

DELEGATION STATUS OF PART 63 NESHAPS—STATE OF OREGON<sup>1</sup>—Continued

Subpart <sup>2</sup>	ODEQ <sup>3</sup>	LRAPA <sup>4</sup>
EEE Hazardous Waste Combustors .....	X	X
GGG Pharmaceuticals Production .....	X	X
HHH Natural Gas Transmission and Storage Facilities .....	X	X
III Flexible Polyurethane Foam Production .....	X	X
JJJ Polymers and Resins IV .....	X	X
LLL Portland Cement Manufacturing .....	X	X
MMM Pesticide Active Ingredient Production .....	X	X
NNN Wool Fiberglass Manufacturing .....	X	X
OOO Manufacture of Amino Phenolic Resins .....	X	X
PPP Polyether Polyols Production .....	X	X
RRR Secondary Aluminum Production .....	X	X
TTT Primary Lead Smelting .....	X	X
VVV Publicly Owned Treatment Works .....	X	X
XXX Ferroalloys Production: Ferromanganese & Silico manganese .....	X	X
CCCC Manufacture of Nutritional Yeast .....	X	X
GGGG Extraction of Vegetable Oil .....	X	X

<sup>1</sup> Table last updated on August 9, 2002; see 40 CFR 61.04(b)(WW) for agency addresses.

<sup>2</sup> Any authority within any subpart of this part (i.e. under "Delegation of Authority") that is identified as not delegatable, is not delegated.

<sup>3</sup> Oregon Department of Environmental Quality (07/01/2001).

<sup>4</sup> Lane Region Air Pollution Authority (07/01/2001).

<sup>5</sup> General Provisions Authorities which may not be delegated include: §§ 63.6(g); 63.6(h)(9); 63.7(e)(2)(ii) and (f) for approval of major alternatives to test methods; § 63.9(f) for approval of major alternatives to monitoring. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see 40 CFR 63.90.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[ME 067-7016a; FRL-7227-1]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Maine; Negative Declaration**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the sections 111(d)/129 negative declaration submitted by the Maine Department of Environmental Protection (DEP) on January 24, 2002. This negative declaration adequately certifies that there are no existing commercial and industrial solid waste incineration units (CISWIs) located within the boundaries of the state of Maine. EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (e.g., CISWIs). The state of Maine submitted this negative declaration in lieu of a state control plan.

**DATES:** This direct final rule is effective on August 9, 2002, without further notice unless EPA receives significant

adverse comment by July 10, 2002. If EPA receives adverse comment, we 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:** You should address your written comments to: Mr. Steven Rapp, Chief, Air Permit Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023.

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:** John J. Courcier, (617) 918-1659.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. What action is EPA taking today?
- II. What is the origin of the requirements?
- III. When did the requirements first become known?
- IV. When did Maine submit its negative declaration?
- V. Administrative Requirements

**I. What Action Is EPA Taking Today?**

EPA is approving the negative declaration of air emissions from CISWI units submitted by the state of Maine.

EPA is publishing this negative declaration 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**, EPA is publishing a separate document that will serve as the proposal to approve this negative declaration should relevant adverse comments be filed. If EPA receives no significant adverse comment by July 10, 2002, this action will be effective August 9, 2002.

If EPA receives significant adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA receives no comments, this action will be effective August 9, 2002.

**II. What Is the Origin of the Requirements?**

Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

### III. When Did the Requirements First Become Known?

On November 30, 1999 (64 FR 67092), EPA proposed emission guidelines for CISWI units. This action enabled EPA to list CISWI units as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants by proposing emission guidelines for existing CISWI units. These guidelines were published in final form on December 1, 2000 (65 FR 75362).

### IV. When Did Maine Submit Its Negative Declaration?

On January 24, 2002, the Maine Department of Environmental Protection (DEP) submitted a letter certifying that there are no existing CISWI units subject to 40 CFR part 60, subpart B. Section 111(d) and 40 CFR 62.06 provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. EPA is publishing this negative declaration at 40 CFR 62.4980

### V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing section 111(d) submissions, EPA's role is to approve state plans, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan submission, to use VCS in place of a state plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by August 9, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: May 16, 2002.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

40 CFR Part 62 is amended as follows:

### PART 62—[AMENDED]

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

**Authority:** 42 U.S.C. 7401-7642.

### Subpart U—Maine

2. Subpart U is amended by adding a new § 62.4980 and a new undesignated center heading to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

#### § 62.4980 Identification of Plan—negative declaration.

On January 24, 2002, the Maine Department of Environmental Protection submitted a letter certifying that there are no existing commercial and industrial solid waste incineration units in the state subject to the emission guidelines under part 60, subpart DDDD of this chapter.

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