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 the 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 approves preexisting requirements under state or local 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 U.S. Comptroller General 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. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 1999. 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 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 1, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Chapter I, title 40 of the Code of Federal Regulations 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 Q—Iowa

2. Subpart Q is amended by adding § 62.3914 and an undesignated center heading to read as follows:

Air Emissions From Existing Hospital/ Medical/Infectious Waste Incinerators

§ 62.3914 Identification of plan.

(a) Identification of plan. Iowa plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Iowa Department of Natural Resources on January 29, 1999.

(b) Identification of sources. The plan applies to existing hospital/medical/ infectious waste incinerators constructed on or before June 20, 1996.

(c) Effective date. The effective date of the plan is August 16, 1999.

[FR Doc. 99–15165 Filed 6–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TX–108–1–7408a; FRL–6361–4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the Governor of Texas on November 3, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require States to develop plans to collect landfill gas from large MSW landfills.

DATES: This direct final rule is effective on August 16, 1999, without further notice, unless we receive adverse comments by July 19, 1999. If we receive adverse comments, 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: You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202. Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Texas Natural Resource Conservation Commission offices, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by EPA Today?

We are approving the Texas State Plan to control landfill gas from existing MSW landfills, as submitted to us by Texas on November 3, 1998. This State Plan does not affect those existing MSW landfills located in Indian Country.

We are publishing this action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective August 16, 1999, unless by July 19, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. We 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 no such comments are received, the public is advised that this action is effective August 16, 1999.

II. Why Do We Need To Regulate Landfill Gas?

Landfill gas contains a mixture of volatile organic compounds (VOCs), other hazardous air pollutants (HAPs), and methane. These VOC emissions can contribute to ozone formation, which can cause adverse health effects to humans and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. We presented our concerns with the health and welfare effects of landfill gases in the preamble to our proposed EG (56 FR 24468, May 30, 1991).

III. What Is Being Acted on in This Document?

When we developed our New Source Performance Standard (NSPS) for landfills, we also developed EG to control landfill gas from older landfills (See 61 FR 9905–9944, March 12, 1996). The Texas Natural Resource Conservation Commission (TNRCC) developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

IV. What Is a State Plan?

Section 111(d) of the Act requires that ''designated'' pollutants controlled under the NSPS must also be controlled at existing sources in the same source category. To ensure proper implementation of the requirements of section 111(d), we approved 40 CFR part 60, subpart B (40 FR 53340, November 17, 1975). Subpart B provides that, once an NSPS is promulgated, we then publish an EG applicable to the control of the same pollutant from designated (existing) facilities. Affected States must then adopt the EG into their body of regulations.

V. What Does the Texas State Plan Contain?

The Texas State Plan was reviewed for approval against the following criteria: 40 CFR Part 60, §§ 60.23 through 60.26, subpart B—Adoption and Submittal of State Plans for Designated Facilities; and, 40 CFR part 60, §§ 60.30c through 60.36c, subpart Cc—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.

The evaluation of the Texas State Plan indicates that it contains:

1. a demonstration of the State's legal authority to implement the section 111(d) State Plan, as authorized under the Texas Clean Air Act Sections 382.011, 382.012, and 382.017;
2. an incorporation of the Federal regulations into the Texas Administrative Code (TAC) at 30 TAC Chapter 113, Subchapter D, Sections 113.2060, Definitions; 2061, Standards for Air Emissions; 2067, Exemptions; and 2069, Compliance Schedule;
3. an inventory of approximately 113 known designated facilities, with estimated design capacities, as listed in Tables 4, 5a, and 5b of the State Plan;
4. emission limits that are as stringent as the EG, listed in TAC Section 113.2061;
5. a process to review gas collection system design plans;
6. a final compliance date 30 months after the date a designated facility reaches or exceeds 50 Mg of NMOC emissions annually;
7. testing, monitoring, reporting and recordkeeping requirements for the designated facilities, as listed in TAC Section 113.2061;
8. records from the three public hearings; and,
9. provisions for progress reports to EPA.

The Texas State Plan does deviate from the EG on two issues. The EG defines designated facilities as those that have accepted waste after November 8, 1987. The TNRCC provided a detailed technical analysis which indicates that no designated landfills which closed between November 8, 1987, and October 9, 1993, will have estimated non-methane organic compounds (NMOC) emissions above the 50 megagram (Mg) control threshold by the year 2000. Controlling these closed landfills would not result in a significant reduction in NMOC emissions compared to the cost to install gas collection systems at these sites. Our Code of Federal Regulations (CFR), at 40 CFR § 60.24(f), allows for less stringent regulations if a technical or economic justification supports it. Based on § 60.24(f), the TNRCC adjusted its definition to reflect actual conditions in Texas. The definition of MSW landfills in Texas then includes facilities that have accepted waste since November 8, 1987, and either closed after October 8, 1993, or are currently still accepting waste. We agree with the justification for excluding this group of MSW landfills from the State Plan, and accept the State's use of § 60.24(f) to change its definition of MSW landfills in Texas.

Second, the Texas State Plan does not include specific increments of progress towards the final 30 month compliance date, as discussed in 40 CFR 60.24(e)(1). However, the State can develop separate increments of progress for each designated facility and submit these as revisions to the State Plan within a year of the Federal approval of the Texas State Plan (40 CFR 60.24(e)(2)). For this reason we can approve the State Plan in its current form. We fully expect the TNRCC to submit increments of progress within a year of our approval of this State Plan. Please request a copy of our official file to review our detailed discussion of the requirements of the NSPS and EG, along with our evaluation of the Texas State Plan.

VI. How Can I Determine Whether My Landfill Is Subject to These Regulations?

Any MSW landfill which began construction, reconstruction or modification before May 30, 1991, and has accepted waste at any time since October 9, 1993, is affected by the EG and the Texas State Plan. If your facility meets these two criteria, your landfill is subject to these regulations.

VII. What Steps Do I Need To Take?

- You must report your landfill's design capacity to the TNRCC within 90 days of the effective date of our approval of the Texas State Plan (See Section 113.2069).
- If your landfill has a design capacity above 2.5 million Mg, you must also estimate and report your annual NMOC emission rate to the TNRCC within the same 90-day timeframe (See Section 113.2069).
- If your landfill has a design capacity below 2.5 million Mg, you have met all the requirements of the Texas State Plan. However, if you modify your landfill and increase the design capacity above the 2.5 million Mg threshold, you must submit an amended design capacity report to the TNRCC within 90 days of the modification. You must also estimate and submit your annual NMOC emission rate to the TNRCC within 90 days of the modification (Section 113.2061). Your landfill will then be considered an NSPS source and subject to the requirements listed under 40 CFR part 60, subpart WWW.
- You must have a gas collection system installed and operating within 30 months of the date you project to be at or above the 50 Mg threshold (Section 113.2061).
- You must record and keep accurate records regarding site information and

gas collection system operational data (Section 113.2061).

VIII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because approvals under section 111 of the Federal Clear Air Act (the Act) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP 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. 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 SIPs 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).

F. 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 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.

The 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 approves pre-existing requirements under State or local 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. The 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 can not 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. 804(2). This rule will be effective August 16, 1999.

H. 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 August 16, 1999. 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, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: June 7, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

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. 7401–7671q.

Subpart SS—Texas

2. Section 62.10850 is amended by adding paragraph (b)(3) to read as follows:

§ 62.10850 Identification of plan.

* * * * *

(b) * * *

(3) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Governor on November 3, 1998.

* * * * *

3. Subpart SS is amended by adding a § 62.10880 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.10880 Identification of sources.

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at any time since October 8, 1993, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–15265 Filed 6–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[LA–51–7413a; FRL–6360–8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the Louisiana Department of Environmental Quality (LDEQ) on December 30, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (MWI). The EG requires States to develop plans to reduce toxic air emissions from all MWIs. We are also approving a revision to the Louisiana State Plan as it pertains to existing municipal solid waste landfills. This revision adds certain increments of progress so that we can more effectively track facilities' progress towards compliance.

DATES: This direct final rule is effective on August 16, 1999, without further notice, unless we receive adverse comments by July 19, 1999. If EPA receives such comments, it 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: You should address comments on this action to Lt. Mick Cote, EPA Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Louisiana Department of Environmental Quality offices, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70884–2135.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665–7219.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by EPA Today?

We are approving the Louisiana State Plan, as submitted on December 30, 1998, for the control of air emissions from MWIs, except for those MWIs located in Indian Country. When we developed our New Source Performance Standard (NSPS) for MWIs, we also developed EG to control air emissions from older MWIs. See 62 FR 48348–48391, September 15, 1997. The LDEQ developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We approved Louisiana's section 111(d) State plan for municipal solid waste landfills on August 29, 1997 (62 FR 45730). In accordance with our EG for this category of sources, LDEQ is allowed to develop increments of progress separately and submit them as a revision to the State Plan. Our detailed discussion of this requirements was discussed in 62 FR 45730.

1. Design plans are due on or before January 28, 1999;

2. Awarding of contracts is due on or before June 28, 1999;

3. Initiation of on-site construction is due on or before March 28, 2000;

4. Initial performance tests must be completed on or before March 28, 2000;

5. Final compliance must be met on or before April 28, 2000. These increments of progress satisfy the requirements of the EG for municipal solid waste landfills, and we are approving them today as a revision to the State Plan.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective August 16, 1999, unless by July 19, 1999, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public