

In reviewing SIP 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *B. Submission to Congress and the Comptroller General*

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).

#### *C. 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 11, 2003. 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, to prevent and control air pollution from combustion of refuse in West Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Particulate matter, Reporting and recordkeeping requirements.

Dated: January 15, 2003.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

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 XX—West Virginia**

2. Section 52.2520 is amended by adding paragraph (c)(51) to read as follows:

#### **§ 52.2520 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(51) Revisions to the West Virginia's Regulations to prevent and control air pollution from combustion of refuse, submitted on September 12, 2001 by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 12, 2001 from the West Virginia Division of Environmental Protection.

(B) Revisions to Title 45, Series 6 (45CSR6), To Prevent and Control Air Pollution from Combustion of Refuse, effective July 1, 2001.

(ii) Additional Material.

(A) Letter of September 21, 2000 from the West Virginia Division of Environmental Protection to EPA transmitting the regulation to prevent and control air pollution from the combustion of refuse.

(B) Letter of January 26, 2001 from the West Virginia Division of Environmental Protection to EPA transmitting materials related to revisions of 45CSR6.

(C) Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(51)(i) of this section.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[KY 125-2-200308(c); FRL-7449-9]**

#### **Approval and Promulgation of Implementation Plans for Kentucky: Air Permit Regulations; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to adverse comment, EPA is withdrawing the direct final rule published December 30, 2002, (see 67 FR 79523) approving several revisions to the Kentucky State Implementation Plan. The revisions include separating Kentucky's air permits rule into several, smaller rules, and renumbering and rewriting these rules in plain English. EPA stated in the direct final rule that if EPA received adverse comment by January 29, 2003, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment in a subsequent final action based upon the proposed action also published on December 30, 2002 (see 67 FR 79543). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule is withdrawn as of February 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).)

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

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 30, 2003.

**A. Stanley Meiburg,**

*Acting, Regional Administrator, Region 4.*

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[KY 139-200307(c); FRL-7449-8]**

#### **Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Lawson Mardon Packaging; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to adverse comment, EPA is withdrawing the direct final rule published December 18, 2002, (see 67 FR 77430) approving a source-specific revision to the State Implementation Plan of the Commonwealth of Kentucky.

This revision allows Lawson Mardon Packaging, USA, Corporation to have an alternative compliance averaging period of 30 days instead of the 24-hour averaging period specified by Kentucky air quality regulations. EPA stated in the direct final rule that if EPA received adverse comment by January 17, 2003, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment in a subsequent final action based upon the proposed action also published on December 18, 2002 (see 67 FR 77463). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule is withdrawn as of February 10, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).)

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

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

Dated: January 31, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*  
[FR Doc. 03-3237 Filed 2-7-03; 8:45 am]

**BILLING CODE 6560-50-U**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[NH-51-7175a; FRL -7447-7]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) approves the Sections 111(d)/129 State Plan submitted by the New Hampshire Department of Environmental Services (NH DES) on August 16, 2002. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing large and small Municipal Waste Combustion (MWC) units.

**DATES:** This rule is effective on April 11, 2003 without further notice unless EPA receives significant adverse comment by March 12, 2003. If EPA receives such comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments must be submitted to Mr. Steven Rapp, Chief, Air Permits, Toxics & Indoors Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CPA), Boston, Massachusetts 02114-2023. You may examine copies of materials relevant to this action during normal business hours, by appointment at the following locations: Environmental Protection Agency-New England, Region 1, Air Permits, Toxics & Indoor Programs, Office of Ecosystem Protection, Suite 1100, One Congress Street, Boston, Massachusetts 02114-2023. New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, P.O. Box 95, Concord, New Hampshire 03302-0095.

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.

**SUPPLEMENTARY INFORMATION:**

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**I. What Action Is EPA Taking Today?**

EPA is approving the above referenced State Plan which New Hampshire submitted on August 16, 2002 for the control of air emissions

from existing large (units with an individual capacity greater than 250 tons per day) and small (units with an individual capacity of 250 tons per day or less) MWCs throughout the State.

EPA is publishing this approval action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. If EPA receives no significant, material, and adverse comments by March 12, 2003, this action will be effective April 11, 2003.

If EPA receives significant, material, and adverse comments by the above date, the Agency will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

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

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

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure