

Oversight Branch, Coast Guard Activities New York at (718) 354-4191.

Small business may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

The Coast Guard analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, (34)(g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 8 a.m. on February 23, 2004, through 8 p.m. on March 26, 2004, add temporary § 165.T01-097 to read as follows:

§ 165.T01-097 Safety Zone: Paerdegat Basin, Belt Parkway Bridge Repairs, Brooklyn, NY.

(a) *Location.* The following area is a safety zone: All waters of Paerdegat Basin 50-yards upstream and downstream of the Belt Parkway Bridge, Brooklyn, NY.

(b) *Effective Period.* This section is effective between 8 a.m. on February 23, 2004 and 8 p.m. on March 26, 2004.

(c) *Regulations.* (1) The general regulations in 33 CFR 165.23 apply.

(2) At all times, mariners can safely transit into, and out of, Paerdegat Basin when a minimum of one-hour advance notice is given to the onscene vessel operator between 7 a.m. and 3:30 p.m. Monday through Friday. The onscene vessel operator may be reached by way of VHF CH 13. The area will be opened for vessel transits after the working hours of 7 a.m. and 3:30 p.m. and on weekends.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port or the designated onscene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: February 23, 2004.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 04-4648 Filed 3-2-04; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL-7629-6; LA-66-1-7598a]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana; Plan for Controlling Emissions From Existing Commercial and Industrial Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking a direct final action to approve the sections 111(d)/129 State Plan submitted by the Louisiana Department of Environmental Quality (LDEQ) on February 18, 2003. 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 May 3, 2004, without further notice, unless EPA receives adverse comment by April 2, 2004. 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 Supplemental 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 the sections 111(d)/129 State Plan submitted by the Louisiana Department of Environmental Quality (LDEQ) on February 18, 2003. 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

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. 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 Louisiana submitted its sections 111(d)/129 State Plan to EPA for approval on February 18, 2003. The State adopted the EG requirements of 40 CFR part 60, subpart DDDD by incorporation by reference (IBR) into the Louisiana Administrative Code (LAC 33:III.3003.B.6) on October 20, 2002. 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 Louisiana's State Plan?

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

EPA's approval of Louisiana's State Plan is based on our findings that:

(1) LDEQ provided adequate public notice of public hearings for the proposed rulemaking that allows Louisiana to carry out and enforce provisions that are at least as protective as the EGs for CISWIs; and

(2) LDEQ 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 Louisiana Achieve Compliance?

If a CISWI cannot achieve compliance within one year of the effective date of EPA approval of the State Plan, the operator must agree to meet certain increments of progress until it achieves compliance. Section VI of the State Plan details the increments of progress for the affected CISWI. All existing CISWI units in the State of Louisiana must comply with these requirements by December 1, 2005.

XI. What Happens if a CISWI Does Not/ Cannot Meet the Requirements by the Final Compliance Date?

Any existing CISWI that fails to meet the requirements by December 1, 2005, must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements on the date the unit restarts operation.

XII. Final Action

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 April 2, 2004, this action will be effective on May 3, 2004.

If EPA receives significant, material, and adverse comments by the above date, the Agency will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register**. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

XIII. 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 NM-40-2-7445a. 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 Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

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 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 of 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 LA-66-1-7598." 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 email 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 LA-66-1-7598" 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 LA-66-1-7598". 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 the 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 deliver 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. Email 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.

XIV. 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 May 3, 2004. 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: February 13, 2004.

Richard E. Greene,

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 T—Louisiana

■ 2. Section 62.4620 is amended by adding paragraphs (b)(6) and (c)(7) to read as follows:

§ 62.4620 Identification of plan.

* * * * *

(b) * * *

(6) Control of air emissions from existing commercial and industrial solid waste incineration units, submitted by the Louisiana Department of Environmental Quality on February 18, 2003 (LAC 33:III.3003.B.6).

* * * * *

(c) * * *

(7) Commercial and industrial solid waste incineration units.

■ 3. Subpart T is amended by adding a new undesignated center heading and a new §§ 62.4670 and 62.4671 to read as follows: Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.4670 Identification of sources.

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

- (a) BASF Corporation, Geismar, Louisiana.
- (b) DSM Copolymer, Baton Rouge, Louisiana.
- (c) LA Skid & Pallet Co., Baton Rouge, Louisiana.
- (d) Shell Chemicals, Norco, Louisiana.

§ 62.4671 Effective date.

The effective date of this portion of the State's plan applicable to existing commercial and industrial solid waste incineration units is May 3, 2004.

[FR Doc. 04-4622 Filed 3-2-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2003-0403; FRL-7343-9]

Yeast Extract Hydrolysate from *Saccharomyces cerevisiae*; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide Yeast Extract Hydrolysate from *Saccharomyces cerevisiae* on all food commodities when applied/used for the management of plant diseases. Morse Enterprises, Limited, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of Yeast Extract Hydrolysate from *Saccharomyces cerevisiae*.

DATES: This regulation is effective March 3, 2004. Objections and requests for hearings, identified by docket ID number OPP-2003-0403, must be received on or before May 3, 2004.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Diana M. Horne, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8367; e-mail address: horne.diana@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0403. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=694b82a50366afdfc121f3c76cc00405&c=ecfr&tpl=/ecfrbrowse/Title40/40cfrv21_02.tpl, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of August 6, 2003 (68 FR 46613) (FRL-7316-8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e), as amended by FQPA (Public Law 104-170), announcing the filing of a pesticide tolerance petition (2E6383) by Morse Enterprises, Limited, Inc., Brickell East Floor Ten, 151 South East 15 Road, Miami, Florida. This notice included a summary of the petition prepared by the petitioner Morse Enterprises. One commenter requested information on the identity and mechanism of action of the active ingredient, which is provided and/or addressed in this rule.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of Yeast Extract Hydrolysate from *Saccharomyces cerevisiae*.

III. Risk Assessment

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(c)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other