

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, Executive Order 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 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. 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 (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. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *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 ("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 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. 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 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 January 7, 2000. 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, Incorporation by reference, Intergovernmental relations, and Particulate matter.

**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.

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

Dated: October 20, 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 paragraph (c)(184)(i)(B)(8) to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(184) \* \* \*

(i) \* \* \*

(B) \* \* \*

(8) Rule 208, adopted on January 5, 1990.

\* \* \* \* \*

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BILLING CODE 6560-50-P

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[CA 172-0188-FRL-6462-9]

#### **California State Implementation Plan Revision, Kern County Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Due to an adverse comment, EPA is removing the addition of a paragraph included in a direct final rule approving revisions to the California State Implementation Plan. EPA

published the direct final rule on August 19, 1999 (64 FR 45178), approving rule revisions from the Kern County Air Pollution Control District (KCAPCD). As stated in that **Federal Register** document, if adverse or critical comments were received by September 20, 1999, notice of timely withdrawal would be published in the **Federal Register**. However, because the effective date has passed, EPA is removing one amendment. EPA has received adverse comments on that amendment in the direct final rule and will address these comments in a final action within the near future. EPA will not institute a second comment period on this future final action.

**DATES:** This rule is effective November 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1226.

**SUPPLEMENTARY INFORMATION:** Please see the information provided in the direct final rule located in the final rules section of the August 19, 1999 **Federal Register** (64 FR 45178), and in the proposed rule published in the proposed rule section of the August 19, 1999 **Federal Register** (64 FR 45216).

EPA received an adverse comment concerning KCAPCD Rule 410.4—Surface Coating of Metal Parts and Products and the addition of 40 CFR 52.220(c)(231)(i)(B)(6). Consequently, we are removing that amendment. All other amendments in this August 19, 1999 direct final rule concerning Bay Area Air Quality Management District Rule 8-26—Magnet Wire Coating, Monterey Bay Unified Air Pollution Control District Rule 434—Coating of Metal Parts and Products, and South Coast Air Quality Management District Rule 1107—Coating of Metal Parts and Products are unaffected by this action.

#### 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.

Dated: October 8, 1999.

**Laura Yoshii,**  
Deputy Regional Administrator, Region IX.

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

### Subpart F—California

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

**Authority:** 42 U.S.C. 7401-7671q.

#### § 52.220 [Amended]

2. Section 52.220 is amended by removing paragraph (c)(231)(i)(B)(6).

[FR Doc. 99-27797 Filed 11-5-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[AD-FRL-6469-8]

RIN 2060-A150

### Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In this action EPA is promulgating (adopting) a Federal plan to implement emission guideline requirements for existing municipal solid waste (MSW) landfills located in States and Indian country where State plans or Tribal plans are not currently in effect. For most areas, the Federal plan is an interim action because, on the effective date of an approved State or Tribal plan, the Federal plan will no longer apply to MSW landfills covered by the State or Tribal plan. This MSW landfills Federal plan includes the same required elements specified in 40 CFR part 60, subparts B, Cc, and WWW for a State plan: identification of legal authority and mechanisms for implementation; inventory of affected facilities; emissions inventory; emission limits; compliance schedules; a process for EPA or State review of design plans for site-specific gas collection and control systems; testing, monitoring, reporting and recordkeeping requirements; public hearing requirements; and progress reporting requirements. This Federal plan will most likely affect the industry sectors Air and Water Resource and Solid Waste Management, and Refuse Systems—Solid Waste Landfills, which are North American Industrial Classification System Codes 92411 and 562212 and Standard Industrial Classification Codes 9511 and 4953.

**EFFECTIVE DATE:** The effective date of this MSW landfills Federal plan is January 7, 2000.

**ADDRESSES:** *Docket.* Docket numbers A-98-03 and A-88-09 contain the supporting information for this promulgated rule and EPA's promulgation of standards of performance for new MSW landfills and emission guidelines for existing MSW landfills, respectively. These dockets are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (Mail Code 6102), 401 M Street, SW, Washington, D.C. 20460, or by calling (202) 260-7548. The fax number for the Center is (202) 260-4000 and the e-mail address is "A-and-R-Docket@epamail.epa.gov". The docket is located at the above address in Room M-1500, Waterside Mall (ground floor, central mall). A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For procedural and implementation information regarding this Federal plan, contact Ms. Mary Ann Warner at (919) 541-1192, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For technical information, contact Ms. Michele Laur at (919) 541-5256, Waste & Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For information regarding the implementation of this Federal plan, contact the appropriate Regional Office (table 3) as shown in section J of Supplementary Information.

#### SUPPLEMENTARY INFORMATION:

*Judicial Review.* The EPA proposed this section 111(d) rule for MSW landfills on December 16, 1998 (63 FR 69364). This action adopting a rule for MSW landfills constitutes final administrative action concerning that proposal. Under section 307(b)(1) of the Clean Air Act (Act), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by January 7, 2000. Under section 307(d)(7)(B) of the Act, only an objection to this rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the Act, the requirements established by today's final action may not be challenged separately in any civil or criminal