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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[AD-FRL-6603-5]

RIN 2060-ZA03

### Federal Plan Requirements for Large Municipal Waste Combustors Constructed On or Before September 20, 1994

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action on the "Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994." The amendments in this document clarify the final compliance date, update the list of which large municipal waste combustor (MWC) units are affected by the Federal plan, and add a site-specific compliance schedule for one MWC unit.

On November 12, 1998, the EPA adopted the Federal plan to implement emission guidelines for large MWC units located in areas that are not covered by an approved and currently effective State plan. We are updating the MWC Federal plan to identify large MWC units for which a State plan was approved and became effective since adoption of the Federal plan (November 12, 1998). We are also amending certain regulations to reflect receipt of negative declarations from States that have certified that there are no large MWC units located in the State that would be subject to the Federal plan. We are also amending a table in the Federal plan to clarify that in all cases for all large MWC units, final compliance with all emission limits including the mercury (Hg) and dioxins/furans emission limits must be achieved by December 19, 2000. Finally, we are amending a table to add

the site-specific compliance schedule for one additional MWC unit. Today's action does not change the emission limits for large MWC units nor does it change the level of health protection that the Federal plan provides.

**DATES:** These amendments to part 62 are effective on July 24, 2000, without further notice unless we receive significant material adverse comments by June 23, 2000. If we receive such comments, we will publish, on or before this rule's effective date, a document in the **Federal Register** withdrawing this direct final rule and informing the public that this direct final rule will not take effect.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC-6102), Attn: Docket No. A-97-45/Category V-D, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Comments may also be submitted electronically. For information on submitting comments electronically, see the **SUPPLEMENTARY INFORMATION** section. Address all comments and data for this action, whether on paper or in electronic form, such as through e-mail or disk, to Docket No. A-97-45/Category V-D.

**FOR FURTHER INFORMATION CONTACT:** For procedural and implementation information regarding these amendments, contact Ms. Julie Andresen McClintock at (919) 541-5339, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For State-specific information regarding the implementation of this Federal plan, contact the appropriate Regional Office (table 1) as shown in **SUPPLEMENTARY INFORMATION:**

*Docket.* Docket No. A-97-45 contains information considered by EPA in developing the MWC Federal plan and this action. You can inspect the docket and copy materials from 8 a.m. to 5:30 p.m., Monday through Friday, excluding

legal holidays. The docket is located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW., Washington, DC 20460; telephone (202) 260-7548 or fax (202) 260-4400. A reasonable fee may be charged for copying.

**SUPPLEMENTARY INFORMATION:** We are publishing these amendments without prior proposal because we view these amendments as noncontroversial and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to these amendments if adverse comments are filed. These amendments will be effective on July 24, 2000, without further notice unless we receive adverse comment on the parallel proposal by June 23, 2000. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** informing the public that these amendments will not take effect. We will address all public comments in a subsequent final amendment package based on the proposed amendments. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no comments are received, the public is advised that these amendments will be effective on July 24, 2000, and no further action will be taken on these amendments.

### Regulated Entities

Entities regulated by this action are existing MWC units with the capacity to combust greater than 250 tons per day of municipal solid waste (MSW) (large MWC units) unless the unit is subject to a section 111(d)/129 State plan that has been approved by EPA and is currently in effect. Regulated categories and entities include the following North American Industrial Classification System (NAICS) codes and Standard Industrial Classification System (SIC) codes.

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry and local government agencies.	562213 92411	4953 9511	Waste-to-energy plants that generate electricity or steam from the combustion of garbage by feeding municipal waste into large furnaces. Incinerators that combust trash but do not recover energy from the waste.

The foregoing table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the MWC Federal plan. For specific applicability

criteria, see 40 CFR 62.14100 and 62.14102.

### Electronic Submittal of Comments

Comments may be submitted electronically. Send electronic submittals to: "A-and-R-Docket@epamail.epa.gov". Submit

electronic comments in American Standard Code for Information Interchange (ASCII) format. Avoid the use of special characters and any form of encryption. Electronic comments on the proposed amendments to the Federal plan may be filed online at any Federal Depository Library. Comments

and data will also be accepted on disks in WordPerfect® version 5.1 or 6.1 file format (or ASCII file format). Address all comments and data for the proposal, whether on paper or in electronic form, such as through e-mail or disk, to Docket No. A-97-45/ Category V-D.

**Regional Office Contacts**

For information regarding the implementation of the MWC Federal plan, contact the appropriate EPA Regional Office as shown in table 1. This table has been updated since published on November 12, 1998 (63 FR 63193).

TABLE 1.—EPA REGIONAL CONTACTS FOR MUNICIPAL WASTE COMBUSTORS

Regional contact	Phone No.	Fax No.
John Courcier, U.S. EPA, Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 1 Congress Street, Suite 1100 (CAP) Boston, MA 02114-2023	(617) 918-1659	(617) 918-1505
Kirk Wieber	(212) 637-3381	(212) 637-3901
Argie Cirillo	(212) 637-3203	
Craig Flamm	(212) 637-4021	
U.S. EPA, Region II (New Jersey, New York, Puerto Rico, Virgin Islands), 290 Broadway, New York, NY 10007-1866		
James B. Topsale, U.S. EPA/3AP22, Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), 1650 Arch Street, Philadelphia, PA 19103-2029	(215) 814-2190	(215) 814-2114
Scott Davis, U.S. EPA/APTMD, Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303	(404) 562-9127	(404) 562-9095
Douglas Aburano (MN)	(312) 353-6960	(312) 886-5824
Mark Palermo (IL, IN, OH)	(312) 886-6082	
Charles Hatten (MI, WI)	(312) 886-6031	
U.S. EPA/AT18J, Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 77 W. Jackson Blvd., Chicago, IL 60604		
Mick Cote, U.S. EPA, Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 1445 Ross Ave., Suite 1200, Dallas, TX 75202-2733	(214) 665-7219	(214) 665-7263
Wayne Kaiser, U.S. EPA, Region VII (Iowa, Kansas, Missouri, Nebraska), 726 Minnesota Ave., Kansas City, KS 66101	(913) 551-7603	(913) 551-7065
Mike Owens, U.S. EPA, Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 999 18th Street, Suite 500, Denver, CO 80202-2466	(303) 312-6440	(303) 312-6064
Patricia Bowlin, U.S. EPA/Air 4, Region IX (American Samoa, Arizona, California, Guam, Hawaii, Northern Mariana Islands, Nevada), 75 Hawthorne Street, San Francisco, CA 94105	(415) 744-1188	(415) 744-1076
Catherine Woo, U.S. EPA, Region X (Alaska, Idaho, Oregon, Washington), 1200 Sixth Ave., Seattle, WA 98101	(206) 553-1814	(206) 553-0110

**Outline**

The information presented in this preamble is organized as follows:

- I. Amendments to Part 62—Negative Declarations
- II. Amendments to Part 62, Subpart FFF
  - A. Amendment to Table 1
  - B. Amendment to Table 5
  - C. Amendment to Table 6
  - D. Amendment to Table 6
- III. Administrative Requirements
  - A. Docket
  - B. Paperwork Reduction Act
  - C. Executive Order 12866—Regulatory Planning and Review
  - D. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments
  - E. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act
  - F. Unfunded Mandates Reform Act of 1995
  - G. Congressional Review Act
  - H. National Technology Transfer and Advancement Act
  - I. Executive Order 13045—Protection of Children from Environmental Health Risks and Safety Risks
  - J. Executive Order 13132—Federalism

**I. Amendments to Part 62—Negative Declarations**

We are amending part 62 to reflect the receipt of negative declaration letters. A negative declaration letter is a letter from a State authority certifying that there are no designated facilities (MWC units with a capacity to combust greater than 250 tons per day of municipal solid waste) in the State. The negative declaration letter is submitted in lieu of a State plan. We are documenting the receipt of negative declarations by amending 40 CFR part 62, subparts C (Alaska), D (Arizona), E (Arkansas), G (Colorado), I (Delaware), J (District of Columbia), N (Idaho), S (Kentucky), T (Louisiana), Z (Mississippi), BB (Montana), DD (Nevada), GG (New Mexico), JJ (North Dakota), NN (Pennsylvania), QQ (South Dakota), SS (Texas), TT (Utah), XX (West Virginia), YY (Wisconsin), ZZ (Wyoming), BBB (Puerto Rico), and CCC (Virgin Islands).

**II. Amendments to Part 62, Subpart FFF**

We published in the **Federal Register** of November 12, 1998 (63 FR 63191) the final rule establishing a Federal plan to

implement emission guidelines for large MWC units located in areas not covered by an approved and currently effective State plan. We are making the following technical amendments and updates to the MWC Federal plan.

*A. Amendments to Table 1*

We are amending table 1 of subpart FFF (40 CFR part 62) to add MWC units for which a State plan was approved and became effective since the final MWC Federal plan was published in November 1998. MWC units covered by the State plans for Alabama, Maine, Maryland, Oklahoma, Pennsylvania and Washington are added to table 1 of subpart FFF.

*B. Amendment to Table 5*

We are amending table 5 of subpart FFF (40 CFR part 62) by adding footnote e to clarify that in all cases for all large MWC units, final compliance with all emission limits including the mercury and dioxins/furans emission limits must be achieved no later than December 19, 2000. This footnote was inadvertently omitted from the final MWC Federal

plan. The addition of this footnote makes table 5 consistent with the requirements of the Clean Air Act, the emission guidelines, and tables 4 and 6 of subpart FFF. Sections 129(b)(2) and (3) of the Clean Air Act require State and Federal plans to ensure that each unit subject to the emission guidelines is in compliance with all requirements of the guidelines not later than 5 years after the guidelines are promulgated. Section 60.39b(d) of the emission guidelines requires each unit subject to the emission guidelines to be in compliance with the mercury and dioxins/furans emission limits no later than 5 years after promulgation of the guidelines. The emission guidelines, which are implemented by either the Federal or a State plan, were promulgated on December 19, 1995, making the final compliance date for mercury and dioxins/furans for all large MWC units December 19, 2000. The emission guidelines require that the owner or operator of an affected facility that began construction, modification or reconstruction after June 26, 1987 achieve final compliance with the mercury and dioxins/furans emission limits within 1 year after promulgation of subpart FFF (*i.e.*, by November 12, 1999) or 1 year after permit issuance.

#### C. Amendment to Table 6

We are amending table 6 of subpart FFF (40 CFR part 62) by adding footnote c to clarify that the owner or operator of an affected facility that began construction, modification, or reconstruction after June 26, 1987 must achieve final compliance with the mercury and dioxins/furans emission limits within 1 year after promulgation of subpart FFF (*i.e.*, by November 12, 1999) or 1 year after permit issuance. Permit issuance is issuance of a revised construction permit or revised operating permit, if a permit modification is required to retrofit controls. Consistent with § 60.39b(c)(5), we included the provision pertaining to permit modification in the Federal plan in recognition of the fact that some owners or operators of affected facilities would need to obtain a permit modification before they could retrofit controls. We never intended for this accommodation to be construed as relieving an owner or operator of the obligation to be in compliance with all emission limits by no later than 5 years after promulgation of the emission guidelines (*i.e.*, December 19, 2000). The addition of this footnote makes table 6 consistent with table 5 of subpart FFF and the emission guidelines. The emission guidelines (§ 60.39b(c)(5)) require MWC units that commenced construction,

reconstruction, or modification after June 26, 1987 to achieve compliance with the mercury and dioxins/furans emission limits within 1 year after State plan approval (or permit modification).

The footnote also clarifies that in all cases for all large MWC units, final compliance must be achieved no later than December 19, 2000. (See explanation in Section II.B above.) This footnote was not originally included in the final MWC Federal plan. The addition of this footnote makes it clear that table 6 is consistent with the requirements of the Clean Air Act and the emission guidelines. Sections 129(b)(2) and (3) of the Clean Air Act require State and Federal plans to ensure that each unit subject to the emission guidelines is in compliance with all requirements of the guidelines not later than 5 years after the guidelines are promulgated. Section 60.39b(d) of the emission guidelines requires each unit subject to the emission guidelines to be in compliance with the mercury and dioxins/furans emission limits no later than 5 years after promulgation of the guidelines (*i.e.*, by December 19, 2000).

#### D. Amendment to Table 6

We are amending table 6 of subpart FFF (40 CFR part 62) by adding a site-specific compliance schedule and increments of progress for unit 3A at the New Hanover County Waste-to-Energy Conversion facility in Wilmington, North Carolina. Unit 3A at the New Hanover County MWC facility had not been identified as a large MWC unit (capacity greater than 250 tpd) when subpart FFF was promulgated in November 1998. Prior to November 1998, the State of North Carolina submitted a negative declaration letter to certify that there were no large MWC units in North Carolina. Subsequently, the State obtained new information and notified EPA that it believed that Unit 3A at the New Hanover County MWC facility might be a large MWC unit and thus subject to subpart FFF. We confirmed that Unit 3A at the New Hanover County MWC facility is a large unit, and thus subject to subpart FFF. The negative declaration letter is, therefore, no longer applicable. Unit 3A is larger than 250 tons per day (tpd) and is covered by subpart FFF.

Due to the confusion over the size of Unit 3A, the owner/operator of the New Hanover County MWC did not have the opportunity to submit a site-specific compliance schedule. In developing the promulgated Federal plan, EPA provided the owner or operator of a large MWC unit the opportunity to submit a site-specific compliance

schedule. Unit 3A at the New Hanover County MWC facility is already equipped with an air pollution control system incorporating a spray dryer/fabric filter, and selective noncatalytic reduction. Subpart FFF will only require the addition of carbon injection (or some other mechanism for meeting the applicable dioxins/furans and mercury emission limits), upgrading the continuous emissions monitoring system, and other less extensive changes. For these reasons, we determined that it was appropriate to allow the owner/operator of the New Hanover County MWC facility to submit a site-specific schedule for Unit 3A. The owner/operator of the New Hanover County MWC facility has since submitted such a schedule and we are amending table 6 to add that site-specific schedule for unit 3A. The site-specific compliance schedule achieves final compliance with all applicable requirements no later than December 19, 2000, the same date as required for all other MWC units subject to subpart FFF.

### III. Administrative Requirements

#### A. Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public to identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (see 42 U.S.C. 7607(d)(7)(A)). Docket numbers A-89-08 and A-90-45 contain the supporting information for the December 19, 1995 emission guidelines. Because the MWC Federal plan implements the emission guidelines, these dockets also contain the supporting information for the MWC Federal plan. Public comments received on the MWC Federal plan are included in docket number A-97-45.

#### B. Paperwork Reduction Act

The information collection requirements in the MWC Federal plan have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1847.01) and a copy may be obtained from Sandy Farmer by mail at

the U.S. Environmental Protection Agency; Office of Environmental Information, Collection Strategies Division (2822); 1200 Pennsylvania Avenue, NW, Washington, DC 20460; by e-mail at "farmer.sandy@epa.gov", or by calling (202) 260-2740. A copy may also be downloaded off the internet at "http://www.epa.gov/icr". OMB approved ICR 1847.01 in December 1998 and the OMB approval number is #20600390.

Today's direct final rule will have no effect on the estimates of the information collection burden. The technical changes clarify requirements and do not impose additional requirements. Therefore, we have not revised the ICR.

#### *C. Executive Order 12866—Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Today's direct final rule includes only minor amendments. Therefore, we have determined that this action is not significant and OMB has waived review. OMB determined that the promulgated Federal plan was "not significant" under Executive Order 12866. The promulgated Federal plan simply implements the 1995 MWC emission guidelines (as amended in 1997) and does not result in any additional control requirements or impose any additional costs above those previously considered during promulgation of the 1995 MWC emission guidelines. The EPA considered the 1995 emission guidelines and standards to be significant and the rules were reviewed by OMB in 1995 (see 60 FR 65405).

#### *D. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly 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 or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials 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 direct final rule does not significantly or uniquely affect the communities of Indian tribal governments. The Federal plan adopted on November 12, 1998 does not significantly or uniquely affect communities of Indian tribal governments. We believe that no large MWC units are located in Indian country. In addition, we have determined that the promulgated Federal plan does not include any new Federal mandates or additional requirements above those previously considered during promulgation of the 1995 MWC emission guidelines. (See the discussion above on Executive Order 12875 in this section.) Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this direct final rule.

#### *E. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996*

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires EPA to prepare a regulatory flexibility analysis of any rule subject to notice and comment under the Administrative Procedure Act or any other statute unless EPA certifies that the rule will

not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business in this industry with a gross annual revenue less than \$6 million; (2) a small governmental jurisdiction that is a government of a city, county, town school district or special district or a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and not dominant in its field.

Today's action is not subject to the requirements of the RFA as modified by SBREFA because it only makes minor technical amendments to some of the rule's requirements and it does not impose any additional requirements. During the 1995 MWC emission guidelines 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 EPA has concluded that these amendments to the MWC Federal plan will not have a significant impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

#### *F. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least

burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this direct final rule 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 in any 1 year. Therefore, the requirements of sections 202 and 205 of the UMRA do not apply to this action. The EPA has likewise determined that today's amendments to the rule do not include regulatory requirements that would significantly or uniquely affect small governments. Thus, today's action is not subject to the requirements of section 203 of the UMRA.

#### G. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA 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. The EPA will submit a report containing this rule, its amendments, and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective July 24, 2000.

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

Today's action does not amend or modify technical standards, therefore, the requirements of the NTTAA do not apply.

#### I. Executive Order 13045—Protection of Children and Environmental Health Risks and Safety Risks

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) for which the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, EPA 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 EPA.

Today's action is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. Further, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the order has the potential to influence the regulation. This rule is based on technology performance and not on health or safety risks.

#### J. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This direct final rule does not have Federalism implications. It will 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. This direct final rule clarifies the final compliance date, updates the status of which MWC units are affected by the Federal plan, and adds a site-specific compliance schedule for one MWC unit. These amendments would primarily affect private industry, and do not impose significant economic costs on State or local governments.

Although section 6 of Executive Order 13132 does not apply to these proposed amendments, EPA consulted with representatives of State and local governments during development of the Federal plan to enable them to provide meaningful and timely input (see 63 FR 63201, November 12, 1998).

**List of Subjects in 40 CFR Part 62**

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

Dated: May 2, 2000.

**Carol M. Browner,**  
*Administrator.*

Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

Authority: 42 U.S.C. 7401–7671 *et seq.*

**Subpart C—Alaska**

2. Amend subpart C by adding an undesignated center heading and § 62.354 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.354 Identification of plan—negative declaration.**

Letter from the Department of Environmental Conservation submitted June 30, 1997 certifying that there are no existing municipal waste combustor units in the State of Alaska that are subject to part 60, subpart Cb, of this chapter.

**Subpart D—Arizona**

3. Amend subpart D by adding an undesignated center heading, and adding § 62.620 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.620 Identification of plan—negative declaration.**

Letter from the Department of Environmental Quality submitted June 7, 1996 certifying that there are no existing municipal waste combustor units in the State of Arizona that are subject to part 60, subpart Cb, of this chapter.

**Subpart E—Arkansas**

4. Amend subpart E by adding an undesignated center heading and adding § 62.875 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.875 Identification of plan—negative declaration.**

Letter from the Department of Pollution Control and Ecology

submitted July 1, 1997 certifying that there are no existing municipal waste combustor units in the State of Arkansas that are subject to part 60, subpart Cb, of this chapter.

5. Amend subpart G by adding a title, adding an undesignated center heading, and adding § 62.1370 to read as follows:

**Subpart G—Colorado**

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.1370 Identification of plan—negative declaration.**

Letter from the Department of Public Health and Environment submitted July 30, 1996 certifying that there are no existing municipal waste combustor units in the State of Colorado that are subject to part 60, subpart Cb, of this chapter.

**Subpart I—Delaware**

6. Amend subpart I by adding an undesignated center heading and adding § 62.1960 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.1960 Identification of plan—negative declaration.**

Letter from the Department of Natural Resources and Environmental Control submitted March 26, 1996 certifying that there are no existing municipal waste combustor units in the State of Delaware that are subject to part 60, subpart Cb, of this chapter.

**Subpart J—District of Columbia**

7. Amend subpart J by adding an undesignated center heading and adding § 62.2130 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.2130 Identification of plan—negative declaration.**

Letter from the Department of Consumer and Regulatory Affairs submitted July 6, 1992 certifying that there are no existing municipal waste combustor units in the District of Columbia that are subject to part 60, subpart Cb, of this chapter.

**Subpart N—Idaho**

8. Amend subpart N by adding an undesignated center heading and adding § 62.3130 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.3130 Identification of plan—negative declaration.**

Letter from the Department of Health and Welfare submitted October 28, 1996 certifying that there are no existing municipal waste combustor units in the State of Idaho that are subject to part 60, subpart Cb, of this chapter.

**Subpart S—Kentucky**

9. Amend subpart S by adding an undesignated center heading and adding § 62.4370 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.4370 Identification of plan—negative declaration.**

Letter from the Department for Environmental Protection submitted December 18, 1996 certifying that there are no existing municipal waste combustor units in the State of Kentucky that are subject to part 60, subpart Cb, of this chapter.

**Subpart T—Louisiana**

10. Amend subpart T by adding an undesignated center heading and adding § 62.4650 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.4650 Identification of plan—negative declaration.**

Letter From the Department of Environmental Quality submitted May 21, 1996 certifying that there are no existing municipal waste combustor units in the State of Louisiana that are subject to part 60, subpart Cb, of this chapter.

**Subpart Z—Mississippi**

11. Amend subpart Z by adding § 62.6125 to read as follows:

**§ 62.6125 Identification of plan—negative declaration.**

Letter from the Department of Environmental Quality submitted September 24, 1997 certifying that there are no existing municipal waste combustor units in the State of Mississippi that are subject to part 60, subpart Cb, of this chapter.

**Subpart BB—Montana**

12. Amend subpart BB by adding an undesignated center heading, and adding § 62.6620 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.6620 Identification of plan—negative declaration.**

Letter from the Department of Environmental Quality submitted June 3, 1997 certifying that there are no existing municipal waste combustor units in the State of Montana that are subject to part 60, subpart Cb, of this chapter.

**Subpart DD—Nevada**

13. Amend subpart DD by adding an undesignated center heading, and adding § 62.7120 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.7120 Identification of plan—negative declaration.**

Letter from the Nevada Division of Environmental Protection submitted March 26, 1997 certifying that there are no existing municipal waste combustor units in the State of Nevada that are subject to part 60, subpart Cb, of this chapter.

14. Amend subpart GG by adding an undesignated center heading and adding § 62.7857 to read as follows:

**Subpart GG—New Mexico****Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.7857 Identification of plan—negative declaration.**

Letter from the Environment Department submitted January 10, 1997 certifying that there are no existing municipal waste combustor units in the State of New Mexico that are subject to part 60, subpart Cb, of this chapter.

**Subpart JJ—North Dakota**

15. Amend subpart JJ by adding an undesignated center heading and adding § 62.8620 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.8620 Identification of plan—negative declaration.**

Letter from the Department of Health submitted May 1, 1996 certifying that there are no existing municipal waste combustor units in the State of North Dakota that are subject to part 60, subpart Cb, of this chapter.

**Subpart NN—Pennsylvania**

16. Amend subpart NN by adding an undesignated center heading and adding § 62.9643 and 62.9644 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.9643 Identification of plan—negative declaration.**

Letter from the Allegheny County Health Department submitted March 14, 1996 certifying that there are no existing municipal waste combustor units in Allegheny County that are subject to part 60, subpart Cb, of this chapter.

**§ 62.9644 Identification of plan—negative declaration.**

Letter from the City of Philadelphia Department of Public Health submitted February 14, 1997 certifying that there are no existing municipal waste combustor units in the City of Philadelphia that are subject to part 60, subpart Cb, of this chapter.

**Subpart QQ—South Dakota**

17. Amend subpart QQ by adding an undesignated center heading, and adding § 62.10370 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.10370 Identification of plan—negative declaration.**

Letter from the Department of Environment and Natural Resources submitted June 20, 1997 certifying that there are no existing municipal waste combustor units in the State of South Dakota that are subject to part 60, subpart Cb, of this chapter.

**Subpart SS—Texas**

18. Amend subpart SS by adding an undesignated center heading and adding § 62.10890 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.10890 Identification of plan—negative declaration.**

Letter from the Texas Natural Resource Conservation Commission submitted May 13, 1997 certifying that there are no existing municipal waste combustor units in the State of Texas that are subject to part 60, subpart Cb, of this chapter.

**Subpart TT—Utah**

19. Amend subpart TT by adding an undesignated center heading and adding § 62.11130 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.11130 Identification of plan—negative declaration.**

Letter from the Department of Environmental Quality submitted June 16, 1997 certifying that there are no existing municipal waste combustor units in the State of Utah that are subject to part 60, subpart Cb, of this chapter.

**Subpart XX—West Virginia**

20. Amend subpart XX by adding an undesignated center heading and adding § 62.12110 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.12110 Identification of plan—negative declaration.**

Letter from the Division of Environmental Protection submitted March 11, 1996 certifying that there are no existing municipal waste combustor units in the State of West Virginia that are subject to part 60, subpart Cb, of this chapter.

**Subpart YY—Wisconsin**

21. Amend subpart YY by adding an undesignated center heading and adding § 62.12360 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste****§ 62.12360 Identification of plan—negative declaration.**

Letter from the Department of Natural Resources submitted September 26, 1997 certifying that there are no existing

municipal waste combustor units in the State of Wisconsin that are subject to part 60, subpart Cb, of this chapter.

**Subpart ZZ—Wyoming**

22. Amend subpart ZZ by adding an undesignated center heading and adding § 62.12620 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.12620 Identification of plan—negative declaration.**

Letter from the Department of Environmental Quality submitted October 29, 1996 certifying that there are no existing municipal waste combustor units in the State of

Wyoming that are subject to part 60, subpart Cb, of this chapter.

**Subpart BBB—Puerto Rico**

23. Amend subpart BBB by adding an undesignated center heading and adding § 62.13104 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.13104 Identification of plan—negative declaration.**

Letter from the Office of the Governor submitted December 12, 1996 certifying that there are no existing municipal waste combustor units in the Territory of Puerto Rico that are subject to part 60, subpart Cb, of this chapter.

**Subpart CCC—Virgin Islands**

24. Amend subpart CCC by adding an undesignated center heading and adding § 62.13354 to read as follows:

**Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons Per Day of Municipal Solid Waste**

**§ 62.13354 Identification of plan—negative declaration.**

Letter from the Department of Planning and Natural Resources submitted September 29, 1997 certifying that there are no existing municipal waste combustor units in the Territory of Virgin Islands that are subject to part 60, subpart Cb, of this chapter.

25. Amend table 1 of subpart FFF by adding the following five entries in alphabetical order.

TABLE 1 OF SUBPART FFF—MUNICIPAL WASTE COMBUSTOR UNITS (MWC UNITS) EXCLUDED FROM SUBPART FFF<sup>1</sup>

State	MWC units
Alabama .....	Existing facilities with an MWC unit capacity greater than 250 tons per day of municipal solid waste at the following MWC sites: (a) Solid Waste Disposal Authority of the City of Huntsville, Alabama.
*	* * * * *
Maine .....	Existing facilities with an MWC unit capacity greater than 250 tons per day of municipal solid waste at the following MWC sites: (a) Penobscot Energy Recovery Company, Orrington, Maine. (b) Maine Energy Recovery Company, Biddeford, Maine. (c) Regional Waste Systems, Inc., Portland, Maine.
Maryland .....	Existing MWC facilities with an MWC unit capacity greater than 250 tons per day of municipal solid waste.
*	* * * * *
Oklahoma .....	Existing MWC facilities with an MWC unit capacity greater than 250 tons per day of municipal solid waste at the following MWC site: Ogden-Martin Systems of Tulsa, Incorporated, 2122 South Yukon Avenue, Tulsa, Oklahoma.
*	* * * * *
Pennsylvania .....	Existing MWC facilities with an MWC unit capacity greater than 250 tons per day of municipal solid waste at the following MWC site: (a) American Ref-fuel of Delaware Valley, LP (formerly Delaware County Resource Recovery facility), City of Chester, PA. (b) Harrisburg Materials, Energy, Recycling and Recovery Facility, City of Harrisburg, PA. (c) Lancaster County Solid Waste Management Authority, Conoy Township, Lancaster County, PA. (d) Montenay Montgomery Limited Partnership, Plymouth Township, Montgomery County, PA. (e) Wheelabrator Falls, Inc., Falls Township, Bucks County, PA. (f) York County Solid Waste and Refuse Authority, York, PA.
*	* * * * *

Notwithstanding the exclusions in table 1 of this subpart, this subpart applies to affected facilities not regulated by an EPA-approved and currently effective State or Tribal plan.

26. Amend table 5 of subpart FFF by revising entry number 1 “Emission limits for Hg, dioxins/furans” to read as follows:

TABLE 5 OF SUBPART FFF—GENERIC COMPLIANCE SCHEDULES AND INCREMENTS OF PROGRESS (POST-1987 MWCs) <sup>a, b</sup>

Affected facilities	Increment 1 Submit final control plan	Increment 2 Award contracts	Increment 3 Begin on-site construction	Increment 4 Complete on- site construction	Increment 5 Final compliance
Affected facilities that commenced construction, modification, or reconstruction after June 26, 1987					
1. Emission limits for Hg, dioxin/furan.	NA <sup>c</sup>	NA <sup>c</sup>	NA <sup>c</sup>	NA <sup>c</sup>	11/12/99 or 1 year after permit issuance <sup>d, e</sup>
*	*	*	*	*	*

<sup>a</sup> Table 4 or 5 of this subpart applies to MWC units subject to the Federal plan except those with site-specific compliance schedules shown in table 6 of this subpart.

<sup>b</sup> As an alternative to this schedule, the unit may close by December 19, 2000, complete retrofit while closed, and achieve final compliance upon restarting. See §§ 62.14108(c), 62.14108(d), and 62.14109(i) of this subpart.

<sup>c</sup> Because final compliance is achieved in 1 year, no increments of progress are required.

<sup>d</sup> Permit issuance is issuance of a revised construction permit or revised operating permit, if a permit modification is required to retrofit controls.

<sup>e</sup> Final compliance must be achieved no later than December 19, 2000, even if the date "1 year after permit issuance" exceeds December 19, 2000.

27. Amend table 6 of subpart FFF by revising the table headings, adding a footnote "c" and adding a new entry at the end of the table to read as follows:

TABLE 6 OF SUBPART FFF—SITE-SPECIFIC COMPLIANCE SCHEDULES AND INCREMENTS OF PROGRESS <sup>a</sup>

Affected facilities at the following MWC sites	City, State	Increment 1 Submit final control plan	Increment 2 Award contracts	Increment 3 Begin on-site construction	Increment 4 Complete on-site construction	Increment 5 Final compliance <sup>c</sup>
*	*	*	*	*	*	*
New Hanover County, Unit 3A	Wilmington, North Carolina	09/15/99	03/01/00	07/01/00	11/19/00	12/19/00

<sup>a</sup> These schedules have been reviewed and determined to be acceptable by EPA.

<sup>b</sup> This schedule applies to HCl, SO<sub>2</sub>, PM, Pb, Cd, CO, and NO<sub>x</sub>. However, owners and operators of large MWC units in New Jersey have the option of reserving the portion of their control plan that addresses NO<sub>x</sub>. Owners and operators must submit the reserved portion to EPA by December 15, 1999.

<sup>c</sup> The owner or operator of an affected facility that began construction, modification, or reconstruction after June 26, 1987 must achieve final compliance with the mercury and dioxins/furans limits within 1 year after promulgation of subpart FFF (i.e., by 11/12/99) or 1 year after permit issuance. Permit issuance is issuance of a revised construction permit or revised operating permit if a permit modification is required to retrofit controls. Final compliance must be achieved no later than December 19, 2000, even if the date "1 year after permit issuance" exceeds December 19, 2000.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-301001; FRL-6556-9]

RIN 2070-AB78

**Mancozeb; Re-establishment of Tolerance for Emergency Exemptions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation re-establishes a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenedisithiocarbamate (EBDC), and its metabolite ethylenethiourea (ETU) in or on ginseng at 2.0 part per million (ppm) for an additional 20-month

period. This tolerance will expire and is revoked on December 31, 2001. This action is in response to EPA's receipt of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) seeking use of the pesticide on ginseng. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation is effective May 24, 2000. Objections and requests for hearings, identified by docket control number OPP-301001, must be received by EPA on or before July 24, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each

method as provided in Unit III of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301001 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9375; and e-mail address: rosenblatt.dan@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected