

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles</b>				
<b>Subchapter A—Definitions</b>				
*	*	*	*	*
Section 114.6 .....	Low Emission Fuel Definitions	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*
<b>Subchapter H—Low Emission Fuels</b>				
*	*	*	*	*
<b>Division 2—Low Emission Diesel</b>				
Section 114.312 .....	Low Emission Diesel Standards.	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*
Section 114.314 .....	Registration of Diesel Producers and Importers.	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	
Section 114.315 .....	Approved Test Methods .....	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	EPA took no action on Section 114.315(b) and section 114.315(c)(4) (C)(ii)(V).
Section 114.316 .....	Monitoring, Recordkeeping, and Reporting Requirements.	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*
Section 114.318 .....	Alternative Emission Reduction Plan.	03/09/05	10/6/05. [Insert <i>FR</i> page number where document begins].	
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[FR Doc. 05–20108 Filed 10–5–05; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[R01–OAR–2005–MA–0002; FRL–7981–5]

**Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Massachusetts; Negative Declaration**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the Sections 111(d) and 129 negative declaration submitted by the Massachusetts Department of Environmental Protection

(MADEP) on August 23, 2005. This negative declaration adequately certifies that there are no existing hospital/medical/infectious waste incinerators (HMIWIs) located within the boundaries of the Commonwealth of Massachusetts. EPA publishes regulations under Sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (e.g., HMIWIs). The Commonwealth of Massachusetts submitted this negative declaration in lieu of a state control plan.

**DATES:** This direct final rule is effective on December 5, 2005 without further notice unless EPA receives significant adverse comment by November 7, 2005. If EPA receives adverse comment, 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:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2005–MA–0002 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the on-

line instructions for submitting comments.

C. E-mail: [brown.dan@epa.gov](mailto:brown.dan@epa.gov).

D. Fax: (617) 918-0048.

E. Mail: "RME ID Number R01-OAR-2005-MA-0002", Daniel Brown, Chief, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114-2023.

F. Hand Delivery or Courier. Deliver your comments to: Daniel Brown, Chief, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114-2023. 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 federal holidays.

*Instructions:* Direct your comments to Regional Material in EDocket (RME) ID Number R01-OAR-2005-MA-0002. 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://docket.epa.gov/rmepub/>, 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 information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://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.

*Docket:* All documents in the electronic docket are listed in the Regional Material in EDocket (RME)

index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below to schedule your review. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John J. Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918-1659, fax number (617) 918-0659, e-mail [courcier.john@epa.gov](mailto:courcier.john@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

EPA is approving the negative declaration of air emissions from HMIWI units submitted by the Commonwealth of Massachusetts.

EPA is publishing this negative declaration 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**, EPA is publishing a separate document that will serve as the proposal to approve this negative declaration should relevant adverse comments be filed. If EPA receives no significant adverse comment by November 7, 2005, this action will be effective December 5, 2005.

If EPA receives significant adverse comments by the above date, we 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. If EPA receives no comments, this action will be effective December 5, 2005.

#### **II. What Is the Origin of the Requirements?**

Under Section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR Part 60, Subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

#### **III. When Did the Requirements First Become Known?**

On June 20, 1996 (61 FR 31736), EPA proposed emission guidelines for HMIWI units. This action enabled EPA to list HMIWI units as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants by proposing emission guidelines for existing HMIWI units. These guidelines were published in final form on September 15, 1997 (62 FR 48348).

#### **IV. When Did Massachusetts Submit Its Negative Declaration?**

On August 23, 2005, the Massachusetts Department of Environmental Protection (MADEP) submitted a letter certifying that there are no existing HMIWI units subject to 40 CFR part 60, subpart B. Section 111(d) and 40 CFR 62.06 provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. EPA is publishing this negative declaration at 40 CFR 62.5450.

#### **V. Statutory and Executive Order Reviews**

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 rule 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 rule 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 (Pub. L. 104-4).

This rule 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 rule 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) submissions, EPA's role is to approve state plans, 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 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.*)

The Congressional Review Act, 5 U.S.C. section 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. section 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 5, 2005. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and record keeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: September 20, 2005.

**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. 7401-7642.

#### Subpart W—Massachusetts

■ 2. Subpart W is amended by adding a new § 62.5450 and a new undesignated center heading to read as follows:

Air Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

#### § 62.5450 Identification of plan-negative declaration.

On August 23, 2005, the Massachusetts Department of Environmental Protection submitted a letter certifying that there are no existing hospital/medical/infectious waste incinerators in the state subject to the emission guidelines under part 60, subpart Ce of this chapter.

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 80

[OAR-2002-0042; FRL-7981-4]

RIN 2060-AJ97

#### Control of Emissions of Hazardous Air Pollutants From Mobile Sources: Default Baseline Revision

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

**ACTION:** Final rule.

**SUMMARY:** This action revises the mobile source air toxics (MSAT) rule's default baseline values for reformulated gasoline and conventional gasoline to reflect the national average toxics performance of gasoline during 1998-2000. EPA's MSAT rule, Control of Emissions of Hazardous Air Pollutants From Mobile Sources (66 FR 17230, March 29, 2001), requires that the annual average toxic performance of gasoline must be at least as clean as the average performance of the gasoline produced or imported during the period 1998-2000 (known as the "baseline period"). The baseline performance is determined separately for each refinery and importer, and the rule established default toxics baseline values for refineries and importers that could not develop individual toxics baselines. The default toxics baseline values are based on the national average performance of gasoline during the baseline period. However, at the time of the final rule, gasoline toxics performance data were not yet available for the year 2000. Therefore, the final rule included regulations directing the EPA to revise the default toxics baseline values in the rule to reflect the entire 1998-2000 baseline period once the appropriate data became available. With this action, EPA is revising the default toxics baseline values for refineries and importers to reflect the national average