part 72) and the Sulfur Dioxide Allowance System rule (40 CFR part 73). Since promulgation, these rules have applied to three compliance years, 1995, 1996, and 1997, for which the rules required affected units to meet annual allowance holding requirements. During this time, the Agency has gained experience in implementing the requirements and also discovered ways it could improve the operation of the Allowance Tracking System and allowance market. On August 3, 1998, EPA proposed changes to certain provisions in 40 CFR parts 72 and 73 to make these improvements. 63 FR 41358 (1998). These proposed changes related to the allowance transfer deadline, compliance determinations, and the signature requirements for allowance transfer requests. EPA finalized the proposed changes to the allowance transfer deadline and signature requirements for allowance transfer requests on December 11, 1998. 63 FR 68401 (1998). Today's action finalizes changes related to the deduction of allowances for compliance determinations.

III. Public Participation

EPA proposed revisions to 40 CFR parts 72 and 73 in the **Federal Register** on August 3, 1998. 63 FR 41358. The notice invited public comments. EPA