

This is commonly referred to as the "MACT floor" for existing MWC units. The Act requires that the EG for existing MWC units include MACT-based numerical emission limits for the following ten air pollutants: particulate matter (PM), opacity, sulfur dioxide (SO<sub>2</sub>), hydrogen chloride (HCl), oxides of nitrogen (NO<sub>x</sub>), carbon monoxide (CO), lead (Pb), cadmium (Cd), mercury (Hg), and dioxins/furans (see section 129(a)(4)). The EG must also include monitoring and reporting requirements and operator training requirements (§ 129(b)(1)).

On December 19, 1995, pursuant to sections 111 and 129 of the Act, EPA promulgated 40 CFR part 60, subpart Cb (Emission Guidelines and Compliance Schedules for Municipal Waste Combustors). See 60 FR 65387. The EG, contained in subpart Cb, apply to existing MWC units, defined as MWC units for which construction was commenced on or before September 20, 1994.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated subpart Cb as it applies to MWC units with an individual capacity to combust less than or equal to 250 tons per day (tpd) of municipal solid waste (MSW) (small MWC units) and all cement kilns combusting MSW, consistent with their

opinion in *Davis County Solid Waste Management and Recovery District v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996), amended, 108 F.3d 1454 (D.C. Cir. 1997). As a result, on August 25, 1997, EPA amended subpart Cb to apply only to MWC units with an individual capacity to combust more than 250 tpd of MSW (large MWC units). See 62 FR 45116.

### B. Why Did California Submit a State Plan?

Section 129(b)(2) of the Act requires States with existing MWC units subject to the EG to submit plans to EPA that implement and enforce the EG no later than one year after promulgation of the EG. Accordingly, State plans were due on December 19, 1996 (See also 40 CFR 60.39(b)). The court decision vacating the EG requirements for small MWC units and cement kilns did not affect the due date or the required content of State plans for large MWC units.<sup>1</sup> For existing large MWC units located in States that have not submitted an approvable plan within two (2) years of promulgation of the EG (i.e., December 19, 1997), section 129(b)(3) of the Act requires EPA to adopt a Federal Plan to implement and enforce the EG. On November 12, 1998, EPA promulgated a Federal Plan for existing large MWC units not covered by an EPA-approved State plan, codified at

40 CFR part 62, subpart FFF. See 63 FR 63191. Any MWC units covered by a State plan submitted after December 19, 1997, are subject to the Federal Plan until EPA approves the State plan. California's State Plan (the Plan) was submitted by the California Air Resources Board (CARB) on September 23, 1998.

## II. The State's Submittal

### A. What Facilities Are Covered by the Plan?

According to CARB, there are only three facilities with existing large MWC units in the State. One of these facilities is located in the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and two facilities are located in South Coast Air Quality Management District (SCAQMD). Both air districts are using district operating permits, containing the requirements of the EG, as the enforceable mechanisms to implement the EG. The following table identifies the three MWC facilities (six large MWC units) covered by the State Plan and the corresponding permits issued by the districts. If there are additional MWC units that meet the applicability criteria of subpart Cb but are not identified in the State Plan inventory, then the Federal Plan would apply to them.

District/facility	Permit Nos.	Date of issue
SJVUAPCD: Stanislaus Resource Recovery Facility (2 units) .....	PTO N-2073-1-7	August 27, 2001. <sup>c</sup>
SCAQMD:		
Commerce Refuse to Energy Authority (1 unit) .....	PTO R-D96114 <sup>a</sup>	May 7, 1998.
	PTO R-D96066 <sup>b</sup>	May 7, 1998.
	PTO R-D87714 <sup>a</sup>	May 19, 1998.
	PTO R-D87608 <sup>b</sup>	May 29, 1998.
	PTO R-D87716 <sup>a</sup>	May 19, 1998.
	PTO R-D87609 <sup>b</sup>	May 29, 1998.
	PTO R-D87717 <sup>a</sup>	May 19, 1998.
	PTO R-D87610 <sup>b</sup>	May 29, 1998.

<sup>a</sup> Resource recovery system permit

<sup>b</sup> Air pollution control system permit

<sup>c</sup> CARB's original State Plan submittal included PTO N-2073-1-2, issued on March 12, 1998. On May 2, 2002, CARB forwarded PTO N-2073-1-7, issued on August 27, 2001, to replace the expired PTO N-2073-1-2.

### B. What is the Purpose of the Submitted Plan?

The California State Plan was submitted to satisfy the requirements of sections 111(d) and 129 of the Act, and to implement the EG contained in 40 CFR, part 60, subpart Cb. The Plan implements the emission limits established in the EG for organics (dioxins/furans), metals (cadmium (Cd), lead (Pb), mercury (Hg), particulate

matter (PM), and opacity), acid gases (hydrogen chloride (HCl) and sulphur dioxide (SO<sub>2</sub>)), nitrogen oxides (NO<sub>x</sub>), and fugitive ash emissions. These pollutants can cause adverse effects to public health and the environment. The Plan also implements the EG requirements for MWC operating practices, which include requirements for carbon monoxide (CO) emissions, load, PM control device inlet flue gas

temperature, and operator training/certification.

## III. EPA's Evaluation and Action

### A. How Is EPA Evaluating the Plan?

Under section 111(d) of the Act, EPA has established general procedures, codified at 40 CFR part 60, subpart B, that States must follow in adopting and submitting State plans. The following provides a brief discussion of the

<sup>1</sup> The vacatur of subpart Cb as it applies to small MWC units and cement kilns required EPA to reevaluate the emission limits for large MWC units. In the August 25, 1997, amendments to subpart Cb,

EPA revised the emission limits for the following four pollutants: lead, hydrogen chloride, sulfur dioxide, and nitrogen oxides. Pursuant to section 129(b)(2) of the Act, State plans incorporating the

revised limits were due on August 25, 1998. See also 40 CFR 60.39b(e).