

of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420) (see the Export Administration Regulations, 15 CFR 730–774);

(2) The items are shipped from the port at which they are loaded on or before March 24, 2005; and

(3) Payment is received by a U.S. banking institution on or before March 24, 2005, and prior to the transfer of title to, and control of, the exported items to the Cuban purchaser.

\* \* \* \* \*

Dated: February 18, 2005.

**Robert W. Werner,**

*Director, Office of Foreign Assets Control.*

Approved: February 18, 2005.

**Juan C. Zarate,**

*Assistant Secretary for Terrorist Financing, Department of the Treasury.*

[FR Doc. 05–3651 Filed 2–22–05; 3:00 pm]

BILLING CODE 4810–25–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[R01–OAR–2004–CT–0004; A–1–FRL–7877–6]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Connecticut; Plan for Controlling MWC Emissions From Existing Municipal Waste Combustors

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves the sections 111(d)/129 State Plan submitted by the Connecticut Department of Environmental Protection (CT DEP) on September 16, 2004. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing large and small Municipal Waste Combustion (MWC) units.

**DATES:** This direct final rule is effective on April 26, 2005 without further notice unless EPA receives adverse comments by March 28, 2005. If EPA receives such comments, 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:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

C. E-mail: [kenyon.michael@epa.gov](mailto:kenyon.michael@epa.gov).

D. Fax: (617) 918–0521.

E. Mail: "RME ID Number R01–OAR–2004–CT–0004", Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

F. Hand Delivery or Courier: Deliver your comments to Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**Instructions:** Direct your comments to Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below to schedule your review. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918–1659, fax number (617) 918–0659, e-mail [courcier.john@epa.gov](mailto:courcier.john@epa.gov).

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## I. What Action Is EPA Taking Today?

EPA is approving the above referenced State Plan which Connecticut submitted on September 16, 2004 for the control of air emissions from existing large (units with an individual capacity greater than 250 tons per day) and small (units with an individual capacity of 250 tons per day or less) MWCs throughout the State.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If EPA receives no significant, material, and adverse comments by March 28, 2005, this action will be effective April 26, 2005.

If EPA receives significant, material, and adverse comments by the above date, the Agency 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.

## II. Why Does EPA Want To Regulate Air Emissions From MWCs?

When burned, municipal solid wastes emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury) and particulate matter. Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through eating of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

## III. When Did EPA First Publish These Requirements?

The EPA originally promulgated the EGs for large and small MWCs on December 19, 1995. However, the EGs for the small MWCs were vacated by the U.S. Court of Appeals for the District of Columbia Circuit in March 1997. In response to the Court's decision, EPA again proposed the small MWC emission guidelines on August 30, 1999. On December 19, 1995 and December 6, 2000, according to sections 111 and 129 of the Clean Air Act (Act), the EPA published the final form of the EGs applicable to existing large and small MWCs, respectively. The EGs are at 40 CFR part 60, subparts Cb (large MWCs) and BBBB (small MWCs). See 60 FR 65382 (large) and 65 FR 76378 (small) and the Background section.

## IV. Who Must Comply With the Requirements?

All large MWCs that commenced construction before December 19, 1995, and all small MWCs that commenced construction on or before August 30, 1999 must comply with these requirements.

## V. Are Any Sources Exempt From the Requirements?

The following incinerator source categories are exempt from the federal requirements for small MWCs:

- (1) Very small MWC units that combust less than 11 tons per day.
- (2) Small power production facilities.
- (3) Cogeneration facilities.
- (4) MWC units that combust only tires.
- (5) Hazardous waste combustion.
- (6) Materials recovery units.
- (7) Co-fired units.
- (8) Plastics/rubber recycling units.
- (9) Units that combust fuels made from products of plastics/rubber recycling plants.

(10) Cement kilns.

(11) Air curtain incinerators.

Please refer to 40 CFR 60.1555 for specific definitions of these incinerator source categories, and any record keeping or other requirements that still may need to be met.

## VI. By What Date Must MWCs in Connecticut Achieve Compliance?

All existing large MWCs must now be in compliance. The final compliance date for large MWCs was December 19, 2000. All existing small MWC units in the State of Connecticut must comply with these requirements by December 6, 2005.

## VII. What Happens if a Small MWC Does Not/Cannot Meet the Requirements by the Final Compliance Date?

Any existing small MWC that fails to meet the requirements by December 6, 2005 must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements.

## VIII. What Options Are Available to Operators if They Cannot Achieve Compliance Within One Year of the Effective Date of the State Plan?

If a small MWC cannot achieve compliance within one year of the effective date of EPA approval of the State Plan, the operator must meet any increments of progress contained in the State Plan.

## IX. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled by the new source performance standards (NSPS) must also be controlled at older sources in the same source category. Once an NSPS is issued, EPA then publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop State Plans to adopt the EGs into their body of regulations. States must also include in their State Plans other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans.

## X. What Did the State Submit as Part of Its State Plan?

The State of Connecticut submitted its Sections 111(d)/129 State Plan to EPA for approval on August 16, 2002. The State adopted the EG requirements into the Regulations of Connecticut State Agencies (R.C.S.A.) Section 22a-174-38, "Municipal Waste Combustors"

(Section 38) on February 2, 2004 and April 1, 2004. The State Plan contains:

1. A demonstration of the State's legal authority to implement the State Plan.

2. R.C.S.A. Section 22a-174-38, "Municipal Waste Combustors" as the enforceable mechanism.

3. An inventory of all the operating sources.

4. An emissions inventory.

5. Emission limits, at least as protective as the limits found under Subparts Cb and DDDD, that are contained in Section 38.

6. Provisions for compliance schedules that are contained in Section 38(m).

7. Testing, monitoring, and inspection requirements that are contained in Section 38(i) and (j), and Sections 22a-174(c) and 22a-6.

8. Reporting and Recordkeeping requirements that are contained in Section 38(k) and (l).

9. Operator training and qualification requirements that are contained in Section 38(h).

10. A record of the public notice and hearing requirements that are contained in Section V of the State Plan.

11. Provisions for state progress reports to EPA that are contained in section IV of the State Plan.

12. A final compliance date no later than December 6, 2005.

#### **XI. Why Is EPA Approving Connecticut's State Plan?**

EPA has evaluated the MWC State Plan submitted by Connecticut for consistency with the Act, EPA guidelines and policy. EPA has determined that Connecticut's State Plan meets all requirements and, therefore, EPA is approving Connecticut's Plan to implement and enforce the EGs, as it applies to existing Large and Small MWCs.

EPA's approval of Connecticut's State Plan is based on our findings that:

(1) CTDEP provided adequate public notice of public hearings for the proposed rule-making that allows Connecticut to carry out and enforce provisions that are at least as protective as the EGs for Large and Small MWCs, and

(2) CTDEP demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

A detailed discussion of EPA's evaluation of the State Plan is included in the technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The State Plan meets all of the applicable approval criteria.

#### **XII. Why Does EPA Need To Approve State Plans?**

Under section 129 of the Act, EGs are not federally enforceable. Section 129(b)(2) of the Act requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the emission guidelines. State Plans must be at least as protective as the EGs, and they become federally enforceable upon EPA's approval.

The procedures for adopting and submitting State Plans are in 40 CFR part 60, subpart B. EPA originally issued the Subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules. See 60 FR 65414.

#### **XIII. Statutory and Executive Order Reviews**

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 April 26, 2005. 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, Air pollution control, Carbon monoxide, Metals, Nitrogen dioxide, Particulate matter, Sulfur oxides, Waste treatment and disposal, Reporting and record-keeping requirements.

Dated: February 14, 2005.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

■ 40 CFR part 62 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. 7401–7671q.

#### Subpart H—Connecticut

■ 2. Section 62.1500 is amended by adding paragraph (b)(3), revising paragraph (c) introductory text; and adding paragraph (c)(2) to read as follows:

#### Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

##### § 62.1500 Identification of Plan.

\* \* \* \* \*

(b) \* \* \*

(3) Revision to Plan to implement the Large and Small Municipal Waste Combustors, submitted on September 16, 2004.

(c) The Plan applies to existing sources in the following categories:

\* \* \*

(2) Small municipal waste combustors with a design combustion capacity of 35 to 250 tons per day of municipal solid waste.

■ 3. Section 62.1501 is amended by revising the undesignated center heading and adding paragraph (a)(6) to read as follows:

#### Metals, Acid Gases, Organic Compounds and Nitrogen Oxides From Existing Large and Small Municipal Waste Combustors

##### § 62.1501 Identification of sources.

(a) \* \* \*

(6) Connecticut Resource Recovery Authority/Covanta Projects of Wallingford, L.P. in Wallingford.

\* \* \* \* \*

[FR Doc. 05–3679 Filed 2–24–05; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[R04–OAR–2004–NC–0003–200426; FRL–7877–3]

#### Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Forsyth County, Mecklenburg County and Buncombe County, NC, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, TN

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is notifying the public that it has received negative declarations for Commercial and Industrial Solid Waste Incineration (CISWI) units from Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in areas covered by the local air pollution control programs of Forsyth County, Mecklenburg County, and Buncombe County, North Carolina, and Chattanooga-Hamilton County, Knox County, and Memphis-Shelby County, Tennessee.

**DATES:** Effective February 25, 2005.

**ADDRESSES:** Docket: All documents are located in the Regional Material EdoCKET (RME)—ID No. R04–OAR–2004–NC–0003. The RME index can be found at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joydeb Majumder at (404) 562–9121 or Melissa Krenzler at (404) 562–9196.

**SUPPLEMENTARY INFORMATION:** Section 111(d) of the CAA requires submittal of plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(d) for new sources of the same type, and EPA has established emissions guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

Standards of performance for new or modified CISWI units have been established by EPA and emission guidelines for CISWI units were promulgated in December 2000. The emission guidelines are codified at 40 CFR part 60, subpart DDDD. Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants at designated facilities. Subpart A of 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located under the jurisdiction of a state or local agency, the state or local agency must develop and submit a plan for their respective jurisdiction for the control of the designated pollutants. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutants within the state or local agency's jurisdiction, the state or local