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[FR Doc. 03-5256 Filed 3-5-03; 8:45 am]

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## FEDERAL MEDIATION AND CONCILIATION SERVICE

### 29 CFR Part 1404

RIN 3076AA09

#### Arbitration Schedule of Fees

**AGENCY:** Federal Mediation and Conciliation Service.

**ACTION:** Final rule.

**SUMMARY:** The Federal Mediation and Conciliation Service is issuing a final regulation replacing the fee schedule item for processing requests for panels of arbitrators with two new fee schedule categories—one for processing requests on-line and the other for requests which require processing by FMCS staff. In addition, FMCS is increasing the rates for requests which require staff processing and for requests for lists and biographic sketches of arbitrators.

**EFFECTIVE DATE:** April 7, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Street, NW., Washington, DC 20427. Telephone (202) 606-5111; Fax (202) 606-3749.

#### SUPPLEMENTARY INFORMATION:

On November 25, 2002, FMCS issued proposed regulations to amend the appendix to 29 CFR part 1504 by replacing the general category on the fee schedule for requests for panels with two new categories, one for processing electronic requests for panels and the other for requests which require processing by FMCS staff. FMCS proposed maintaining the \$30.00 fee for processing electronic requests but increasing the fee to \$50.00 for requests that must be processed by FMCS staff. FMCS also proposed increasing the cost for lists and biographical sketches of arbitrators in specific areas from \$10.00 per request plus \$.10 per page to \$25.00 per request for \$.25 per page. FMCS did not receive any comments before the comment period closed on January 23, 2003 and is therefore amending this rule as proposed on November 25, 2002.

#### Executive Order 12866

This regulation has been deemed significant under section 3(f)(3) of Executive Order 12866 and as such has been submitted to and reviewed by the Office of Management and Budget.

## Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small Governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

## Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with Foreign-based companies in domestic and export markets.

#### List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Arbitration, Arbitration fees, Labor Management relations.

For the reasons set forth in the preamble, FMCS amends 29 CFR part 1404 as follows:

#### PART 1404—ARBITRATION SERVICES

1. The authority citation for part 1404 continues to read as follows:

**Authority:** 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

2. The Appendix to 29 CFR part 1404 is revised to read as follows:

#### Appendix to 29 CFR Part 1404—Arbitration Policy; Schedule of Fees

Annual listing fee for all arbitrators: \$100 for the first address; \$50 for the second address

Request for panel of arbitrators processed by FMCS staff: \$50

Request for panel of arbitrators on-line: \$30.00

Direct appointment of an arbitrator when a panel is not used: \$20.00 per appointment  
List and biographic sketches of arbitrators in a specific area: \$25.00 per request plus \$.25 per page.

**John J. Toner,**  
*Chief of Staff.*

[FR Doc. 03-5063 Filed 3-5-03; 8:45 am]

BILLING CODE 6372-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[NH-055a; FRL-7458-3]

#### Approval and Promulgation of State Plans For Designated Facilities and Pollutants: New Hampshire; Negative Declaration

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the sections 111(d) negative declaration submitted by the New Hampshire Department of Environmental Services (DES) on July 22, 1998. This negative declaration adequately certifies that there are no existing municipal solid waste (MSW) landfills located in the state of New Hampshire that have accepted waste since November 8, 1987 and that must install collection and control systems according to EPA's emissions guidelines for existing MSW landfills. 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., landfills). The state of New Hampshire submitted this negative declaration in lieu of a state control plan.

**DATES:** This direct final rule is effective on May 5, 2003, without further notice unless EPA receives significant adverse comment by April 7, 2003. 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 Permits, Toxics & Indoor 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:

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

EPA is approving the negative declaration submitted by the state of New Hampshire on July 22, 1998.

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 April 7, 2003, this action will be effective May 5, 2003.

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**. 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 May 5, 2003.

#### 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 May 30, 1991 (56 FR 24468), EPA proposed emission guidelines for existing MSW landfills. This action enabled EPA to list existing MSW landfills as designated facilities. EPA specified non-methane organic compounds (NMOC) as a designated pollutant by proposing the emission guidelines for existing MSW landfills. These guidelines were published in final form on March 12, 1996 (61 FR 9905).

#### IV. When Did New Hampshire Submit Its Negative Declaration?

On July 22, 1998, the New Hampshire Department of Environmental Services (DES) submitted a letter certifying that there are no existing MSW landfills 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 62.7405.

#### V. Regulatory Assessment 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 (Pub. L. 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 sections 111(d)/129 State Plans, EPA's role is to approve state choices, 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 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan, to use VCS in place of a 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 May 5, 2003. 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, Waste treatment and disposal.

Dated: February 20, 2003.

**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. 7401–7671q.

#### Subpart EE—New Hampshire

2. Subpart EE is amended by adding a new § 62.7405 and a new undesignated center heading to read as follows:

#### Emissions From Existing Municipal Solid Waste Landfills

##### § 62.7405 Identification of plan-negative declaration.

On July 22, 1998, the New Hampshire Department of Environmental Services submitted a letter certifying that there are no existing municipal solid waste landfills in the state subject to the emission guidelines under part 60, subpart B of this chapter.

[FR Doc. 03–5306 Filed 3–5–03; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[Region 2 Docket No. NJ57–251a, FRL–7459–4]

#### Approval and Promulgation of Plans for Designated Facilities; New Jersey; Delegation of Authority

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the New Jersey Department of Environmental Protection's (NJDEP) request for delegation of authority to implement and enforce the Federal Plan for Large Municipal Waste Combustors (MWC). On November 12, 1998, EPA promulgated the Federal Plan to fulfill the requirements of sections 111(d)/129

of the Clean Air Act for MWCs. The Federal Plan addresses the implementation and enforcement of the emissions guidelines applicable to existing large MWC units located in areas not covered by an approved and currently effective state plan. The Federal Plan imposes emission limits and control requirements for existing MWC units with individual capacity to combust more than 250 tons per day of municipal solid waste which will reduce the designated pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. On January 24, 2001, EPA and NJDEP signed a Memoranda of Agreement which is intended to be the mechanism for the transfer of authority between the EPA and the NJDEP and defines the policies, responsibilities, and procedures pursuant to the Federal Plan for large MWCs.

**DATES:** This direct final rule is effective on May 5, 2003 without further notice, unless EPA receives adverse comment by April 7, 2003. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of New Jersey's request for delegation or the Memoranda of Agreement are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, 401 East State Street, Trenton, New Jersey 08625.

**FOR FURTHER INFORMATION CONTACT:** Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

#### SUPPLEMENTARY INFORMATION:

#### What Are the Clean Air Act Requirements?

On December 19, 1995 (60 FR 65387), EPA adopted emission guidelines (40 CFR part 60, subpart Cb) for existing Municipal Waste Combustor (MWC) units. Section 129 of the Clean Air Act (Act) requires states with existing MWC

units subject to the guidelines, including New Jersey, to submit plans to EPA that implement and enforce the emission guidelines. The state plans were due on December 19, 1996. If a state with existing MWC units did not submit an approvable plan within 2 years after promulgation of the guidelines (*i.e.*, December 19, 1997), the Act requires EPA to develop, implement, and enforce a Federal Plan for MWC units in that state. This Federal Plan for large MWCs (40 CFR part 62, subpart FFF) was promulgated by EPA on November 12, 1998 (63 FR 63191). Because New Jersey does not have an approved State plan regulating existing large MWCs, they are subject to the Federal Plan requirements.

#### What Was Submitted by New Jersey and How Did EPA Respond?

On November 9, 1999, New Jersey Department of Environmental Protection (NJDEP) submitted to EPA a request for delegation of authority from EPA to implement and enforce the Federal Plan for existing large MWCs. On January 17, 2001, EPA prepared and signed a Memoranda of Agreement (MOA) between the EPA and the NJDEP that defines the policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart FFF and 40 CFR part 60, subpart Cb, by which the Federal Plan for large MWCs will be administered by both the NJDEP and EPA. The MOA is meant to be the mechanism for the transfer of authority between the EPA and the NJDEP. A copy of the MOA is available upon request.

On January 24, 2001, Robert C. Shinn, Commissioner NJDEP, signed the MOA, therefore agreeing to the terms and conditions of the MOA and accepting responsibility to implement and enforce the policies, responsibilities, and procedures of the Federal Plan for large MWCs.

#### What Action Is EPA Taking?

Pursuant to 40 CFR 62.14100, "Scope and Delegation of Authority," EPA is approving the NJDEP's request for delegation of authority to implement and enforce the MWC Federal Plan and to adhere to the terms and conditions prescribed in the MOA. The purpose of this delegation is to acknowledge NJDEP's ability to implement a program and to transfer primary implementation and enforcement responsibility from EPA to NJDEP for existing large MWCs. While NJDEP is delegated the authority to implement and enforce the MWC Federal Plan, nothing in the delegation agreement shall prohibit EPA from enforcing section 111(d) of the Act or the Federal Plan for large MWCs.