

Dated: April 15, 2003.

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Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MS-200326a; FRL-7497-3]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants: MS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the sections 111(d)/129 plan submitted by the Mississippi Department of Environmental Quality (MDEQ) for the State of Mississippi on August 29, 2002, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) Units that Commenced Construction On or Before November 30, 1999.

DATES: This direct final rule is effective July 11, 2003, unless EPA receives adverse comments by June 11, 2003. If adverse comments are 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: Joydeb Majumder, EPA Region 4, Air Toxics and Monitoring Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104. Copies of materials submitted to EPA may be examined during normal business hours at the above listed Region 4 location. Anyone interested in examining this document should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562-9121 or Heidi LeSane at (404) 562-9035.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2000, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new CISWIs and EG applicable to existing CISWIs. The NSPS and EG are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. Subparts CCCC and DDDD regulate the following: Particulate

matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins and dibenzofurans.

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.

This action approves the State Plan submitted by MDEQ for the State of Mississippi to implement and enforce subpart DDDD, as it applies to existing CISWI units only.

II. Discussion

MDEQ submitted to EPA on August 29, 2002, the following in their 111(d)/129 State Plan for implementing and enforcing the EG for existing CISWIs under their direct jurisdiction in the State of Mississippi: Public Participation-Demonstration that the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend the Public Hearing; Emissions Standards and Compliance Schedules; Emission Inventories, Source Surveillance, and Reports; and Legal Authority.

The approval of the Mississippi State Plan is based on finding that: (1) MDEQ provided adequate public notice of public hearings for the EG for CISWIs, and (2) MDEQ also demonstrated legal authority to adopt emission standards and compliance schedules to designated facilities; authority to enforce applicable laws, regulations, standards, and compliance schedules, and authority to seek injunctive relief; authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require record keeping and to make inspections and conduct tests of designated facilities; and authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State

on the nature and amount of emissions from such facilities.

MDEQ cites the following references for the legal authority: The Mississippi Statutes § 49-2-4. Department of Environmental Quality; executive director; qualification, § 49-2-5. Commission on Environmental Quality, § 49-2-13. Powers and duties of executive director, § 49-17-17. Powers and duties, § 49-17-43 Penalties, and § 49-17-21. Inspections and investigations; access to and maintenance of records; testing and sampling; and monitoring equipment.

An enforcement mechanism is a legal instrument by which the MDEQ can enforce a set of standards and conditions. The MDEQ has adopted 40 CFR 60, Subpart DDDD, into Section 13, APC-S-1, of the Mississippi Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants. Therefore, MDEQ's mechanism for enforcing the standards and conditions of 40 CFR 60, subpart DDDD, is Rule APC-S-1, Section 13. On the basis of these statutes and rules of the State of Mississippi, the State Plan is approved as being at least as protective as the Federal requirements for existing CISWI units.

MDEQ adopted all emission standards and limitations applicable to existing CISWI units. These standards and limitation have been approved as being at least as protective as the Federal requirements contained in subpart DDDD for existing CISWI units.

MDEQ submitted the compliance schedule for CISWIs under their jurisdiction in the State of Mississippi. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing CISWI units.

MDEQ submitted an emissions inventory of all designated pollutants for CISWI units under their jurisdiction in the State of Mississippi. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing CISWI units.

MDEQ includes its legal authority to require owners and operators of designated facilities to maintain records and report to their Agency the nature and amount of emissions and any other information that may be necessary to enable their Agency to judge the compliance status of the facilities in Appendix D of the State Plan. In Appendix D, MDEQ also submits its legal authority to provide for periodic inspection and testing and provisions for making reports of CISWI emissions data, correlated with emission standards that apply, available to the general public.