

INA 101(a)(27)(I) or (L) must appear for the final visa interview and issuance of the immigrant visa within six months of establishing entitlement to status.

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Dated: December 12, 1998.

Donna J. Hamilton,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 98-32758 Filed 12-10-98; 8:45 am]

BILLING CODE 4710-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket# ME-057-01-7006a; FRL-6201-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; Plan for Controlling MWC Emissions From Existing MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves the sections 111(d)/129 State Plan submitted by the Maine Department of Environmental Protection on April 15, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW). See 40 CFR part 60, subpart Cb.

DATES: This direct final rule is effective on February 9, 1999 without further notice unless EPA receives adverse comment by January 11, 1999. If adverse comment is received by the above date, 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: Written comments should be addressed to: John Courcier, Office of Ecosystem Protection (CAP), U.S. EPA-New England, Region 1, JFK Federal Building, Boston, Massachusetts 02203-2211.

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, DC 20460. Copies of materials submitted to EPA relative to this action may be examined during normal business hours at the following locations. The interested persons wanting to examine these documents should make an

appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency-New England, Region 1, Air Permits Unit, Office of Ecosystem Protection, 11th floor, One Congress Street, Boston, Massachusetts 02203.

Maine Department of Environmental Protection, Bureau of Air Quality, Ray Building, Hospital Street, Augusta, Maine 04333.

FOR FURTHER INFORMATION CONTACT: John Courcier at (617) 565-9462.

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 dioxin 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 its 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 Maine to implement and enforce subpart Cb, as it applies to large MWC units only.

II. Discussion

The Maine Department of Environmental Protection (DEP) submitted to EPA on April 15, 1998 the following sections 111(d)/129 State Plan components for implementing and enforcing the emission guidelines for existing MWCs in the State: Legal Authority; Emission Standards and Limitations; Compliance Schedule; MWC Emissions and MWC Plant/Unit Inventories; Procedures for Testing and Monitoring Sources of Air Pollutants; Source Surveillance, Compliance Assurance and Enforcement; Demonstration That the Public Had Adequate Notice and Opportunity to Submit Written Comments and Public Hearing Summary; and applicable State regulations (DEP regulations Chapter 121). DEP submitted its Plan after the Court of Appeals vacated subpart Cb as it applies to small MWC units. Thus, the Maine State Plan covers only large MWC units. Small units are not subject to the requirements of subpart Cb and not subject to this approval.

The approval of DEP's State Plan is based on EPA's finding that: (1) DEP provided adequate public notice of public hearings for the proposed rulemaking which allows Maine to implement and enforce provisions that are at least as protective as the EG for large MWCs, and (2) DEP 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 record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In section 1.1 and appendix D of Maine's Plan, the DEP cites the following in support of its demonstration of legal authority: State of Maine Attorney General's Demonstration of the Legal Authority to Implement and Enforce MWC NSPS and Emissions Guidelines; Attorney General's Legal Opinion to Operate the Title V Operating Permit Program; 38 MRSA section 344; 38 MRSA section 585, Establishment of Emission Standards; 38 MRSA section 585-B, Hazardous Air Pollutant Standards; 38 MRSA section 590, Licensing. In

appendix A of the State Plan, DEP cites all emission standards and limitations for the major pollutant categories related to the designated sites and facilities. These standards are in DEP's Air Bureau Regulations Chapter 121, Emission Limitation and Emission Testing of Resource Recovery Facilities. On the basis of the Attorney General's Opinion and Demonstration, the statutes, and the rules of the State of Maine, these standards and limitations under Chapter 121 are approved as being at least as protective as the Federal requirements contained in subpart Cb for existing large MWC units.

In its State Plan and Chapter 121 MWC Regulations, DEP established a compliance schedule and legally enforceable increments of progress for each large MWC. This portion of the State Plan and Rule has been reviewed and approved as being at least as protective as Federal requirements for existing large MWC units.

In section 1.4 of Maine's Plan, the DEP submitted an emissions inventory of all designated pollutants for each of its three large MWCs. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing large MWC units.

In section 1.7, Maine's Plan describes 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 any other information that may be necessary to enable the State to judge the compliance status of the affected facilities in section 1.3 of the Plan. Maine also cites its legal authority to provide periodic inspection and testing and provisions for making reports of MWC emissions data, correlated with applicable emission standards, available to the general public. Maine incorporated by reference into Chapter 121 the testing, monitoring, reporting and record keeping requirements under 40 CFR part 60. All of these State rules have been reviewed and approved as being at least as protective as the Federal requirements for existing large MWC units.

As stated in section 1.9 of the State Plan, Maine is committed to provide annual progress reports of Plan implementation. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B and appendix D. This portion of the Plan has been reviewed and approved as meeting the minimum Federal requirement for State Plan reporting.

Final Action

EPA is approving the above referenced State Plan. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If no significant, material, and adverse comments are received by January 11, 1999, this action will be effective February 9, 1999.

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 February 9, 1999.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

To reduce the burden of Federal regulations on States and small governments, the President issued E. O. 12875 on October 26, 1993, entitled "Enhancing the Intergovernmental Partnership." Under E. O. 12875, EPA is required to consult with representatives of affected State, local, and tribal governments, and keep these affected parties informed about the content and effect of the promulgated standards and emission guidelines.

In developing the MWC emission guidelines and standards, EPA consulted with affected State, local, and tribal governments, and kept those parties informed about the MWC standards and guidelines. EPA prepared a written statement pursuant to E. O. 12875 which it published in the 1995 promulgation notice (see 60 FR 65412 to 65413). The EPA has determined that this State Plan does not include any new Federal mandates or additional

Federal requirements beyond those previously considered during promulgation of the 1995 MWC guidelines. Therefore, E.O. 12875 does not require further consultation or information. To the extent that the State Plan contains requirements that differ from, but that are at least as protective as, the Federal MWC guidelines, EPA notes that it has consulted with State government representatives during the State's development of the Plan, and that affected local and tribal governments have been provided with information and afforded opportunities to comment through Maine's public hearing and comment procedures.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E. O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal

governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. 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.

State Plan approvals under section 111(d) and section 129(b)(2) of the Clean Air Act do not create any new requirements on any entity affected by this rule, including small entities. They simply approve requirements that the state is already imposing. Furthermore, in developing the MWC emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1995 promulgation notice (see 60 FR 65413). In accordance with EPA's determination in issuing the 1995 MWC emission guidelines, this State Plan does not include any new requirements that will have a significant economic impact on a substantial number of small entities. Therefore, because the Federal 111(d) Plan approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. 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.

In developing the MWC emission guidelines and standards, EPA prepared a written statement pursuant to section 202 of the Unfunded Mandates Act which it published in the 1995 promulgation notice (see 60 FR 65405 to 65412). The EPA has determined that this State Plan does not include any new Federal mandates above those previously considered during promulgation of the 1995 MWC guidelines. The State Plan does include an emission limitation for mercury that in some circumstances will be more stringent than the limit required by the EG. However, that limit is not the result of a Federal mandate. In approving the State Plan, EPA is approving pre-existing requirements under State law and imposing no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from EPA's approval of State Plan provisions that may be more stringent than the EG requirements, nor will EPA's approval of the State Plan significantly or uniquely affect small governments. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as amended 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).

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and

business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

In approving or disapproving state plans under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Furthermore, Maine's Plan incorporates by reference test methods and sampling procedures for existing MWC units already established by the emissions guidelines for MWCs at 40 CFR part 60, subpart Cb, and does not establish new technical standards for MWCs. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. 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 February 11, 1999. 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)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

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

Dated: November 24, 1998.

John P. DeVillars,

Regional Administrator, Region 1.

40 CFR Part 62 of the Code of Federal Regulations 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 U—Maine

2. Part 62.4845 is amended by adding paragraphs (b)(4) and (c)(3) to read as follows:

§ 62.4845 Identification of plan.

* * * * *

(b) * * *

(4) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing municipal waste combustors, submitted on April 15, 1998.

(c) * * *

(3) Existing municipal waste combustors.

3. Part 62 is amended by adding a new § 62.4975 and a new undesignated center heading to Subpart U to read as follows:

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

§ 62.4975 Identification of sources.

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

(a) Penobscot Energy Recovery Company, Orrington, Maine.

(b) Maine Energy Recovery Company, Biddeford, Maine.

(c) Regional Waste Systems, Inc., Portland, Maine.

[FR Doc. 98-32986 Filed 12-10-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6201-2]

RIN 2060-A104

National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; compliance extension.

SUMMARY: On December 2, 1994, the EPA issued the "National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning" (59 FR 61801). On May 5, 1998, the EPA announced an immediate 3-month stay of the effectiveness of that standard for continuous web cleaning machines using halogenated hazardous air

pollutant (HAP) solvents for good cause pursuant to section 553(b)(3)(B) of the Administrative Procedures Act (63 FR 24768). In that same document, the EPA proposed a temporary extension of the applicable compliance date beyond the 3 months of the stay for up to 1 year to complete analysis of equivalent methods of control for continuous web cleaning machines using halogenated HAP solvents.

This document promulgates that compliance extension, and for reasons discussed in this notice, extends the compliance extension until December 2, 1999. This document also discusses the three comment letters received on the May 5, 1998 proposal notice.

DATES: The regulation is effective on December 11, 1998.

ADDRESSES: *Docket.* Interested parties may review items used to support this notice at: Air and Radiation Docket and Information Center (6102), Attention, Docket No. A-92-39, U.S.

Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For information concerning the standards and the proposed changes, contact Mr. Paul Almodóvar, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541-0283. For information regarding the applicability of this action to a particular entity, contact Ms. Tracy Back, Manufacturing Branch, Office of Compliance (2223A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 564-7076.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are owners or operators of individual continuous web cleaning machines using any solvent containing methylene chloride, perchloroethylene, trichloroethylene, 1,1,1 trichloroethane, carbon tetrachloride, or chloroform, or any combination of these halogenated HAP solvents in a concentration greater than 5 percent by weight, as a cleaning or drying agent.

Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities engaging in cleaning operations using halogenated solvent cleaning machines.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that the EPA is now aware potentially could be

regulated by this action. Other types of entities not listed in the table also could be regulated. To determine whether your facility [company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in § 63.460 of the national emission standards for hazardous air pollutants (NESHAP) for halogenated solvent cleaning operations that was promulgated in the **Federal Register** on December 2, 1994 (59 FR 61801) and codified at 40 CFR part 63, subpart T. If you have questions regarding the applicability of this action to a particular entity, consult Mrs. Tracy Back at the address listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The information presented below is organized as follows:

- I. Background
- II. Comments Received on Proposed Compliance Changes and EPA Response to Comments
- III. Administrative Requirements
 - A. Docket
 - B. Paperwork Reduction Act
 - C. Executive Order 12866 Review
 - D. Regulatory Flexibility/Small Business Regulatory Enforcement Fairness Act of 1996
 - E. Submission to Congress and the General Accounting Office
 - F. Unfunded Mandates Reform Act
 - G. National Technology Transfer and Advancement Act
 - H. Executive Order 12875: Enhancing the Intergovernmental Partnership
 - I. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - J. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

I. Background

On December 2, 1994 (59 FR 61801), the EPA promulgated the NESHAP for halogenated solvent cleaning operations. These standards were codified as subpart T in 40 CFR part 63. These standards established equipment and work practice standards for individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machines using any solvent containing methylene chloride, perchloroethylene, trichloroethylene, 1,1,1 trichloroethane, carbon tetrachloride, or chloroform, or any combination of these halogenated HAP solvents in a concentration greater than 5 percent by weight, as a cleaning or drying agent.

Under § 63.469 of the halogenated solvent cleaning NESHAP, the Administrator may approve the use of equipment or procedures that have been demonstrated to be equivalent in terms of reducing emissions of methylene