

Subpart N—Idaho

2. Subpart N is amended by adding § 62.3110 and an undesignated center heading to read as follows:

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Metals, Acid Gases, Organic Compounds, Particulates and Nitrogen Oxide Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

§ 62.3110 Identification of plan.

(a) The Idaho Division of Environmental Quality submitted to the Environmental Protection Agency a State Plan for the control of air emissions from Hospital/Medical/Infectious Waste Incinerators on December 16, 1999.

(b) Identification of Sources: The Idaho State Plan applies to all existing HMIWI facilities for which construction was commenced on or before June 20, 1996, as described in 40 CFR part 60, subpart Ce. (This plan does not apply to facilities on tribal lands).

(c) The effective date for the portion of the plan applicable to existing Hospital/Medical/Infectious Waste Incinerators is June 20, 2000.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket No. OR-03-0001; FRL-6580-9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oregon; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA publishes regulations under Sections 111(d) and 129 of the Clean Air Act (CAA) requiring states to submit plans to EPA. These plans show how states intend to control the emissions of the designated pollutants from designated facilities. Federal regulations provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. On October 20, 1998, the State of Oregon submitted a negative declaration adequately certifying that there are no hospital/medical/infectious waste incinerators (HMIWI) located within its boundaries. On November 6, 1998,

Oregon submitted a clarification to their negative declaration, indicating one of their sources to be a co-combustor, and the rest to be crematories, both categories which are considered exempt from this emission guideline (EG.) EPA is approving Oregon's negative declaration.

DATES: This action will be effective on June 20, 2000 without further notice, unless EPA receives relevant adverse comments by May 22, 2000. If EPA receives such comments, then it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to: Catherine Woo, US EPA, Region X, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of materials submitted to EPA may be examined during normal business hours at the following location: US EPA, Region X, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Catherine Woo, US EPA, Region X, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-1814.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever we, us or our is used, this refers to EPA. Information regarding this action is presented in the following order:

- I. What Action is EPA Taking Today?
- II. Why is Oregon Required to Submit a Negative Declaration?
- III. When Did the Requirements for Existing HMIWIs First Become Known?
- IV. When Did Oregon Submit Its Negative Declaration?
- V. How Does This Approval Affect Sources Located in Indian Country?
- VI. Administrative Requirements

I. What Action is EPA Taking Today?

We are approving the State of Oregon's negative declaration of air emissions from HMIWIs. This negative declaration fulfills the requirements of Sections 111(d) and 129 of the CAA for existing HMIWIs.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the Oregon negative declaration should relevant adverse comments be filed. This action will be effective on June 20, 2000 without further notice,

unless EPA receives relevant adverse comments by May 22, 2000.

If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 20, 2000 and no further action will be taken on the proposed rule.

II. Why is Oregon Required to Submit a Negative Declaration?

Section 111 of the CAA, "Standards of Performance for New Stationary Sources," authorizes us to set air emissions standards for certain categories of sources. These standards are called New Source Performance Standards (NSPS). When a NSPS is promulgated for new sources, Section 111(d) also requires that we 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 the State's body of regulations. If a State does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a State Plan for that designated facility (see 40 CFR 62.06). Oregon does not have any designated facilities within its boundaries, so it is required to submit a negative declaration.

III. When Did the Requirements for Existing HMIWIs First Become Known?

On June 26, 1996 (see 61 FR 31736), EPA proposed HMIWIs as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans as designated pollutants by proposing Emission Guidelines (EG) for existing HMIWIs. These guidelines were published in final form as 40 CFR Part 60, Subpart Ce, on September 15, 1997 (see 62 FR 48348).

IV. When Did Oregon Submit Its Negative Declaration?

On October 20, 1998, the Oregon Department of Environmental Quality submitted a letter to us certifying that there are no existing HMIWIs subject to 40 CFR Part 60, Subpart Ce. On November 8, 1998, Oregon sent a clarifying letter to indicate exempt

sources within its jurisdiction. EPA is publishing this negative declaration today, as public notification of Oregon's exemption from submitting a State Plan, as required under 40 CFR Part 60, Subpart B. However, in the unlikely event that a designated source is discovered within the State of Oregon, this source will be subject to the requirements of a Federal Plan (to be promulgated.) If the State chooses to do so, it can submit a State Plan for any newly discovered designated sources as well. At the time of submittal, the State Plan will need to be at least as protective as those requirements promulgated by the EPA.

V. How Does This Approval Affect Sources Located in Indian Country?

Oregon's jurisdiction does not cover facilities located in Indian Country. Since this action is approving Oregon's declaration that there are no HMIWI facilities within its jurisdiction, this action does not affect Indian Country. However, if there are any sources located in Indian Country, they will be subject to the Federal plan, once promulgated. The EPA plans to promulgate a Federal Plan which will cover sources located in Indian Country and sources for which there is no approved State Plan (or no approved negative declaration). Because there is no Federal Plan yet, existing HMIWI sources in Indian Country are not currently subject to any federal requirements.

VI. Administrative Requirements

A. General Requirements

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. This 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 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 approves 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as

specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 (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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State Plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 State Plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan submission 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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 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.*).

B. 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 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).

C. 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 June 20, 2000. 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, Methane, Municipal Solid Waste Landfills, Non-methane organic compounds, Reporting and recordkeeping requirements.

Dated: April 4, 2000.

Chuck Clarke,

Regional Administrator, Region X.

40 CFR is amended as follows:

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

Authority: 42 U.S.C. 7401-7642.

Subpart MM—Oregon

2. Section 62.9350 is amended by adding paragraphs (b)(6) and (c)(6) to read as follows:

§ 62.9350 Identification of plan.

* * * * *

(b) * * *

(6) Control of metals, acid gases, organic compounds, particulates and nitrogen oxide emissions from existing Hospital/Medical/Infectious Waste Incinerators was submitted by the Oregon Department of Environmental Quality on October 20, 1998, and November 6, 1998.

(c) * * *

(6) Existing Hospital/Medical/Infectious Waste Incinerators.

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3. Section 62.9515 and an undesignated center heading are added to Subpart MM to read as follows:

Metals, Acid Gases, Organic Compounds, Particulates and Nitrogen Oxide Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

§ 62.9515 Identification of Sources—Negative Declaration.

On October 20, 1998, and November 6, 1998, the Oregon Department of Environmental Quality submitted a letter certifying that there are no existing Hospital/Medical/Infectious Waste Incinerators in the State subject to the Emission Guidelines under part 60, subpart B, of this chapter.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6582–3]

National Emission Standards for Hazardous Air Pollutants for Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interpretative rule.

SUMMARY: This action clarifies that all stationary combustion turbines are subject to the provisions of Subpart B—Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j) (i.e., case-by-case maximum achievable control technology (MACT) determinations).

DATES: Effective April 21, 2000.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mr. Sims Roy, Combustion Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5263, facsimile:(919) 541–5450, electronic mail address: roy.sims@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* All new stationary combustion turbines, which meet the criteria for major sources, are the regulated entities addressed by this interpretative rule. However, this interpretative rule does not subject these entities to new or additional rule requirements; it merely resolves confusion which appears to exist in some cases over whether such sources are covered under 40 CFR part 63, Subpart B—Requirements for Control Technology Determinations for Major Sources in Accordance with

Clean Air Act Sections 112(g) and 112(j).

I. What Is the Background for This Interpretative Rule

Subpart B requires “case-by-case” determinations of MACT for major sources constructed after June 29, 1998. It appears that there is confusion regarding the applicability of subpart B to new stationary combustion turbines in some situations. This interpretative rule resolves this confusion by clarifying that all new stationary combustion turbines, regardless of configuration, end use, or location, are subject to subpart B, provided they also meet the definition of a major source.

Stationary combustion turbines were included on the list of source categories under section 112(c)(5) of the Clean Air Act (CAA) for the development of emission standards, thus, EPA is currently developing national emission standards for hazardous air pollutants (NESHAP) for this source category. Proposal of the NESHAP is anticipated in late 2000, with promulgation in early 2002.

Electric utility steam generating units, on the other hand, are excluded from subpart B and the development of emission standards under section 112, unless or until such time as they are added to the source category list under section 112(c)(5) of the CAA. Since, among other uses, stationary gas turbines may be used to generate electricity, confusion has arisen whether stationary combustion turbines used to generate electricity are considered “electric utility steam generating units.”

An “electric utility steam generating unit” is defined in subpart B as follows:

Electric utility steam generating unit means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

The phrase “steam generating unit” in the term “electric utility steam generating unit” is critical to understanding which types of combustion units are covered by this definition and which types are not. For example, this definition clearly covers a conventional fossil fuel fired steam generating unit (e.g., coal-fired boiler) which extracts heat from the combustion of fuel and generates steam for use in a steam turbine which, in turn, provides shaft power to spin an

electric generator and generate electricity.

This definition does not cover a stationary combustion turbine which extracts shaft power from the combustion of fuel and spins an electric generator to generate electricity. The combustion turbine does not extract heat to generate steam; in fact, there is no steam generating unit at all in this example. Hence, the definition “electric utility steam generating unit” does not include stationary combustion turbines, and such turbines are subject to case-by-case MACT determinations.

The confusion surrounds combined cycle systems. A combined cycle system, consistent with the meaning of the word “combined,” is a combination of a stationary combustion turbine and a waste heat recovery unit.

In a combined cycle system, a combustion turbine extracts shaft power from the combustion of fuel and spins an electric generator to generate electricity. The hot exhaust gases from the combustion turbine are then routed to a separate “waste heat recovery unit.” The waste heat recovery unit extracts heat from the gases and generates steam for use in a steam turbine which, in turn, provides shaft power to spin an electric generator and generate electricity.

The combustion turbine in a combined cycle system does not extract heat to generate steam. It is not a “steam generating unit,” and it is not an “electric utility steam generating unit.” New combustion turbines in combined cycle systems, therefore, must undergo case-by-case MACT determinations.

The waste heat recovery unit in a combined cycle system, however, does generate steam. It is an electric utility steam generating unit. New waste heat recovery units in combined cycle systems, therefore, are excluded from subpart B (i.e., case-by-case MACT determination).

While new waste heat recovery units in combined cycle systems are excluded from case-by-case MACT, in many cases this is a moot point since they are not an emission source. The sole emission source, in the type of combined cycle system outlined above, is the combustion turbine. The emissions from the combustion turbine pass through the waste heat recovery unit, but the waste heat recovery unit is not a source of additional emissions.

There is another type of combined cycle system, however, in which the waste heat recovery unit does contribute additional emissions. In these types of combined cycle systems, fuel is burned in the duct, through the use of “duct