

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[EPA-R01-OAR-2010-1080; A-1-FRL-9285-8]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Perchloroethylene Air Emission Standards for Dry Cleaning Facilities: State of Maine Department of Environmental Protection**AGENCY:** Environmental Protection Agency ("EPA").**ACTION:** Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act ("CAA") and Federal regulations promulgated thereunder, the Maine Department of Environmental Protection ("ME DEP") submitted a request for approval to implement and enforce the amended "Chapter 125: Perchloroethylene Dry Cleaner Regulation" (Maine Dry Cleaner Rule) as a partial substitution for the amended National Emissions Standards for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities ("Dry Cleaning NESHAP"), as it applies to area sources. EPA has reviewed this request and has determined that the amended Maine Dry Cleaner Rule satisfies the requirements necessary for partial substitution approval. Thus, EPA is hereby granting ME DEP the authority to implement and enforce its amended Maine Dry Cleaner Rule in place of the Dry Cleaning NESHAP for area sources, but EPA is retaining its authority with respect to major source dry cleaners and dry cleaners installed in a residence between July 13, 2006, and June 24, 2009. This approval makes the amended Maine Dry Cleaner Rule Federally enforceable.

DATES: This direct final rule will be effective July 25, 2011, unless EPA receives adverse comments by June 27, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 25, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2010-1080 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* mcdonnell.ida@epa.gov.

3. *Fax:* (617) 918-0653.

4. *Mail:* "EPA-R01-OAR-2010-1080", Ida E. McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100 (OEP05-2), Boston, MA 02109-3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Ida E. McDonnell, Manager, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, 5th floor, (OEP5-02), Boston, MA 02109-3912. 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 legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2010-1080. 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://www.regulations.gov>, 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 through <http://www.regulations.gov>, or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, 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 <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. EPA will forward copies of all submitted comments to the Maine Department of Environmental Protection.

Docket: All documents in the electronic docket are listed in the [http://](http://www.regulations.gov)

www.regulations.gov index. 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 <http://www.regulations.gov> or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100, Boston, MA. 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 legal holidays.

In addition, copies of the State submittal are also available for public inspection during normal business hours, by appointment at the Maine Department of Environmental Protection, State House Station 17, Augusta, Maine, 04333-0017.

FOR FURTHER INFORMATION CONTACT:

Susan Lancey, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100 (OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1656, fax number (617) 918-0656, e-mail lancey.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

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I. Background and Purpose

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E. *See* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000). Under these regulations, a state air pollution control agency has the option to request EPA's approval to substitute a state rule for the applicable Federal rule (e.g., the National Emission Standards for Hazardous Air Pollutants). Upon approval by EPA, the state agency is authorized to implement and enforce its rule in place of the Federal rule.

EPA promulgated the Dry Cleaning NESHAP on September 22, 1993. *See* 58 FR 49354 (codified at 40 CFR part 63, subpart M, "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities"). On August 12, 2003, EPA received ME DEP's request to implement and enforce "Chapter 125: Perchloroethylene Dry Cleaner Regulation" in lieu of the Dry Cleaning NESHAP as applied to area sources. On April 24, 2006, EPA approved the Maine Dry Cleaner Rule in place of the Dry Cleaning NESHAP for area sources pursuant to the provisions of 40 CFR part 63, subpart E. *See* 71 FR 20895.

Under 40 CFR 63.91(e)(3), if EPA amends or otherwise revises a

promulgated CAA section 112 rule or requirement in a way that increases its stringency, EPA will notify any state with a delegated alternative of the need to revise its equivalency demonstration. EPA will consult with the state to set a time frame for the state to submit a revised equivalency demonstration. EPA will then review and approve the revised equivalency demonstration according to the procedures in 40 CFR part 63, subpart E. More stringent NESHAP amendments to a delegated alternative apply to all sources until EPA determines that the approved or revised alternative requirements are equivalent to the more stringent amendments.

On July 27, 2006, September 21, 2006 and July 11, 2008, EPA promulgated amendments to the Dry Cleaning NESHAP. *See* 71 FR 42724, 71 FR 55280 and 73 FR 39871. In a letter dated October 25, 2006, EPA notified ME DEP that EPA had published more stringent amendments to the Dry Cleaning NESHAP and of the need for ME DEP to revise its equivalency demonstration. Accordingly, ME DEP revised the Maine Dry Cleaner Rule with an effective date of June 24, 2009. On December 11, 2009, ME DEP submitted a request for approval to implement and enforce the amended Maine Dry Cleaner Rule in place of the amended Dry Cleaning NESHAP. On March 4, 2010, EPA determined that Maine's submittal was complete. As explained below, EPA has reviewed the State's submission and determined that the amended Maine Dry Cleaner Rule is no less stringent than the amended Dry Cleaning NESHAP, as applied to area sources.

In addition, in the **Federal Register** on May 13, 2009, EPA corrected a sequential numbering error in 40 CFR 63.99. *See* 74 FR 22437. In this rulemaking, paragraph (a)(19) of section 63.99, the subparagraph for the state of Maine, was redesignated as paragraph (a)(20). However, the reference to paragraph (a)(19)(iii) in the incorporation by reference section 63.14(d)(6) was not corrected to refer to paragraph (a)(20)(iii) at that time. Therefore, today's notice also corrects the reference in 40 CFR 63.14(d)(6) to appropriately refer to paragraph (a)(20)(iii).

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What requirements must a State rule meet to substitute for a section 112 rule?

A state must demonstrate that it has satisfied the general delegation/approval criteria contained in 40 CFR 63.91(d). The process of providing "up-front approval" assures that a state has met the delegation criteria in Section 112(l)(5) of the CAA (as codified in 40 CFR 63.91(d)), that is, that the state has demonstrated that its NESHAP program contains adequate authorities to assure compliance with each applicable Federal requirement, adequate resources for implementation, and an expeditious compliance schedule. Under 40 CFR 63.91(d)(3), interim or final Title V program approval satisfies the criteria set forth in 40 CFR 63.91(d) for "up-front approval." On October 18, 2001, EPA promulgated full approval of ME DEP's operating permits program with an effective date of December 17, 2001. *See* 66 FR 52874. Accordingly, ME DEP has satisfied the up-front approval criteria of 40 CFR 63.91(d).

Additionally, the "rule substitution" option requires EPA to make a detailed and thorough evaluation of the state's submittal to ensure that it meets the stringency and other requirements of 40 CFR 63.93. A rule will be approved if the state or local government demonstrates: (1) the state and local rules contain applicability criteria that are no less stringent than the corresponding Federal rule; (2) the state and local rule requires levels of control and compliance and enforcement measures that would achieve emission reductions from each affected source that are no less stringent than would result from the otherwise applicable Federal standard; (3) the schedule for implementation and compliance is consistent with the deadlines established in the otherwise applicable Federal rule; and (4) the state requirements include additional compliance and enforcement measures as specified in 40 CFR 63.93(b)(4). *See* 40 CFR 63.93(b). After reviewing ME DEP's amended partial rule substitution request and equivalency demonstration for the Dry Cleaning NESHAP as it applies to area sources, EPA has determined this request meets all the requirements necessary for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93.

III. How will EPA determine equivalency for state alternative NESHAP requirements?

Before we can approve alternative requirements in place of a part 63 emissions standard, the state must

submit to us detailed information that demonstrates how the alternative requirements compare with the otherwise applicable Federal standard. Under 40 CFR part 63 subpart E, the level of control in the state rule must be at least as stringent as the level of control in the Federal rule. In addition, in order for equivalency to be granted, the level of control and compliance and enforcement measures (“MRR”) of the state rule, taken together as a whole, must be equivalent to the level of control and MRR of the Federal rule, taken together as a whole. A detailed discussion of how EPA will determine equivalency for state alternative NESHAP requirements is provided in the preamble to EPA’s proposed Subpart E amendments on January 12, 1999. *See* 64 FR 1908.

IV. What significant changes did EPA make to the Dry Cleaning NESHAP and how did ME DEP address those changes?

The following discussion explains the changes that EPA made to the Dry Cleaning NESHAP and how ME DEP addressed these changes in the amended Maine Dry Cleaner Rule. The April 24, 2006 **Federal Register** Notice initially approving the Maine Dry Cleaner Rule as a substitute for the Dry Cleaning NESHAP contains a more detailed discussion of the differences between the Dry Cleaning NESHAP and the Maine Dry Cleaner Rule. *See* 71 FR 20895.

A. What definitions were added to the Dry Cleaning NESHAP and the amended Maine Dry Cleaner Rule?

The Dry Cleaning NESHAP added definitions for halogenated hydrocarbon detector, perchloroethylene gas analyzer, residence, vapor leak, and vapor barrier. The amended Maine Dry Cleaner Rule adopted the same definitions, with the exception of vapor barrier and residence. Residence is defined in the Dry Cleaner NESHAP as any dwelling or housing in which people reside, excluding short-term housing that is occupied by the same person for a period of less than 180 days (such as a hotel room). Maine’s amended Dry Cleaner Rule defines residence as “any dwelling or housing in which people reside,” without exclusion for short-term housing. Maine’s definition is more stringent. ME DEP did not adopt the definition of vapor barrier into its amended Maine Dry Cleaner Rule because the requirement is no longer necessary. Specifically, the amended Maine Dry Cleaner Rule specifies that dry cleaning machines installed in a building with a residence

after December 21, 2005 must comply with the NESHAP provisions under Section 63.320(b)(2)(ii). *See* Chapter 125 Section 3.A.(2). Section 63.320(b)(2)(ii) of the Dry Cleaner NESHAP requires any facility installed in a building with a residence between December 21, 2005 and July 13, 2006 (*i.e.*, those facilities which were required to utilize a vapor barrier under the Dry Cleaning NESHAP) to eliminate perc emissions by July 27, 2009. Therefore, any facility which was required to install a vapor barrier is effectively prohibited from operating under the Dry Cleaner NESHAP and the amended Maine Dry Cleaner Rule as of July 27, 2009. The amended Maine Dry Cleaner Rule is equivalent to the Dry Cleaner NESHAP.

B. What control requirements were added for new dry cleaners installed after December 21, 2005?

The Dry Cleaning NESHAP requires new area source dry cleaners which commence construction after December 21, 2005, to be equipped with a refrigerated condenser and a non-vented carbon adsorber. The carbon adsorber must be desorbed in accordance with the manufacturer’s instruction. *See* 40 CFR 63.322(o)(2). The amended Maine Dry Cleaner Rule required these control requirements for new dry cleaners installed after February 12, 1997 and added clarifying language for these controls on new dry cleaners installed after December 21, 2005. *See* Chapter 125 Section 3.B(2) and Section 3.(C)(3). The Maine Dry Cleaner Rule added the requirement for the carbon adsorber to be desorbed in accordance with the manufacturer’s instructions. *See* Chapter 125 Section 3.C(1)(a). The amended Maine Dry Cleaner Rule is accordingly no less stringent than the corresponding Federal rule.

C. What requirements were added for dry cleaners installed in a building with a residence after December 21, 2005?

The Dry Cleaning NESHAP requires a vapor barrier and other control requirements for dry cleaners installed in a building with a residence between December 21, 2005 and July 13, 2006. The Dry Cleaning NESHAP requires that such dry cleaners eliminate perc emissions by July 27, 2009. *See* 40 CFR 63.322(o)(5)(i)–(ii) and 63.320(b)(2)(ii). The Maine Dry Cleaner Rule specifies that such dry cleaners must comply with the Dry Cleaner NESHAP Section 63.320(b)(2)(ii). *See* Chapter 125 Section 3.A(2). Under both the Dry Cleaning NESHAP and the amended Maine Dry Cleaner Rule, such sources are effectively prohibited from operating as of July 27, 2009. The Maine Dry Cleaner

rule is equivalent to the Dry Cleaning NESHAP.

The Dry Cleaning NESHAP does not allow any dry cleaning systems to be installed in a building with a residence as of July 13, 2006. *See* 40 CFR 63.322(o)(4) and 63.320(b)(3). The amended Maine Dry Cleaner rule prohibits the installation of a dry cleaner co-located with a residence as of June 24, 2009, and requires all new or relocated dry cleaning machines located in a building with a residence which commenced construction on or after December 21, 2005 to comply with 40 CFR Part 63.320(b)(2)(ii). *See* Chapter 125 Section 3.A(1) and (2). The amended Maine Dry Cleaner rule does not prohibit dry cleaning machines from being installed in a building with a residence between July 13, 2006 and June 24, 2009, the effective date of the amended Maine Dry Cleaner rule. Therefore, EPA is retaining its authority with respect to dry cleaners installed in a residence between July 13, 2006 and June 24, 2009, the effective date of the amended Maine Dry Cleaner rule. In addition, the amended Maine Dry Cleaner rule prohibits the installation of a co-located dry cleaner as of June 24, 2009. *See* Chapter 125 Section 3.(A)(1). A co-located dry cleaner includes dry cleaning facilities located in a building with a residence, or with a day care center, a health care facility, a prison, an elementary school, a middle or high school or a pre-school, a senior center or a youth center, or other facility inhabited by children or the elderly. Therefore, this provision of the amended Maine Dry Cleaner rule is more stringent than the Dry Cleaning NESHAP because it prohibits all co-located dry cleaners as of June 24, 2009, in addition to prohibiting co-located dry cleaners in a building with a residence as of June 24, 2009.

The Dry Cleaning NESHAP requires all dry cleaners located in a building with a residence to eliminate perc emissions by December 21, 2020. *See* 40 CFR 63.322(o)(5)(ii). The amended Maine Dry Cleaner rule requires all co-located dry cleaners to cease operation on or before December 21, 2020. *See* Chapter 125 Section 3.A(3). The amended Maine Dry Cleaner rule is more stringent than the Dry Cleaning NESHAP because this provision applies to all co-located facilities in addition to dry cleaners installed in a building with a residence.

D. What requirements were added for transfer machines?

The Dry Cleaning NESHAP effectively prohibits all transfer machines as of July 28, 2008, by requiring the owner or

operator to eliminate emissions of perc during the transfer of articles between the washer and the dryer(s) or reclaimer(s). See 40 CFR 63.320(b)(1) and 63.322(o)(4). The amended Maine Dry Cleaner rule prohibited the installation and use of transfer machines as of January 4, 2003. See Chapter 125 Section 3.(D). The amended Maine Dry Cleaner rule is more stringent because it prohibited transfer machines earlier than the Dry Cleaning NESHAP.

E. What monitoring requirements were added?

The Dry Cleaning NESHAP added a requirement for area source dry cleaners to conduct leak checks monthly using a halogenated hydrocarbon detector or a PCE gas analyzer that is operated according to the manufacturer's recommendation. See 40 CFR 63.322(o)(1). The amended Maine Dry Cleaner rule requires vapor leak checks weekly with a halogenated hydrocarbon detector or a PCE gas analyzer. See Chapter 125 Section 4.(C)(2). The amended Maine Dry Cleaner rule is more stringent than the Dry Cleaning NESHAP because it requires leak checks with a detector or analyzer to be conducted weekly.

The Dry Cleaning NESHAP added a requirement that allows facilities using a refrigerated condenser to monitor the refrigeration system high pressure and low pressure as an alternative to monitoring for the temperature of the perc vapor gas vapor-stream. See 40 CFR 63.323(a)(1). Maine added this requirement and is therefore equivalent to the Dry Cleaning NESHAP. See Chapter 125 Section 4.(B).

F. How did the reporting requirements change?

The Dry Cleaning NESHAP added a requirement for facilities to submit a notification of compliance status by July 28, 2008. See 40 CFR 63.324(f). The amended Maine Dry Cleaner rule did not add this requirement but all affected sources were required under the NESHAP to submit this report and the date for submitting the report was prior to the effective date of the Maine Dry Cleaner rule amendments. ME DEP did develop a sample form for the July 28, 2008, NESHAP report and sent a direct mailing to every dry cleaner in the state with the form, notifying sources to submit the report to both EPA and ME DEP. In addition, the amended Maine Dry Cleaner rule requires facilities to register annually with the state. The Dry Cleaning NESHAP does not require an annual report. The annual report was revised to include all of the information required in the July 28, 2008, NESHAP

report, except for a statement of compliance. Given that the NESHAP report date has passed, all dry cleaners in Maine were required to send in the report with a statement of compliance under the NESHAP requirements, and that Maine requires an annual report not required by the NESHAP, EPA has determined that reporting requirements of the amended Maine Dry Cleaner rule are equivalent to the requirements of the Dry Cleaning NESHAP.

V. What is EPA's action regarding Maine's amended Dry Cleaner Rule?

After reviewing ME DEP's request for approval of the amended Maine Dry Cleaner Rule, EPA has determined that Maine's regulation meets all of the requirements necessary for partial rule substitution under section 112(l) of the CAA and 40 CFR 63.91 and 63.93. The amended Maine Dry Cleaner rule, taken as a whole, is no less stringent than the Dry Cleaning NESHAP, as applied to area sources. Therefore, EPA hereby approves ME DEP's request to implement and enforce Chapter 125, as amended on June 24, 2009, in place of the Dry Cleaning NESHAP for area sources in Maine. EPA retains the requirements for major source dry cleaners and dry cleaners installed in a residence between July 13, 2006 and June 24, 2009. As of the effective date of this action, the amended Maine Dry Cleaner Rule is enforceable by EPA and by citizens under the CAA. Although ME DEP has primary responsibility to implement and enforce the amended Maine Dry Cleaner rule, EPA retains the authority to enforce any requirement of the rule upon its approval under CAA 112. See CAA section 112(l)(7).

VI. Final Action

EPA is approving the Maine Perchloroethylene Dry Cleaner Regulation, Chapter 125, as amended on June 24, 2009, as a partial rule substitution for the Dry Cleaning NESHAP for area sources in Maine. EPA retains the requirements for major source dry cleaners and dry cleaners installed in a residence between July 13, 2006 and June 24, 2009.

EPA is publishing this action 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** publication, EPA is publishing a separate document that will serve as the proposal to approve the rule revision should relevant adverse comments be filed. This rule will be effective July 25, 2011 without further notice unless the

Agency receives relevant adverse comments by June 27, 2011.

If EPA receives such comments, then EPA will publish a notice withdrawing the direct final rule and informing the public that the direct final rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 25, 2011 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Judicial Review

Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit by July 25, 2011. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Regional Administrator, U.S. Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100 (ORA01-4), Boston, MA 02109-3912, with a copy to the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Regional Counsel, U.S.

Environmental Protection Agency, EPA New England Regional Office, Five Post Office Square, Suite 100 (ORA01-4), Boston, MA 02109-3912. Filing a petition for reconsideration by the Administrator of this final rule under CAA section 307(d)(7)(B) does not affect the finality of this rule for the purposes of judicial review, does not extend the time within which a petition for judicial review may be filed, and does not postpone the effectiveness of the rule.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action approves equivalent state requirements in place of Federal requirements under CAA section 112(l). This type of action is exempt from review under EO 12866.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action allows the State of Maine to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners. Thus, this action does not require any person to submit information.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic 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 that meets the Small Business Administration size standards found at 13 CFR 121.201 (coin operated laundries and drycleaners as defined by NAICS code 812310 with annual receipts of less than \$7.0 million or drycleaning and laundry services (except coin operated) as defined by NAICS code 812320 with annual receipts of less than \$4.5 million); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently

owned and operated and is not dominant in its field. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not have a significant impact on a substantial number of small entities because approvals under CAA section 112(l) and 40 CFR 63.93 do not create any new requirements. Such approvals simply allow a state to implement and enforce equivalent requirements in place of the Federal requirements that EPA is already imposing.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or Tribal governments or the private sector. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action allows the State of Maine to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners. Thus, this action does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action 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 action simply allows Maine to implement equivalent alternative requirements to replace a Federal rule, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action allows the State of Maine to implement equivalent state

requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners. This action will not have substantial direct effects on Tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it approves a state program such that it allows the State of Maine to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action allows the State of Maine to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to area source dry cleaners. As explained above, the state requirements contain standards that are at least equivalent to the Federal standards; thus, we anticipate only a positive impact from this action.

K. Congressional Review Act

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). This rule will be effective July 25, 2011.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 13, 2011.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

- 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

- 2. Section 63.14 is amended by revising paragraph (d)(6) to read as follows:

§ 63.14 Incorporation by reference.

(d) * * *

(6) Maine Department of Environmental Protection regulations at Chapter 125, Perchloroethylene Dry Cleaner Regulation, effective as of June 2, 1991, last amended on June 24, 2009. Incorporation By Reference approved for § 63.99(a)(20)(iii) of subpart E of this part.

* * * * *

Subpart E—[Amended]

- 3. Section 63.99 is amended by revising paragraph (a)(20)(iii) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(20) * * *

(iii) Affected area sources within Maine must comply with the Maine Regulations Applicable to Hazardous Air Pollutants (incorporated by reference as specified in § 63.14) as described in paragraph (a)(20)(iii)(A) of this section:

(A) The material incorporated into the Maine Department of Environmental Protection regulations at Chapter 125, Perchloroethylene Dry Cleaner Regulation, effective as of June 2, 1991, last amended on June 24, 2009, pertaining to dry cleaning facilities in the State of Maine jurisdiction, and approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal NESHAP for Perchloroethylene Dry Cleaning Facilities (subpart M of this part), effective as of July 11, 2008, for area sources only, as defined in § 63.320(h).

(1) Authorities not delegated.

(i) Maine is not delegated the Administrator's authority to implement and enforce Maine regulations at Chapter 125, in lieu of those provisions

of subpart M of this part which apply to major sources, as defined in § 63.320(g).

(ii) Maine is not delegated the Administrator's authority to implement and enforce Maine regulations at Chapter 125, in lieu of those provisions of subpart M of this part which apply to dry cleaning systems installed in a building with a residence between July 13, 2006 and June 24, 2009, as defined in § 63.320(b)(2)(i) and § 63.322(o)(4).

(2) [Reserved]

(B) [Reserved]

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[FR Doc. 2011-13003 Filed 5-25-11; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102-42

[FMR Change 2011-01; FMR Case 2011-102-1; Docket 2011-0008; Sequence 1]

RIN 3090-AJ12

Federal Management Regulation; Change in Consumer Price Index Minimal Value

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: Pursuant to 5 U.S.C. 7342, at three-year intervals following January 1, 1981, the minimal value for foreign gifts must be redefined by the Administrator of General Services, after consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period. The required consultation has been completed and the minimal value has been increased to \$350 or less as of January 1, 2011.

DATES: *Effective Date:* This final rule is effective May 26, 2011.

Applicability Date: This final rule applies to all foreign gifts received on or after January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Holcombe, Director, Asset Management Policy Division (202-501-3828).

SUPPLEMENTARY INFORMATION:

A. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563