

appropriate circuit by May 18, 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 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(254)(i)(D)(3), (255)(i)(C), and (260)(i)(A) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(254) * * *
(i) * * *

(D) South Coast Air Quality Management District.

(3) Rule 1302, amended December 7, 1995.

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(255) * * *
(i) * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 1020, amended December 18, 1997.

* * * * *

(260) New and amended regulations for the following APCDs were submitted on October 27, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(I) Rule 101, amended on September 3, 1998.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK-18-1-7415a; FRL-6312-S]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are approving the section 111(d) Plan submitted by the Oklahoma Department of Environmental Quality (ODEQ) on December 18, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Municipal Solid Waste (MSW) Landfills. The EG require States to develop plans to reduce landfill gas emissions from all MSWs.

DATES: This direct final rule is effective on May 18, 1999, without further notice, unless we receive adverse comments by April 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 Oklahoma Department of Environmental Quality offices, 707 North Robinson Avenue, Oklahoma City, OK 73101-1677.

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 Oklahoma State Plan, as submitted on December 18, 1998, for the control of landfill gas emissions from MSW landfills, except for those located in Indian Country. When we developed our New Source Performance Standard (NSPS) for MSW landfills, we also developed EG to control emissions from older MSW landfills. (See 61 FR 9905, March 12, 1996, and 63 FR 32743, June 16, 1998). The ODEQ 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 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 May 18, 1999, unless by April 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, this action is effective May 18, 1999.

II. Why Do We Need To Regulate MSW Landfill Emissions?

Landfill gas contains a mixture of volatile organic compounds (VOCs), other hazardous air pollutants (HAPs), and methane. 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 Federal regulations (56 FR 24468, May 30, 1991).

III. 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. States with designated facilities must then adopt a plan for the control of the pollutant.

IV. What Does the Oklahoma State Plan Contain?

The Oklahoma State Plan was reviewed for approval against the following criteria:

40 CFR 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 Oklahoma 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 Title 27A of the Oklahoma Statutes, sections 2-2-101, 2-5-104 through 106, 2-2-106, 112, and 114. Copies of these Statutes were submitted as part of the State Plan, located in Appendix A.

2. An incorporation of the Federal regulations into OAC 252:100-47, *Control of Emissions from Existing Municipal Solid Waste Landfills*.

3. An inventory of approximately 82 landfills in Oklahoma subject to the EG. At least three exist that appear to be above both the design capacity and NMOC emission thresholds, and thus subject to the control requirements of the EG. Known designated facilities, with estimated design capacities, are listed in Appendices C and D;

4. Emission limits that are as stringent as the EG under OAC 252:100-47-7, *Emission Standards*;

5. A process to review gas collection system design plans (Appendix E);

6. A final compliance date 30 months after the date a designated facility reaches or exceeds 50 Mg of NMOC emissions annually (OAC 252:100-47-6(b));

7. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities, listed in OAC 252:100-47-8 through -13;

8. Records from the two public hearings in Appendix F; and

9. Provisions for progress reports to EPA.

V. Is My MSW Landfill 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 November 8, 1987, is affected by the EG and the Oklahoma State Plan. If your facility meets these two criteria, your landfill is subject to these regulations.

VI. What Steps Do I Need To Take if my Landfill Is Subject to These Regulations?

- You must report your landfill's design capacity to the ODEQ within 90 days of the effective date of our approval of the Oklahoma State Plan.

- 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 ODEQ within the same 90-day timeframe.

- If your landfill has a design capacity below 2.5 million Mg, you have met all the requirements of the Oklahoma 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 ODEQ within 90 days of the modification. You must also estimate and submit your annual NMOC emission rate to the ODEQ within 90 days of the modification. 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.

- You must record and keep accurate records regarding site information and gas collection system operational data.

VIII. Administrative Requirements.

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866, entitled *Regulatory Planning and Review*.

B. Executive Order 12875

Under Executive Order 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, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a

description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 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 EPA determines (1) is "economically significant," as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, 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, Executive Order 13084 requires EPA to develop an effective process permitting elected 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

The Regulatory Flexibility Act (RFA) 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. Pursuant to section 605(b) of the RFA, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This Federal action approves pre-existing requirements under Federal, State, or Local law and imposes no new requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities.

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 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. 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 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**. 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 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: March 11, 1999.

William B. Hathaway,
Acting Regional Administrator, Region 6.

40 CFR part 62 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. 7401-7642

Subpart LL—Oklahoma

2. Section 62.9100 is amended by adding paragraph (b)(4) to read as follows:

§ 62.9100 Identification of plan.

* * * * *

(b) * * *

(4) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Oklahoma Department of Environmental Quality on December 18, 1998.

* * * * *

3. Subpart LL is amended by adding a new § 62.9160 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.9160 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 November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 990312074-9074-01; I.D. 010899B]

RIN 0648-AM35

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plan.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces the approval of modifications to the Catch Sharing Plan for Area 2A and implementing