

Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

Dated: March 29, 2007.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

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BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R01-OAR-2007-0136; A-1-FRL-8295-6]

Approval and Promulgation of State Plans for Designated Pollutants and Facilities; Rhode Island; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a Section 111(d) and 129 negative declaration submitted by the State of Rhode Island on November 5, 2006. This negative declaration adequately certifies that there are no existing "other solid waste incineration" (OSWI) units located within the boundaries of the State of Rhode Island. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective June 5, 2007, unless EPA receives adverse comments by May 7, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2007-0136 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* cohen.ian@epa.gov

3. *Fax:* (617) 918-0655.

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2007-0136, Dan Brown, Chief, Air Permits, Toxics, and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114-2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Dan Brown, Chief, Air Permits, Toxics, and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency,

EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 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 legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2007-0136. 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://www.regulations.gov>, 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 through <http://www.regulations.gov>, or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> website is an "anonymous access" system, 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 <http://www.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 <http://www.regulations.gov> index. 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 <http://www.regulations.gov> or in hard copy at 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 contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, Air Permits, Toxics, and Indoor Air Programs, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street (CAP), Boston, MA 02114-2023, telephone number (617) 918-1655, fax number (617) 918-0655, e-mail cohen.ian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

How Can I Get Copies of This Document and Other Related Information?

In addition to the publicly available docket materials available for inspection electronically in the Federal Docket Management System at <http://www.regulations.gov>, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section of this **Federal Register**, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency: Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

II. Rulemaking Information

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- A. Background and Purpose
- B. When did the Requirements first Become Known?
- C. What is the definition of an OSWI?
- D. When did Rhode Island submit its negative declaration?

A. Background and Purpose

Section 129 of the Clean Air Act requires EPA to publish rules regulating emissions from several classes of solid waste incinerators. 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 specific pollutants from designated facilities. As federal rules covering each category of solid waste incinerator are promulgated, a State must either submit a plan or accept delegation of a federal plan. If a state does not have a designated facility within its boundaries, the state may submit a negative declaration in lieu of a control plan.

B. When did the requirements first become known?

On December 9, 2004, EPA proposed emissions guidelines for other solid waste incinerators (OSWI) units. This action enabled EPA to list OSWI units as designated facilities. By proposing these guidelines, EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants. These guidelines were published as a final rule on December 16, 2005 (70 FR 74870) and codified at 40 CFR 60, subpart EEEE.

C. What is the definition of an OSWI?

Forty CFR 60.2977 defines an OSWI as either a very small municipal waste combustion unit or an institutional waste unit. A very small municipal waste unit is a unit which combusts less than 35 tons per day of municipal solid waste or refuse derived fuel. An institutional waste unit is a unit which serves an organization having a governmental, educational, civic, or religious purpose. Units which meet certain criteria are not affected by this subpart. These criteria are listed in 40 CFR 60.2887.

D. When did Rhode Island submit its negative declaration?

On November 8, 2006, the Rhode Island Department of Environmental Management (RI DEM) submitted a letter certifying that there are no existing OSWI units subject to 40 CFR Part 60 Subpart B. Section 111(d) of the Clean Air Act and 40 CFR 62.06 says 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. Today's action amends 40 CFR Part 62 to include this negative declaration.

III. Final Action

EPA is approving the negative declaration of air emissions from OSWI submitted by the State of Rhode Island.

The EPA is publishing this action 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** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective June 5, 2007 without further notice unless the Agency receives relevant adverse comments by May 7, 2007.

If the EPA receives such comments, then EPA will publish a notice 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 the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 5, 2007 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 approves a state action implementing a federal standard.

In reviewing Section 111(d) 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 action for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan, to use VCS in place of a state plan 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 June 5, 2007. 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 practices and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Solid Waste Incinerators, Waste treatment and disposal.

Dated: March 27, 2007.

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 *et seq.*

Subpart OO—Rhode Island

■ 2. Subpart OO is amended by adding a new § 62.9995 and a new undesignated center heading to read as follows:

Air Emissions From Existing Other Solid Waste Incineration Units

§ 62.9995 Identification of Plan-Negative Declaration.

On November 5, 2006, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing other solid waste incineration units in the state subject to the emission guidelines under part 60, subpart EEEE of this chapter.

[FR Doc. E7-6460 Filed 4-5-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-R05-RCRA-2007-0213; SW-FRL-8294-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, “the Agency” or “we” in this preamble) is granting a petition to exclude (or “delist”) wastewater treatment plant sludges from conversion coating on aluminum generated by AutoAlliance International, Inc. (AAI), a Ford/Mazda joint venture company in Flat Rock, Michigan, from the list of hazardous wastes.

Today’s action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a lined Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste. The exclusion was proposed on March 7, 2002 as part of an expedited process to evaluate this waste under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting.

DATES: This rule is effective on April 6, 2007.

ADDRESSES: EPA has established an electronic docket for this action under Docket ID No. EPA-R05-RCRA-2007-0213. The electronic docket contains all relevant documents created after this action was proposed as well as a selection of pertinent documents from the original paper docket for the proposed rule, Docket ID No. R5-MIECOS-01. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. All documents in the electronic docket are listed on the <http://www.regulations.gov> Web site. Publicly available materials from Docket ID No. EPA-R05-RCRA-2007-0213 are available either electronically through <http://www.regulations.gov> or in hard copy. Materials from the original paper docket, Docket ID No. R5-MIECOS-01, are also available in hard copy. You can view and copy materials from both dockets at the Records Center, 7th floor, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. We recommend you telephone Todd Ramaly at (312) 353-9317 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Todd Ramaly, Waste, Pesticides, and Toxics Division, (Mail Code: DU-7J), EPA Region 5, 77 W. Jackson Blvd.,

Chicago, IL 60604; *telephone number:* (312) 353-9317; *fax number:* (312) 353-4788; *e-mail address:* ramaly.todd@epa.gov.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- I. Background
 - A. What is a delisting petition?
 - B. What regulations allow a waste to be delisted?
 - C. What waste did AAI petition to delist?
- II. The Expedited Process for Delisting
 - A. Why was the expedited process developed for this waste?
 - B. What is the expedited process to delist F019?
- III. EPA’s Evaluation of This Petition
 - A. What information was submitted in support of this petition?
 - B. How did EPA evaluate the information submitted?
- IV. Public Comments Received on the Proposed Exclusion
 - A. Who submitted comments on the proposed rule?
 - B. Comments received and responses from EPA
- V. Final Rule Granting This Petition
 - A. What decision is EPA finalizing?
 - B. What are the terms of this exclusion?
 - C. When is the delisting effective?
 - D. How does this action affect the states?
- VI. Statutory and Executive Order Reviews

I. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in Title 40 Code of Federal Regulations (40 CFR) 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, 42 United States Code (U.S.C.) 6921(f) and the background documents for a listed waste.

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has “delisted” the wastes and to ensure that future generated wastes meet the conditions set.