

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 60**

[AD-FRL-5880-3]

RIN 2016-AD04

**Emission Guidelines for Existing Sources and Standards of Performance for New Stationary Sources: Large Municipal Waste Combustion Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act, EPA promulgated emission guidelines applicable to existing municipal waste combustor (MWC) units and new source performance standards applicable to new MWC units. The guidelines and standards are codified at 40 CFR Part 60, subparts Cb and Eb, respectively. See 60 FR 65387. 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 the capacity to combust less than or equal to 250 tons per day of municipal solid waste (MSW), and all cement kilns combusting MSW, 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 Cb and Eb apply only to MWC units with the capacity to combust more than 250 tons per day of MSW per unit (large MWC units).

This notice proposes to amend the guidelines and the standards for MWC units to make them consistent with the *Davis* decision and subsequent court vacatur order. The guidelines and standards proposed for amendment have remained in effect for large MWC units since December 19, 1995 because the court did not vacate or stay the rules as they apply to these units. They will remain in effect during proposal and promulgation of these amendments.

The amended guidelines and standards would result in the 1995 rule being applicable only to MWC units with the capacity to combust greater than 250 tons per day of MSW per unit. In this document, these units are referred to as large MWC units or large MWC's.

The proposed amendments would affect the applicability of the guidelines and standards, and add supplemental emission limits for four pollutants

(hydrogen chloride, sulfur dioxide, nitrogen oxides, and lead) to the guidelines. The proposed amendments would not add any additional emission limits to the standards.

The 1995 guidelines and standards applied to MWC units at plants greater than 35 megagrams per day combustion capacity (approximately 39 tons per day). Because the proposed amendments would restrict coverage of the 1995 guidelines and standards to only MWC units with combustion capacities greater than 250 tons per day consistent with the *Davis* decision, and because no petitions to review the 1995 rules as they applied to large MWC units were filed, the Agency does not anticipate receiving adverse comments. Consequently, in this issue of the **Federal Register**, a companion direct final rule is being published. If no significant material adverse comments are received on this proposal by the date specified below, no further action will be taken with respect to this proposal and the direct final rule will become final. The regulatory text for this proposal is the same as the regulatory text for the companion direct final rule which can be found in the final rules section of this **Federal Register**.

**DATES:** Comments must be received on or before September 24, 1997. Additionally, a hearing will be convened if requests to speak are received by September 9, 1997. If requests to speak are received, the hearing will take place on September 16, 1997 beginning at 10:00 a.m. A message regarding the status of the public hearing may be accessed by calling (919) 541-5264.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC-6102), Attention Docket Number A-90-45/Section VIII-D, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Note that this is a different docket section number than that specified for comments on the technical amendments included elsewhere in a notice in today's **Federal Register**. Refer to **SUPPLEMENTARY INFORMATION** for information regarding electronic submittal of comments.

*Public Hearing.* If a public hearing is held, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby. Persons interested in presenting oral testimony should notify Ms. Donna Collins, Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North

Carolina 27711, telephone (919) 541-5578. The final meeting status and location can be determined by calling (919) 541-5264.

*Docket.* Docket Nos. A-90-45 and A-89-08, containing supporting information for this rulemaking, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (Mail Code 6102), 401 M Street, SW, Washington, DC 20460, or by calling (202) 260-7548. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor, central mall). A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walter Stevenson at (919) 541-5264, Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** If no significant material adverse comments are received on these proposed amendments by the specified date, no further activity is contemplated in relation to this proposal, and the companion direct final rule (see the final rules section of this **Federal Register**) will automatically become effective on the date specified therein. If significant material adverse comments are received on this proposal, the companion direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposal. Any parties interested in commenting should do so during this comment period.

The regulatory text for this proposal is being published with the companion direct final rule and is incorporated by reference herein. In the regulatory text, the effective dates and the compliance dates are keyed to the promulgation date for both the guidelines and the standards. In the regulatory text of the guidelines, the State plan submittal dates and required final compliance dates are also dependent upon the promulgation date of these amendments. Therefore, if EPA were to withdraw the direct final rule as a result of comments on this proposal, the aforementioned dates would be revised to reflect the subsequent final promulgation date.

For further supplementary information, the detailed rationale, and the specific amendments being proposed, see the information provided in the companion direct final rule in the

direct final rules section of this issue of the **Federal Register**.

### Electronic Submittal of Comments

Comments and data may be submitted in hard copy or electronically. Electronic submittals should be sent to A-and-R-Docket@epamail.epa.gov. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Comments and data will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All comments and data for this proposal, whether in paper form or in electronic forms such as through e-mail or on disk, must be identified by the docket number A-90-45/Section VIII-D.

### Executive Order 12866 Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The EPA considered the 1995 guidelines and standards to be significant and the rules were reviewed by OMB in 1995 (see 60 FR 65405). The amendments proposed today would not result in any additional control requirements and this regulatory action is considered "not significant" under Executive Order 12866.

### Unfunded Mandates Act

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 statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector will be \$100 million or more in any 1 year. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. An unfunded mandates statement was prepared and published in the 1995 promulgation notice (see 60 FR 65405 to 65412).

The EPA has determined that the proposed amendments do not include any new Federal mandates. Therefore, the requirements of the Unfunded Mandates Act do not apply to this proposed rule.

### Regulatory Flexibility Act (RFA)

Section 605 of the RFA requires Federal agencies to give special consideration to the impacts of

regulations on small entities, which are small businesses, small organizations, and small governments. During the 1995 rulemaking, EPA estimated that few, if any, small entities would be affected by the promulgated guidelines and standards and, therefore, a regulatory flexibility analysis was not required (see 60 FR 65413). The rules as amended today would not establish any new requirements; therefore, pursuant to the provisions of 5 U.S.C. 605(b), EPA certifies that the amendments to the guidelines and standards will not have a significant impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

### List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Dated: August 15, 1997.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 97-22371 Filed 8-22-97; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-175; RM-9138]

### Radio Broadcasting Services; Presho, SD

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by West Wind Broadcasting proposing the allotment of Channel 262A at Presho, South Dakota, as the community's first local aural transmission service. Channel 262A can be allotted to Presho in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 262A at Presho are North Latitude 43-54-24 and West Longitude 100-03-36.

**DATES:** Comments must be filed on or before October 6, 1997, and reply comments on or before October 21, 1997.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr., President, West Wind Broadcasting, c/o

Magic City Media, 1912 Capitol Avenue, Suite 300, Cheyenne, Wyoming 82001(Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-175, adopted August 6, 1997, and released August 15, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 97-22406 Filed 8-22-97; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 48 CFR Parts 810, 811, 812, 836, 852 and 870

RIN 2900-AI05

### VA Acquisition Regulations: Commercial Items

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the acquisition of commercial items. It is proposed to amend VAAR provisions to conform to