

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

G. 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 January 19, 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).)

H. Alaska's Audit Law

Nothing in this action should be construed as making any determination or expressing any position regarding Alaska's audit privilege and penalty immunity law (Alaska Audit Act, AS 09.25.450 et seq., enacted in 1997) or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Alaska's audit privilege and penalty immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 5, 1998.

Chuck Findley,

Acting Regional Administrator, Region X.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of the Federal Register on July 1, 1982.

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 C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(28) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *
(28) On January 8, 1997, the Director of the Alaska Department of Environmental Conservation submitted the Alaska air quality regulations, 18 Alaska Administrative Code (AAC) 50 (with the exception of 18 AAC 50.055(a)(9), 50.085, 50.090, 50.110, 50.300(g), and 50.310(l) which were not submitted), as effective on January 18, 1997. On March 17, 1998, the Director of the Alaska Department of Environmental Conservation resubmitted 18 AAC 50.055(a)(3) and (b)(6). EPA has approved the following provisions of 18 AAC 50, as effective on January 18, 1997: Section 005; Section 010, except for subsections (7) and (8); Section 025; Section 030; Section 035; Section 045; Section 050; Section 055, except for paragraph (d)(2)(B) and (a)(9); Section 060; Section 065; Section 070; Section 075; Section 200; Section 201; Section 205; Section 220; Section 240; Section 245; Section 400, paragraphs (a), (b)(1), and (c); Section 420; Section 430; Section 900; and Section 990, subsections (2), (3), (4), (5), (6), (8), (9), (10), (11), (14), (15), (16), (17), (19), (20), (23), (24), (25), (26), (29), (31), (32), (33), (34), (35), (37), (39), (40), (42), (43), (45), (47), (48), (50), (51), (53), (58), (59), (60), (61), (62), (63), (65), (66), (67), (69), (70), (71), (72), (74), (75), (78), (79), (80), (81), (83), (84), (85), (86), (89), (90), (91), (92), (93), (94), (95), (96), (97), (99), and (100).

On January 8, 1997, the Director of the Alaska Department of Environmental Conservation submitted the current Alaska Statutes for air pollution control, specifically the 1993 Alaska Act (Chapter 74 State Legislative Act 1993). EPA has approved as federally enforceable provisions of the SIP, the

following provisions of the Alaska Statutes, as effective June 25, 1993: AS 46.14.510(b); AS 46.14.550; AS 46.14.560; AS 46.14.990(1), (2), (3), (6), (7), (8), (10), (13), (15), (16), (17), (18), (22), (24), and (25); and AS 45.45.400(a). On January 8, 1997, the Director of the Alaska Department of Conservation submitted the "In Situ Burning Guidelines for Alaska (revised 5/94)."

(i) Incorporation by reference.
(A) 18 AAC 50.005; 18 AAC 50.010, except for subsections (7) and (8); 18 AAC 50.025; 18 AAC 50.030; 18 AAC 50.035; 18 AAC 50.045; 18 AAC 50.050; 18 AAC 50.055, except for paragraphs (d)(2)(B) and (a)(9); 18 AAC 50.060; 18 AAC 50.065; 18 AAC 50.070; 18 AAC 50.075; 18 AAC 50.200; 18 AAC 50.201; 18 AAC 50.205; 18 AAC 50.220; 18 AAC 50.240; 18 AAC 50.245; 18 AAC 50.400, paragraphs (a), (b)(1), and (c); 18 AAC 50.420; 18 AAC 50.430; 18 AAC 50.900; and 18 AAC 50.990, subsections (2), (3), (4), (5), (6), (8), (9), (10), (11), (14), (15), (16), (17), (19), (20), (23), (24), (25), (26), (29), (31), (32), (33), (34), (35), (37), (39), (40), (42), (43), (45), (47), (48), (50), (51), (53), (58), (59), (60), (61), (62), (63), (65), (66), (67), (69), (70), (71), (72), (74), (75), (78), (79), (80), (81), (83), (84), (85), (86), (89), (90), (91), (92), (93), (94), (95), (96), (97), (99), and (100); as effective on January 18, 1997.

(B) AS 46.14.510(b); AS 46.14.550; AS 46.14.560; AS 46.14.990(1), (2), (3), (6), (7), (8), (10), (13), (15), (16), (17), (18), (22), (24), and (25); and AS 45.45.400(a); as effective on June 25, 1993.

(C) Remove the following provisions of 18 AAC 50, as effective on June 2, 1988, from the current incorporation by reference: 18 AAC 50.010; 18 AAC 50.070; 18 AAC 50.900, subsections (19), (27), (30), (45), (46), and (48).

[FR Doc. 98-30721 Filed 11-17-98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA #1-10-98; FRL-6189-4]

Availability of Federally-Enforceable State Implementation Plans for All States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Section 110(h) of the Clean Air Act, as amended in 1990 (the "Act"), requires EPA by November 15, 1995, and every three years thereafter, to identify the Federally-enforceable State Implementation Plans (SIPs) in each

State and to publish notice in the **Federal Register** of the availability of such documents. This notice of availability fulfills the three-year requirement of making these SIP compilations for each State available for public inspection. The original notice of availability was published on November 1, 1995 (60 FR 55459).

EFFECTIVE DATE: November 18, 1998.

ADDRESSES: You may contact the regional offices regarding requirements of applicable implementation plans for their States. The SIP compilations are available for public inspection during normal business hours at the appropriate EPA regional office listed below. If you want to view these documents, you should make an appointment with the appropriate EPA office and arrange for a mutually agreeable time.

Region 1: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

Regional Contact: Donald Cooks (617/565-3508)

EPA, Office of Ecosystem Protection, John F. Kennedy Federal Building, One Congress Street, Boston, MA 02203-2211

Region 2: New Jersey, New York, Puerto Rico, and Virgin Islands

Regional Contacts: Paul Truchan (212/637-4249)

EPA, Air Programs Branch, 290 Broadway, New York, NY 10007-1866

Region 3: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Regional Contact: Harold A. Frankford (215/814-2108)

EPA, Office of Air Programs (3AP20), Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103. See also: www.epa.gov/reg3artd/index.htm

Region 4: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Regional Contact: Dick Schutt (404/562-9033)

EPA, Air Planning Branch, 61 Forsyth Street, S.W., Atlanta, GA 30303

Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

Regional Contacts: Madelin Rucker for the States of Michigan, Minnesota and Wisconsin (312/886-0661); Ryan Bahr (312/353-4366) for the States of Illinois, Indiana, and Ohio

EPA, Air and Radiation Division, 77 West Jackson Boulevard,

Chicago, IL 60604-3507. See also <http://www.epa.gov/ARD-R5/sips/>

Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Regional Contact: Bill Deese (214/665-7253)

EPA, Multimedia Planning and Permitting Division, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, TX 75202-2733. See also: <http://www.epa.gov/earth1r6/6pd/air/sip/sip.htm>

Region 7: Iowa, Kansas, Missouri, and Nebraska

Regional Contact: Ed West (913-551-7330)

EPA, Air and Toxics Division, Air Branch, 726 Minnesota Avenue, Kansas City, KS 66101. See also: <http://www.epa.gov/region07/>

Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming

Regional Contact: Laurie Ostrand (303/312-6437)

EPA, Air & Radiation Program, Air Quality Planning and Management Unit, 999 18th Street, Suite 500, Denver, CO 80202-2466

Region 9: Arizona, California, Hawaii, Nevada, American Samoa, and Guam

Regional Contacts: Julie Rose (415/744-1184) and Cynthia Allen (415/744-1189)

EPA, Air Division, AIR-4, 75 Hawthorne Street, San Francisco, CA 94105

Region 10: Alaska, Idaho, Oregon, and Washington

Regional Contact: Montel Livingston (206/553-0180)

EPA, Office of Air Quality (OAQ 107), 1200 6th Avenue, Seattle, WA 98101. See also: <http://www.epa.gov/r10earth/>

FOR FURTHER INFORMATION CONTACT: Julie Rose, (415) 744-1184.

SUPPLEMENTARY INFORMATION: National ambient air quality standards (NAAQS) are set for criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. The present criteria pollutants are: Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, and Sulfur oxides. See 40 CFR Part 50 for a technical description of how the levels of these standards are measured and attained. SIPs provide for implementation, maintenance, and enforcement of the standard in each state. Areas within each state that are designated nonattainment are subject to additional planning and control

requirements. Accordingly, different regulations or programs in the SIP will apply to different areas. EPA lists the designation of each area at 40 CFR part 81.

States are required to develop SIPs containing strategies for controlling emissions from pollution sources. See CAA title I; 40 CFR Part 51—Requirements for Preparation, Adoption, and Submittal of Implementation Plans. SIPs are legal documents, formally adopted, committing States to carry out their air pollution control strategies and including regulations, which are both specific and enforceable, for sources of air pollution. These control strategies and regulations are submitted in accordance with the Act and, upon approval by EPA, become part of the Federally-enforceable SIP. (See 40 CFR Part 52—Approval and Promulgation of Implementation Plans (with Subparts presenting the status for each State and territory). The first section in the Subpart for each State is the “Identification of plan” section which provides chronological development of the State SIP. The identification of plan section identifies the State-submitted rules and plan elements which have been Federally approved. The goal of the State-by-State SIP compilation is to identify those rules under the “Identification of plan” section which are currently Federally enforceable. In addition, some of the SIP compilations may include control strategies, such as transportation control measures, local ordinances, State statutes, and emission inventories, or may include regulations provided in other sections of the State-specific subpart of part 52. Some of the SIP compilations may not identify these other Federally enforceable elements.

In some cases, further information on the content of approved SIPs is available from the Internet. For those regions where such information is available, an address for this information is provided in the regional contacts list above.

You should note that, when States have submitted their most current State regulations for inclusion into Federally-enforceable SIPs, EPA will begin its review process of submittals as soon as possible. Until EPA approves a submittal, State-submitted regulations will be State-enforceable only; therefore, State-enforceable SIPs may exist which differ from Federally-enforceable SIPs. As EPA approves these State-submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

This notice identifies the appropriate EPA regional offices to which you may

address questions of SIP availability and SIP requirements. In response to the 110(h) requirement, the original notice of availability was published in the **Federal Register** on November 1, 1995 at 60 FR 55459.

Dated: November 10, 1998.

Carol M. Browner,

U.S. EPA Administrator.

[FR Doc. 98-30743 Filed 11-17-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AL-048-1-9901a; FRL-6188-9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the sections 111(d)/129 State Plan submitted by the Alabama Department of Environmental Management (ADEM) for the State of Alabama on September 11, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) with capacity to combust more than 250 tons per day of municipal solid waste (MSW). See 40 CFR part 60, subpart Cb.

DATES: This direct final rule is effective January 19, 1999 without further notice, unless EPA receives adverse comments by December 18, 1998. If adverse comment is 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: Kimberly Bingham, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104.

Copies of materials submitted to EPA may be examined during normal business hours at the following locations: EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104; and at the Alabama Department of Environmental Management, Air Division, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham at (404) 562-9038 or Scott Davis at (404) 562-9127.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new MWCs and EG applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, Subparts Eb and Cb, respectively. See 60 FR 65387. Subparts Cb and Eb regulate the following: Particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day of MSW (small MWCs), consistent with their opinion in *Davis County Solid Waste Management and Recovery District v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996), *as amended*, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Cb and Eb apply only to MWC units with individual capacity to combust more than 250 tons per day of MSW (large MWC units).

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. See 60 FR 65414.

This action approves the State Plan submitted by ADEM for the State of Alabama to implement and enforce subpart Cb, as it applies to large MWC units only.

II. Discussion

ADEM submitted to EPA on September 11, 1998, the following in their 111(d)/129 State Plan for implementing and enforcing the EG for existing MWCs under their direct jurisdiction in the State of Alabama: Public Participation Demonstration That the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend the Public

Hearing; Legal Authority; Emission Limits and Standards; Compliance Schedule; Inventory of MWC Plant/Units; MWC Emissions Inventory; Source Surveillance, Compliance Assurance, and Enforcement Procedures; Submittal of Progress Reports to EPA; Federally Enforceable State Operating Permit (FESOP) for the Solid Waste Disposal Authority of the City of Huntsville MWC facility; and applicable State of Alabama statutes and rules of the ADEM. ADEM submitted its Plan after the Court of Appeals vacated subpart Cb as it applies to small MWC units. Thus, the Alabama State Plan covers only large MWC units. As a result of the *Davis* decision and subsequent vacatur order, there are no EG promulgated under sections 111 and 129 that apply to small MWC units. Accordingly, EPA's review and approval of the Alabama State Plan for MWCs addresses only those parts of the Alabama State Plan which affect large MWC units. Small units are not subject to the requirements of the Federal Rule and not part of this approval. Until EPA again promulgates EG for small MWC units, EPA has no authority under section 129(b)(2) of the Act to review and approve State Plans applying state rules to small MWC units.

The approval of the Alabama State Plan is based on finding that: (1) ADEM provided adequate public notice of public hearings for the proposed plan and FESOP which allow ADEM to implement and enforce the EG for large MWCs, and (2) ADEM also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facility; enforce applicable laws, regulations, standards, and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In part F and attachment C of the Plan, ADEM cites the following references for the legal authority: Opinion of the Region 4 Administrator in response to the Governor of the State of Alabama; The Alabama Environmental Management Act, section 22-22A, *Code of Alabama* 1975, as amended; The Alabama Air Pollution Control Act, section 22-28, *Code of Alabama* 1975, as amended; The ADEM Administrative Code, Rule 335-3-1-.04. These statutes and regulations are contained in appendix C. On the basis of these statutes and rules of the State of Alabama, the State Plan and FESOP are approved as being at least as