

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. section 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 October 14, 2003. 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 40 CFR Part 62

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: July 23, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulations 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 *et seq.*

#### Subpart S—Kentucky

■ 2. Subpart S is amended by adding an undesignated center heading and § 62.4372 to read as follows:

#### Air Emissions From Commercial and Industrial Solid Waste Incineration Units

##### § 62.4372 Identification of plan—negative declaration.

Letters from the Commonwealth of Kentucky Department for Environmental Protection, and from the Jefferson County, Kentucky, Air Pollution Control District were submitted on March 5, 2001, and April 21, 2003, certifying that there are no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 86

[FRL-7544-1]

RIN 2060-AJ77

#### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-Board Diagnostic Regulations for: Light-Duty Vehicles, Light-Duty Trucks, Medium Duty Passenger Vehicles, Complete Heavy Duty Vehicles and Engines Intended for Use in Heavy Duty Vehicles Weighing 14,000 Pounds GVWR or Less; Extension of Acceptance of California OBD II Requirements

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

**ACTION:** Partial withdrawal of direct final rule.

**SUMMARY:** Due to receipt of adverse comments, EPA is withdrawing two specific regulatory revisions included in the direct final rule that was published in the **Federal Register** on June 17, 2003 (68 FR 35792) related to EPA's On-board Diagnostics (OBD) regulations. EPA published both the direct final rule and a concurrent notice of proposed rulemaking to amend and revise certain provisions of the Federal OBD regulations for purposes of updating the acceptable version of the California OBD II regulations, that allows compliance with California OBD II regulations to satisfy Federal OBD regulations, and to update the incorporation by reference of standardized practices developed by the Society of Automotive Engineers (SAE) and the International Organization for Standardization (ISO) to incorporate recently published versions. The only provisions being withdrawn are the provisions that prohibit the use SAE J1939 beyond the 2007 model year.

**DATES:** 40 CFR 86.005-17(h)(3) and 86.1806-05(h)(3) of the direct final rule published at 68 FR 35792, (June 17, 2003) are withdrawn as of August 14, 2003.

**ADDRESSES:** All comments and materials relevant to today's action are contained in Public Docket No. OAR-2003-0080 at the following address: U.S. Environmental Protection Agency (EPA), EPA Docket Center (EPA/DC), Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

*Docket:* Materials relevant to this rulemaking are contained in Public Docket Number OAR-2003-0080 at the following address: EPA Docket Center

(EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except on government holidays. You can reach the Reading Room by telephone at (202) 566-1742, and by facsimile at (202) 566-1741. The telephone number for the Air Docket is (202) 566-1742. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

**FOR FURTHER INFORMATION CONTACT:** Arvon L. Mitcham, Certification and Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105, Telephone 734-214-4522, or Internet e-mail at "mitcham.arvon@epa.gov."

**SUPPLEMENTARY INFORMATION:** We stated in the direct final rule published at 68 FR 35792 (June 17, 2003) that if we received adverse comment on the direct final rule by July 17, 2003, we would publish a timely withdrawal in the **Federal Register**. We have received adverse comments on the amendments to the following sections: 40 CFR 86.005-17, subsection (h), paragraph (3), and § 86.1806-05, subsection (h), paragraph (3). We received comments from the Engine Manufacturers Association (EMA) that the direct final rule does not extend the allowance to use the heavy-duty communication protocol, or SAE J1939, beyond the 2007 model year for vehicles that are not optionally certified to CARB's 1968.2 OBD II requirements. They commented that the direct final rule requires that 2008 and later model year heavy-duty engines and vehicles under 14,000 lbs. GVWR that are certified to the Federal OBD technical monitoring requirements must use the ISO 15765-4.3 communication protocol. EMA commented that this is not consistent with CARB's requirements, nor is it consistent with the existing communication protocols developed for the unique operational characteristics of heavy-duty vehicles. We will address this adverse comment more fully in a forthcoming final rulemaking based on the concurrent notice of proposed rulemaking published on June 17, 2003 (68 FR 35830).

In addition, EPA received comments from the Alliance of Automobile Manufacturers and the Association of International Automobile Manufacturers requesting clarification of certain aspects of the direct final rule. These comments did not request withdrawal of the rule, and EPA does not consider

these comments adverse. We are not withdrawing any sections of the direct final rule based on these comments. As noted above, we will soon issue a final rule based on the concurrent notice of proposed rulemaking and we will address these comments as appropriate at that time.

#### List of Subjects in 40 CFR Part 86

Environmental protection, Incorporation by reference, Administrative practice and procedure, Motor vehicle pollution, On-board diagnostics.

Dated: August 6, 2003.

**Robert Brenner,**

*Acting Assistant Administrator, for Office of Air and Radiation.*

[FR Doc. 03-20638 Filed 8-13-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171, 172, 173, 177, 178, 179 and 180

[Docket No. RSPA-02-13773 (HM-218B)]

RIN 2137-AD73

#### Hazardous Materials; Miscellaneous Amendments

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Hazardous Materials Regulations by incorporating miscellaneous changes based on petitions for rulemaking and RSPA initiatives. The intended effect of these regulatory changes is to update, clarify or provide relief from certain regulatory requirements.

**DATES:** *Effective Date:* The effective date of these amendments is October 1, 2003.

*Incorporation by Reference Date:* The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of October 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gigi Corbin, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### Background

This final rule will primarily reduce regulatory burdens on industry by

incorporating changes into the Hazardous Materials Regulations (HMR) based on RSPA's own initiatives and petitions for rulemaking submitted in accordance with 49 CFR 106.95. In a continuing effort to review the HMR for necessary revisions, RSPA ("we" and "us") is eliminating, revising, clarifying and relaxing regulatory requirements. On January 21, 2003, RSPA published a Notice of Proposed Rulemaking (NPRM) under Docket RSPA-02-13773 (HM-218B; 68 FR 2734). The NPRM contained information concerning each proposal and invited public comment. Readers should refer to the NPRM for additional background discussion.

RSPA received eleven comments in response to the NPRM. These comments were submitted by representatives of trade associations, such as the American Chemical Council, the American Pyrotechnics Association, and the Chlorine Institute; hazardous materials consulting firms; chemical manufacturers; and carriers of hazardous materials. Most commenters expressed support for various proposals, but several commenters raised concerns about certain provisions in the proposal that are discussed below.

The following is a section-by-section summary of changes and, where applicable, a discussion of comments received.

#### Section-by-Section Review

##### Part 171

##### Section 171.7

We are revising this section to update certain incorporation by reference materials and are adding three new entries. We are updating the following previously approved pamphlets and standards:

- CGA Pamphlet C-6.2, Guidelines for Visual Inspection and Requalification of Fiber Reinforced High Pressure Cylinders, 1996 edition. The 1996 edition of CGA Pamphlet C-6.2 simply makes editorial changes to the 1988 edition.
- CGA Pamphlet C-11, Recommended Practices for Inspection of Compressed Gas Cylinders at Time of Manufacture, 2001 edition. This new edition of CGA Pamphlet C-11 adds Transport Canada requirements and clarifies existing text.
- CGA Pamphlet C-13, Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders, 2000 edition. This new edition of CGA Pamphlet C-13 adds acetylene cylinders to the rejection criteria, allows condemned acetylene cylinders to be permanently marked as such, and changes the time

parameters for requalification of the porous mass.

- CGA Pamphlet S-1.1, Pressure Relief Device Standards—Part 1—Cylinders for Compressed Gases, 2001 edition (with the exception of paragraph 9.1.1.1). This new edition adds a definition and requirements for the new PRD CG-10 device.
- NFPA 58—Liquefied Petroleum Gas Code, 2001 edition.

We are also incorporating by reference the 2001 edition of the American Pyrotechnics Association's Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, which establishes a ten-inch limit on aerial shells for fireworks that may be classed as Division 1.3 explosives.

We are updating the entry for the Association of American Railroads (AAR) Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M-1002 by adding the 2000 edition and removing the entries for the 1992 and 1996 edition.

We are adding the American Society for Testing and Materials (ASTM) E 114-95 test method for straight beam examination of the tubular surface of cylinders and tubes which is used in conjunction with ASTM E 213-98 to measure the wall thickness of a cylinder and to detect general corrosion and defects located in the path of the ultrasonic straight beam direction. ASTM E 213-98 was incorporated by reference in a final rule published in the **Federal Register** on August 8, 2002 (Docket HM-220D, 67 FR 51626). Two commenters requested we incorporate by reference the ASTM E 114-95 (2001) test method and the ASTM E 213-02 to reflect the latest version of these standards. Because we did not propose to incorporate the newer editions of these standards in the NPRM, we are not incorporating them at this time. These standards may be considered for incorporation by reference in a future rulemaking.

We are also adding the Chlorine Institute's booklets entitled "Chlorine Institute Emergency Kit 'A' for 100-lb. & 150-lb. Chlorine Cylinders" and "Chlorine Institute Emergency Kit 'B' for Chlorine Ton Containers". (See § 173.3 preamble discussion.)

##### Section 171.15

In the NPRM we proposed to move a shipper requirement to notify the Bureau of Explosives (BOE) whenever a rail car containing a time-sensitive product is not received by the consignee within 20 days from shipment from