

the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during this display in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES**).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal

Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

#### Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09-013 is added to read as follows:

#### § 165.T09-013 Safety Zone: Chicago Harbor, Chicago, Illinois.

(a) *Location.* The safety zone will encompass the waters of the Chicago Harbor, including a portion of the Monroe Street Harbor and the entrance to the Monroe Street Harbor, bounded by the following positions: starting at 41°52.43 N, 087°36.43 W, thence East to 41°52.43 N, 087°36.16 W, thence South to 41°52.28 N, 087°36.16 W, thence West to 41°52.28 N, 087°36.43 W, thence North back to the first position.

(b) *Effective time and date.* This section is effective from 9 p.m. (local time) until 10 p.m. (local time) on May 26, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on May 27, 2001. The Coast Guard Captain of the Port, Chicago, and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on scene representative.

Dated: May 11, 2001.

**R.E. Seebald,**

*Captain, U.S. Coast Guard, Captain of the Port Chicago.*

[FR Doc. 01-12978 Filed 5-22-01; 8:45 am]

**BILLING CODE 4910-15-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[WV-042-6011a ; FRL-6983-6]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions from Existing Municipal Solid Waste Landfills

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

**ACTION:** Direct final rule.

**SUMMARY:** This action approves the municipal solid waste (MSW) landfill

111(d) plan submitted by the State of West Virginia, Division of Environmental Protection (DEP), for the purpose of controlling landfill gas emissions from existing landfills. Also, this action delegates EPA authority to enforce the Federal landfill 111(d) plan's compliance schedules. The plan was submitted to fulfill requirements of the Clean Air Act (CAA). The West Virginia (WV) plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia.

**DATES:** This final rule is effective July 23, 2001 unless within June 22, 2001 adverse or critical comments are received. If adverse comment is received, EPA 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:** Comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania; and the West Virginia Division of Environmental Protection, Office of Air Quality, 7012 MacCorkle Avenue, South East, Charleston, West Virginia 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** James B. Topsale at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

**SUPPLEMENTARY INFORMATION:**

This document is divided into Sections I—V, and answers the questions posed below.

**I. General Provisions**

What action is EPA approving?  
What is a State 111(d) plan?  
What pollutant(s) will this action control?  
What are the expected environmental and public health benefits from controlling landfill gas (LFG) emissions?

**II. Federal Requirements the West Virginia DEP 111(d) Plan Must Meet for Approval**

What general EPA requirements must the DEP meet to receive approval of its landfill 111(d) plan?  
What does the West Virginia State Plan contain?  
Does the West Virginia plan meet all EPA requirements for approval?

**III. Requirements for Affected MSW Landfill Owners/Operators Must Meet**

How do I determine if my MSW landfill is subject to the WV 111(d) plan?  
What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?  
If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?  
Are there any operational requirements for my installed LFG collection and control system?  
What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?  
Am I required to apply for a Title V permit?  
If I modify or expand the capacity of my landfill, what additional requirements must I meet?

**IV. Final EPA Action**

**V. Administrative Requirements**

**I. General Provisions**

*Question:* What action is EPA approving?

*Answer:* EPA is approving the State of West Virginia (WV) landfill 111(d) plan, as submitted by the WV Division of Environmental Protection (DEP), Office of Air Quality, on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000. Also, EPA is approving the requested delegation of the November 8, 1999 promulgated Federal landfill 111(d) plan (64 FR 60689) generic compliance schedule, including the requirements for the initial design capacity and non-methane organic compound (NMOC) emissions reports. EPA is publishing this approval action without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments.

*Question:* What is a State 111(d) plan?

*Answer:* Section 111(d) of the Clean Air Act (CAA) requires that "designated" pollutants, controlled under section 111(b) standards of performance for new stationary sources, must also be controlled at existing sources (i.e., designated facilities) in the same source category. Furthermore, section 111(d) requires EPA to establish procedures for state submittal and EPA approval of state plans that implement state adopted emissions guidelines (EG), promulgated by EPA, for the control of designated pollutants and facilities. State 111(d) plans, approved by EPA, implement and provide for federal enforcement of the EG requirements.

*Question:* What pollutant(s) will this action control?

*Answer:* The promulgated March 12, 1996 EPA EG (61 FR 9919) are

applicable to existing municipal solid waste (MSW) landfills (i.e., the designated facilities) that emit landfill gas (LFG). LFG consists primarily of carbon dioxide, methane, and nonmethane organic compounds (NMOC). MSW landfills are the largest manmade source of methane emissions in the United States. The designated pollutant, NMOC, is a mixture of more than 100 different compounds, including volatile organic compounds (VOC), and hazardous pollutants (HAP), such as vinyl chloride, toluene, and benzene. A collateral benefit in the control of landfill NMOC is the control of methane.

*Question:* What are the expected environmental and public health benefits from controlling Landfill Gas emissions?

*Answer:* Studies indicate that MSW landfill gas (LFG) emissions at certain levels can have adverse effects on both public health and welfare. EPA presented its concerns regarding the health and welfare effects of landfill gases in the preamble to the MSW landfill regulations (61 FR 9905). As noted above, MSW landfills emit NMOC that contains HAP, and VOC, including odorous compounds. Exposure to HAP can lead to cancer, respiratory irritation, and damage to the nervous system. VOC emissions contribute to the formation of ozone which can result in adverse effects on human health and vegetation. Methane contributes to global climate change and can also result in fires or explosions, if the gas accumulates in physical structures on or off the landfill site. The WV 111(d) plan will serve to significantly reduce these potential problems associated with LFG emissions.

**II. Federal Requirements the West Virginia DEP's 111(d) Plan Must Meet for Approval**

*Question:* What general EPA requirements must the West Virginia DEP meet to receive approval of the WV 111(d) plan (the "plan")?

*Answer:* EPA promulgated detailed procedures for submitting and approving State plans in 40 CFR part 60, subpart B. Also, EPA promulgated the MSW landfill EG (subpart Cc) and a related NSPS (subpart WWW) on March 12, 1996, and amended them both on June 16, 1998 and February 24, 1999. The West Virginia plan must meet the requirements of (1) 40 CFR part 60, subpart Cc, §§ 60.30c through 60.36c, and the related subpart WWW; and (2) 40 CFR part 60, subpart B, §§ 60.23 through 26. In addition, a State requesting delegation of authority under the Federal 111(d) plan must

demonstrate that it has adequate resources and the legal authority to administer and enforce the program. The DEP has made the required demonstration with respect to the delegated tasks.

States were required to submit their MSW landfill 111(d) plans to EPA on December 12, 1996, pursuant to the provisions of section 111(d) of the CAA and 40 CFR part 60, subpart B, and the promulgated MSW landfill EG. As a result of litigation over the landfill rule, on November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association v. Browner, et al.*, No. 96-1152 (D.C. Cir.), in accordance with section 113(g) of the Act. See 62 FR 60898. Pursuant to the proposed settlement agreement, EPA published, in the **Federal Register**, a direct final rulemaking on June 16, 1998, in which EPA amended 40 CFR part 60, subparts Cc and WWW, to add clarifying language, to make editorial amendments, and to correct typographical errors. The proposed settlement did not vacate or void the March 12, 1996 MSW landfill EG or NSPS. See 63 FR 32743-32753, 32783-32784. In part, these amendments clarified the EG regulatory text with respect to landfill mass and volume applicability and Title V permit requirements. On February 24, 1999 (64 FR 9258), EPA amended the MSW landfill rule to further clarify the regulatory text and correct errors with respect to the due date for the submittal of the initial landfill design capacity and emissions rate reports, and the definition of landfill "modification". In summary, these amendments relate to four substantive EG changes: (1) Landfill mass "and" volume applicability threshold language, (2) timely Title V permit applications, (3) the definition of landfill "modification", and (4) the due date for submittal of initial design capacity and NMOC emissions rate reports. Additional technical corrections to the NSPS were published on April 10, 2000 (65 FR 18906).

**Question:** What does the West Virginia State Plan contain?

**Answer:** Consistent with the requirements of subparts B and Cc, as amended, the West Virginia Plan contains the following:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. West Virginia Rule 45CSR23, as the enforceable mechanism;
3. A source inventory of known designated facilities, including NMOC emissions rate estimates;

4. Emission collection and control requirements that are no less stringent than those in subpart Cc;

5. A description of the West Virginia process for the review and approval of site-specific gas collection and control design plans

6. A source compliance schedule that requires final compliance no later than that required in EPA's November 8, 1999 Federal 111(d) plan (64 FR 60703);

7. Source testing, monitoring, recordkeeping, and reporting requirements;

8. Records of the public hearings on the State Plan; and

9. Provision for State submittal to EPA of annual reports on progress in plan enforcement.

On May 29, 1998, the DEP submitted the WV 111(d) plan that identifies existing MSW landfills in the State of West Virginia and establishes standards for the control of landfill gas emissions from these facilities. The plan is entitled: "West Virginia Division of Environmental Protection Office of Air Quality State Plan for Municipal Solid Waste (MSW) Landfills". The State has adopted 40 CFR part 60, subparts Cc and WWW, as amended, by reference, such that they apply to both new and existing municipal solid waste (MSW) landfills under one regulation. The adoption of this regulation is incorporated into the State of West Virginia "Title 45 Legislative Rule Division of Environmental Protection Office of Air Quality" in Series 23 to Prevent and Control Emissions from Municipal Solid Waste Landfills.

On May 1, 1998, the DEP MSW landfill regulation 45CSR23 became effective. In response to the amended EG and NSPS requirements, the regulation was amended, and became effective on May 1, 2000. 45CSR23 applies to existing MSW landfills and incorporates by reference (IBR) related and applicable new source performance standards, subpart WWW, requirements. Also the amended plan, submitted to EPA on May 15, 2000, contains a request for delegation of EPA's November 8, 1999 Federal landfill 111(d) plan (i.e., 40 CFR part 60, subpart GGG) compliance schedule requirements. In a December 20, 2000 letter to EPA, the DEP clarified that its delegation request included the Federal plan's initial design capacity and NMOC emission rate reporting requirements.

**Question:** Does the West Virginia plan meet all EPA requirements for approval?

**Answer:** Yes. The DEP has submitted a 111(d) plan that conforms to all EPA requirements under 40 CFR part 60, subparts B, Cc, and WWW. Details

regarding the approvability of plan elements are included in the technical support document (TSD) associated with this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

### III. Requirements Affected MSW Landfill Owners/Operators Must Meet

**Question:** How do I determine if my MSW landfill is subject to the WV 111(d) plan?

**Answer:** If you commenced construction, reconstruction, or modification of your MSW landfill before May 30, 1991, and have accepted waste at any time since November 8, 1987, or the landfill has additional capacity for future waste deposition, then it is subject to the 111(d) plan requirements.

**Question:** What general requirements must I meet as an affected landfill owner/operator who is subject to the EPA approved WV plan?

**Answer:** The plan requires you to submit an initial design capacity report, and possibly a NMOC emissions rate report. If the design capacity of your landfill is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters of MSW, the plan requires you to also submit, concurrently with the design capacity report, an initial NMOC emissions rate report. As required under 40 CFR 62.14355(a) of the Federal landfill 111(d) plan, both the initial capacity and NMOC emissions rate reports were due April 6, 2000. The initial NMOC and any subsequent emissions rate determinations are required to be calculated according to methods specified in the regulation. If your calculated landfill NMOC emissions rate were 50 megagrams/year, or more per year, then you are required to install a MSW landfill gas collection and control system that meets the design and operational requirements specified in 45CSR 23-3 and 3.3, which incorporates by reference all related and applicable NSPS, Subpart WWW, requirements at 40 CFR 60.759 and 753.

**Question:** If my landfill is subject to the plan's requirement for installation of a LFG collection and control system, what emissions limits must I meet, and in what time frame?

**Answer:** You must install a landfill gas collection and control system to reduce the collected NMOC emissions by 98 weight-percent, or reduce the emissions from the control device to a concentration of 20 parts per million by volume, or less, for an enclosed combustor. Your final compliance date

and the related increments of progress are dependent upon when your annual emissions rate report initially shows that NMOC emissions are  $\geq 50$

megagrams per year (Mg/yr). Based on the Federal plan requirements at 40 CFR 62.14356(c), you must meet the following compliance schedule and

increments of progress, except as provided in 40 CFR 62.14356(d):

#### DELEGATED COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS

Increment(s)	Compliance date(s)	
	4/6/00 annual report showing NMOC emissions $\geq 50$ Mg/yr	1st subsequent annual report showing NMOC emissions $\geq 50$ Mg/yr.
Submit final control plan .....	April 6, 2001 .....	1 year after report.
Award Contracts .....	December 6, 2001 .....	20 months after report.
Begin on-site construction .....	April 6, 2002 .....	24 months after report.
Complete on-site construction .....	October 6, 2002 .....	30 months after report.
Final compliance .....	October 6, 2002 .....	30 months after report.

*Question:* Are there any operation requirements for my installed LFG collection and control system?

*Answer:* Yes, there are operational requirements. The operational requirements are summarized below:

1. Operate the collection system wellheads at negative pressure;
2. Operate the interior collection wellheads with a landfill gas temperature less than 550°C and with either a nitrogen level less than 20 percent, or an oxygen level less than 5 percent;
3. Operate the collection system so that the methane gas concentration is less than 500 parts per million by volume above background at the surface of the landfill;
4. Operate the collection system so that the collected gases are vented to the control system; and
5. Operate the collection and control system at all times.

Details regarding all operational requirements are stipulated in Subpart WWW, 40 CFR 60.753

*Question:* What are the testing, monitoring, recordkeeping, and reporting requirements for my landfill?

*Answer:* Your testing, monitoring, recordkeeping, and reporting requirements are summarized below:

*Performance testing*, to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet concentration level, must be completed within 180 days after construction completion on the collection and control system. Testing methods must be consistent with EPA source test methods referenced in the DEP landfill regulation.

*Monitoring* temperature on a continuous basis is required for enclosed combustion control devices, and flares. Measurement of the gas flow rate from the collection system to an enclosed combustion device, or flare, is required at least once every 15 minutes, unless the bypass line valves are

secured in a closed position. Monthly monitoring requirements are specified in the regulation for the gas collection system. Gas wellhead monitored parameters include gauge pressure, nitrogen or oxygen concentration, and temperature. Quarterly monitoring is required of NMOC surface concentrations.

*Reporting* requirements relate to landfill design capacity and NMOC emission rates; submittal of a collection and control system design plan; and system start-up, performance testing, operations, closure notification, and equipment removal.

*Records* must be kept on-site of maximum design capacity, current amount of solid waste in-place, year-by-year waste acceptance rate; up-to-date readily accessible records for the life of the control equipment of certain data measured during the initial performance test or compliance determination; and control device vendor specifications until removal.

Details regarding testing, monitoring, recordkeeping, and reporting requirements are stipulated in subpart WWW, 40 CFR 60.754, 60.755, 60.756, and 60.757.

*Question:* Am I required to apply for a Title V permit?

*Answer:* Yes, if your landfill design capacity is equal to or greater than 2.5 million Mg and 2.5 million cubic meters. As provided under the delegated provisions of the Federal plan, you are required to apply for a Title V permit no later than April 7, 2001.

*Question:* If I modify or expand the capacity of my landfill, what additional requirements must I meet?

*Answer:* Any MSW landfill that commences construction, modification, or reconstruction on or after May 30, 1991 is subject to the EPA new source performance standards (NSPS) for landfills, 40 CFR part 60, subpart WWW.

#### IV. Final EPA Action

Based upon the rationale discussed, herein, and in further detail in the TSD associated with this action, EPA is approving the West Virginia MSW landfill 111(d) plan, including the delegation of the Federal plan's compliance schedule and initial reporting requirements. Except as noted, herein, upon the effective date of this rule approving West Virginia's 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in West Virginia. As provided by 40 CFR 60.28(c), any revisions to the WV section 111(d) plan or associated regulations will not be considered part of the applicable plan until submitted by the DEP in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan should relevant adverse or critical comments be filed. This rule will be effective July 23, 2001 without further notice unless the Agency receives relevant adverse comments by June 22, 2001. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Only parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this

rule will be effective on July 23, 2001 and no further action will be taken on the proposed rule.

## V. Administrative Requirements

### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing 111(d) plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d) plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d) plan submission, to use VCS in place of a 111(d) plan submission that otherwise satisfies the provisions of the Clean Air

Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### B. 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).

### C. 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 July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving West Virginia's 111(d) plan for Municipal Solid Waste landfills 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, Air pollution control, Hydrocarbons,

Reporting and recordkeeping requirements.

Dated: May 1, 2000.

**William C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR Part 62, Subpart XX, 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 XX—West Virginia

2. A new center heading, and §§ 62.12125, 62.12126, and 62.12127 are added to read as follows:

#### Landfill Gas Emissions From Existing Municipal Solid Waste Landfills (Section 111(d)) Plan

##### § 62.12125 Identification of plan.

West Virginia 111(d) plan for municipal solid waste landfills, including delegation of Federal plan (64 FR 60689) compliance schedule and reporting requirements, as submitted to the Environmental Protection Agency on May 29, 1998, and as amended on May 15, 2000, and December 20, 2000.

##### § 62.12126 Identification of sources.

The plan applies to all existing West Virginia municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 and 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.

##### § 62.12127 Effective date.

The effective date of the plan for municipal solid waste landfills is July 23, 2001.

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 82

[FRL-6982-1]

#### Protection of Stratospheric Ozone: Notice 15 for Significant New Alternatives Policy Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of acceptability.

**SUMMARY:** This document expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the