Subpart F—California

3. Section 52.220 is amended by adding paragraphs (c)(205) introductory text, (c)(205)(i) introductory text, (c)(205)(i)(B)(*2*), (c)(207)(i)(B)(*5*), (c)(207)(i)(E)(*2*), (c)(207)(i)(F), (c)(207)(i)(G), (c)(207)(i)(H), (c)(207)(i)(I), (c)(210)(i)(F), (c)(210)(i)(G), (c)(210)(i)(H), (c)(215)(i)(E), (c)(220)(i)(D), (c)(221)(i)(B), (c)(224)(i)(B)(*2*), (c)(231)(i)(C) and (c)(259) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(205) New and amended plans for the following APCDs were submitted on December 28, 1994, by the Governor's designee.

(i) Incorporation by reference.

* * * * *

(B) * * *

(*2*) Federal General Conformity Regulation, adopted on September 7, 1994.

* * * * *

(207) * * *

(i) * * *

(B) * * *

(*5*) Rule 502, adopted on November 8, 1994.

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(E) * * *

(*2*) Appendix G General Conformity, adopted on October 19, 1994.

(F) Great Basin Unified Air Pollution Control District.

(*1*) Regulation XIII, adopted on October 5, 1994.

(G) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 9110, adopted on October 20, 1994.

(H) Santa Barbara County Air Pollution Control District.

(*1*) Rule 702, adopted on October 20, 1994.

(I) South Coast Air Quality Management District.

(*1*) Rule 1901, adopted on September 9, 1994.

* * * * *

(210) * * *

(i) * * *

(F) Feather River Air Quality Management District.

(*1*) Rule 10.4, adopted on November 7, 1994.

(G) Placer County Air Pollution Control District.

(*1*) Rule 508, adopted on November 3, 1994.

(H) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 104, adopted on November 3, 1994.

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(215) * * *

(i) * * *

(E) Imperial County Air Pollution Control District.

(*1*) Rule 925, adopted on November 29, 1994.

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(220) * * *

(i) * * *

(D) San Diego County Air Pollution Control District.

(*1*) Rule 1501, adopted on March 7, 1995.

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(221) * * *

(i) * * *

(B) Butte County Air Quality Management District.

(*1*) Rule 1103, adopted on February 16, 1995.

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(224) * * *

(i) * * *

(B) * * *

(*2*) Rule 220, adopted on May 9, 1995.

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(231) * * *

(i) * * *

(C) Mojave Desert Air Quality Management District.

(*1*) Rule 2002, adopted on October 26, 1994.

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(259) New and amended regulations for the following APCDs were submitted on December 3, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Yolo-Solano Air Quality Management District.

(*1*) Rule 10.3, adopted on February 8, 1995.

* * * * *

[FR Doc. 99–9996 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MD056–3022a; FRL–6330–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions From Large Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the municipal waste combustor (MWC) 111(d)/129 plan submitted by the Air and Radiation Management Administration, Maryland Department of the Environment, on December 4, 1997, and as amended on October 7, 1998. The plan was submitted to fulfill requirements of the Clean Air Act (CAA), and EPA emission guidelines (EG) applicable to existing MWC facilities with a unit combustor capacity of more than 250 tons per day (TPD) of municipal solid waste. An existing MWC unit is defined as one for which construction has commenced on or before September 20, 1994.

DATES: This direct final rule is effective on June 22, 1999, without further notice, unless the EPA receives adverse comment by May 24, 1999. If adverse comment is received, the 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: Comments may be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania; and the Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: James B. Topsale at (215) 814–2190, or by e-mail at topsale.jim@epamail.gov. While information may be obtained via e-mail, any comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111(d) of the CAA requires that ''designated'' pollutants controlled 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. Also, section 129 of the CAA specifically addresses solid waste combustion. It requires EPA to establish emission guidelines (EG) for MWC units and requires states to develop state plans for implementing the promulgated EG. The part 60, subpart Cb, EG for MWC units differ from other EG adopted in the past because the rule addresses both sections 111(d) and 129 CAA requirements. Section 129 requirements override certain related aspects of section 111(d).

On December 19, 1995, pursuant to sections 111 and 129 of the CAA, EPA promulgated new source performance standards (NSPS) applicable to new MWCs (i.e., those for which construction was commenced after September 20, 1994) 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 MWC emissions. Emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides).

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 per day (TPD) of municipal solid waste (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 were amended to apply only to MWC units with the capacity to combust more than 250 TPD of MSW per unit (i.e., large MWC units). The amended requirements of the EG and NSPS were published in the **Federal Register** on August 25, 1997. *See* 62 FR 45119 and 45124 for the EG amendments.

Section 129(b)(2) of the CAA requires States to submit to EPA for approval State plans that implement and enforce the EG. State plans must be ''at least as protective'' as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated the subpart B provisions on November 17, 1975. However, EPA amended subpart B on December 19, 1995, to allow the source specific subparts (e.g., subpart Cb) developed under section 129 to include requirements 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.

As required by section 129(b)(3) of the CAA, on November 12, 1998 EPA promulgated a Federal Implementation Plan (FIP) for large MWCs for which construction was commenced on or before September 20, 1994. The FIP is a set of emissions limits, compliance schedules, and other requirements that implement the MWC EG, as amended. The FIP is applicable to those large existing MWC not specifically covered by an approved State plan under sections 111(d) and 129 of the CAA. It fills a Federal enforceability gap until State plans are approved and ensures that the MWC units stay on track to complete pollution control equipment retrofit schedules to meet the final statutory compliance date of December 19, 2000. However, the FIP no longer applies once a State plan is approved. An approved State plan is a State plan that EPA has reviewed and approved based upon the requirements of 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cb. *See* 63 FR 63192.

As noted above, emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides). These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead and mercury can bioaccumulate in the environment. Acid gases contribute to the acid rain that lowers the pH of surface waters and watersheds, harms forests, and damages buildings. In addition, nitrogen oxides emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

II. Review of Maryland's MWC Plan

EPA has reviewed the Maryland 111(d)/129 plan for existing large MWC units in the context of the requirements of 40 CFR part 60, and subparts B and Cb, as amended. A summary of that review is provided below.

A. Identification of Enforceable State Mechanism for Implementing the EG

The regulation at 40 CFR 60.24(a) requires that the section 111(d) plan include emissions standards, defined in 40 CFR 60.21(f) as '' a legally enforceable regulation setting forth an allowable rate of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.'' The State of Maryland through the MDE, has adopted State regulations to control MWC emissions. The applicable Code of Maryland Regulations (COMAR) for large MWC is found at COMAR 26.11.08, Control of Incinerators. The applicable portion of the regulation relating to large MWC was adopted on October 24, 1997, and became effective on November 17, 1997. COMAR 26.11.08 amendments were adopted on August 18, 1998 and became effective on September 7, 1998. The MDE has met the requirements of 40 CFR 60.24(a) to have a legally enforceable emission standard.

B. Demonstration of Legal Authority

Title 40 CFR 60.26 requires the 111(d) plan to demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules. The MDE has demonstrated that it has the legal authority to adopt and implement the emission standards governing MWC emissions. MDE's legal authority is derived from Title 2 of the Environment Article, Annotated Code of Maryland, sections 2–103(b) and 2–301. Furthermore, Maryland has submitted and EPA has approved previous Maryland 111(d) plans for other designated facilities that demonstrate the required legal authority. This meets the requirements of 40 CFR 60.26.

C. Inventory of MWCs in Maryland Affected by the EG

Title 40 CFR 60.25(a) requires the 111(d) plan to include a complete source inventory of all existing large MWCs (i.e., unit capacity greater than 250 TPD). The MDE has identified three (3) facilities with individual MWC units having combustion capacities greater than 250 TPD. The first facility, the Baltimore Resco plant has a total capacity of 2,250 TPD, consisting of three 750 TPD units each with emissions controlled by an electrostatic precipitator. The second facility, the Ogden Martin Systems of Montgomery County plant, has a total capacity of 1,800 TPD, consisting of three 600 TPD units each with emissions controlled by dry lime furnace injection and post combustion scrubbers for acid gases; ammonia injection for nitrogen oxides; carbon injection for mercury and dioxins; and baghouses for particulate matter and metals. The third facility, the Pulaski Highway MWC plant, has a total capacity of 1,500 TPD; however, this plant was shut down on September 15, 1995.

D. Inventory of Emissions From MWC in Maryland

Title 40 CFR 60.25(a) requires that the plan include an emissions inventory that estimates emissions of the pollutant regulated by the EG. Emissions from MWCs contain organics (dioxin/furans), metals (cadmium, lead, mercury, particulate matter, opacity), and acid gases (hydrogen chloride, sulphur dioxide, and nitrogen oxides). For each MWC plant, the MDE plan contains information on estimated MWC emission rates in pounds per hour and tons per year based on stack test data and continuous emission monitoring data. This meets the emission inventory requirements of 40 CFR 60.25(a).

E. Emission Limitations for MWCs

Title 40 CFR 60.24(c) specifies that the State plan must include emission standards that are no less stringent than the EG, except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met. However, this exception clause is superseded by section 129(b)(2) of the CAA which requires that state plans be ''at least as protective'' as the EG. Title 40 CFR 60.33b of the EG contains the emissions limitations applicable to existing large MWCs. The MDE MWC regulation meets the emission limitation requirements by specifying emission limitations that are consistent and ''at least as protective'' as those in the EG, as amended.

F. Compliance Schedules

A state section 111(d) plan must include a compliance schedule that owners and operators of affected MWCs must meet in complying with the requirements of the plan. Any proposed revision to a compliance schedule is subject to the requirements of subpart B 60.28, Plan revisions by the State. Title 40 CFR 60.39b of the EG provides that planning, awarding of contracts, and installation of air emission collection and control equipment capable of meeting the EG requirements must be accomplished within 3 years of EPA plan approval, but in no case later than December 19, 2000. As a result of the *Davis County* litigation, noted above, compliance with supplemental EG emissions limits for lead, sulfur dioxide, hydrogen chloride, and nitrogen oxides could extend until August 26, 2002, or 3 years after EPA approval of the 111(d)/129 plan, whichever is earlier. However, section 129(f)(2) of the CAA states that requirements promulgated pursuant to sections 111 and 129 must be effective ''as expeditiously as practicable after approval of a State plan.'' Title 40 CFR 60.39b(c)(1) provides that any compliance schedule, extending more than 1 year beyond the date of EPA plan approval, must include measurable and enforceable increments of progress. The minimum increments of progress are specified in 40 CFR 60.21(h); they include deadlines for submitting a final control plan, awarding of contracts for emission control systems, initiating of on-site construction or installation of emission control equipment, completing of on-site construction/installation of emission control equipment, and final compliance. In addition, 60.39b(c)(5) requires that all large MWCs for which construction was commenced after June 26, 1987 must meet the mercury and dioxins/furans emissions limitations within one year following issuance of a revised construction or operating permit, if a permit modification is required, or within one year following EPA approval of the State plan, whichever is later.

The MDE has determined that source compliance with the EG emissions limits, including the supplemental limits, requires compliance no later than December 19, 2000. For any large MWC for which construction commenced after June 26, 1987, the MDE regulation requires compliance with all applicable emission standards and requirements on or before January 1, 1999. The MDE MWC regulation establishes interim and final compliance dates, as required by subpart B 60.21(h)(1), and subpart Cb 60.39b.

H. Testing, Monitoring, Recordkeeping, and Reporting Requirements

The EG at 40 CFR 60.38b and 60.39b cross reference applicable MWC NSPS (subpart Eb) requirements relating to performance testing, monitoring, reporting and recordkeeping requirements that State plans must include. The MDE regulation meets the requirements of 40 CFR 60.38b and 60.39b.

I. A Record of Public Hearing on the State Plan

The public hearings on the applicable portions of the MDE MWC regulation, COMAR 26.11.08, were held September 17, 1997 and July 22, 1998. The applicable portions of the regulation became effective November 17, 1997. The subsequent regulation amendments for large MWCs became effective on September 7, 1998. The State provided evidence of complying with public notice and other hearing requirements, including a record of public comments received. The 40 CFR 60.23 requirement for a public hearing on the 111(d)/129 plan has been met by the MDE.

J. Provision for Annual State Progress Reports to EPA

The MDE will submit to EPA on an annual basis a report which details the progress in the enforcement of the MWC 111(d)/129 plan in accordance with 40 CFR 60.25. The first progress report will be submitted to EPA one year after approval of Maryland's MWC 111(d)/129 plan.

III. Final Action

Based upon the rationale discussed above and in further detail in the technical support document (TSD) associated with this action, EPA is approving the Maryland MWC 111(d)/129 plan for the control of MWC emissions from affected facilities. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. Providing the Pulaski MWC facility remains closed, it is not subject to the COMAR 26.11.08 emission limitations, operator training, and compliance schedule requirements under the 111(d)/129 plan. As provided by 40 CFR 60.28(c), any revisions to Maryland's MWC 111(d)/129 plan or associated regulations will not be considered part of the applicable plan until submitted by the State of Maryland in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 111(d)/129 plan should relevant adverse or critical comments be filed. This rule will be effective June 22, 1999 without further notice unless the Agency receives relevant adverse comments by May 24, 1999. If EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this section should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.'' Because today's rule does not create a mandate on state, local or tribal governments, it does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental

health or safety risk that would have a disproportionate effect on children. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule. Under the Regulatory Flexibility Act (RFA), because the Federal 111(d) approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

B. Submission to Congress and the General Accounting Office

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 this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 1999. Filing a petition for reconsideration by the Administrator of this final rule pertaining to the State of Maryland MWC 111(d)/129 plan 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, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: April 15, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR Part 62, Subpart V, is amended as follows:

PART 62—[AMENDED]

Subpart V—Maryland

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. A new center heading, and §§ 62.5110, 62.5111, and 62.5112 are added to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With a Unit Capacity Greater Than 250 Tons Per Day

§ 62.5110 Identification of plan.

111(d)/129 plan for municipal waste combustors (MWCs) with a unit capacity greater than 250 tons per day (TPD) and the associated Code of Maryland Regulation (COMAR 26.11.08), as submitted by the Air and Radiation Management Administration, Maryland Department of the Environment, on December 4, 1997, and as amended on October 7, 1998.

§ 62.5111 Identification of sources.

The plan applies to all existing MWC facilities with a MWC unit capacity greater than 250 TPD of municipal solid waste.

§ 62.5112 Effective date.

The effective date of the 111(d)/129 plan is June 22, 1999.

[FR Doc. 99–10229 Filed 4–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[A–1–FRL–6325–3]

Authorization To Implement Section 111 and 112 Standards; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the mechanism that will allow EPA to authorize the State of Connecticut to implement and enforce specific national emission standards for hazardous air pollutants for source categories (NESHAPs) and new source performance standards (NSPS) under the Clean Air Act. This authority will be limited to only facilities that have obtained a Clean Air Act Title V operating permit under Connecticut's approved program.

EFFECTIVE DATE: This rule will become effective on May 24, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl at (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 1996 (61 FR 64651), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed approval under section 112(l)(5) of the Clean Air Act (CAA, 42 U.S.C. 7401 *et seq.*) and 40 CFR 63.91 of Connecticut's mechanism for receiving authorization to implement section 112 standards for part 70 sources that are unchanged from the federal standards as promulgated. Section 112 of the CAA provides for the control of air toxics emissions through the issuance of federal National Emission Standards for Hazardous Air Pollutants. EPA's approval was contingent on Connecticut making an amendment to its authority for enforcing federal standards. The state made the necessary changes to its statute. See section 22(a)–174(c), as amended by Public Act 97–124 section 4. The legislation, a copy of which can be found in the docket, became effective on October 1, 1997. The NPR also proposed using the same mechanism to authorize state implementation of future NSPS standards that are unchanged from 40 CFR part 60. The authorization mechanism does not cover sources which do not obtain a Title V permit.

Section 112(l) of the Clean Air Act, as inserted by the 1990 CAA amendments, authorizes EPA to approve state or local air pollution control agencies to implement and enforce the standards set out in 40 CFR parts 61 and 63, National Emission Standards for Hazardous Air