

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. 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**. 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 2005. Filing a petition for reconsideration by the Administrator of this direct 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 42 U.S.C. 7607(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: September 19, 2005

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 40 CFR 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 *et seq.*

Subpart GG—New Mexico

■ 2. Section 62.7851 is amended by adding a new paragraph (b) at the end to read as follows.

§ 62.7851 Identification of sources.

* * * * *

(b) Negative declaration for Bernalillo County.

Letter from the City of Albuquerque Air Pollution Control Division dated November 23, 2004, certifying that there

are no existing sulfuric acid plants subject to 40 CFR 60 subpart Cd in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board.

■ 3. Section 62.7853 is revised to read as follows:

§ 62.7853 Identification of plan—negative declaration.

(a) Letter from the New Mexico Environmental Improvement Division dated November 5, 1979 certifying that there are no existing kraft pulp mills in the State subject to part 60 subpart B of this chapter.

(b) Letters from the City of Albuquerque Air Pollution Control Division dated July 8, 1980, and November 23, 2004, certifying that there are no existing kraft pulp mills subject to 40 CFR 60 subpart B in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board.

■ 4. Section 62.7854 is amended by redesignating the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 62.7854 Identification of plan—negative declaration.

(a) The State Department of Health and Social Services submitted on October 31, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to part 60 subpart B of this chapter.

(b) Letter from the City of Albuquerque Air Pollution Control Division dated November 23, 2004, certifying that there are no phosphate fertilizer plants subject to 40 CFR 60 subpart B in Bernalillo County on lands under the jurisdiction of the Albuquerque/Bernalillo County Air Quality Control Board.

§ 62.7881 [Removed]

■ 5. Section 62.7881, "Identification of sources—negative declaration" is removed and the centered heading "Emissions From Existing Commercial and Industrial Solid Waste Incineration (CISWI) Units" immediately before § 62.7881 is also removed.

[FR Doc. 05-19878 Filed 10-3-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R06-OAR-2005-OK-0004; FRL-7979-7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma; Plan for Controlling Emissions From Commercial and Industrial Solid Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on the "State Plan" submitted by the state of Oklahoma on June 29, 2005, to fulfill the requirement of sections 111(d)/129 of the Clean Air Act for commercial and industrial solid waste incineration (CISWI) units. The State Plan provides for the implementation and enforcement of the Emissions Guidelines, as promulgated by EPA December 1, 2000, applicable to existing CISWI units for which construction commenced on or before November 30, 1999. The State Plan establishes emission limits, monitoring, operating, and recordkeeping requirements for commercial and industrial solid waste incinerator (CISWI) units for which construction commenced on or before November 30, 1999.

DATES: This direct final rule is effective on December 5, 2005 without further notice, unless EPA receives adverse comment by November 3, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier by following the detailed instructions provided under the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Boyce, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2833, at (214) 665-7259 or boyce.kenneth@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean the EPA.

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I. What Action Is EPA Taking Today?

The Environmental Protection Agency (EPA) is approving sections 111(d) and 129 of the State Plan submitted by the Oklahoma Department of Environmental Quality (ODEQ) on June 29, 2005. The State Plan establishes emission limits, monitoring, operating, and recordkeeping requirements for commercial and industrial solid waste incinerator (CISWI) units for which construction commenced on or before November 30, 1999. This State Plan implements and enforces provisions at least as protective as the Federal Emission Guidelines (EGs) applicable to existing CISWIs. The State Plan becomes federally enforceable upon EPA's approval.

II. Background

Sections 111(d) and 129 of the Clean Air Act (CAA) require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) 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. However, section 129 of the CAA, also requires EPA to promulgate EG for commercial and industrial solid waste incineration (CISWI) units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity). On December 1, 2000 (65 FR 75338), EPA promulgated CISWI unit new

source performance standards and the EG, 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EGs apply is each existing CISWI unit, as defined in subpart DDDD, that commenced construction on or before November 30, 1999.

Section 111(d) of the Clean Air Act (CAA) requires that "designated" pollutants, regulated under standards of performance for new stationary sources by section 111(b) of the CAA, must also be controlled at existing sources in the same source category to a level stipulated in an emission guideline (EG) document. Section 129 of the CAA specifically addresses solid waste combustion and emissions controls based on what is commonly referred to as "maximum achievable control technology" (MACT). Section 129 requires EPA to promulgate a MACT based emission guidelines document for CISWI units, and then requires states to develop plans that implement the EG requirements.

The CISWI EG under 40 CFR part 60, subpart DDDD, establishes emission and operating requirements under the authority of the sections 111(d) and 129 of the CAA. States must also include in their State Plans other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans. These requirements must be incorporated into a State plan that is "at least as protective" as the EG, and is federally enforceable upon approval by EPA. The procedures for adoption and submittal of State plans are codified in 40 CFR part 60, subpart B.

III. Why Does EPA Want To Regulate Air Emissions From CISWIs?

When burned, commercial and industrial solid wastes emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury) and particulate matter. 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 eating 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 can aggravate existing respiratory and cardiovascular disease and increase 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.

IV. When Did EPA First Publish These Requirements?

The EPA proposed the EGs in the **Federal Register** on November 30, 1999. (64 FR 67092). On December 1, 2000, EPA finalized the EGs at 65 FR 75338. The EGs are also found at 40 CFR part 60, subpart DDDD.

V. Why Does EPA Need To Approve State Plans?

EGs are not federally enforceable. Section 129(b)(2) of the CAA requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the EGs. State Plans must be at least as protective as the EGs, and they become federally enforceable upon EPA's approval. The procedures for adopting and submitting State Plans are in 40 CFR part 60, subpart B.

VI. What Did the State Submit as Part of Its State Plan?

The State of Oklahoma submitted its sections 111(d) and 129 State Plan to EPA for approval on June 29, 2005. The State adopted the EG requirements of 40 CFR part 60, subpart DDDD by incorporation by reference (IBR) into the Oklahoma Administrative Code (OAC 252:100-17, Part 9) on April 21, 2003. The State Plan also included a demonstration of the State's legal authority to carry out the plan, inventory of sources and emissions, evidence of a public hearing on the State Plan, and provisions for submission of progress reports to EPA.

VII. Why Is EPA Approving Oklahoma's State Plan?

EPA has evaluated the CISWI State Plan submitted by Oklahoma for consistency with the Act, EPA guidelines and policy. EPA has determined that Oklahoma's State Plan meets all requirements and therefore, EPA is approving Oklahoma's Plan to implement and enforce the EGs as it applies to existing CISWIs.

EPA's approval of Oklahoma's State Plan is based on our findings that: (1) ODEQ provided adequate public notice of public hearings for the proposed rulemaking that allows Oklahoma to carry out and enforce provisions that are at least as protective as the EGs for CISWIs; and (2) ODEQ demonstrated legal authority to: adopt emission standards and compliance schedules applicable to the designated facilities; 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.

A detailed discussion of EPA's evaluation of the State Plan is included in the technical support document (TSD) located in the public rulemaking file for this action and available from the EPA contact listed in the Public Participation section of this document.

VIII. Who Must Comply With the Requirements?

All CISWIs that commenced construction on or before November 30, 1999 must comply with these requirements.

IX. Are Any Sources Exempt From the Requirements?

The following incinerator source categories are exempt from the federal requirements for CISWIs:

- (1) Pathological waste incineration units;
- (2) Agricultural waste incineration units;
- (3) Municipal waste combustion units;
- (4) Hospital/medical/infectious waste incineration units;
- (5) Small power production facilities;
- (6) Cogeneration facilities;
- (7) Hazardous waste combustion units;
- (8) Materials recovery units;
- (9) Air curtain incinerators;
- (10) Cyclonic barrel burners;
- (11) Rack, part, and drum reclamation units;

- (12) Cement kilns;
- (13) Sewage sludge incinerators;
- (14) Chemical recovery units; and
- (15) Laboratory analysis units.

Please refer to 40 CFR 60.2555 for specific definitions of these incinerator source categories, and any recordkeeping or other requirements that still may need to be met.

X. By What Date Must CISWIs in Oklahoma Achieve Compliance?

A state's section 111(d) plan must include a compliance schedule that owners and operators of affected CISWI units must meet in complying with the requirements of the plan. 40 CFR 60.2535 indicates that final compliance should be achieved as expeditiously as practicable after EPA approval of the state plan but no later than December 1, 2005 or three years after the effective date of the state plan approval, whichever is sooner. If the owner or operator of a CISWI unit plans to achieve compliance more than one year following the effective date of the state plan approval, then two increments of progress must be met, which are: submit a final control plan; and achieve final compliance. Section 252:100-17-75 of the Oklahoma Administrative Code includes the increments of progress and the dates by which those increments must be met, which are, submit a final control plan by January 1, 2004 and achieve final compliance with the emission limitations and other requirements by December 1, 2005.

XI. Final Action

EPA has evaluated the CISWI plan submitted by the state of Oklahoma for consistency with the CAA, EPA emission guidelines and policy. EPA has determined that Oklahoma's Plan meets all requirements and, therefore, EPA is approving Oklahoma's Plan to implement and enforce subpart DDDD, as promulgated on December 1, 2000, applicable to existing CISWI units that have commenced construction on or before November 30, 1999. EPA is also approving revisions to OAC 252:100-17, Part 9 Regulations for the Control of Atmospheric Pollution, entitled, "Definitions" and "Incineration," respectively.

EPA is publishing this approval 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 State Plan should relevant adverse comments be filed. If EPA receives no significant,

material, and adverse comments by November 3, 2005, this action will be effective on December 5, 2005.

If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

XII. Public Participation

A. What Is the Public Rulemaking File?

EPA is committed to ensuring public access to the information that is used to inform the Agency's decisions regarding the environment and human health and to ensuring that the public has an opportunity to participate in the Agency's decision process. The official public rulemaking file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. The public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute, although such information is a part of the administrative record for this action. The public rulemaking file is the collection of materials that is available for public viewing at the Regional Office. The administrative record is the collection of material used to inform the Agency's decision on this rulemaking action.

B. How Can I Get Copies of This Document and Other Related Information?

1. An official public rulemaking file available for inspection at the Regional Office. The Regional Office has established an official public rulemaking file for this action under R06-OAR-2005-OK-0004. The public rulemaking file is available for viewing at the Air Planning Section, U.S. Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section two working days in advance to schedule your inspection. The Regional Office's official hours of

business are Monday through Friday, 8:30 a.m. to 4 p.m. excluding federal Holidays.

2. Copies of the State submittal. Copies of the State submittal is also available for public inspection during official business hours, by appointment at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73101-1677.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on federal rules that are open for comment and have been published in the **Federal Register**.

The E Government Act of 2002 states that to "to the extent practicable" agencies shall accept electronic comments and establish electronic dockets. Also, President Bush's management plan for government includes a government-wide electronic rulemaking system. The first phase of the eRulemaking initiative was the development a federal portal that displays all **Federal Register** notices and proposed rules open for comment. The URL for this site is <http://www.regulations.gov>. The site also provides the public with the ability to submit electronic comments that then can be transferred to the Agency responsible for the rule.

EPA's policy is to make all comments it receives, whether submitted electronically or on paper, available for public viewing at the Regional Office as EPA receives them and without change. However, those portions of a comment that contain properly identified and claimed CBI or other information whose disclosure is restricted by statute will be excluded from the public rulemaking file. The entire comment, including publicly restricted information, will be included in the administrative record for this action.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected

by statute, please follow the instructions in Section I.D, below. Do not use e-mail to submit CBI or information protected by statute.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment, and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the public rulemaking file, and may be made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. E-mail. Comments may be sent by electronic mail (e-mail) to boyce.kenneth@epa.gov, Attention "Public comment on proposed rulemaking R06-OAR-2005-OK-0004". In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. Regulations.gov. As an alternative to email, you may submit comments electronically to EPA by using the federal Web-based portal that displays all **Federal Register** notices and proposed rules open for comment. To use this method, access the Regulations.gov Web site at <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and click on the "Go" button. The list of current EPA actions available for comment will be displayed. Select the appropriate action and please follow the online instructions for submitting comments. Unlike EPA's e-mail system, the Regulations.gov Web site is an

"anonymous" system, which means EPA will not know your identity, e-mail address, or other contact information, unless you provide it in the text of your comment.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.C.2, directly below. These electronic submissions will be accepted in WordPerfect, Word, or ASCII file format. You should avoid the use of special characters and any form of encryption.

2. By Mail. Send your comments to: Kenneth Boyce, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Please include the text "Public comment on proposed rulemaking R06-OAR-2005-OK-0004" in the subject line of the first page of your comments.

3. By Hand Delivery or Courier. Deliver your written comments or comments on a disk or CD ROM to: Kenneth Boyce, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, Attention "Public comment on proposed rulemaking R06-OAR-2005-OK-0004". Such deliveries are only accepted during official hours of business, which are Monday through Friday, 8:30 a.m. to 4 p.m., excluding federal Holidays.

D. How Should I Submit CBI to the Agency?

For comments submitted to the Agency by mail or hand delivery, in either paper or electronic format, you may assert a business confidentiality claim covering confidential business information (CBI) included in your comment by clearly marking any part or all of the information as CBI at the time the comment is submitted to EPA. CBI should be submitted separately, if possible, to facilitate handling by EPA. Submit one complete version of the comment that includes the properly labeled CBI for EPA's official docket and one copy that does not contain the CBI to be included in the public docket. If you submit CBI on a disk or CD ROM, mark on the outside of the disk or the CD ROM that it contains CBI and then identify the CBI within the disk or CD ROM. Also submit a non-CBI version if possible. Information which is properly labeled as CBI and submitted by mail or hand delivered will be disclosed only in accordance with procedures set forth in 40 CFR part 2. For comments submitted by EPA's e-mail system or through

Regulations.gov, no CBI claim may be asserted. Do not submit CBI to Regulations.gov or via EPA's e-mail system. Any claim of CBI will be waived for comments received through Regulations.gov or EPA's e-mail system. For further advice on submitting CBI to the Agency, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

E. Privacy Notice

It is important to note that the comments you provide to EPA will be publicly disclosed in a rulemaking docket or on the internet. The comments are made available for public viewing as EPA receives them and without change. Any personal information you choose to include in your comment will be included in the docket. However, EPA will exclude from the public docket any information labeled confidential business information (CBI), copyrighted material or other information restricted from disclosure by statute.

Comments submitted via Regulations.gov will not collect any personal information, e-mail addresses, or contact information unless they are included in the body of the comment. Comments submitted via Regulations.gov will be submitted anonymously unless you include personal information in the body of the comment. Please be advised that EPA cannot contact you for any necessary clarification if technical difficulties arise unless your contact information is included in the body of comments submitted through Regulations.gov. However, EPA's e-mail system is not an anonymous system. E-mail addresses are automatically captured by EPA's e-mail system and included as part of your comment that is placed in the public rulemaking docket.

F. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

XIII. 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 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 (Pub. L. 104-4).

This rule 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 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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.*).

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**. 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).

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 December 5, 2005. 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, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and

recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: September 19, 2005.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 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 *et seq.*

Subpart LL—Oklahoma

■ 2. Section 62.9100 is amended by adding paragraphs (c)(6) to read as follows:

§ 62.9100 Identification of plan.

* * * * *
(b) * * *
* * * * *

(6) Control of air emissions from existing commercial and industrial solid waste incineration units, submitted by the Oklahoma Department of Environmental Quality on June 29, 2005. (OAC 252:100–17, Part 9).

* * * * *
(c) * * *
* * * * *

(6) Commercial and industrial solid waste incineration units.

■ 3. Subpart LL is amended by adding a new undesignated center heading and new § 62.9190 and new § 62.9191 to read as follows:

Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.9190 Identification of sources.

(a) The plan applies to the following existing commercial and industrial solid waste incineration units:

- (a) A&A Enterprises, Ardmore, Oklahoma.
- (b) Henryetta Pallet Company, Henryetta, Oklahoma.

(c) Oklahoma AAA Pallet Co., Inc., Oklahoma City, Oklahoma.

(d) Simer Pallet Recycling, Inc., Chickasha, Oklahoma.

§ 62.9191 Effective date.

The effective date of this portion of the State’s plan applicable to existing commercial and industrial solid waste incineration units is December 5, 2005.

[FR Doc. 05–19838 Filed 10–3–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[RCRA–2002–0028; FRL–7980–1]

RIN 2050–AE84

Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks Exemptions”)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today’s action, the Environmental Protection Agency is finalizing the addition of benzene and 2-ethoxyethanol to the list of solvents whose mixtures with wastewaters are exempted from the definition of hazardous waste under the Resource Conservation and Recovery Act. The scrubber waters derived-from the combustion of any of the exempted solvents also are included in the exemption. In addition, the Agency is revising the rule by adding an option to allow generators to directly measure solvent chemical levels at the headworks of the wastewater treatment system to determine whether the wastewater mixture is exempt from the definition of hazardous waste. Finally, the Agency is extending the eligibility for the *de minimis* exemption to other listed hazardous wastes (beyond

discarded commercial chemical products) and to non-manufacturing facilities.

DATES: This final rule is effective on November 3, 2005

ADDRESSES: EPA has established a docket for this action under Docket ID No. RCRA–2002–0028. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, 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 EDOCKET or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Lisa Lauer, Hazardous Waste Identification Division, Office of Solid Waste (5304W), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–7418; fax number: 703–308–0514; e-mail address: Lauer.Lisa@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information

Entities potentially affected by this action are generators of industrial hazardous waste, and entities that treat, store, transport and/or dispose of these wastes. The table below is not intended to be exhaustive, but rather provides a guide for readers regarding the types of entities likely to be affected by this action.

LIST OF ECONOMIC SUBSECTORS POTENTIALLY AFFECTED BY THE EXPANSION IN SCOPE OF THE RCRA HAZARDOUS WASTE “HEADWORKS EXEMPTION” FOR INDUSTRIAL WASTEWATER TREATMENT SYSTEMS

Item	Economic subsector or industry identity		Description
	SIC code	NAICS code	
1	02	112	Agricultural production—livestock.
2	20	311	Food & kindred products.
3	22	313	Textile mill products.
4	24	321	Lumber & wood products.
5	25	337	Furniture & fixtures.
6	26	322	Paper & allied products.
7	28	325	Chemicals & allied products.
8	29	324	Petroleum & coal products.
9	30	326	Rubber & miscellaneous plastics products.
10	31	316	Leather & leather products.
11	32	327	Stove, clay, glass & concrete products.