

we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### III. Background Information

#### A. Why Were These Rules Submitted?

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) and Part D of the CAA require states to submit regulations that control NO<sub>x</sub> emissions.

### IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed 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 proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have 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 rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed 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 CAA. 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 CAA. 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 proposed 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 proposed 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: July 24, 2001.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 01-19753 Filed 8-6-01; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[Region II Docket No. NY50-224b; FRL-7024-8]

#### Approval and Promulgation of State Plans for Designated Facilities; New York

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a negative declaration submitted by the State of New York. The negative declaration satisfies EPA's promulgated Emission Guidelines (EG) for existing commercial and industrial solid waste incinerator (CISWI) sources. In accordance with the EG, states are not required to submit a plan to implement and enforce the EG if there are no existing CISWI sources in the state and it submits a negative declaration letter in place of the State Plan.

**DATES:** Written comments must be received on or before September 6, 2001.

**ADDRESSES:** All comments should be addressed to:

Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233-3251.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3892.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is located in the Rules Section of this **Federal Register**.

The Environmental Protection Agency (EPA) is proposing to approve a negative declaration submitted by the State of New York on February 1, 2001. The negative declaration officially certifies to EPA that, to the best of the State's knowledge, there are no commercial and industrial solid waste incinerator sources in operation in the State of New York. This negative declaration concerns existing commercial and industrial solid waste incinerators throughout the State of New York. The negative declaration satisfies the federal Emission Guidelines (EG) requirements of EPA's promulgated regulation entitled "Standards of Performance for New Stationary Sources and Emission

Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" (65 FR 75338, December 1, 2000; and corrected at 66 FR 16605, March 27, 2001).

Dated: July 26, 2001.

**Kathleen C. Callahan,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 01-19559 Filed 8-6-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7026-8]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Shenandoah Stables site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 7 announces the intent to delete the Shenandoah Stables site (the site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes 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 (CERCLA) of 1980, as amended. EPA and the State of Missouri Department of Natural Resources (MDNR) have determined that the remedial action for the site has been successfully executed.

**DATES:** Comments concerning the proposed deletion of this site from the NPL may be submitted on or before September 6, 2001.

**ADDRESSES:** Comments may be mailed to Robert Feild, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, SUPR, Kansas City, Kansas, 66101.

#### *Informative Repositories:*

Comprehensive information on this site is available through the Region 7 public docket which is available for viewing by appointment only. Appointments for copies of the background information from the Regional public docket should be directed to the EPA Region 7 Docket office at the following address: Regional Records Center, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas, 66101.

The deletion docket is also available for viewing at the following location: City Hall, 500 Highway MM, Moscow Mills, Missouri 63362.

**FOR FURTHER INFORMATION CONTACT:** If additional information is needed, please contact Robert Feild at (913) 551-7697 or e-mail at [Feild.Robert@epa.gov](mailto:Feild.Robert@epa.gov). The EPA Region 7 toll-free phone number is 1-800-223-0425.

#### **SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion

##### **I. Introduction**

The EPA Region 7 announces its intent to delete the Shenandoah Stables site in Lincoln County, Missouri, from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the NCP, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the MDNR have determined that the remedial action for the site has been successfully executed.

The EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Shenandoah Stables site and explains how the site meets the deletion criteria.

##### **II. NPL Deletion Criteria**

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on, the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required; or
- (ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or
- (iii) The remedial investigation has shown that the release poses no

significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the site may be restored to the NPL, without application of the Hazard Ranking System.

##### **III. Deletion Procedures**

The following procedures were used for the intended deletion of this site:

(1) All appropriate response under CERCLA has been implemented, and no further action by EPA is appropriate;

(2) The State of Missouri has concurred with the proposed deletion decision;

(3) A notice has been published in the local newspapers and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and

(4) All relevant documents have been made available in the local site information repository.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this notice, Sec.

300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions. For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.