

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[EPA-R01-OAR-2006-0119; A-1-FRL-8049-9]

**Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Perchloroethylene Dry Cleaner Regulation Maine Department of Environmental Protection****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act (“CAA”), the Maine Department of Environmental Protection (“ME DEP”) submitted a request for approval to implement and enforce “Chapter 125: Perchloroethylene Dry Cleaner Regulation” in place of the National Emissions Standard for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities (“Dry Cleaning NESHAP”) as it applies to area sources. EPA has reviewed this request and determined that it satisfies the requirements necessary for approval. Thus, EPA is hereby granting ME DEP the authority to implement and enforce its perchloroethylene dry cleaner regulation in place of the Dry Cleaning NESHAP for area sources. This approval makes the ME DEP rule federally enforceable. Major sources remain subject to the Federal Dry Cleaning NESHAP.

**DATES:** This action will be effective June 23, 2006, unless EPA receives relevant adverse comments by May 24, 2006. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 23, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2006-0119 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. E-mail: [brown.dan@epa.gov](mailto:brown.dan@epa.gov).
3. Fax: (617) 918-0048.
4. Mail: “Docket Identification Number EPA-R01-OAR-2006-0119”, Dan Brown, 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, Manager, Air Permits, Toxics and Indoor Programs 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-2006-0119. 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> Web site is an “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 <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://](http://www.regulations.gov)

[www.regulations.gov](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:** Susan Lancey, Air Permits, Toxics and Indoor Programs Unit (CAP), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114, telephone number (617) 918-1656, fax number (617) 918-0656, e-mail [lancey.susan@epa.gov](mailto:lancey.susan@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. 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 Regional Material in EDocket, 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 and EPA’s technical support document are also available for public inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

**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. What Requirements Must a State Rule Meet To Substitute for a Section 112 Rule?
- C. EPA Determination of Rule Equivalency
  1. What Are the Major Differences Between Chapter 125 and the Dry Cleaning NESHAP?
    - a. How Do the Applicability Requirements Differ?
    - b. How Do the Requirements for Transfer Machines Differ?
    - c. How Do the Requirements for Refrigerated Condensers Differ?
    - d. How Do the Work Practice Standards Differ?
    - e. How Do the Testing and Monitoring Requirements Differ?
    - f. How Do the Reporting Requirements Differ?
    - g. What Are the Title V Permit Requirements for Area Sources?

- h. How Does Maine's Regulation Address the General Provisions at 40 CFR Part 63, Subpart A?
- 2. What Is EPA's Action Regarding Chapter 125?
- 3. How Do Amendments to the Dry Cleaning NESHAP Affect This Rulemaking?
- III. Summary of EPA's Action
- IV. Statutory and Executive Order Reviews
  - A. Executive Orders 12866 and 13045
  - B. Executive Order 13211
  - C. Executive Order 13175
  - D. Executive Order 13132
  - E. Regulatory Flexibility Act
  - F. Unfunded Mandates
  - G. Submission to Congress and the Comptroller General
  - H. National Technology Transfer and Advancement Act
  - I. Petitions for Judicial Review

#### A. Background and Purpose

Under CAA section 112(l), EPA may approve State or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements. The Federal regulations governing EPA's approval of State and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E. *See* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000). Under these regulations, a State air pollution control agency has the option to request EPA's approval to substitute a State rule for the applicable Federal rule (*e.g.*, the National Emission Standards for Hazardous Air Pollutants (NESHAP)). Upon approval by EPA, the State agency is authorized to implement and enforce its rule in place of the Federal rule.

EPA promulgated the Dry Cleaning NESHAP on September 22, 1993. *See* 58 FR 49354 (codified at 40 CFR part 63, subpart M, "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities"). On August 12, 2003, EPA received ME DEP's request to implement and enforce "Chapter 125: Perchloroethylene Dry Cleaner Regulation" *in lieu of* the Dry Cleaning NESHAP as applied to area sources. ME DEP's request for approval was submitted pursuant to the provisions of 40 CFR part 63, subpart E. On September 15, 2003, EPA determined that Maine's submittal was complete.

Maine adopted Chapter 125 in 1991 to regulate dry cleaning facilities that are area sources of perchloroethylene in the State of Maine. *See* Maine Chapter 125 of the Department of Environmental Protection Regulations. Chapter 125 was revised in 1997 and 2003 to coincide more closely with the Dry Cleaning NESHAP and to remove sections referring to obsolete practices and equipment. Chapter 125 requires area

source dry cleaning facilities to register with the State and to comply with control technology, leak detection and strict work practice standards to reduce perchloroethylene emissions from their operations. Chapter 125 contains certain requirements that differ from the Dry Cleaning NESHAP. As explained below, however, EPA has determined that Chapter 125 is no less stringent than the Dry Cleaning NESHAP as applied to area sources. A copy of Chapter 125 is available upon request or for public inspection at EPA's New England Regional Office at the address listed above.

#### B. What Requirements Must a State Rule Meet To Substitute for a Section 112 Rule?

Section 112(l)(5) of the CAA requires that a State's NESHAP program contain adequate authorities to assure compliance with each applicable Federal requirement, adequate resources for implementation, and an expeditious compliance schedule. These are also requirements for an adequate operating permits program under 40 CFR part 70. On October 18, 2001, EPA promulgated full approval of ME DEP's operating permits program. *See* 66 FR 52874. Under 40 CFR 63.91(d)(3), interim or final title V program approval satisfies the criteria set forth in § 63.91(d) for "up-front approval." Accordingly, ME DEP has satisfied the up-front approval criteria of 40 CFR 63.91(d).

Additionally, the "rule substitution" option requires EPA to "make a detailed and thorough evaluation of the State's submittal to ensure that it meets the stringency and other requirements" of 40 CFR 63.93. 58 FR at 62274. A rule will be approved if EPA finds: (1) The State and local rules are "no less stringent" than the corresponding Federal regulations, (2) the State and local government has adequate authorities to implement and enforce the rules, and (3) the schedule for implementation and compliance is "no less stringent" than the deadlines established in the otherwise applicable Federal rule. 40 CFR 63.93(b). After reviewing ME DEP's partial rule substitution request and equivalency demonstration for the Dry Cleaning NESHAP as it applies to area sources, EPA has determined this request meets all the requirements necessary for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93.

#### C. EPA Determination of Rule Equivalency

##### 1. What Are the Major Differences Between Chapter 125 and the Dry Cleaning NESHAP?

###### a. How Do the Applicability Requirements Differ?

The Dry Cleaning NESHAP classifies dry cleaning sources as major sources based on either annual perchloroethylene (perc) emissions or annual perc consumption. Major sources are those sources that: (1) Emit or have the potential to emit more than 10 tons per year of perc to the atmosphere, or (2) consume greater than 8000 liters (2100 gallons) of perc for dry-to-dry machines or greater than 6800 liters (1800 gallons) of perc for transfer machines or transfer and dry-to-dry machines. 40 CFR 63.320(g).

The Dry Cleaning NESHAP exempts certain area sources from specified requirements based on perc consumption levels and the types of dry cleaning machines used at the source. For example, an existing area source consisting of only dry-to-dry machines is exempt from specified operating standards and testing, monitoring, reporting and recordkeeping requirements of the Dry Cleaning NESHAP if the facility's total perc consumption is less than 140 gallons per year. 40 CFR 63.320(d). Similarly, an existing area source consisting of only transfer machine systems is exempt from these same requirements if the facility's total perc consumption is less than 200 gallons per year. 40 CFR 63.320(e). In addition, the Dry Cleaning NESHAP exempts all coin-operated machines from the requirements of the rule. 40 CFR 63.320(j).

Chapter 125 of the Maine Department of Environmental Protection regulations requires all area source dry cleaners to comply with the requirements of the rule, regardless of their perc consumption levels. Chapter 125, section 1. According to Maine's 2001 annual emissions inventory data, about 70% of dry cleaners in Maine use less than 140 gallons of perc per year. Under the Federal rule, these area source dry cleaners would be exempt from numerous operating standards and testing, monitoring, reporting and recordkeeping requirements of the Dry Cleaning NESHAP. Under Chapter 125, however, these smaller area sources are subject to the same standards that apply to larger area sources. As such, Chapter 125 imposes perc emission control requirements on a significantly larger number of area sources than does the Dry Cleaning NESHAP. In addition,

Chapter 125 contains no exemption for coin-operated machines. These applicability provisions are more stringent than the applicability provisions of the Dry Cleaning NESHAP.

**b. How Do the Requirements for Transfer Machines Differ?**

A transfer machine system is a multiple-machine dry cleaning operation in which washing and drying are performed in different machines. The Dry Cleaning NESHAP requires owners and operators of new transfer machine systems to eliminate any emissions of perc from clothing transfer between the washer and the dryer of transfer machine systems. 40 CFR 63.322(b)(2). In addition, the Dry Cleaning NESHAP allows for existing transfer machine systems and sets certain control standards and other requirements for existing transfer machine systems. *See, e.g.*, 40 CFR 63.322(a). Clothing transfer emissions are a significant portion of the overall emissions from transfer machine systems.

Chapter 125 prohibits the use and installation of all transfer machines. Chapter 125, section 3.B(4). As such, Chapter 125 is more stringent than the Dry Cleaning NESHAP.

**c. How Do the Requirements for Refrigerated Condensers Differ?**

The Dry Cleaning NESHAP prohibits any source that has a refrigerated condenser on a dry-to-dry machine, dryer, or reclaimer from using the same refrigerated condenser coil for the washer that is used by a dry-to-dry machine, dryer, or reclaimer. 40 CFR 63.322(f). Only transfer machine systems have separate dry-to-dry machine, dryer, or reclaimer systems. Because Chapter 125 prohibits the use or installation of transfer machines at dry cleaning facilities (Chapter 125, section 3.B(4)), this requirement is inapplicable and does not affect the stringency of the rule.

**d. How Do the Work Practice Standards Differ?**

The Dry Cleaning NESHAP requires all dry cleaning facilities to “drain cartridge filters in their housing, or other sealed container, for a minimum of 24 hours, or treat such filters in an equivalent manner, before removal from the dry cleaning facility.” 40 CFR 63.322(i). Chapter 125 requires that the cartridges be drained in the filter housing for at least 24 hours or as approved by DEP and EPA. Chapter 125, section 3.C(1). In addition, the rule requires that “[w]hen any filtration

cartridge is removed from the filter housing, it must be placed in a sealed container which does not allow the solvent in the filter to be emitted to the atmosphere, and must be disposed in accordance with State and federal requirements.” *Id.* These requirements for the handling of cartridge filters are more specific and more stringent than the requirements of the Dry Cleaning NESHAP.

The Dry Cleaning NESHAP also requires area sources to conduct weekly inspections for perceptible leaks. Area sources with lower perc consumption levels, however, are required to conduct such leak detections only biweekly. 40 CFR 63.322(k) through (l). Chapter 125 requires all dry cleaners, regardless of their perc consumption levels, to perform weekly inspections for perceptible leaks. Chapter 125, sections 3.C(3) and 4.D.

As such, the work practice standards of Chapter 125 are more stringent than the Dry Cleaning NESHAP.

**e. How Do the Testing and Monitoring Requirements Differ?**

The Dry Cleaning NESHAP states that, when a carbon adsorber is used to comply with the operating standards of the rule, the concentration of perc in the exhaust of the carbon adsorber must be equal to or less than 100 parts per million (ppm) by volume and must be measured with a colorimetric detector tube that is designed to measure a concentration of 100 ppm by volume of perc in the air to an accuracy of  $\pm 25$  ppm. 40 CFR 63.323(b).

Chapter 125 requires that any carbon adsorber used at a dry cleaning machine reduce perc emissions to no more than 50 ppm by volume and that the perc concentration be measured with a colorimetric detector tube designed to measure 10–500 ppmv of perc with an accuracy of  $\pm 5$  ppm. Chapter 125, section 4.A(1). Chapter 125 also requires that the sampling port for monitoring within the exhaust outlet of the carbon adsorber be easily accessible. Chapter 125, section 4.A(2). As such, the requirements of Chapter 125 for reduction and measurement of perc concentrations in carbon adsorber exhaust are more stringent than the corresponding requirements of the Dry Cleaning NESHAP.

**f. How Do the Reporting Requirements Differ?**

The Dry Cleaning NESHAP requires the owner or operator of any dry cleaning facility constructed or reconstructed after September 22, 1993, to file a certification of compliance status within 30 days of startup. 40 CFR

63.320(b) and 63.324(b). The certification must contain a calculation of the source’s yearly perc solvent consumption limit and the source’s compliance status with each applicable requirement of the Dry Cleaning NESHAP. 40 CFR 63.324(b)(1) through (3). This certification is a one-time requirement.

Chapter 125 requires the owner or operator of any new source to submit, within 30 days of startup, a calculation of the facility’s perc solvent consumption limit based on a 12-month rolling total limit and an indication of compliance status. Chapter 125, section 6.B. Chapter 125 also requires the owner or operator of any dry cleaning facility to submit an annual registration containing information about the facility’s total perc consumption for each of the previous twelve months, a certification of the facility’s status as a major or area source, and an estimate of the waste that was shipped off-site, among other things. Chapter 125, section 125.6.A. These reporting requirements allow ME DEP to inventory and track annual perc consumption and emissions for all area source dry cleaners. As such, the reporting requirements of Chapter 125 are more stringent than the corresponding requirements of the Dry Cleaning NESHAP.

**g. What Are the Title V Permit Requirements for Area Sources?**

Chapter 140.1.D(2) of Maine’s regulations exempts area sources from the requirement to obtain a title V operating permit if EPA exempts these sources. Chapter 140, section 140.1.D(2). On December 19, 2005, EPA permanently exempted five categories of area sources subject to NESHAPs from the title V operating permit program, including area source perchloroethylene dry cleaners. 70 FR 75320 (December 19, 2005). Therefore, both Federal law and Maine’s regulation at Chapter 140 exempt area source dry cleaners from title V permitting requirements. Major source dry cleaners in Maine are still required to obtain title V operating permits.

**h. How Does Maine’s Regulation Address the General Provisions at 40 CFR Part 63, Subpart A?**

Chapter 125 contains requirements that are generally equivalent to or more stringent than the General Provisions at 40 CFR part 63, subpart A. EPA notes that Chapter 125 does not contain a requirement that corresponds to the notification requirement in 40 CFR 63.9(j), which states that any change in the information provided to EPA under

the applicable notification requirements "shall be provided to the Administrator in writing within 15 calendar days after the change." As explained above, however, Chapter 125 requires all dry cleaning facilities to submit annual reports containing specific information about perc consumption, major or area source status, and compliance with the requirements of the rule. Any changes in such reported information must, therefore, be included in the next annual report to ME DEP and EPA. Given the more-detailed and regular reporting requirements of Maine's regulation, EPA has determined that the reporting requirements of Chapter 125 are, taken as a whole, more stringent than the requirements of subpart A.

## 2. What Is EPA's Action Regarding Chapter 125?

After reviewing ME DEP's request for approval of "Chapter 125: Perchloroethylene Dry Cleaner Regulation," EPA has determined that Maine's regulation meets all of the requirements necessary for partial rule substitution under section 112(l) of the CAA and 40 CFR 63.91 and 63.93. Chapter 125, taken as a whole, is no less stringent than the Federal Dry Cleaning NESHAP as applied to area sources. Therefore, EPA hereby approves Maine's request to implement and enforce Chapter 125 in place of the Dry Cleaning NESHAP for area sources in Maine. As of the effective date of this action, Chapter 125 is enforceable by EPA and by citizens under the CAA. Although ME DEP has primary responsibility to implement and enforce Chapter 125, EPA retains the authority to enforce any requirement of the rule upon its approval under CAA 112. CAA section 112(l)(7).

## 3. How Do Amendments to the Dry Cleaning NESHAP Affect This Rulemaking?

On December 21, 2005 (70 FR 75884), EPA proposed amendments to the dry cleaning NESHAP. Under § 63.91(e)(3), if EPA amends or otherwise revises a promulgated section 112 rule or requirement in a way that increases its stringency, EPA will notify any state with a delegated alternative of the need to revise its equivalency demonstration. EPA will consult with the state to set a time frame for the state to submit a revised equivalency demonstration. EPA will then review and approve the revised equivalency demonstration according to the procedures in 40 CFR part 63, subpart E. More stringent NESHAP amendments to a delegated alternative apply to all sources until EPA determines that the approved or

revised alternative requirements are equivalent to the more stringent amendments.

In accordance with these requirements, upon EPA's finalization of any amendments to the Dry Cleaning NESHAP that increase its stringency, EPA will determine whether these amendments necessitate a revision to Maine's alternative requirements. If so, we will notify ME DEP of the need to submit a revised equivalency demonstration in accordance with the requirements of 40 CFR part 63, subpart E. In any event, the more stringent NESHAP amendments will apply until EPA publishes in the **Federal Register** a determination as to the equivalency of Maine's requirements to the more stringent amendments.

## III. Summary of EPA's Action

Pursuant to section 112(l) of the CAA and 40 CFR 63.91 and 63.93, EPA is approving ME DEP's request to implement and enforce "Chapter 125: Perchloroethylene Dry Cleaner Regulation" in place of the Federal Dry Cleaning NESHAP at 40 CFR part 63, subpart M, as it applies to area sources in Maine. This approval makes Chapter 125 federally enforceable and consolidates the compliance requirements for area source dry cleaners in Maine into one set of regulations. Major source dry cleaning facilities remain subject to the Federal requirements at 40 CFR part 63, subpart M and the Title V permitting requirements of 40 CFR part 70. Area source dry cleaning facilities are exempt from Title V permitting requirements as of December 19, 2005. 70 FR 75320.

EPA views this approval of Maine's request to implement and enforce Chapter 125 in place of the Dry Cleaning NESHAP for area sources as a noncontroversial action, given that the state program has been effective for several years and is, taken as a whole, more stringent than the Dry Cleaning NESHAP. EPA anticipates no adverse comments. Therefore, EPA is publishing this direct final rule without prior proposal. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective on June 23, 2006, without further notice, unless EPA receives relevant adverse comments by May 24, 2006.

If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. All public comments

received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 23, 2006 and no further action will be taken on the proposed rule.

## IV. Statutory and Executive Order Reviews

### A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not subject to Executive Order 13045, entitled, "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

### B. Executive Order 13211

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

### C. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes."

This final rule does not have tribal implications. This action allows the State of Maine to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to area source drycleaners. This action will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### D. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This final rule does not have federalism implications. It will 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. This action simply allows Maine to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.93 do not create any new requirements. Such approvals simply allow the State to implement and enforce equivalent requirements in place of the Federal requirements that EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### F. 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 allows Maine to implement equivalent alternative requirements *in lieu of* pre-existing requirements under Federal 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.

#### G. 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).

#### H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be

inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the NTTAA does not apply to this rule.

#### I. 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 June 23, 2006. 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 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: March 16, 2006.

**Robert W. Varney,**

*Regional Administrator, EPA—New England.*

■ 40 CFR part 63 is amended as follows:

#### PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart A—[Amended]

■ 2. Section 63.14 is amended by adding paragraph (d)(6) to read as follows:

#### § 63.14 Incorporation by reference.

\* \* \* \* \*

(d) \* \* \*

(6) Maine Regulations Applicable to Hazardous Air Pollutants (March 2006). Incorporation by Reference approved

for § 63.99(a)(19)(iii) of subpart E of this part.

\* \* \* \* \*

### Subpart E—[Amended]

■ 3. Section 63.99 is amended by adding paragraph (a)(19)(iii) to read as follows:

#### § 63.99 Delegated Federal authorities.

(a) \* \* \*

(19) \* \* \*

(iii) Affected area sources within Maine must comply with the Maine Regulations Applicable to Hazardous Air Pollutants (incorporated by reference as specified in § 63.14) as described in paragraph (a)(19)(iii)(A) of this section:

(A) The material incorporated into the Maine Department of Environmental Protection regulations at Chapter 125 pertaining to dry cleaning facilities in the State of Maine's jurisdiction, and approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal NESHAP for Perchloroethylene Dry Cleaning Facilities (subpart M of this part), effective as of December 19, 2005, for area sources only, as defined in § 63.320(h).

(B) [Reserved]

\* \* \* \* \*

[FR Doc. 06-3855 Filed 4-21-06; 8:45 am]

BILLING CODE 6560-50-P

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 102-39

[FMR Amendment 2006-02; FMR Case 2006-102-3]

RIN 3090-AI26

### Federal Management Regulation; Replacement of Personal Property Pursuant to the Exchange/Sale Authority

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration is amending the Federal Management Regulation (FMR) language that pertains to personal property by correcting references to outdated or superseded provisions of law or regulation; correcting text to be in conformance with revised laws, regulation, or Federal agency responsibilities; and clarifying text where the intended meaning could be updated or made clearer. The FMR and

any corresponding documents may be accessed at GSA's Web site at <http://www.gsa.gov/fmr>.

**DATES:** Effective Date: May 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GSA Building, Washington, DC, 20405, (202) 208-7312, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Robert Holcombe, Office of Governmentwide Policy, Office of Travel, Transportation, and Asset Management (MT), at (202) 501-3828 or e-mail at [Robert.Holcombe@gsa.gov](mailto:Robert.Holcombe@gsa.gov). Please cite Amendment 2006-02, FMR case 2006-102-3.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In the years since 41 CFR part 102-39 was published as a final rule, the references to other regulations which migrated from the Federal Property Management Regulations (FPMR) (41 CFR chapter 101) to the Federal Management Regulation (FMR) (41 CFR chapter 102) became outdated. Also, Public Law 107-217 revised and recodified certain provisions of the Federal Property and Administrative Services Act of 1949 (Property Act). For example, the Property Act provisions and topics previously found at 40 U.S.C. 471-514 will now generally be found at 40 U.S.C. 101-705. This revised regulation updates the title 40 U.S.C. citations to reflect the changes made by Public Law 107-217. Additionally, in the intervening years since these three regulations were published, several agencies have moved or changed names. Finally, updating or clarifying revisions were made where the revisions are seen as administrative or clerical in nature.

##### B. Executive Order 12866

The General Services Administration (GSA) has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866.

##### C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for comment. Therefore, the Regulatory Flexibility Act does not apply.

##### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

#### List of Subjects in 41 CFR Part 102-39

Government property management, Reporting and recordkeeping requirements, and Government property.

Dated: April 14, 2006.

**David L. Bibb,**

*Acting Administrator of General Services.*

■ For the reasons set forth in the preamble, GSA amends 41 CFR part 102-39 as set forth below:

### PART 102-39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

■ 1. The authority citation for 41 CFR part 102-39 continues to read as follows:

**Authority:** 40 U.S.C. 503 and 121(c).

#### § 102-39.45 [Amended]

■ 2. Amend § 102-39.45 in paragraph (l) by removing "40 U.S.C. 484(i) and adding "40 U.S.C. 548 in its place.

■ 3. Amend § 102-39.75 by revising paragraph (b) to read as follows:

#### § 102-39.75 What information am I required to report?

\* \* \* \* \*

(b) Submit your report electronically or by mail to the General Services Administration, Office of Travel, Transportation and Asset Management (MT), 1800 F Street, NW., Washington, DC 20405.

[FR Doc. 06-3845 Filed 4-21-06; 8:45 am]

BILLING CODE 6820-14-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 051209329-5329-01; I.D. 041406A]

### Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.