

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 62**

[NM-33-1-7331a; LA-39-1-7332; FRL-5910-9]

**Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, New Mexico; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; Correction for Same, Louisiana****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** This document approves the New Mexico State Plan for controlling landfill gas emissions from existing municipal solid waste (MSW) landfills. The plan was submitted to fulfill the requirements of the Clean Air Act (the Act). The State Plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits, except those located in Indian Country. Finally, this action makes a correction to a typographical error found in the direct final rulemaking for Louisiana's landfill gas control State Plan.

**DATES:** This action is effective on December 22, 1997, unless notice is postmarked by November 20, 1997, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State Plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,  
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,  
Dallas, Texas 75202-2733.

Air and Radiation Docket and  
Information Center, Environmental  
Protection Agency, 401 M Street,  
S.W., Washington, D.C. 20460.  
New Mexico Environment Department,  
Air Quality Program, 1190 St. Francis  
Drive, Harold Runnels Bldg., Santa  
Fe, NM 87501.

Anyone wishing to review this State Plan at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mick Cote, Air Planning Section (6PD-

L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Act requires that States submit plans to EPA to implement and enforce the Emission Guidelines (EG) promulgated for MSW landfills pursuant to Section 111(d) of the Act. Section 111(d) requires that the State submit the State Plan not later than 9 months after EPA promulgates the EG. On March 12, 1996, EPA promulgated the EG at 40 CFR part 60, subpart Cc. Thus, the State Plans were due no later than December 12, 1996. The State of New Mexico submitted its State Plan to EPA on January 7, 1997.

Under section 111(d) of the Act, the EPA established procedures whereby States submit plans to control existing sources of designated pollutants. Designated pollutants are defined as pollutants which are not included on a list published under section 108(a) of the Act (i.e., National Ambient Air Quality Standard pollutants), but to which a standard of performance for new sources applies under section 111. Under section 111(d), emission standards are to be adopted by the States and submitted to EPA for approval. The standards limit the emissions of designated pollutants from existing facilities which, if new, would be subject to the New Source Performance Standards (NSPS). Such facilities are called designated facilities.

The procedures under which States submit these plans to control existing sources are defined in 40 CFR part 60, subpart B. According to subpart B, the States are required to develop plans within Federal guidelines for the control of designated pollutants. The EPA publishes guideline documents for development of State emission standards along with the promulgation of any NSPS for a designated pollutant. These guidelines apply to designated pollutants and include information such as a discussion of the pollutant's effects, description of control techniques and their effectiveness, costs and potential impacts. Also as guidance for the States, recommended emission limits and times for compliance are set forth, and control equipment which will achieve these emission limits are identified. The emission guidelines for landfill gas are promulgated in 40 CFR part 60. The final section 111(d) emission standards and guidelines for landfill gas were promulgated on March 12, 1995 (61 FR 9905), and codified in the CFR at 40

CFR subparts WWW and Cc, respectively. The emission guideline's specified limits for landfill gas requires affected facilities to operate a control system designed to reduce collected non-methane organic compounds (NMOC) concentrations by 98 weight-percent, or reduce the outlet NMOC concentration to 20 parts per million or less, using the test methods specified under section 60.754(d).

**II. Analysis of State Submittal**

The official procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. The EPA promulgated the original provisions on November 17, 1975, and then amended them on December 19, 1995, to incorporate changes specific to solid waste incineration. These changes, which were necessary to conform with the solid waste incineration requirements under section 129 of the Act, are not relevant to MSW landfills. Thus, the procedures described in the original provisions for adopting and submitting State Plans still apply to MSW landfills and are reflected in 40 CFR part 60, subpart B, sections 60.23 through 60.26. Subpart B addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules, emission inventories, source surveillance, compliance assurance, and enforcement requirements, and cross-references to the MSW landfill EG.

The New Mexico State Plan includes documentation that all applicable subpart B requirements have been met. Please see the evaluation report for a detailed description of EPA's analysis of the Plan's compliance with the subpart B requirements.

The New Mexico Environment Department (NMED) incorporates the NSPS and cross-references the NSPS for existing facilities to adopt the requirements of the Federal rule. The State has ensured, through this cross-reference process, that all the applicable requirements of the Federal rule have been adopted into the State Plan. The emission limits, reporting and recordkeeping requirements, and other aspects of the Federal rule have been adopted into 20 NMED 2.64, *Municipal Solid Waste Landfills*.

Subpart Cc requires affected existing landfills to be capable of attaining the specified level of emissions within 30 months after the State Plan is federally approved. For compliance schedules for MSW landfills extending more than 12 months beyond the date required for submittal of the plan (December 12, 1996), the compliance schedule must include legally enforceable increments

of progress towards compliance for that MSW landfill. Each increment of progress in section 60.21(h) of subpart B must have a compliance date and must be included as an enforceable date in the State Plan. As an alternative, the State must negotiate specific dates for the increments of progress on a facility-by-facility basis, and submit them to the public participation process. A revision to New Mexico's State Plan must be submitted to EPA once the dates for the increments of progress are established for each affected facility. The State Plan may include such additional increments of progress as may be necessary to permit close and effective supervision of progress towards final compliance. The State did not submit evidence of authority to regulate sources in Indian Country. Therefore, EPA is not approving this State Plan as it relates to those sources.

NMED must submit an updated source inventory once the affected facilities have reported their design capacities and NMOC emissions as required under 40 CFR part 60, subpart Cc (60.35c). In addition, Title V permit applications for the affected facilities are due within one year from the due date of the design capacity reports.

### III. Correction of Typographical Error

On August 29, 1997 (62 FR 45730), EPA published the direct final approval of Louisiana's section 111(d) State Plan for the control of landfill gases. Two typographical errors and the omission of a center heading occurred. Sections 62.4631 and 62.4632 were incorrectly numbered 62.4931 and 62.4932, and the center heading "LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS" was omitted. Subpart T of 40 CFR part 62 is corrected in the rulemaking portion of this document to reflect these changes.

### IV. Final Action

In this final action EPA is promulgating a revision to the New Mexico State Plan and the Code of Federal Regulations, part 62, to adopt the New Mexico State Plan for the control of landfill gas from MSW landfills, except those located in Indian Country. On January 7, 1997, the State of New Mexico submitted to EPA a plan identifying the existing MSW landfills in the State and establishing standards for the control of landfill gas emissions from these facilities. The State Plan includes regulation 20 NMAC 2.64, *Municipal Solid Waste Landfills*, documentation of the public participation process, a source inventory, and other required elements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Plan. Each request for revision to the State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

### V. Administrative Requirements

#### A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

#### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning State Plans on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. 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) of the Act.

### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Non-methane organic compounds, Reporting and recordkeeping requirements.

Dated: October 7, 1997.

**Jerry Clifford,**

*Acting Regional Administrator.*

40 CFR Part 62 is amended as follows:

**PART 62—[AMENDED]****Subpart GG—New Mexico**

1. The authority citation for Part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7642.

2. A new center heading consisting of §§ 62.7855 and 62.7856 is added to read as follows:

\* \* \* \* \*

LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

**62.7855 Identification of Plan.**

Control of landfill gas emissions from existing municipal solid waste landfills, submitted on January 7, 1997.

**62.7856 Identification of Sources.**

The plan applies to all existing municipal solid waste landfills with design capacities greater than or equal to 2.5 million megagrams and non-methane organic emissions greater than or equal to 50 megagrams per year as described in 40 CFR part 60, subpart Cc.

Subpart T is amended (corrected) to read as follows:

**PART 62—[AMENDED]****Subpart T—Louisiana**

A new center heading, consisting of Sections 62.4631 and 62.4632 is added to read as follows:

LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

**62.4631 Identification of Sources.**

The plan applies to all existing municipal solid waste landfills with design capacities greater than 2.5 million megagrams and non-methane organic emissions greater than 50 megagrams per year as described in 40 CFR part 60, subpart Cc.

**62.4632 Effective Date.**

The effective date of the portion of the plan applicable to existing municipal solid waste landfills is October 28, 1997.

[FR Doc. 97–27849 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Part 195**

[Docket No. PS–121; Amdt. 195–58]

RIN 2137–AD 05

**Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Direct final rule; extension of time for compliance.

**SUMMARY:** This direct final rule extends the time for compliance with the requirements for pressure testing of older hazardous liquid and carbon dioxide pipelines. Plans for testing, or establish maximum operating pressure, which were to be completed by December 7, 1997, would now be required by December 7, 1998. The dates for actual completion of the testing, previously December 7, 1999, and December 7, 2002, are also extended by one year. RSPA is extending these compliance dates to allow time to complete a rulemaking based on the American Petroleum Institute's (API) petition for a risk-based alternative to the required pressure testing rule. In a separate notice, RSPA intends to issue a proposed rule for a risk-based alternative to the existing pressure testing rule.

**DATES:** *Effective date:* This direct final rule takes effect January 20, 1998. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by December 22, 1997, the rule will become effective on the date specified. RSPA will issue a subsequent document in the **Federal Register** by January 5, 1998, to confirm that fact and reiterate the effective date. If an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and RSPA would withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

*Compliance dates:* The deadline that establishes regulations for planning and scheduling pressure testing is to be extended to December 7, 1998. All other deadlines are extended by a year.

**ADDRESSES:** Written comments must be submitted in duplicate and mailed to the Docket Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh

Street SW., Washington, DC 20590–0001. Comments should identify the docket number and the RSPA rulemaking number. All comments received before December 22, 1997, will be considered before final action is taken. Late-filed comments will be considered so far as practicable. All comments and other docketed material will be available for inspection and copying in room 401 Plaza between the hours of 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Mike Israni, (202) 366–4571, e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or the Dockets Unit (202) 366–9329, for copies of this document or other information in the docket.

**SUPPLEMENTARY INFORMATION:****API Proposal**

In a petition dated June 23, 1995, API submitted a risk-based alternative to the pressure testing rule and requested that RSPA delay implementation of the rule until the API proposal was given full consideration. A copy of the API proposal is available in the docket. API argued that the rule on pressure testing older hazardous liquid and carbon dioxide pipelines presents an opportunity to apply a risk-based approach to pressure testing, and proposed a risk-based alternative to the final rule issued on June 7, 1994 (59 FR 29379).

RSPA has been working with the pipeline industry to develop a risk management framework for pipeline regulation and decided to carefully evaluate the API proposal. Because substantial planning is required before pressure testing older pipelines, an extension of time for compliance was needed to avoid unnecessary costs in planning.

RSPA decided to initiate rulemaking on the API proposal. A notice of proposed rulemaking on risk-based alternative to pressure testing of older hazardous liquid and carbon dioxide pipelines is being published separately.

RSPA published a Final Rule (Docket PS–121; 61 FR 43026; August 20, 1996) extending the compliance deadline to plan and schedule pressure testing or establish maximum operating pressure to December 7, 1997. The dates for actual completion of testing were extended by one year.

To determine merits of the API proposal, RSPA held a public meeting on March 25, 1996. On May 8 and November 6, 1996, and again on May 7, 1997, RSPA briefed the Technical Hazardous Liquid Pipeline Safety