

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 20, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 917 is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
June 28, 1991.	August 4, 1998.	405 KAR 16:200 § 1(7)(b) and 18:200 § 1(7)(b).

3. Section 917.16 is amended by adding a new paragraph (n) to read as follows:

§ 917.16 Required regulatory program amendments.

* * * * *

(n) By October 5, 1998, Kentucky shall amend the Kentucky program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to delete the term "haul roads" at sections 1(7)(b) of 405 KAR 16:200 and 18:200.

[FR Doc. 98-20715 Filed 8-3-98; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE**39 CFR Part 20****End of Stay of Interim Rule for Global Package Link to Germany and France**

AGENCY: Postal Service.

ACTION: End of stay of interim rule.

SUMMARY: The Postal Service is ending its stay of its recently published interim rule on Global Package Link which added a merchandise return service for customers utilizing the GPL service to Germany and France.

DATES: The amendment to the International Mail Manual published in the **Federal Register** on July 10, 1998 (63 FR 37251-37254), will become effective as of 12:01 a.m. on August 4, 1998.

ADDRESSES: Any written comments should be mailed or delivered to the International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, room 370-IBU, Washington, DC 20260-6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Brandt (202) 314-7165.

SUPPLEMENTARY INFORMATION: By a notice in the **Federal Register** on July 17, 1998 (63 FR 38478), the Postal Service stayed an interim rule it had previously published in the **Federal Register** on July 10, 1998 (63 FR 37251-37254), concerning the establishment of a GPL return service to Germany and France. The Postal Service has completed its further internal review of the interim rule, and has determined to make the contemplated service available immediately.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

The Postal Service hereby makes effective its amendment of July 10, 1998, to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

1. Subchapter 620 of the International Mail Manual, Issue 20, sections 626.24 and 626.25, are effective August 4, 1998.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98-20738 Filed 8-3-98; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[Region 2 Docket No. NY28-2-180b, FRL-6134-7]

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 approving 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 State Plan addresses the implementation and enforcement of the Emissions Guidelines (EG) applicable to existing large MWC units with individual capacity to combust more than 250 tons per day of municipal solid waste. The State Plan imposes emission limits and control requirements for the existing MWC's in New York which will reduce the designated pollutants.

DATES: This direct final rule is effective on October 5, 1998 without further notice, unless EPA receives adverse comment by September 3, 1998. If adverse comment is received, EPA 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: 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 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:

I. 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). 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 State Plan submitted by New York to implement and enforce subpart Cb, as it applies to existing large MWC units with individual capacity to combust more than 250 tpd of municipal solid waste.

State Submittal

On December 15, 1997, 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. This submittal was supplemented by the NYSDEC on June 22, 1998. 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. New York held a public hearing on May 27, 1998 for all of the required elements of the MWC State Plan.

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 July 7, 1996. 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.

New York included in its submittal an inventory of all seven MWC plants/units in the State affected by the State Plan. New York has also confirmed that affected units located in New York State that have ceased operation are either partially or totally dismantled. Facilities that have chosen a schedule for compliance that exceeds one year following State Plan approval have provided post-1990 dioxin/furan test results and these were included in New York's submittal.

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.

New York will submit to EPA annual reports on the progress in the implementation of the State Plan. These will be incorporated into the reports required by 40 CFR part 51, § 51.321, "Annual source emissions and state action report." These reports will include compliance status, enforcement actions, increments of progress, identification of sources that have ceased operation or started operation, emissions inventory information for sources that have started operation, updated emission inventory and compliance information, and copies of technical reports on all performance testing and monitoring, including concurrent process data.

Conclusion

EPA has evaluated the 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 Plan to implement and enforce subpart Cb, as it applies to existing large MWC units with individual capacity to combust more than 250 tpd of municipal solid waste.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no relevant 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. This rule will be effective October 5, 1998 without further notice unless the Agency receives relevant adverse comments by September 3, 1998.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on

this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 5, 1998 and no further action will be taken on the proposed rule.

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.

II. Administrative Requirements

Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

Executive Order 13045

The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

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 October 5, 1998. 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: July 24, 1998.

William J. Muszynski,

Acting 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. 7401-7671q.

Subpart HH—New York

2. Part 62 is amended by adding § 62.8103 and an undesignated heading to subpart HH 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

§ 62.8103 Identification of plan

(a) The New York State Department of Environmental Conservation submitted to the Environmental Protection Agency a "State Plan for implementation and enforcement of 40 CFR part 60, subpart Cb, Emissions Guidelines for Large Municipal Waste Combustors" on December 15, 1997 and supplemented on June 22, 1998.

(b) Identification of sources: The plan applies to existing facilities with a municipal waste combustor unit capacity greater than 250 tons per day of municipal solid waste.

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