

This action is not a "major rule" as defined by 5 U.S.C. 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 April 26, 2005. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Air pollution control, Carbon monoxide, Metals, Nitrogen dioxide, Particulate matter, Sulfur oxides, Waste treatment and disposal, Reporting and record-keeping requirements.

Dated: February 14, 2005.

Robert W. Varney,

Regional Administrator, EPA New England.

■ 40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

■ 2. Section 62.1500 is amended by adding paragraph (b)(3), revising paragraph (c) introductory text; and adding paragraph (c)(2) to read as follows:

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.1500 Identification of Plan.

* * * * *

(b) * * *

(3) Revision to Plan to implement the Large and Small Municipal Waste Combustors, submitted on September 16, 2004.

(c) The Plan applies to existing sources in the following categories:

* * *

(2) Small municipal waste combustors with a design combustion capacity of 35 to 250 tons per day of municipal solid waste.

■ 3. Section 62.1501 is amended by revising the undesignated center heading and adding paragraph (a)(6) to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxides From Existing Large and Small Municipal Waste Combustors

§ 62.1501 Identification of sources.

(a) * * *

(6) Connecticut Resource Recovery Authority/Covanta Projects of Wallingford, L.P. in Wallingford.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R04–OAR–2004–NC–0003–200426; FRL–7877–3]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Forsyth County, Mecklenburg County and Buncombe County, NC, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is notifying the public that it has received negative declarations for Commercial and Industrial Solid Waste Incineration (CISWI) units from Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in areas covered by the local air pollution control programs of Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee.

DATES: Effective February 25, 2005.

ADDRESSES: Docket: All documents are located in the Regional Material EdoCKET (RME)—ID No. R04–OAR–2004–NC–0003. The RME index can be found at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562–9121 or Melissa Krenzel at (404) 562–9196.

SUPPLEMENTARY INFORMATION: Section 111(d) of the CAA requires submittal of plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(d) for new sources of the same type, and EPA has established emissions guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

Standards of performance for new or modified CISWI units have been established by EPA and emission guidelines for CISWI units were promulgated in December 2000. The emission guidelines are codified at 40 CFR part 60, subpart DDDD. Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants at designated facilities. Subpart A of 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located under the jurisdiction of a state or local agency, the state or local agency must develop and submit a plan for their respective jurisdiction for the control of the designated pollutants. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutants within the state or local agency's jurisdiction, the state or local

agency may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state or local agency from the requirement to submit a plan for that designated pollutant.

Final Action

Forsyth County, Mecklenburg County, and Buncombe County, North Carolina and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee, have determined that there are no existing CISWI units in their respective jurisdictions. Consequently, Forsyth County, Mecklenburg County, and Buncombe County, North Carolina and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee, have submitted letters of negative declaration certifying this fact. Pursuant to 40 CFR 60.2530 (Subpart DDDD), EPA is providing the public with notice of these negative declarations. Notice of these negative declarations will appear at 40 CFR part 62.

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 notifies the public of negative declarations for CISWI units received by EPA from state or local agencies. The action imposes no requirements. Accordingly, the Administrator certifies that this action 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 action is only a notice 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 action 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 notifies the public of EPA's receipt of negative declarations for CISWI units from state or local agencies and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action 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.

With regard to negative declarations for CISWI units received by EPA from state or local agencies, EPA's role is only to notify the public of the receipt of such negative declarations. 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 approve or disapprove a CAA section 111(d)/129 negative declaration submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it receives a CAA section 111(d)/129 negative declaration, to use VCS in place of a CAA section 111(d)/129 negative declaration 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 action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This action is not a rulemaking, however, EPA will submit a report containing this action 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 action 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).

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: February 9, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

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

Subpart II—North Carolina

■ 2. Subpart II is amended by adding an undesignated center heading and § 62.8354 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration Units

§ 62.8354 Identification of plan—negative declaration.

Letters from Forsyth County, Mecklenburg County, and Buncombe County, North Carolina were submitted on November 25, 2002, January 22, 2003 and November 6, 2002, respectively, certifying that there are no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD.

Subpart RR—Tennessee

■ 3. Subpart RR is amended by adding an undesignated center heading and § 62.10629 to read as follows:

Air Emissions From Commercial and Industrial Solid Waste Incineration Units

§ 62.10629 Identification of plan—negative declaration.

Letters from Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee were submitted on April 23, 2003, November 17, 2002 and October 7, 2002, respectively, certifying that there are no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD.

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