Dated: August 8, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

PART 52—[AMENDED]

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

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

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(48)and (c)(49) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(48) On August 14, 2001, the Governor of Utah submitted a revision to Utah's SIP to update UACR R307–110–33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County. The changes involve a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network.

(i) Incorporation by reference.

(A) UACR R307–110–33, which incorporates by reference Utah SIP, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County and appendices 1.a, 1.b, and 1.c, adopted by the UAQB August 1, 2001 and State effective on August 2, 2001.

(49) On August 15, 2001, the Governor of Utah submitted a revision to Utah's SIP to update UACR R307–110–31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability. This revision required the mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002 in all areas implementing an I/M program.

(i) Incorporation by reference.

(A) UACR R–307–110–31 which incorporates by reference Utah SIP, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability adopted by the UAQB on August 1, 2001 and State effective on August 2, 2001.

[FR Doc. 02–25588 Filed 10–8–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MA–01–7203a; FRL –7387–5a]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Massachusetts; Plan for Controlling MWC Emissions From Existing Large MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the Sections 111(d)/129 State Plan originally submitted by the Massachusetts Department of Environmental Protection (MA DEP) on January 11, 1999, and revised on November 16, 2001. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW).

EFFECTIVE DATE: This final rule will become effective on November 8, 2002.

ADDRESSES: Documents which EPA has incorporated by reference for previous rulemaking are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue NW., Washington, DC 20460. You may examine copies of materials the MA DEP submitted to EPA relative to this action during normal business hours at the following locations:

Environmental Protection Agency-New England, Region 1, Air Permits Program, Office of Ecosystem Protection, Suite 1100, One Congress Street, Boston, Massachusetts 02114–2023.

Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Business Compliance, One Washington Street, Boston, Massachusetts 02108, (617) 556–1120.

The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

FOR FURTHER INFORMATION CONTACT: John Courcier at (617) 918–1659, or by e-mail at *courcier.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is EPA Taking Today?

EPA is approving the above referenced State Plan with revisions. EPA finds the State Plan to be at least as protective as EPA's Emission Guidelines. *See* 40 CFR part 60, subpart Cb.

II. Why Did EPA Withdraw Its Original Approval?

This rulemaking was originally published as a direct final notice in the July 14, 1999 **Federal Register**. *See* 64 FR 37923 for additional information. Subsequent to this notice, EPA received numerous adverse and supportive comments. Because of the adverse comments, EPA withdrew the direct final notice on September 1, 1999. *See* 64 FR 47680. EPA has responded to these adverse comments under III below.

III. How Has EPA Addressed the Adverse Comments on Its Original Direct Final Approval?

As mentioned under section II above, EPA published its direct final and proposed approval of the State's MWC Plan, including the MWC rule, on July 14, 1999. The plan was to become effective on September 13, 1999, unless EPA received adverse comment by August 13, 1999. Subsequently, we did receive timely comments objecting to the State's Plan and EPA's approval of it. Following the September 1, 1999 withdrawal of EPA's proposed direct final approval, EPA received additional adverse comments as well as supportive comments. The adverse comments received include the following:

- The MA DEP's mercury limit is arbitrary and has not been demonstrated to be consistently achievable.
- There are no test methods that have been validated at the 28 μg/dscm level.
- MA DEP did not provide the public with adequate notice and opportunity to comment, in that MA DEP modified the mercury standard to be more stringent after the close of the public comment period, and did not provide further opportunity for comment.

The full text of written comments and EPA's responses can be found in the docket located at EPA's Boston office.

EPA will briefly address the adverse comments below:

EPA does not find the mercury limit to be arbitrary. Units equipped with fabric filters and carbon injection have been shown to be capable of meeting the limit. Although some MWC units equipped with electrostatic precipitators (ESPs) have not been shown to be able to achieve the limit consistently, MA DEP can reasonably determine that well-controlled units should be able to meet the 28 μg/dscm level. MA DEP has addressed the issue of mercury spikes based on MSW content by allowing facilities to average four quarterly test results to achieve the standard. In addition, the Plan allows ESP-controlled sources unable to meet the standard within the first year to apply for a limited waiver for periods of up to five years, to provide time to install and test additional control measures.

The more stringent numerical limit, and the elimination of the 85% reduction option, are not contrary to Clean Air Act requirements. Section 129(b)(2) of the Act requires a State to submit a plan that is ''at least as protective'' as EPA's EGs. By proposing a more stringent mercury standard, MA DEP has provided a standard that is at least as protective as the federal mercury standard. The provisions of sections 111(d) and 129 do not prevent a State from submitting emission limits that are more stringent than the federal EGs. Even if the State's limit has not been consistently achieved by all ESP-controlled units in the past, the State may require such units to achieve a level of control that has been shown to be achievable by other municipal waste combustors.

One commenter indicated that there are no approved test methods available for measuring mercury at and below the 28 μg/dscm level. This commenter believes EPA can not approve a limit for which there is no validated test method. It is correct that Method 29 (the approved EPA test method for measuring mercury) has not been validated at a large MWC at the MA DEP's mercury level. However, Method 29 has been validated at both smaller MWCs and at power plants at the low levels being discussed here. Therefore, EPA has no reason to believe that Method 29 is not an appropriate test method to use in this situation.

As required by 40 CFR 60.23(c), the State conducted public hearings and received comments on the State Plan. One of the comments to EPA is that the State should have conducted a further public process before adopting a standard that differed from the standard it had proposed in the notice of public hearing. In particular, the commenter claimed that the State was required to provide further opportunity for comment before adopting a mercury standard that differed from the proposal in eliminating the compliance option of 85% reduction by weight. EPA believes that the State has met EPA's requirement that it provide a public hearing on the State Plan prior to adoption. With respect to the adequacy of the public hearing process under Massachusetts law, the Massachusetts Attorney General's Office has stated that the procedures were adequate under the Massachusetts Administrative Procedure Act. Accordingly, EPA is satisfied that the State has demonstrated that it provided an adequate public hearing process, and that it has adequate legal authority to enforce the standard, in accordance with 40 CFR 60.26(a).

IV. Why Is EPA Approving the State's Plan at This Time?

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

(1) MA DEP provided adequate public notice of, and held public hearings for the proposed rule-making, and Massachusetts may carry out and enforce its provisions which are at least as protective as the EGs for large MWCs, and

(2) MA DEP 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.

V. When Does the State Plan Become Effective and What Becomes of the Federal Plan?

This final rule is effective on November 8, 2002, without further notice. The Federal Plan is an interim action. On the effective date of this action, the Federal Plan will no longer apply to MWC units covered by the State Plan.

VI. By What Date Must MWCs in Massachusetts Achieve Compliance?

All existing large MWC units in the Commonwealth of Massachusetts must now be in compliance with these requirements. The final compliance date was December 19, 2000.

VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action 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 action 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 (Public Law 104–4).

This action 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 action 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 section 111(d) State Plan submissions, 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 submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan 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 action 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 December 9, 2002. 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* § 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal .

Dated: September 27, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Part 62 is amended by adding a new § 62.5340 and a new undesignated center heading to Subpart W to read as follows:

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

§ 62.5340 Identification of Plan.

(a) *Identification of Plan.* Massachusetts Plan for the Control of Designated Pollutants from Existing Plants (Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of metals, acid gases, organic compounds and nitrogen oxide emissions from existing municipal waste combustors, originally submitted on January 11, 1999 and amended on November 16, 2001. The Plan does not include: the site assignment provisions of 310 CMR 7.08(2)(a); the definition of ''materials separation plan'' at 310 CMR 7.08(2)(c); and the materials separation plan provisions at 310 CMR 7.08(2)(f)(7).

(2) [Reserved]

(c) *Designated facilities.* The plan applies to existing sources in the following categories of sources:

(1) Municipal waste combustors.

(2) [Reserved]

3. Part 62 is amended by adding a new § 62.5425 and a new undesignated center heading to subpart W to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors With the Capacity to Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.5425 Identification of sources.

(a) The plan applies to the following existing municipal waste combustor facilities:

(1) Fall River Municipal Incinerator in Fall River.

(2) Covanta Haverhill, Inc., in Haverhill.

(3) American Ref-Fuel of SEMASS, L.P. in Rochester.

(4) Wheelabrator Millbury Inc., in Millbury.

(5) Wheelabrator Saugus, J.V., in Saugus.

(6) Wheelabrator North Andover Inc., in North Andover.

(b) [Reserved]

[FR Doc. 02–25685 Filed 10–8–02; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AD25

Disaster Assistance; Federal Assistance to Individuals and Households

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule; correction.

SUMMARY: We, FEMA, published an interim final rule on September 30, 2002, 67 FR 61446, concerning Federal disaster assistance to individuals and households. There were a number of errors that were misleading and need clarification. This document corrects those errors.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Hirsch; Response and Recovery Directorate; (202) 646–4099, or (e-mail) at *Michael.Hirsch@fema.gov.*

SUPPLEMENTARY INFORMATION: On September 30, 2002 we published an interim final rule on, 67 FR 61446, concerning Federal disaster assistance to individuals and households. There were a number of inadvertent errors in that rule, and this document corrects those errors.

In the interim final rule (FR Doc. 02–24773), published September 30, 2002, 67 FR 61446, make the following corrections:

1. On page 61448, in the second line of the third column, correct the reference ''206.110'' to read ''206.101''.

PART 206—[CORRECTED]

2. On page 61452, in the first column, correct amendatory instruction ''2.'' to read as follows:

2. Subpart D is amended by revising the heading and adding §§ 206.110 through 206.120 to read as follows:

§ 206.115 [Corrected]

3. On page 61455, in the sixth line from the bottom of the third column, correct the reference ''206.111(a)'' to read ''206.120(a)''.

§ 206.117 [Corrected]

4. On page 61456 in the 31st line from the top of the second column, correct ''(i) Direct Assistance'' to read ''(ii) Direct Assistance''.

5. On page 61456 on the 18th line from the bottom of the third column, correct ''206.119(e)'' to read ''206.110(e)''.