

information, as such amount has been adjusted to account for inflation pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

§ 4071.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: ERISA and PBGC.

§ 4071.3 Penalty amount.

The maximum daily amount of the penalty under section 4071 of ERISA shall be \$1,100.

12. A new subchapter K consisting of part 4302 is added to read as follows:

Subchapter K—Multiemployer Enforcement Provisions

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEmployer PLAN NOTICES

Sec.

4302.1 Purpose and scope.

4302.2 Definitions.

4302.3 Penalty amount.

Authority: 28 U.S.C. 2461 note, as amended by sec. 31001(s)(1), Pub.L. 104-134, 110 Stat. 1321-373; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.1 Purpose and scope.

This part specifies the maximum daily amount of penalties for which a person may be liable to the PBGC under ERISA section 4302 for certain failures to provide multiemployer plan notices, as such amount has been adjusted to account for inflation pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

§ 4302.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: ERISA, multiemployer plan, and PBGC.

§ 4302.3 Penalty amount.

The maximum daily amount of the penalty under section 4302 of ERISA shall be \$110.

Issued in Washington, DC, this 3rd day of July, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97-18078 Filed 7-9-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

RIN 1010-AB92

Surety Bonds for Outer Continental Shelf Leases; Correction

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a notice of final rulemaking concerning surety bond provisions of Minerals Management Service (MMS). MMS published the final rule in the **Federal Register** of May 22, 1997.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, Engineering and Operating Division, at (703) 787-1607.

Correction

This document corrects the final rule published on May 22, 1997 (62 FR 27948). On page 27956 in the sixth line of the amendatory language number 11, "paragraph (e), (f), and (g)" should read "paragraphs (e) and (f)."

Dated: June 27, 1997.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 97-18058 Filed 7-6-97; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket# OR-1-0001; FRL-5852-3]

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

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves the Sections 111(d)/129 State Plan submitted by Oregon on December 31, 1996, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) with capacity to combust more than 250 tons/day of municipal solid waste (MSW). See 40 CFR part 60, subpart Cb.

DATES: This action is effective on September 8, 1997 unless significant, material, and adverse comments are received by August 11, 1997. If significant, material, and adverse

comments are received by the above date, this direct final rule will be withdrawn, and timely notice will be published in the **Federal Register**.

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

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of materials submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and at Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204.

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

SUPPLEMENTARY INFORMATION:

I. Background

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

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

Under section 129 of the Act, emission guidelines are not federally enforceable. Section 129(b)(2) of the Act requires States to submit to the EPA for approval State Plans that implement and enforce the emission guidelines. State Plans must be at least as protective

as the emission guidelines, and become federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under Section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. See 60 FR 65414.

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

II. Discussion

The Oregon Department of Environmental Quality (ODEQ) submitted to EPA the following in their 111(d)/129 State Plan for implementing and enforcing the emission guidelines for existing MWCs in the State: Emission Standards and Limitations; Compliance Schedule; Emission Inventory; Source Surveillance, Compliance Assurance and Enforcement; and applicable State regulations (OAR 340-025-0557, and OAR 340-025-0950 through 1010) on December 31, 1996. ODEQ submitted its plan before the Court of Appeals vacated subpart Cb as it applies to small MWC units. Thus, ODEQ's plan covers both large and small MWC units. As a result of the Davis decision and subsequent vacatur order, there are no emission guidelines promulgated under sections 111 and 129 that apply to small MWC units. Accordingly, EPA's review and approval of ODEQ's State Plan for MWCs addresses only those parts of ODEQ's Plan which affect large MWC units. Small units are not subject to the requirements of the Federal Rule and not part of this approval. Until EPA again promulgates emission guidelines for small MWC units, EPA has no authority under section 129(b)(2) of the Act to review and approve State Plans applying state rules to small MWC units.

The approval of ODEQ's State Plan is based on finding that: (1) ODEQ provided adequate public notice of public hearings for the proposed rulemaking which allows Oregon to implement and enforce the EG for large MWCs, and (2) ODEQ also 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.

In Attachment 3a of the State Plan, ODEQ cites all emission standards and limitations for the major pollutant categories related to the designated sites and facilities. These standards and limitations are approved as being at least as protective as the Federal requirements contained in subpart Cb for existing large MWC units.

ODEQ also submitted Oregon Administrative Rule (OAR) 340-025-0110, which includes a compliance schedule and legally enforceable increments of progress for each large MWC. The State Rule has been reviewed and approved as being at least as protective as Federal requirements for existing large MWC units.

Oregon's Plan includes its legal authority to require owners and operators of designated facilities to maintain records and report to the State the nature and amount of emissions and the compliance status of the facilities. Oregon also cites its legal authority to provide periodic inspection and testing, as necessary. OAR 340-025-1000 was submitted as evidence of Oregon's authority to require public disclosure of MWC emissions data. Oregon submitted the following State rules to support the requirements of monitoring, reporting, and compliance assurance: OAR 340-025-0970, Operating Practices; OAR 340-025-0980, Operator Training and Certification; and OAR 340-025-0990, Monitoring and Testing. All of these State rules have been reviewed and approved as meeting Federal requirements for existing large MWC units.

All measures and other elements in the State Plan must be enforceable by ODEQ and EPA. (See Sections 111(d), 129 and 40 CFR part 60.) During EPA's review of a previous State Implementation Plan revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because a five-day advance notice provision required by Oregon Revised Statute (ORS) 468.126(1) (1991) can bar civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority the State must demonstrate to obtain State Plan submittal, as specified in Section 111(d) of the Clean Air Act and 40 CFR part 60. Accordingly, the requirement to provide such notice

would preclude Federal approval of the State Plan.

However, following EPA notification to Oregon, the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify the State's program from Federal approval or delegation. ODEQ responded to EPA's interpretation of the application of 468.126(2)(e) and agreed that, if Federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of the State Plan requirements. Because the five-day notice provision in ORS 468.126 could preclude enforcement of the State Plan in some instances, application of the notice provision would preclude approval of the State MWC Plan. Accordingly, pursuant to ORS 468.126(2)(e), the five-day notice will not be required for permit violations of the State Plan.

As stated in Attachment 6 of the State Plan, Oregon plans to provide progress of plan updates on a semi-annual basis as well as provide progress in the required annual report pursuant to 40 CFR 51.321. This meets the minimum requirement for State reporting, and this is approved.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA has included a parallel proposal to approve the ODEQ State Plan. If no significant, material, and adverse comments are received by August 11, 1997, this action will be effective September 8, 1997.

If the EPA receives significant, material, and adverse comments by the above date, this action will be withdrawn before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. All public comments received will be addressed in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. The 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. If no such comments are received, the public is advised that this action will be effective September 8, 1997.

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Pursuant to section 605(b) of the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This Federal action approves pre-existing requirements under federal, State or local law, and imposes no new requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more

to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. 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 September 8, 1997. 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), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Municipal Waste Combustors, Reporting and recordkeeping requirements.

Dated: June 24, 1997.

Chuck Clarke,
Regional Administrator.

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. 7401-7642.

Subpart MM—Oregon

2. Part 62.9350 is amended by adding paragraphs (b)(4) and (c)(4) to read as follows:

§ 62.9350 Identification of plan.

* * * * *

(b)* * *

(4) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing municipal waste combustors was submitted by Oregon Department of Environmental Quality on December 31, 1996.

(c)* * *

(4) Existing municipal waste combustors.

3. Subpart MM is amended by adding a new § 62.9505 and a new undesignated heading to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions Frp, Existing Municipal Waste Combustors With the Capacity to Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.9505 Identification of sources.

The plan applies to existing facilities at the following municipal waste combustor sites:

(a) Ogden Martin Systems, Marion County, Oregon.

(b) Coos County, Coos Bay, Oregon.

[FR Doc. 97-18082 Filed 7-9-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5854-9]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Middletown Air Field site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Middletown Air Field Superfund site in Middletown, Pennsylvania from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Pennsylvania have determined that all appropriate Fund-financed responses under CERCLA have been implemented