House of Representatives, and the Comptroller General of the United States prior to the publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

*H. Petitions for Judicial Review*

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 12, 1999. 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).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13–25–126.5, 13–90–107, and 25–1–114.5, Colorado Revised Statutes, Colorado Senate Bill 94–139, effective June 1,1994, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question or whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1980.

Dated: December 21, 1998.

**William P. Yellowtail,**

*Regional Administrator, Region VIII.*

40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

## Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(83) to read as follows:

**§ 52.320 Identification of plan.**

* * * * *

(c) * * *

(83) A revision to the Colorado State Implementation Plan was submitted by the Governor of the State of Colorado on April 22, 1996. The revision consists of an amendment to Colorado Air Quality Control Commission Regulation No. 7, ''Regulation To Control Emissions of Volatile Organic Compounds,'' to provide an exemption for beer production and associated beer container storage and transfer operations involving volatile organic compounds under 1.5 psia from certain bottom or submerged filling requirements that Regulation No. 7 otherwise imposes. The revision consists of the addition of paragraph C to section III, ''General Requirements for Storage and Transfer of Volatile Organic Compounds,'' of Regulation No. 7.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission Regulation No. 7, 5 CCR 1001–9, section III, paragraph C, adopted by the Colorado Air Quality Control Commission on March 16, 1995, State effective May 30, 1995.

* * * * *

[FR Doc. 99–2981 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 62

**[Region 2 Docket No. NY30–188b, FRL–6231–7]**

## Approval and Promulgation of State Plans for Designated Facilities; New York

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action on revisions to the State Plan submitted by New York to fulfill the requirements of sections 111(d)/129 of the Clean Air Act for Municipal Waste Combustors (MWC). The revisions concern the implementation and enforcement of the Emissions Guidelines, as amended by EPA on August 25, 1997, applicable to existing large MWC units with individual capacity to combust more than 250 tons per day of municipal solid waste. We are approving the State Plan which imposes revised emission limits for four pollutants (hydrogen chloride, sulfur dioxide, nitrogen oxides and lead) and compliance schedules for the existing MWC's in New York which will reduce the designated pollutants.

**DATES:** This rule is effective on April 12, 1999 without further notice, unless EPA receives adverse comment by March 11, 1999. 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: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the state submittal 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 York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Christine DeRosa or Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new Municipal Waste Combustors (MWCs) and Emission Guidelines (EG) applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively, see 60 FR 65387. Subparts Cb and Eb regulate the following

designated pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day (tpd) of municipal solid waste (small MWCs), consistent with their opinion in Davis County Solid Waste Management and Recovery District v. EPA, 101 F.3d 1395 (D.C. Cir. 1996), as amended, 108 F.3d 1454 (D.C. Cir. 1997). As a result, Subparts Eb and Cb apply only to MWC units with individual capacity to combust more than 250 tpd of municipal solid waste (large MWC units). On August 25, 1997, EPA published changes to the emission guidelines to address the court decision (65 FR 45116). The amendments affect the applicability of the guidelines and standards, and add supplemental emission limits for four pollutants (hydrogen chloride, sulfur dioxide, nitrogen oxides, and lead) to the guidelines. Compliance with the supplemental emission limits is required by August 25, 2002 or three years after approval of a revised state plan incorporating these amendments, whichever is first. The amendments went into effect on October 24, 1997 and state plans incorporating those changes were due on August 25, 1998.

Under section 129 of the Act, emission guidelines are not federally enforceable. Section 129(b)(2) of the Act requires states to submit to EPA for approval State Plans that implement and enforce the emission guidelines. State Plans must be at least as protective as the EG, and become federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated 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. This action approves the revised State Plan submitted by New York to implement and enforce subpart Cb, as amended by EPA on August 25, 1997, applicable to existing large MWC units with individual capacity to combust more than 250 tpd of municipal solid waste.

**B. State Submittal**

On December 15, 1997, and supplemented on June 22, 1998, the New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a section 111(d)/129 plan to implement 40 CFR part 60, subpart Cb—Emission Guidelines for existing large MWC units located in New York State. New York's submittal as supplemented included: the necessary legal authority; enforceable mechanisms; enforceable compliance schedules; inventory of MWC units; emissions inventory; testing, monitoring, recordkeeping, and reporting requirements; provision for annual state progress reports; and record of public hearing. EPA approved New York's submittal on August 4, 1998 (63 FR 41427).

On October 7, 1998, NYSDEC submitted to EPA, revisions to New York's State Plan for existing large MWC's. This submittal was supplemented by the NYSDEC on November 5, 1998. New York's submittal as supplemented includes only those required state plan elements that needed to be revised to address EPA's August 25, 1997 amendments. These include: enforceable mechanisms; enforceable compliance schedules; and record of public hearing, all other elements remain as approved by EPA on August 4, 1998 (63 FR 41427).

**C. Review of State Submittal**

New York has adopted by reference the requirements of the emissions guidelines (including emissions limitations, testing, monitoring, recordkeeping and reporting requirements) in Part 200 of title 6 of the New York Code of Rules and Regulations of the State of New York, entitled, ''General Provisions'' and will enforce the requirements under Part 201, entitled, ''Permits and Registration'' both effective October 1, 1998. By incorporating the EG by reference into Part 200, NYSDEC has the authority to include them as applicable requirements in permits of emission sources subject to such requirements and to enforce such requirements.

The schedules for compliance with the requirements incorporated by reference in Part 200 for each of the seven affected facilities were included as part of New York's submittal to EPA. These schedules are enforceable and have been incorporated into each facility's existing State operating permit and will also be incorporated into each facility's Title V permit. In addition, the Title V permits for each facility, once issued, will contain the applicable requirements of 40 CFR part 60, subpart Cb (EG for existing large MWC's) that were incorporated by reference in New York's Part 200. These include emission limitations, operating requirements, testing requirements and training requirements. The Title V permit process will include a public hearing for each affected facility.

**D. Conclusion**

EPA has evaluated the revised MWC State Plan submitted by New York for consistency with the Act, EPA guidelines and policy. EPA has determined that New York's State Plan meets all requirements and, therefore, EPA is approving New York's revised State Plan to implement and enforce subpart Cb, as amended by EPA on August 25, 1997, applicable to existing large MWC units with individual capacity to combust more than 250 tpd of municipal solid waste.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 revision should adverse comments be filed. This rule will be effective April 12, 1999 without further notice unless the Agency receives adverse comments by March 11, 1999.

If the EPA receives adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Plan. Each request for revision to the State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

**E. Administrative Requirements**

*Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

*Executive Order 12875*

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

*Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*Executive Order 13084*

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

*Submission to Congress and the General Accounting Office*

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1999. 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, Intergovernmental relations, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: January 28, 1999.

**William J. Muszynski,**

*Deputy Regional Administrator, Region 2.*

Part 62, 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. 7401–7642.

### Subpart HH—New York

2. Part 62 is amended by adding § 62.8103(c)

**§ 62.8103 Identification of plan**

* * * * *

(c) On October 7, 1998 and supplemented on November 5, 1998, the New York State Department of Environmental Conservation submitted revisions to the State Plan which incorporates emission limits and compliance schedules as amended by EPA on August 25, 1997 (65 FR 45116).

[FR Doc. 99–2983 Filed 2–8–99; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### 45 CFR Parts 301, 302, 303, 304, and 305

**RIN 0970–AB81**

### Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation Audit and Penalty

**AGENCY:** Office of Child Support Enforcement (OCSE), HHS.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This rule eliminates regulations, in part or in whole, rendered obsolete by or inconsistent with, Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), enacted August 22, 1996, and its technical amendments, Pub. L. 105–33, the Balanced Budget Act of 1997 (BBA), Pub. L. 105–89, the Adoption and Safe Families Act of 1997, and Pub. L. 105–200, the Child Support Performance and Incentive Act of 1998. These revisions are consistent with the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector.

**DATES:** These regulations are effective February 9, 1999. Consideration will be given to comments received by April 12, 1999.

**ADDRESSES:** Send comments to: Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 4th floor, Washington, DC 20447. Attention: Director, Policy and Planning Division, Mail Stop: OCSE/DPP. Comments will be available for public inspection Monday through Friday 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address.

You may also transmit written comments electronically via the Internet. To transmit comments electronically, or download an electronic version of the rule, you should access the Administration for Children and Families Welfare Reform Home Page at ''http://www.acf.dhhs.gov/hypernews/'' and follow any instructions provided.

**FOR FURTHER INFORMATION CONTACT:** Marilyn R. Cohen, Policy Branch, OCSE, (202) 401–5366, e-mail: mcohen@acf.dhhs.gov.

**SUPPLEMENTARY INFORMATION:**

#### Statutory Authority

These regulations are published under the authority granted to the Secretary by section 1102 of the Act. Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

#### Background

This rule is in response to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector, and in compliance with section 204 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4.

The Presidential Memorandum required agencies, by June 1, 1995, to conduct a page-by-page review of all regulations to eliminate or revise those that are outdated or otherwise in need of reform. OCSE formed a regulation reinvention workgroup to exchange views, information and advice with respect to the review of existing regulations in order to eliminate or revise those regulations that are outdated, unduly burdensome, or unproductive. This group is made up of representatives of Federal, State and local government staff elected officials. The workgroup conducted such a review which resulted in a final rule issued December 20, 1996 (61 FR 67235) which made both substantive and technical changes. In our analysis of existing regulations, we took a cautionary approach recognizing that significant legislation to overhaul the welfare system, including major reform to the child support enforcement program, was actively pending before the 104th Congress. Accordingly, numerous existing rules would potentially be affected. Therefore, we deferred recommending any changes in existing rules which might be impacted by enactment of a legislative change. We considered the changes in the final rule as only the first part of our response to the President's Regulation Reinvention Initiative.

Since the enactment of PRWORA, the workgroup has been reviewing the regulations to identify additional regulations which should be revised as obsolete or inconsistent with PRWORA. The workgroup surveyed our State partners who tended toward a regulatory philosophy under which Federal statutory mandates will not be reiterated in regulation, regulating beyond the statute will be minimized, and policy guidance to States will be developed collaboratively. In addition to the workgroup, we also held a series of meetings with advocacy groups to obtain their input on implementation of PRWORA. Further revisions were made with the enactment of the BBA. This rule reflects input from major stakeholders including the National Governors Association, the National Conference of State Legislatures and the American Public Human Services Association, formerly known as the American Public Welfare Association. This interim final rule eliminates identified regulatory requirements which were rendered obsolete by, or are inconsistent with, the child support provisions enacted under PRWORA, the BBA, and the Adoption and Safe