

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[AD-FRL-6201-4]

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:** Proposed rule.

SUMMARY: On March 12, 1996, pursuant to section 111 of the Clean Air Act (Act), EPA promulgated emission guidelines applicable to existing municipal solid waste (MSW) landfills. Section 111(d) of the Act and 40 Code of Federal Regulations (CFR) part 62, subpart B require States with existing MSW landfills subject to the emission guidelines to submit to EPA State plans to implement and enforce the emission guidelines. Indian tribes may submit, but are not required to submit, Tribal plans to implement and enforce the emission guidelines in Indian country. The State plans were due on December 12, 1996. States without existing MSW landfills or without existing landfills that require control must submit a negative declaration letter. Indian tribes without existing MSW landfills or without existing MSW landfills that require control may submit, but are not required to submit, a negative declaration letter. Following receipt of the State plan, EPA has up to 4 months to approve or disapprove the plan. If a State with existing MSW landfills does not submit an approvable plan within 9 months after promulgation of the guidelines (i.e., December 12, 1996), the Act requires EPA to develop, implement, and enforce a Federal plan for MSW landfills in that State.

In this action EPA proposes a MSW landfills Federal plan to implement emission guideline requirements for existing MSW landfills located in States and Indian country where State plans or Tribal plans are not currently in effect. For most of these States and possibly for some Indian Tribes, the Federal plan that is promulgated will be an interim action since at the time a State or Tribal plan becomes effective, the Federal plan will no longer apply to MSW landfills covered by the plan. This proposed 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 record keeping requirements; public hearing requirements; and progress reporting requirements. Also discussed in this preamble is MSW landfills Federal plan implementation and delegation of authority. Industry sectors likely to be affected include Air and Water Resource and Solid Waste Management, and Refuse Systems—Solid Waste Landfills (North American Industrial Classification System Codes 92411 and 562212).

DATES: *Comments.* Comments on this proposal must be received on or before February 16, 1999.

Public Hearing. A public hearing will be held in each EPA region in which a MSW landfill is located that would be covered by the proposed landfills Federal plan, if individuals request to speak. Requests to speak must be received by December 28, 1998. If requests to speak are received, one or more public hearings will be held. A message regarding the date and location of the public hearing(s) may be accessed by calling (919) 541-1192 after January 5, 1999.

ADDRESSES: *Comments.* Comments on this proposal should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC-6102), Attention docket number A-98-03, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments and data may be filed electronically by following the instructions in section I of **SUPPLEMENTARY INFORMATION** of this preamble.

Public Hearing. Persons requesting to speak should notify Ms. Mary Ann Warner, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-1192. A message regarding the date and location of the public hearing(s) may be accessed by calling (919) 541-1192.

Docket. Docket numbers A-98-03 and A-88-09 contain the supporting information for this proposed 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 information regarding this proposal, 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 2) as shown in section I of **SUPPLEMENTARY INFORMATION**. In addition to being available in the docket, an electronic copy of today's document that includes the regulatory text is available through the EPA Technology Transfer Network Website (TTN Web) recent actions page for newly proposed or promulgated rules (<http://www.epa.gov/ttn/oarpg/ramain.html>). The TTN Web provides information and technology exchange in various areas of air pollution control. If more information on the TTN Web is needed, call the TTN Web Help Line at (919) 541-5384.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities potentially regulated by this proposed action are all existing MSW landfills unless the landfill is subject to an EPA-approved section 111(d) State or Tribal plan that is currently effective. Existing landfills are those that commenced construction, modification, or reconstruction prior to May 30, 1991 and have not been modified or reconstructed since May 30, 1991 and have accepted waste since November 8, 1987 or have additional capacity for future waste deposition. Regulated categories and entities include:

Category	Examples of regulated entities
Industry and Local and Tribal Government agencies NAICS Code 92411 (Air and Water Resource and Solid Waste Management) NAICS Code 562212 (Refuse Systems—Solid Waste Landfills).	Municipal solid waste landfills that commenced construction, modification, or reconstruction before May 30, 1991.

The foregoing table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the MSW landfills Federal plan. For specific applicability criteria, see §§ 62.14350 and 62.14352 of subpart GGG.

Based on a July 24, 1998 MSW landfills inventory (A-98-03, II-B-2), EPA projects that the MSW landfills Federal plan could initially affect up to 3,459 MSW landfills in approximately 36 States, protectorates, and municipalities. However, EPA expects many State plans to become effective by the time the Federal plan is promulgated; therefore, the number of landfills affected by this Federal plan will continue to decrease as State and Tribal plans are approved and become effective.

Electronic submittal of comments. Comments and data may be submitted electronically via electronic mail (E-mail) or on disk. Electronic comments on this proposed rule may be filed via E-mail at most Federal Depository Libraries. E-mail submittals should be sent to A-and-R-Docket@epamail.epa.gov. No confidential business information should be submitted through E-mail. Comments and data will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. Electronic comments must avoid the use of special characters and any form of encryption. All comments and data for this proposal, whether in paper form or electronic form, must be identified by docket number A-98-03.

Outline. The following outline shows the organization of the **SUPPLEMENTARY INFORMATION** section of this preamble.

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I. Background of Landfills Regulations and Affected Facilities

A. Background of MSW Landfills Regulations

On March 12, 1996 the EPA promulgated in the **Federal Register** emission guidelines for existing MSW landfills (40 CFR part 60, subpart Cc) under authority of section 111 of the Act (61 FR 9905). The guidelines apply to existing MSW landfills, i.e., those that commenced construction, modification, or reconstruction before May 30, 1991 and have not been modified or reconstructed since May 30, 1991 and have accepted waste since November 8, 1987 or have additional capacity for future waste deposition. On June 16, 1998, EPA published a notice to amend, correct errors, and clarify regulatory text for 40 CFR part 60, subpart Cc (63 FR 32743). These amendments did not affect the due date or the required

content of State plans for existing MSW landfills.

To make the guidelines enforceable, States with existing MSW landfills subject to the guidelines were required to submit to EPA a State plan that implements and enforces the emission guidelines within 9 months of promulgation of the guidelines. In appropriate circumstances, case-by-case extensions can be granted (40 CFR 60.27(a)). State plans were due on December 12, 1996. In some cases, local agencies or protectorates of the United States will submit plans for landfills in their jurisdictions. As discussed in section I.E. of this preamble, Indian Tribes may, but are not required to, submit Tribal plans.

If a State does not have an approved State plan, section 111 of the Act and 40 CFR 60.27(c) and (d) require EPA to develop, implement, and enforce a Federal plan for existing MSW landfills located in that State. In addition, section 301(d)(2) authorizes the Administrator to treat an Indian Tribe in the same manner as a State for this MSW landfill requirement. (See section 49.3 of "Indian Tribes: Air Quality Planning and Management," hereafter "Tribal Authority Rule," 63 FR 7254, February 12, 1998.) For Indian tribes that do not have an approved MSW landfills Tribal plan, EPA must develop, implement and enforce a Federal plan for them.

Today's action, which will be codified as subpart GGG of 40 CFR part 62, proposes a MSW landfills Federal plan that includes the elements described in section II of this preamble.

B. MSW Landfills Federal Plan and Affected Facilities

When this proposed MSW landfills Federal plan becomes a final rule, the MSW landfills Federal plan will affect existing MSW landfills that commenced construction, reconstruction or modification prior to May 30, 1991 and have not been modified or reconstructed on or after that date. Affected landfills also have accepted waste since November 8, 1987 or have capacity for future waste deposition. The MSW landfills Federal plan will apply to existing MSW landfills located in: (1) Any State or portion of Indian country for which a State or Tribal plan has not become effective; (2) any State or portion of Indian country for which the State or Tribe submitted a negative

declaration; (3) any State or portion of Indian country with an effective State or Tribal plan that subsequently is vacated in whole or in part; or (4) any State or portion of Indian country with an effective plan that subsequently revises any component of the plan (e.g., the underlying legal authority or enforceable mechanism) such that the State or Tribal plan is no longer as stringent as the emission guidelines. A landfill that meets any of these criteria is covered by the Federal plan until the State or Tribal plan is approved and becomes effective. An approved State or Tribal plan is a plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cc. The State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval. The effective date of this Federal plan will be 30 days after the final Federal plan is published in the **Federal Register**.

The EPA may grant a State a time extension for submitting a State plan (40 CFR 60.27(a)). However, if States that receive time extensions do not have approved and effective plans by the effective date of this Federal plan, the Federal plan will cover existing MSW landfills in these States.

C. MSW Landfills Federal Plan and Negative Declaration Letters

A negative declaration is a letter to EPA to declare that either there are no existing MSW landfills in the State or portion of Indian country or there are no existing MSW landfills in the State or portion of Indian country that must install collection and control systems according to the requirements of the emission guidelines. States or Indian tribes that submit negative declarations are not expected to submit State or Tribal plans, but existing MSW landfills with a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m³) in the State or portion of Indian country are subject to the MSW landfills Federal plan. Existing MSW landfills with a design capacity less than 2.5 million Mg or 2.5 million m³ that are located in States or portion of Indian country that submitted a negative declaration letter are not required to submit an initial design capacity report, which is the only requirement for an MSW landfill of this size. The negative declaration letter must include the design capacity for the landfills with a design capacity less than 2.5 million Mg or 2.5 million m³. In the event that an existing MSW landfill that must install a collection and control system according to the

emission guidelines is subsequently identified where a negative declaration has been submitted, the Federal plan requirement to install a collection and control system would apply. Existing MSW landfills overlooked by a State or Indian tribe that submitted a negative declaration letter and existing landfills not included in a State or Tribal plan will be subject to the Federal plan until a State or Tribal plan that includes these sources is approved and effective. As discussed in section I.E. of this preamble, the Federal plan will apply throughout Indian country until an approved State or Tribal plan becomes effective. As discussed in section I.G. of this preamble, the Federal plan will, by its own terms, no longer apply to a MSW landfill appropriately covered by an approved State or Tribal plan that becomes effective after promulgation of the Federal plan. The specific applicability of this plan is described in §§ 62.14350 and 62.14352 of subpart GGG.

D. MSW Landfills Federal Plan and the New Source Performance Standards

An existing MSW landfill that increases its permitted volume design capacity through vertical or horizontal expansion (i.e., is modified) on or after May 30, 1991, is subject to the New Source Performance Standards (NSPS), 40 CFR part 60, subpart WWW (see 63 FR 32744). Existing MSW landfills that make operational changes without increasing the horizontal or vertical dimensions of the landfill will continue to be subject to the Federal or State plan that implements the emission guidelines, rather than the NSPS. Examples of such operational changes at a MSW landfill include changing the moisture content of the waste, increasing the physical compaction on the surface, changing the cover material or thickness of the daily cover, and changing baling or compaction practices. This interpretation is consistent with the amendments to the landfills emission guidelines and NSPS, which are consistent with the landfill litigation settlement agreement (63 FR 32743, June 16, 1998). A notice of the proposed settlement was published in the **Federal Register** on November 13, 1997 (63 FR 60898). In addition, a MSW landfill that has been reconstructed on or after May 30, 1991 would be subject to the NSPS, not the Federal or State plan that implements the emission guidelines. Reconstructions are unlikely for landfills; as specified in the NSPS General Provisions, reconstructions are "the replacement of components of an existing facility [landfill] to such an extent that: the fixed capital cost of the

new components exceeds 50 percent of the fixed capital cost of a comparable entirely new facility [landfill]." The EPA knows of no situation where this would occur at a landfill.

E. Implementing Authority

The EPA Regional Administrators are the delegated authority for implementing the MSW landfills Federal plan. All reports required by this Federal plan should be submitted to the appropriate Regional Administrator. Table 5 in section II.E lists the addresses of the EPA Regional Administrators and the States located in each region.

F. MSW Landfills Federal Plan and Indian Country

The MSW landfills Federal plan will apply throughout Indian country to ensure that there is not a regulatory gap for existing MSW landfills in Indian country. Indian tribes do, however, have the authority under the Act to develop Tribal plans in the same manner States develop State plans. On February 12, 1998, EPA promulgated regulations that outline provisions of the Act for which EPA is authorized to treat Tribes in the same manner as States (see 63 FR 7254, Tribal Authority Rule). Upon the effective date of the Tribal Authority Rule, March 16, 1998, EPA has the authority to approve Tribal programs, such as Tribal plans or programs to implement and enforce MSW landfill emission guidelines, under the Act. Section 301(d)(2) authorizes the Administrator to treat an Indian tribe in the same manner as a State for the Clean Air Act provisions identified in § 49.3 of part 49 of the CFR if the Indian tribe meets the following criteria:

(a) The applicant is an Indian tribe recognized by the Secretary of the Interior;

(b) The Indian tribe has a governing body carrying out substantial governmental duties and functions;

(c) The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

(d) The Indian tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgement, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Air Act and all applicable regulations (see § 49.6 of the Tribal Authority Rule, 63 FR 7272). In addition, if a Tribe meets these criteria, the EPA can delegate authority to implement the Federal plan to an Indian tribe the same way it can delegate authority to the State.

In addition to giving Indian tribes authority to develop Tribal plans, the Act also provides EPA with the authority to administer federal programs in Indian country. This interpretation of EPA's authority under the Act is based in part on the general purpose of the Act, which is national in scope. In addition, section 301(a) of the Act provides EPA broad authority to issue regulations that are necessary to carry out the functions of the Act. The EPA believes that Congress intended for EPA to have the authority to operate a federal program in instances when Tribes choose not to develop a program, do not adopt an approvable program, or fail to adequately implement an air program authorized under section 301(d) of the Act. Finally, section 301(d)(4) of the Act authorizes the Administrator to directly administer provisions of the Act to achieve the appropriate purpose, where Tribal implementation of those provisions is not appropriate or administratively not feasible. The Agency's interpretation of its authority to directly implement Clean Air Act programs in Indian country is discussed in more detail in the proposed Federal Operating Permits Rule, 62 FR 13747 (March 21, 1997), and in the Tribal Authority Rule.

Many Tribes may have delayed development of air quality regulations and programs pending promulgation of the Tribal Authority Rule. As mentioned previously, Tribes may, but are not required to, submit a MSW landfills plan or negative declaration letter under section 111(d) of the Act. The EPA is not aware of any Tribes that have developed plans to implement the MSW emission guidelines or submitted negative declaration letters.

The impact of this Federal plan on Indian tribes is not expected to be significant. There are very few existing MSW landfills in Indian country large enough to require the installation of a collection and control system. For most existing MSW landfills in Indian country, the only requirement this Federal plan will impose is to submit a design capacity report. This requirement is discussed in section V of this preamble.

The Federal plan will apply throughout Indian country except where a State or Tribal plan has been explicitly approved by EPA to cover an area of Indian country. The EPA will administer the plan in Indian country without requiring any jurisdictional showing on the part of the Tribe. To assure there are no gaps in coverage, EPA will treat disputed areas, i.e., areas for which EPA believes the Indian

country status may be in question, as Indian country. The EPA will continue to implement the Federal plan in these areas until a Tribal plan covering an area of Indian country becomes effective, or the area is determined not to be Indian country and the source is subject to an effective State plan. This approach is consistent with the proposed Federal Operating Permits Rule cited above where the rationale is discussed in detail. The EPA requests comments on applying the landfills Federal plan in Indian country as described here.

The term *Indian country*, as used in this MSW landfills Federal plan, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition is consistent with the proposed Federal Operating Permits Program rule (62 FR 13747, March 21, 1997).

G. MSW Landfills Federal Plan and Compliance Schedules

The emission guidelines require the owner or operator of a MSW landfill to submit a design capacity report within 90 days after the effective date of the State or Tribal plan (or within 90 days after the effective date of the promulgated Federal plan). An emission rate report showing nonmethane organic compounds (NMOC) emissions from the landfill is also required to be submitted within the same time period if the landfill has a design capacity of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m³) or more. The emission guidelines further require the owner or operator of a MSW landfill with a design capacity greater than or equal to 2.5 million Mg and 2.5 million m³ to submit a collection and control system design plan within 1 year of first reporting NMOC emissions of 50 Mg per year or more. The collection and control system must be installed and operating within 30 months of first reporting NMOC emissions of 50 Mg per year or more. The compliance schedule in this Federal plan also sets the dates for awarding contracts and beginning construction, however, States, Tribes,

and owners or operators have the option of setting these two dates which are not specifically defined in the emission guidelines. (See the discussion in section II.E of this preamble.)

H. MSW Landfills Excluded From Federal Plan Applicability

The MSW landfills Federal plan will not apply to landfills appropriately covered by an approved and effective State or Tribal plan or to landfills in a State that has submitted a negative declaration as long as the landfills in fact have a design capacity less than 2.5 million Mg or 2.5 million m³. If a State or Tribal plan becomes effective before promulgation of the Federal plan, the promulgated MSW landfills Federal plan will not apply to landfills appropriately covered by that State or Tribal plan. Promulgation of this MSW landfills Federal plan does not preclude a State or Tribe from submitting a plan later. If a State or Tribe submits a plan after promulgation of the MSW landfills Federal plan, EPA will review and approve or disapprove the plan. Upon the effective date of the State or Tribal plan, the Federal plan will no longer apply. States are, therefore, encouraged to continue their efforts to develop and submit State plans to EPA for approval. Similarly, EPA encourages Tribes to develop and submit Tribal plans.

I. Status of State Plan Submittals

The following States have EPA approved and effective State plans: Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oregon, Utah and Wyoming. The MSW landfills covered in those State plans would not be affected by the MSW landfills Federal plan. (MSW landfills located in those States would become subject to the Federal plan in the event that the State plan is subsequently disapproved, in whole or in part.) Other States are making significant progress on their State plans and EPA expects many State plans to be submitted in the next few months. (The EPA is not aware of any Indian tribes that are developing Tribal plans.) Table 1 summarizes the status of States without approved and effective State plans and those which have submitted negative declarations as of July 24, 1998. The table is based on information from EPA Regional Offices (A-98-03, II-1-3). Copies of **Federal Register** notices of approvals, extensions, and negative declaration letters are located in docket A-98-03.

TABLE 1.—STATUS OF STATES WITHOUT AN APPROVED STATE PLAN ¹

State
I. Negative declaration submitted to EPA and no State plan is expected. (See discussion in section I.G of this preamble.)
Region I:
New Hampshire
Rhode Island
Vermont
Region III:
District of Columbia
Philadelphia, PA
II. Time extensions granted for State plan submittals (62 FR 64830 and 63 FR 27959). The EPA anticipates that these plans will be submitted and existing landfills in these States would not be covered by the Federal plan. However, if the State plan is not approved and effective before the effective date of the Federal plan, the Federal plan will apply to landfills in such States:
Region II:
New York (7/5/98)
Region IV:
Hamilton County (Chattanooga) Tennessee (7/31/98)
Kentucky (2/15/98)
North Carolina (7/1/98)
South Carolina (1/15/98)
Tennessee, except Chattanooga and Nashville (12/31/97)
Region V:
Illinois (7/31/98)
Region VI:
Arkansas (7/31/98)
Oklahoma (7/31/98)
Texas (7/31/98)
Region X:
Alaska (12/31/97)
Idaho (12/31/97)
Washington (5/31/98)
III. State plan submitted and is being reviewed by EPA. The promulgated Federal plan will cover existing MSW landfills in these States until the State plan is approved and becomes effective:
Region II:
Puerto Rico
Region III:
Allegheny County, PA
Delaware
Pennsylvania
West Virginia
Region IV:
Alabama
Georgia
Nashville, Tennessee
Region V:
Indiana
Region VIII:
South Dakota
Region IX:
Arizona
California
Nevada
IV. State plan or negative declaration not submitted. The existing MSW landfills in these States will be subject to the promulgated Federal plan unless a State plan applicable to existing landfills is approved by EPA and becomes effective:

TABLE 1.—STATUS OF STATES WITHOUT AN APPROVED STATE PLAN¹—Continued

State
Region I:
Connecticut
Maine
Massachusetts
Region II:
New Jersey
Virgin Islands
Region III:
Maryland
Virginia
Region IV:
Florida
Mississippi
Region V:
Michigan
Wisconsin
Region VI:
Albuquerque, New Mexico
Region IX:
American Samoa
Guam
Hawaii
Northern Mariana Islands

¹ Status as of July 24, 1998.

To clarify which MSW landfills will and will not be covered by the Federal plan, table 1 of subpart GGG lists States and Indian tribes that have approved effective plans as of July 24, 1998 that cover MSW landfills in the State or Indian country. MSW landfills not appropriately covered by an effective plan will be covered by the Federal plan. For example, if a landfill is located in a State that is listed in table 1 of subpart GGG and the State plan does not apply to the landfill, then the landfill would be subject to the Federal plan. As stated above, EPA expects additional State plans to become effective prior to promulgation of this Federal plan. The promulgated Federal plan will list in

table 1 of subpart GGG, States for which an approved and effective State plan applies. The EPA will periodically amend table 1 of subpart GGG to identify States with approved and effective State plans. These amendments will be published in the **Federal Register** and codified in the CFR. The inclusion or the failure to include a State in table 1 of subpart GGG is not controlling in determining whether a MSW landfill is subject to the MSW landfill Federal plan. Any MSW landfill not covered by an approved and currently effective State or Tribal plan, or any MSW landfill with a design capacity equal to or greater than 2.5 million Mg or 2.5 million m³ located in

a State that submitted a negative declaration will be subject to the MSW landfill Federal plan.

The EPA will keep an up-to-date list of State plan submittals and approvals on the EPA TIN Web at <http://www.epa.gov/ttn/oarpg>. The list will help landfill owners or operators determine whether their landfill is affected by a State plan or the Federal plan.

J. Regional Office Contacts

For information regarding the implementation of the MSW landfills Federal plan, contact the appropriate EPA Regional Office as shown in table 2.

TABLE 2.—EPA REGIONAL CONTACTS FOR MUNICIPAL SOLID WASTE LANDFILLS

Regional contact	Phone No.	Fax No.
Region I (CT, MA, ME, NH, RI, VT) Jeanne Cosgrove, U.S. EPA/CAQ, John F. Kennedy Federal Bldg., Boston, MA 02203-0001	(617) 565-9451	(617) 565-4940
Region II (NJ, NY, PR, VI) Christine DeRosa, U.S. EPA/25th Floor 290 Broadway, New York, NY 10007-1866	(212) 637-4022	(212) 637-3901
Region III (DC, DE, MD, PA, VA, WV) James B. Topsale, U.S. EPA/Region 3, 1650 Arch Street, Philadelphia, PA 19103-2029	(215) 814-2190	(215) 814-2114
Region IV (AL, FL, GA, KY, MS, NC, SC, TN) Scott Davis, U.S. EPA/APTMD 61 Forsyth Street, SW, Atlanta, GA 30303	(404) 562-9127	(404) 562-9095
Region V (IL, IN, MI, MN, OH, WI) Charles Hatten U.S. EPA, 77 W. Jackson Blvd., Chicago, IL 60604	(312) 886-6031	(312) 886-0617
Region VI (AR, LA, NM, OK, TX) Mick Cote, U.S. EPA, 1445 Ross Ave., Suite 1200, Dallas, TX 75202-2733	(214) 665-7219	(214) 665-7263
Region VII (IA, KS, MO, NE) Ward Burns, U.S. EPA/RME, 726 Minnesota Ave./ARTDAPCO, Kansas City, KS 66101-2728	(913) 551-7960	(913) 551-7065
Region VIII (CO, MT, ND, SD, UT, WY) Martin Hestmark, U.S. EPA/8ENF-T, 999 18th Street, Suite 500, Denver, CO 80202-2466	(303) 312-6776	(303) 312-6409
Region IX (AS, AZ, CA, GU, HI, NM, NV) Patricia Bowlin, U.S. EPA/RM HAW/17211, 75 Hawthorne Street/AIR-4, San Francisco, CA 94105	(415) 744-1188	(415) 744-1076
Region X (AK, ID, OR, WA) Catherine Woo, U.S. EPA, 1200 Sixth Ave., Seattle, WA 98101	(206) 553-1814	(206) 553-0404

II. Required Elements of This Municipal Solid Waste Landfills Federal Plan

Section 111(d) of the Act, 42 U.S.C. 7411(d), requires States to develop and implement State plans for MSW landfills that implement and enforce the published emission guidelines. Subparts B and Cc of 40 CFR part 60 require States to submit State plans that include specified elements. Because the Federal

plan is being proposed for areas where State plans are not yet in effect, the proposed Federal plan includes the same essential elements as required for State plans: (1) Identification of legal authority and mechanisms for implementation, (2) inventory of affected facilities, (3) emissions inventory, (4) emission limits, (5) compliance schedules, (6) a process for EPA or State review of design plans for

site-specific gas collection and control systems, (7) testing, monitoring, reporting and record keeping requirements, (8) public hearing requirements, and (9) progress reporting requirements. Table 3 identifies each element and indicates where it is located or codified. In this section, each State plan element is described as it relates to the proposed MSW landfills Federal plan.

TABLE 3.—REQUIRED ELEMENTS AND LOCATION

Required element of the landfills Federal plan	Where located or codified
1. Identification of legal authority and mechanisms for implementation ..	Section 111(d)(2) of the Act and Sections II.A and III.A of this preamble.
2. Inventory of affected facilities	Docket A-98-03, item II-B-2.
3. Emission inventory	Docket A-98-03, item II-B-2.
4. Emission limits	40 CFR 62.14353 of subpart GGG.
5. Compliance schedules	40 CFR 62.14356 of subpart GGG.
6. Process for review of site-specific gas collection and control system design plans.	Section II.F of this preamble.
7. Testing, monitoring, reporting and record keeping requirements	40 CFR 62.14354 and 62.14355 of subpart GGG.
8. Public hearing requirements	Section II.H of this preamble.
9. Progress reports	Section II.H of this preamble.

A. Legal Authority and Mechanism for Implementation

As a required element, a State or Tribal plan must demonstrate that the State or Indian tribe has the legal authority to adopt and implement the emission requirements and compliance schedules in the plan. The State or Tribe also must identify the enforceable mechanism for implementing the emission guidelines (e.g., a State or Tribal rule or other enforcement mechanism).

The EPA's authority to develop a Federal plan is given in the Act. Section 301(a) of the Act authorizes EPA to prescribe regulations to carry out EPA functions under the Act. Section 111(d) of the Act authorizes the EPA to develop a Federal plan for States that do not submit approvable State plans.

The Act also provides EPA with the authority to administer federal programs in Indian country. This interpretation of EPA's authority under the Act is based in part on the general purpose of the Act, which is national in scope. Further, section 301(d)(1) specifically authorizes EPA to treat Indian tribes as States. Section 301(d)(2) directs EPA to promulgate regulations specifying those provisions of the Act for which it is appropriate to treat Indian tribes as States. Those regulations, known as the Tribal Authority Rule (TAR), were promulgated at 63 FR 7254 and became effective on March 16, 1998. In the TAR, EPA determined that it is appropriate to treat Indian tribes as States for purposes of developing and submitting a MSW

landfill plan. (See section 49.3 of the TAR, 63 FR 7254.) Section 301(a) of the Act provides EPA broad authority to issue regulations that are necessary to carry out the functions of the Act. The EPA believes that Congress intended for EPA to have the authority to operate a federal program in instances when Tribes choose not to develop a program, do not adopt an approvable program, or fail to adequately implement an air program authorized under section 301(d) of the Act. Finally, section 301(d)(4) of the Act authorizes the Administrator to directly administer provisions of the Act to achieve the appropriate purpose, where Tribal implementation of those provisions is not appropriate or administratively not feasible. Thus, for Indian tribes that do not have an approved and effective MSW landfill Tribal plan, EPA must develop, implement and enforce a Federal plan for them. The Agency's interpretation of its authority to directly implement Clean Air Act programs in Indian country is discussed in more detail in the proposed Federal Operating Permits Rule, 62 FR 13747 (March 21, 1997), and in the Tribal Authority Rule.

By proposing this MSW landfills Federal plan, EPA is fulfilling its obligation under the Act to establish emission limits and other requirements for MSW landfills located in States for which an approvable plan has not been submitted. The EPA is also fulfilling its obligations regarding MSW landfills in Indian country for which an approvable Tribal plan has not been submitted. The

EPA is proposing a Federal regulation under the legal authority of the Act as the mechanism to implement the emission guidelines in those States and Indian country. As discussed in section III of this document, implementation and enforcement of the Federal rule may, however, be delegated to Tribal, State and local agencies when requested by a State, Tribal or local agency, and when it is determined appropriate by EPA. Furthermore, EPA encourages and expects several more States to submit State plans in the future. Upon the effective date of a State or Tribal plan, the Federal plan would no longer apply to MSW landfills covered by that State or Tribal plan.

B. Inventory of Affected MSW Landfills

As a required element, a State or Tribal plan must include a complete source inventory of MSW landfills subject to the emission guidelines. Consistent with the requirement for State plans to include an inventory of MSW landfills, docket number A-98-03 contains a July 24, 1998 inventory of MSW landfills expected to be covered by the MSW landfills Federal plan. The inventory does not include a separate listing of landfills in Indian country because, at this time, EPA does not have an accurate inventory of landfills in Indian country or their emissions. This information will become available when Indian Tribes submit design capacity reports for their existing MSW landfills as required by this Federal plan. The inventory is contained in a

memorandum entitled "Procedures Used in Preparing an Inventory of MSW Landfills and Emissions for the Emission Guidelines Federal Plan" (A-98-03, II-B-2). The supporting references cited in the memo are also included in the docket. Docket item II-B-2 fulfills both the MSW landfills inventory requirement and the landfills emission inventory requirement, which will be discussed in the following section. The inventory is based on EPA Office of Solid Waste (OSW) surveys and recent information from Regional Offices. This is the best information EPA has to rely on; however, EPA recognizes that there is a very large number of existing landfills and this list may not be comprehensive. If there are additional landfills that meet the applicability criteria as described under

the Regulated Entities section, but are not identified in the inventory, the Federal plan would apply to them. (See section I.B. of this preamble and § 62.14352 of subpart GGG for applicability criteria.) If better information is available, EPA requests that it be submitted during the comment period.

C. Inventory of Emissions

As a required element, a State or Tribal plan must include an inventory of NMOC emissions from MSW landfills subject to the emission guidelines. The EPA estimated the NMOC emissions from the inventory (A-98-03, II-B-2) of existing MSW landfills that are expected to be covered by the Federal plan as of July 24, 1998. Table 4 of this preamble summarizes the results of the inventory

for those States that do not have an approved or effective State plan or have not been granted an extension for State plan submittal. The inventory also includes landfills in those States whose extension date is before July 24, 1998, but do not have an approved State plan after the extension date has passed. Pollutant emissions are expressed in megagrams NMOC per year (Mg/yr). The EPA estimated emissions from MSW landfills using calculation procedures listed in the "Compilation of Air Pollutant Emission Factors," (AP-42). Refer to the memorandum in docket number A-98-03 for the complete emissions inventory, including detailed emissions from MSW landfills in each State, and details on the calculations used to determine those emissions.

TABLE 4.—SUMMARY OF ESTIMATED NMOC EMISSIONS FROM EXISTING MSW LANDFILLS EXPECTED TO BE COVERED BY THE FEDERAL PLAN

Region/State/Municipal	Annual emissions NMOC (megagrams/year)
Region I:	
Connecticut	1056
Maine	3410
Massachusetts	2960
Region II:	
New Jersey	2978
New York	13044
Puerto Rico	10565
Virgin Islands	5
Region III:	
Delaware	1336
Pennsylvania ^a	3771
Maryland	2765
Virginia	7136
West Virginia	1932
Region IV:	
Alabama	2772
Florida	7287
Georgia	4536
Kentucky	4566
Mississippi	2240
North Carolina	3624
South Carolina	1758
Tennessee ^b	5558
Nashville, TN	104
Region V:	
Indiana	1800
Michigan	2199
Wisconsin	14206
Region VI:	
Albuquerque, NM	5
Region VIII:	
South Dakota	2461
Region IX:	
American Samoa	39
Arizona	1556
California	9365
Guam	39
Hawaii	364
Nevada	2631
Northern Mariana Islands	0
Region X:	
Alaska	4323
Idaho	1267

TABLE 4.—SUMMARY OF ESTIMATED NMOC EMISSIONS FROM EXISTING MSW LANDFILLS EXPECTED TO BE COVERED BY THE FEDERAL PLAN—Continued

Region/State/Municipal	Annual emissions NMOC (megagrams/year)
Washington	4085

^a Does not include Allegheny County or Philadelphia.

^b Does not include Hamilton County (Chattanooga).

D. Emission Limits

As a required element, a State or Tribal plan must include emission limits. Section 60.24(c) of 40 CFR part 60 requires these emission limits to be "no less stringent" than those in the emission guidelines. On a case-by-case basis, a State may provide a less stringent standard if the State demonstrates to EPA that the criteria in § 60.24(f) are met and EPA approves the less stringent standard. In accordance with 40 CFR 60.27(e), the emission limits in the MSW landfills Federal plan are the same as 40 CFR part 60, subpart Cc.

The emission limits for NMOC can be achieved by installing a gas collection and control system meeting the requirements of 40 CFR 60.752(b)(2)(ii). This includes a collection system meeting specified general design criteria and a control system achieving the specified 98 percent reduction or 20 parts per million volume (ppmv) outlet concentration. An MSW landfill owner or operator may use any specific collection system design and control equipment to comply with the MSW landfills Federal plan, as long as the general criteria for the collection system and the numerical emission control limits for NMOC are met.

The proposed MSW landfill Federal plan is consistent with the June 16, 1998 (63 FR 32743) amendments to the MSW landfills emission guidelines (subpart Cc). The amendments clarify the March 12, 1996, subpart Cc rule.

E. Compliance Schedules and Increments of Progress

As a required element, a State or Tribal plan must include compliance schedules for installing collection and control systems to comply with the emission guidelines. Because this MSW landfills Federal plan is being

implemented in lieu of State plans, its compliance schedule includes the same increments of progress as required in a State or Tribal plan. The Federal plan increments of progress are consistent with the requirements in 40 CFR 60.24 of subpart B. These increments of progress are required for any compliance schedules that are longer than 12 months. The increments of progress in the Federal plan (and in any approved State or Tribal plan) are the primary mechanism for ensuring progress toward final compliance with the emission guidelines. Each increment of progress has a specified date for achievement.

If the compliance schedule in the State or Tribal plan is less stringent than the compliance schedule in this Federal plan, the compliance schedule in the promulgated Federal plan would continue to apply to a landfill after EPA approves a State plan covering the landfill. The exception to this provision would be if the State or Tribe has met the requirement of § 60.24(f) for a less stringent compliance schedule and has received approval by EPA for such a schedule. In any case, the Federal plan provides options for States, Tribes, and owners or operators to establish dates to award contracts and begin construction. These options are described below.

This proposed Federal plan includes the five increments of progress required by subpart B and provides three options to establish the increment dates. Under all three options, the five increment dates are defined and are enforceable. The Federal plan could function with only one option, but in order to provide maximum flexibility, this proposal includes three options. The EPA requests comments on each of the options and on the desirability of including these multiple options in the final Federal plan. Based on comments

received, the final Federal plan will include one, two, or three options. All three options are discussed in more detail following the definitions for the increments of progress as listed below.

1. Increments of progress

The mandatory increments of progress are:

1. Submitting a final control plan (design plan);
2. Awarding contracts for control systems or orders for purchase of components;
3. Beginning on-site construction or installation of the air pollution control device(s);
4. Completing on-site construction or installation of the air pollution control device(s); and
5. Reaching final compliance.

The MSW landfill owner or operator is responsible for meeting each of these five increments of progress for the landfill no later than the applicable compliance date. The MSW landfill owner or operator must notify EPA as each increment of progress is achieved (or missed). The notification must identify the increment and the date the increment was met or missed. For an increment achieved after the specified deadline, in addition to providing notification that the increment was initially missed, the MSW landfill owner or operator must also provide a notification identifying the increment and the date the increment was ultimately achieved. The owner or operator must mail the notification to the appropriate EPA Regional Office, post-marked within 10 business days of the increment date defined in the Federal plan. (Table 5 lists the addresses of the Regional Administrators and the States in their region.) Descriptions of the increments of progress follow.

TABLE 5.—EPA REGIONAL ADMINISTRATORS

Regional contact	State or protectorate
EPA Region I, One Congress Street, John F. Kennedy Federal Bldg., Boston, MA 02203-0001.	CT, MA, ME, NH, RI, VT
EPA Region II, 290 Broadway, New York, NY 10007-1866	NJ, NY, PR, VI
EPA Region III, 1650 Arch Street, Philadelphia, PA 19106	DC, DE, MD, PA, VA, WV
EPA Region IV, 61 Forsyth Street, SW, Atlanta, GA 30303	AL, FL, GA, KY, MS, NC, SC, TN

TABLE 5.—EPA REGIONAL ADMINISTRATORS—Continued

Regional contact	State or protectorate
EPA Region V, 77 W. Jackson Blvd., Chicago, IL 60604–3507	IL, IN, MI, MN, OH, WI
EPA Region VI, Fountain Place, 12th Floor, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733.	AR, LA, NM, OK, TX
EPA Region VII, 726 Minnesota Avenue, Kansas City, KS 66101	IA, KS, MO, NE
EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2466	CO, MT, ND, SD, UT, WY
EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105	AS, AZ, CA, GU, HI, NMI, NV
EPA Region X, 1200 Sixth Avenue, Seattle, WA 98101	AK, ID, OR, WA

Submit a final control plan (design plan). To meet this increment, the MSW landfill owner or operator must submit a plan that describes the collection and control system that will capture the gas generated within an MSW landfill. The collection and control system design plan must be prepared by a professional engineer and must describe the collection and control system that meets the requirements of 40 CFR 60.752(b)(2)(ii). The final control plan must contain engineering specifications and drawings of the collection and control system. The final control plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, record keeping or reporting provisions of 40 CFR 60.753 through 60.758 proposed by the owner or operator. The final control plan must either conform with the specifications for active collection systems in 40 CFR 60.759 or include a demonstration that shows that, based on the size of the landfill and the amount of waste expected to be accepted, the system is sized properly to collect the gas, control emissions of NMOC to the required level and meet the operational standards for a landfill. These requirements are discussed in section V “Summary of Federal Plan,” and in the Federal plan regulation (40 CFR part 62, subpart GGG). The final control plan also must include the same information that will be used to solicit bids to install the collection and control system.

Award contract. Awarding contract means the MSW landfill owner or operator must enter into legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the MSW landfill owner or operator. The EPA anticipates that the MSW landfill owner or operator may award a number of contracts to install the collection and control system. However, to meet this increment of progress, the MSW landfill owner or operator must award a contract or contracts sufficient to initiate on-site construction or installation of the collection and control system. The MSW landfill owner or operator must

mail a copy of the signed contract(s) to EPA within 10 business days of entering into the contract(s).

Initiate on-site construction. Initiation of on-site construction or installation of the collection and control system means to begin any of the following:

- Installation of the collection and control system to be used to comply with the emission limits as outlined in the final control plan;
- Physical preparation necessary for the installation of the collection and control system to be used to comply with the final emission limits as outlined in the final control plan; or
- Alteration of an existing collection and control system to be used to comply with the final emission limits as outlined in the final control plan.

Complete on-site construction. To complete on-site construction means that all necessary collection system components and air pollution control devices identified in the final control plan are in place, on site, and ready for operation.

Final compliance. To be in final compliance means to connect and operate the collection and control system specified in the final control plan as designed. Within 180 days after the date the landfill is required to achieve final compliance, the initial performance test must be conducted.

2. Summary of Three Options for Determining Schedule Increment Dates

The proposed MSW landfills Federal plan includes three options for establishing the increment dates. The compliance schedule for facilities affected by this Federal plan could be established by option 1 (generic compliance schedule proposed by EPA), option 2 (facility-specific schedule consistent with the State or Tribal plan that has been submitted to EPA by the State or Tribe but not yet approved and/or effective), or option 3 (facility-specific schedule submitted to EPA by the owner or operator of the landfill or the State or Tribe). Under all three options, the five increment dates would be defined and are enforceable.

In cases where options 2 or 3 have not been exercised, the owner or operator of

an affected facility would be subject to option 1 (generic schedule). However, if the State or Tribe, or the landfill owner or operator submits a schedule that EPA approves (options 2 or 3), the owner or operator will be subject to that alternative schedule. Under option 2, States or Tribes may submit increment schedules to EPA prior to the end of the comment period for this proposal February 16, 1999. The EPA will review the schedules and incorporate them into the Federal plan if they fulfill the requirements of 40 CFR 60.24. Under option 3, a landfill owner or operator, the State, or a Tribe may submit a schedule to EPA by the time the final control plan is due under the option 1 generic compliance schedule (i.e., within 1 year after the first annual emission rate report shows NMOC emission ≥ 50 Mg per year). Because the option 3 schedules would be submitted after promulgation of the Federal plan, EPA will review the schedules, determine if they are acceptable, and if appropriate, periodically amend the Federal plan to incorporate the schedules. Each of the options is discussed in detail below.

Option 1. Generic compliance schedule. Option 1 is the generic default alternative. For MSW landfills covered by the Federal plan for which States or Tribes have not submitted plans or compliance schedules, EPA is proposing a generic compliance schedule and increments of progress. Option 1 is necessary to establish a baseline where neither option 2 nor option 3 is exercised. The generic schedule applies to existing MSW landfills that are located in States or in Indian country and that are not subject to a site-specific compliance schedule that is either approved by EPA as part of a State or Tribal plan or incorporated into the promulgated MSW landfills Federal plan.

Consistent with the emission guidelines, the proposed Federal plan requires owners or operators of existing MSW landfills with design capacities equal to or greater than 2.5 million Mg and 2.5 million m³ to install collection and control systems if their NMOC

emission rate is 50 Mg per year or more. Owners or operators of MSW landfills subject to the Federal plan will be required to submit a design capacity report within 90 days after the effective date of the Federal plan. If the design capacity is equal to or greater than 2.5 million Mg and 2.5 million m³, the first annual NMOC emission rate report must also be submitted within 90 days after the effective date of the Federal plan. If the first emission rate report shows that NMOC emissions equal or exceed 50 Mg per year, the owner or operator must begin following the increments of progress to install the required collection and control system.

If the first NMOC emission rate report shows emissions less than 50 Mg per year, then the owner or operator must recalculate NMOC emissions annually and submit annual NMOC emission rate reports unless the MSW landfill is closed. (See 40 CFR 60.757(b)(1)(ii) for conditions under which 5-year reports rather than annual reports may be submitted.) If emissions increase to 50 Mg per year or more, the MSW landfill will be required to install a collection and control system. Therefore, the generic schedule for the increments of progress starts with the date of the first annual emission rate report that shows NMOC emissions equal or exceed 50 Mg per year.

For existing MSW landfills subject to the option 1 generic compliance schedule, EPA is proposing the following increments of progress:

1. Submit final control plan (design plan)—1 year after first annual emission rate report showing NMOC emissions ≥ 50 Mg per year.

2. Award contract—20 months after first annual emission rate report showing NMOC emissions ≥ 50 Mg per year.

3. Initiate on-site construction—24 months after first annual emission rate report showing NMOC emissions ≥ 50 Mg per year.

4. Complete on-site construction—30 months after first annual emission rate report showing NMOC emissions ≥ 50 Mg per year.

5. Final compliance—30 months after first annual emission rate report showing NMOC emissions ≥ 50 Mg per year. Note that the initial performance test to demonstrate compliance must be conducted within 180 days after the date the landfill is required to achieve final compliance.

The date for the first increment (final control plan) is established in the emission guidelines (subpart Cc). This same date is proposed for the Federal plan because State, Tribal, and Federal plan compliance schedules are required

to be as stringent as the emission guidelines. The date for the fourth and fifth increments (complete on-site construction and final compliance) is also established by the emission guidelines.

The EPA selected the proposed dates for the middle two increments (awarding contract and initiating on-site construction) to allow a reasonable period of time for MSW landfills to complete these activities. These increments of progress are required by 40 CFR 60.24, but dates are not specified in the emission guidelines. The EPA reviewed schedules in State plans to ensure that this proposed schedule is generally consistent with State plan schedules. (The EPA's review of State plan schedules is documented in docket A-98-03, item II-A-1). The date for awarding contracts is 20 months after the first annual NMOC emission rate report showing NMOC emissions greater than or equal to 50 Mg per year, which is 8 months after the design plan is due. This 8-month time frame will allow adequate time for the regulatory agency to review and approve the design plan and for the MSW landfill owner or operator to solicit bids based on the design plan and award the contract(s).

The date for initiating on-site construction is 24 months after the first annual emission report showing NMOC emissions greater than or equal to 50 Mg per year is due (4 months after contract award). This 4-month period allows time for the contractor to mobilize and obtain materials necessary to begin construction. A later date would not be practical because the date for completing on-site construction and final compliance is 30 months after the first annual emission rate report showing NMOC emissions greater than or equal to 50 Mg per year. If construction is not initiated by 24 months after the first annual emission rate report showing NMOC emissions greater than or equal to 50 Mg per year, it is very unlikely that the construction could be completed by the final compliance date. Some MSW landfills may want to initiate on-site construction earlier to assure that they can meet the final compliance date. The fourth increment, completion of on-site construction, will need to be completed by the final compliance date (increment 5) in order for the landfill to achieve compliance.

Option 2. Site-specific compliance schedules submitted by States or Tribes.

Under option 2, States or Tribes may submit to EPA increment dates as negotiated with landfill owners or operators before the end of the comment

period for this proposal. Following EPA review and approval of these schedules, EPA will add them to the final Federal plan. The EPA is proposing to use the State's or Tribe's compliance schedule to assure that the Federal plan is consistent with State or Tribal plans that are approved after the Federal plan is promulgated. States or Tribes may have already negotiated a schedule with the affected MSW landfills, determined what control schedule is feasible given the current control level of the landfills and the site-specific considerations and constraints, held public hearings, and considered public comments; therefore, it is appropriate for the MSW landfills Federal plan schedule to be consistent with these schedules. Because this MSW landfills Federal plan is an interim action in many cases until State or Tribal plans are approved, it is appropriate for the MSW landfills Federal plan to be consistent with schedules submitted to EPA separately by the State or Tribe during the comment period. As of July 24, 1998, EPA had not received compliance schedules that will be included in the Federal plan.

Option 3. Site-specific compliance schedules submitted by landfill owners or operators or the State or Tribe. The third option for determining the compliance dates is for the landfill owner or operator, the State, or Tribe to submit a site-specific date for achieving increments 2 and 3 to EPA for approval. The dates for increment 1 (submitting a final control plan) and increments 4 and 5 (completing on-site construction and achieving final compliance) would be the same as option 1. These dates are established in the emission guidelines (subpart Cc) and are the same dates proposed for the generic compliance schedule, in keeping with the requirement that the Federal plan be as stringent as the emission guidelines. There is more flexibility for landfill owners or operators or States or Tribes to set alternative deadlines for increments 2 and 3 because no deadlines are specified in the emission guidelines.

The EPA recognizes that flexibility may be needed for increment 2 (award contract) and increment 3 (start construction) given facility-specific collection system considerations and constraints. Therefore, under option 3, EPA will accept facility-specific compliance schedules from MSW landfill owners or operators, the State, or Tribe.

The State, Tribe, or the MSW landfill owner or operator (after consulting with the State or Tribe) will submit alternative dates for increments 2 and 3

and a justification to EPA at the time the final control plan is due. If the MSW landfill owner or operator is submitting the alternative dates for these increments, the owner or operator should also send a copy to the appropriate State or Tribe. The EPA is allowing alternative dates for increments 2 and 3 to provide flexibility to States, Tribes, or MSW landfill owners or operators, however, these alternative dates must not jeopardize final compliance of a MSW landfills with the requirements of the landfill Federal plan. The EPA will review the schedule and coordinate with the owner or operator or the State or Tribe. If EPA approves the revised schedule, EPA will add the schedule to the site-specific compliance schedule table (reserved) in subpart GGG as a technical amendment.

Summary and Request for Comments. In summary, the proposed MSW landfills Federal plan includes three options for defining the five increment dates. The EPA is considering whether including anyone, some, or all of these options in the Federal plan maximizes flexibility and increases regulatory efficiency. The EPA specifically requests comments on each of the options discussed in this proposal, as well as comments on the desirability of including anyone, some, or all of the options in the final Federal plan.

F. Process for Review and Approval of Site-Specific Design Plans

The emission guidelines require State plans to include a process for State review and approval of site-specific design plans for required gas collection and control systems (see 40 CFR 60.33c(b)). As previously discussed, if the existing MSW landfill has (1) a design capacity equal to or greater than 2.5 million Mg and 2.5 million m³, and (2) NMOC emissions equal to or exceeding 50 Mg/year, the landfill owner or operator must submit a site-specific design plan. For MSW landfills subject to the Federal plan, either the State, Tribe, or the EPA Regional Office will review the design plans. If the State or Tribe has been delegated authority to implement that aspect of the Federal plan, the State or Tribe will review the design plans. (See section III of this preamble for a discussion of Federal plan delegation.) If EPA has not delegated authority to the State or Tribe, the EPA Regional Office will review the design plans.

The EPA intends to review design plans as expeditiously as possible so that there is sufficient time after approval of the plans for the landfills to install controls prior to the compliance date. The EPA will initially review the

design plans for completeness and the source will be notified if any items are missing. The EPA will then review the plans for acceptability, and, once that review is completed, EPA will notify the source and the State or Tribe in writing of the acceptability of the plan. If the plan is not acceptable, the source will be given an appropriate amount of time to make the necessary changes; however, the date by which a gas collection and control system must be completed and in compliance remains unchanged, i.e., 30 months after the emission rate report first shows NMOC emissions greater than or equal to 50 Mg/yr.

G. Testing, Monitoring, Recordkeeping, and Reporting

As a required element of a State plan, a State must include the testing procedures in 40 CFR 60.34c and the recordkeeping and reporting requirements listed in 40 CFR 60.35c. The proposed MSW landfills Federal plan requires the same provisions for test methods, monitoring, recordkeeping and reporting (see 40 CFR 62.14354 and 62.14355).

H. Record of Public Hearings

As a required element of a State plan, a State must include opportunity for public participation in developing, adopting, and implementing the State plan (40 CFR 60.23(c)). For this MSW landfills Federal plan, a public hearing will be held in each EPA region in which a landfill is located that would be covered by the proposed Federal plan, if individuals request to speak. (See the **DATES** section of this preamble.) The hearing record will appear in the docket. Written public comments also are solicited. (See the **ADDRESSES** section of this document.) The EPA will review and consider the oral and written comments in developing the final Federal plan.

I. Progress Reports

As a required element of a State plan, a State must submit annual reports on progress in the implementation of the emission guidelines to EPA. Emissions data would be reported to the Aerometric Emissions Information Retrieval System Facility Subsystem as specified in 40 CFR part 60, appendix D.

If a State or Tribe has been delegated authority to implement and enforce this Federal plan, the State or Tribe will submit annual progress reports to EPA, as required by 40 CFR 60.25(f). These reports must be combined with the State Implementation Plan report required by 40 CFR 51.321 in order to avoid

duplicative reporting. Each progress report should include status on compliance, enforcement actions and increments of progress, identification of sources that have ceased operation or started operation, updated emission inventory information, and copies of technical reports on any performance testing and monitoring. For MSW landfills in States or in Indian Country where authority has not been delegated, EPA intends to prepare annual reports.

III. Implementation of Federal Plan and Delegation

The EPA has designed the landfills Federal plan to facilitate the transfer of authority from EPA to States, Tribes, and local agencies. For example, the EPA has encouraged States and Tribes with landfills that will be subject to the Federal plan to help determine compliance schedules that would apply to their landfills. These schedules may be included in the Federal plan and will provide a more seamless transition to a State or Tribal plan once a State or Tribal plan is submitted and approved.

A. Background of Authority

The EPA is required to adopt emission guidelines that are applicable to existing MSW landfills under section 111(d) of the Act. The emission guidelines are not enforceable, however, until EPA approves a State plan or adopts a Federal plan. In cases where a State or Tribe does not have an EPA approved plan, the EPA must adopt a Federal plan for MSW landfills in the State or in Indian country as an interim measure to implement the emission guidelines until the State or Tribal plan is approved. A few States may not submit a State plan and EPA is not aware of any Tribes that are developing Tribal plans.

Congress has determined that the primary responsibility for air pollution control rests with State and local agencies. See the Act 101(a)(3). Consistent with that overall determination, Congress established section 111 of the Act with the intent that the States and local agencies take the primary responsibility for ensuring that the emission limitations and other requirements in the emission guidelines are achieved. Congress explicitly required that EPA establish procedures under section 111(d) that are similar to those under section 110(c) for State Implementation Plans. The section 110(c) procedures are based on States having the primary responsibility. Congress has shown a consistent intent for the States and local agencies to have the primary responsibility, but also included the requirement for EPA to

promulgate a Federal plan for States that fail to submit approvable State plans in time. Accordingly, EPA has strongly encouraged the States to submit approvable State plans on time, and for those States that are unable to submit approvable State plans on time, EPA is strongly encouraging them to request delegation of the Federal plan so that they can have the primary responsibility in their State, consistent with Congress' overarching intent.

The EPA also believes that Indian tribes are the primary parties responsible for regulating air quality within Indian Country. See EPA's Indian Policy ("Policy for Administration of Environmental Programs on Indian Reservations," signed by William D. Ruckelshaus, Administrator of EPA dated November 4, 1984), which was reaffirmed by EPA Administrator Browner in 1994 (memorandum entitled, "EPA Indian Policy" signed by Carol M. Browner, Administrator of EPA on March 14, 1994).

The EPA believes, more specifically, that the State, Tribal and local agencies have the responsibility to design, adopt, and implement the control programs needed to meet the requirements of the MSW landfills Federal plan. The EPA also believes that these agencies have appropriate enforcement resources and other practical advantages to achieve the highest rates of actual compliance in the field. For these reasons, EPA seeks to employ all available mechanisms to expedite program transfer to State, Tribal and local agencies, where requests for delegations can be granted. For example, EPA has encouraged States to help determine compliance schedules for this MSW landfills Federal plan.

B. Delegation of the Federal Plan and Retained Authorities

If a State or Indian tribe intends to take delegation of the Federal plan, the State or Indian tribe must submit a letter to EPA stating their intent on behalf of the State or Tribe. In order to obtain delegation, an Indian tribe must also establish its eligibility to be treated in the same manner as a State (see section I.E of the preamble). The letter requesting delegation of authority to implement the Federal plan must, at a minimum, demonstrate that the State or Tribe has adequate resources and the legal and enforcement authority to administer and enforce the program. If the State or Tribe makes such a demonstration, EPA will approve the delegation of the Federal plan. A memorandum of agreement between the State or Tribe and the EPA would set forth the terms and conditions of the

delegation including the effective date of the agreement and would be used to transfer authority. The EPA will publish an approval notice in the **Federal Register** and incorporate it into 40 CFR part 62. The EPA would, in conjunction with the State or Tribe, make additional efforts to ensure that affected sources are aware that the State or Tribe has assumed responsibility for implementation.

The EPA will keep an up-to-date list of State and Tribal plan submittals on the EPA TTN Web (<http://www.epa.gov/ttn/oarpg>). The list will also show whether the State or Tribe has taken delegation of the Federal plan. It is important to note, however, that while the EPA will endeavor to keep the listing updated, the list is not controlling regarding whether a State or Tribal plan has been approved or whether authority to implement and enforce the MSW landfills Federal plan has been delegated.

The EPA will implement the Federal plan unless authority to implement the Federal plan is delegated to a State or Indian tribe. If a State or Tribe fails to implement the delegated portion of the Federal plan, EPA will assume direct implementation.

In delegating implementation and enforcement authority to a State or Tribe under sections 101(a)(3) and 111 of the Act, the EPA Administrator will retain the authority to approve the following items and not transfer them to a State or Tribe:

- Alternative site-specific NMOC concentration (C_{NMOC}) or site-specific methane generation rate constant (k) in calculating the annual NMOC emission rate,
 - Alternative emission standard,
 - Major alternatives¹ to test methods,
 - Major alternatives¹ to monitoring,
- or
- Waivers of record keeping.

If landfill owners or operators would like to avail themselves of the items listed above and specified in this Federal plan, they should submit a request to the Regional Office Administrator with a copy to the State. It should be noted that the EPA does not relinquish enforcement authority even when a state or Tribe has received delegation.

¹ Major changes to test methods or to monitoring are modifications made to a federally enforceable test method or to a federal monitoring requirement. These changes would involve the use of unproven technology or procedures or an entirely new method (which is sometimes necessary when the required test method or monitoring requirement is unsuitable).

C. Mechanisms for Transferring Authority

There are two mechanisms for transferring implementation responsibility to States, Tribes, and local agencies: (1) If EPA approves a State or Tribal plan submitted to EPA after the Federal plan is promulgated, the State or Tribe would have authority to enforce and implement the State or Tribal plan upon EPA approval; and (2) if a State or Tribe does not submit or obtain approval of a State or Tribal plan, EPA can delegate the authority to the State, Tribal, or local agencies to perform certain implementation responsibilities for this Federal plan to the extent appropriate and if allowed by State or Tribal law.

1. A State or Tribal Plan Is Submitted After Landfills Are Subject to the Federal Plan

After a landfill in a State or in a portion of Indian country becomes subject to the Federal plan, the State, Tribal or local agency may still adopt and submit to EPA for approval a plan (i.e., a plan containing a State or Tribal rule or other enforceable mechanism, inventories, records of public hearings, and all other required elements of a State plan). The EPA will determine if the State or Tribal plan is as stringent as the emission guidelines. If EPA determines that the State or Tribal plan is as stringent as the emission guidelines, EPA will approve the State or Tribal plan. If, however, EPA determines that the State or Tribal plan is not as stringent as the guidelines, EPA will disapprove the plan. Note that 40 CFR 60.24(f) allows some flexibility on a case-by-case basis for a less stringent rule or compliance schedule if specific criteria are met, sufficient justification is provided by the State or Tribe, and EPA approves the plan. States and Tribes may make their plans more stringent than the emission guidelines.

Landfills covered in the State or Tribal plan would be subject to the Federal plan until the State or Tribal plan is approved and becomes effective. Upon the effective date of the State or Tribal plan, the Federal plan will no longer apply to landfills covered by the State or Tribal plan and the State, Tribal or local agency will implement and enforce the State or Tribal plan in lieu of the Federal plan. (The EPA will periodically amend the Federal plan to identify States or Tribes that have State or Tribal plans covering landfills in their jurisdiction, and therefore, are not subject to the Federal plan.) Making the State or Tribal plan effective in this manner expedites a State's or Tribe's

responsibility for implementing the emission guidelines as intended by Congress.

2. State Takes Delegation of the Federal Plan

The State, Tribal or local agency may request Federal implementation responsibilities even if there is no State or Tribal plan in effect. The EPA believes that it is advantageous and the best use of resources for State, Tribal or local agencies to agree to undertake, on the EPA's behalf, administrative and substantive roles in implementing the Federal plan, to the extent appropriate and where authorized by State or Tribal law. These roles could include as a minimum: development of process for review of site-specific gas collection and control system design plans, administration and oversight of compliance reporting and record keeping requirements, conduct of source inspections, and preparation of draft notices of violation. As stated previously, the EPA does not relinquish the authority to bring enforcement actions against sources violating Federal plan provisions.

IV. Title V Operating Permits

Title V of the Clean Air Act and EPA's implementing regulations set minimum standards for State and local air pollution control agencies to adopt and submit for EPA approval a regulatory program for issuing operating permits to specific sources. These sources include, but are not limited to the following: major sources under title I or section 112 of the Act; affected sources under title IV of the Act (acid rain sources); solid waste incineration units required to obtain a permit under section 129 of the Act; and sources subject to standards under section 111 or 112 of the Act that are not area sources exempted or deferred from permitting requirements under title V.

As clarified in the landfill amendments (63 FR 32743), all existing MSW landfills with design capacities equal to or greater than 2.5 million Mg and 2.5 million m³ must have a title V operating permit. Existing landfills with design capacities less than 2.5 million megagrams or 2.5 million m³ are not required to have a title V operating permit, unless they are a major source or are subject to title V for some other reason (e.g., subject to a section 112 National Emission Standard for Hazardous Air Pollutants (NESHAP) or to another section 111 NSPS).

The owner or operator of an existing MSW landfill with a design capacity equal to or greater than 2.5 million Mg and 2.5 million m³ is subject to this

MSW landfills Federal plan, and as a result, must obtain a title V operating permit (40 CFR part 70 or part 71). Such sources, if not already subject to title V permitting for another reason or reasons (see sections 70.3 and 71.3), become subject to the requirement to obtain an operating permit ninety days after the effective date of this Federal plan, even if the design capacity report is submitted prior to that date. The requirement to apply for a title V permit is triggered ninety days after the effective date of the MSW landfills Federal plan as this is the date that MSW landfills are required to submit design capacity reports (if they have not already been submitted). For more information on title V permitting requirements, please see the preamble discussion entitled "Clarification of Title V Permitting Requirements" in the June 16, 1998 direct final rule (63 FR 32743, 32746) for NSPS and emission guidelines for MSW landfills.

Sources subject to the title V permitting program under part 70 or 71 are required to file title V applications within 12 months after becoming subject to the program. To be timely, the owner or operator of a MSW landfill, which is subject to title V as a result of this landfills Federal plan, must submit an application for an operating permit not later than one year and ninety days after the effective date of the MSW landfills Federal plan. If a source submits a timely and complete application within this time frame, the permitting authority may grant the source a permit application shield which, if maintained by the source, would allow the source to operate without a permit until its final title V permit is issued.

Existing MSW landfills which are not currently subject to title V because their design capacity is less than 2.5 million Mg or 2.5 million m³ may trigger the requirement to apply for a title V permit in the future if the design capacity subsequently increases to equal or exceed 2.5 million Mg and 2.5 million m³. The circumstances under which this could occur would be if the increase in design capacity is a change that is not a modification (e.g., an increase in the compaction of waste where the rate of compaction can be increased without a modification to the permit issued by the State, local or Tribal agency that is responsible for regulating the landfill). An amended design capacity report would need to be submitted within 90 days of the design capacity increase. (See 40 CFR 60.35c which incorporates the requirement in 40 CFR 60.757(a)(3).) Such sources would be required to file title V applications within 12 months of

the date that the amended design capacity reports are required to be submitted. Existing MSW landfills that increase the permitted design capacity (via the permit issued by the State, local or Tribal agency that regulates the landfill) to 2.5 million Mg and 2.5 million m³ or more through modification or reconstruction, will not be subject to the landfills Federal plan, but rather will become subject to the NSPS.

As noted above, a landfill could be subject to title V for another reason or reasons. MSW landfills, for example, may be subject to title V permitting as a result of being a major source under one or more of three major source definitions in title V: (1) section 112, (2) section 302, or (3) part D of title I of the Act. If a landfill is subject to title V for more than one reason, then the 12 month time frame for filing a title V application will be triggered by the criterion in section 70.3 or 71.3 which first caused the landfill to be subject to title V. As provided in section 503(c) of the Act, permitting authorities may establish earlier deadlines (earlier than the 12 months allowed) for submitting title V applications.

A MSW landfill that is closed and is no longer subject to title V as a result of this landfills Federal plan (see 40 CFR 62.14352(e)) may remain subject to title V permitting requirements for another reason or reasons as discussed above. In such circumstances, the landfill would be required to continue operating in compliance with a title V permit.

Title V operating permits issued to MSW landfills subject to this Federal plan must include all applicable requirements of this Federal plan (see 40 CFR 70.2 and 71.2). These permits must also contain all necessary terms and conditions to assure compliance with these applicable requirements. If a source is subject to both State and Federal plan requirements due to a State taking delegation of part of the Federal plan, then the landfill's permit must contain the applicable provisions from each plan. Given that a title V permit for a MSW landfill may contain both State and Federal provisions, it is especially important that each title V permit issued to a MSW landfill clearly state the basis for each requirement consistent with 40 CFR 70.6(a)(1)(i) and 71.6(a)(1)(i).

V. Summary of Federal Plan

The proposed MSW landfills Federal rule (40 CFR part 62, subpart GGG) which will implement this Federal plan includes applicability criteria, emission standards, design criteria, monitoring and performance testing requirements,

and recordkeeping and reporting requirements. These emission standards and requirements are the same as those in the emission guidelines (40 CFR part 60, subpart Cc), as amended in 1998. The requirements are summarized in this section.

A. Applicability

The MSW landfills Federal plan will apply to existing landfills that are not covered by an EPA approved and currently effective State or Tribal plan. The MSW landfills Federal plan will not initially apply to existing MSW landfills located in a State that has been granted an extension of time to submit a State plan, if the extension has not expired. The MSW landfills Federal plan will apply to any existing MSW landfill located in a State or portion of Indian country that has submitted a negative declaration if the landfill otherwise meets the applicability criteria of the Federal plan. An existing MSW landfill is a landfill that commenced construction, reconstruction, or modification prior to May 30, 1991 and has not been modified or reconstructed since May 30, 1991 and has accepted waste since November 8, 1987 or has capacity for future waste deposition. A MSW landfill that has been modified on or after May 30, 1991 or that has been reconstructed on or after that date is subject to the landfill NSPS rather than to this Federal plan for existing landfills. (A modification is an increase in permitted volumetric design capacity by either vertical or horizontal expansion.)

The MSW landfills Federal plan will require MSW landfills having design capacities below 2.5 million Mg or 2.5 million m³ to submit a design capacity report. MSW landfills having design capacities greater than or equal to 2.5 million Mg and 2.5 million m³ are subject to the requirement for a design capacity report as well as to additional provisions of the rule. In particular, the rule will require the periodic calculation of the annual NMOC emission rate at these landfills. Those landfills that emit 50 Mg/year or more of NMOC will be required to install collection and control systems.

The rule provides a tier system for calculating whether the NMOC emission rate is less than, equal to, or greater than 50 Mg/year, using a first order decomposition rate equation. The tier system does not need to be used to model the emission rate if an owner or operator has or intends to install controls that will achieve compliance.

B. Control Requirements

The proposed MSW landfills Federal plan will require the installation and operation of a well-designed and well-operated collection and control system. A collection system at a minimum would:

1. Be capable of handling the maximum expected gas generation rate;
2. Be able to collect gas effectively from all areas of the landfill that warrant control; and
3. Minimize off-site migration of subsurface gas. General design criteria are specified in the rule. Over time, new areas of the landfill will require control, so collection systems should be designed to allow expansion by the addition of further collection system components to collect gas, or separate collections systems will need to be installed as the new areas require control.

The collection system must route collected gas to a 98-percent efficient control device. If a flare is used, it must meet design and operating specifications. If an owner or operator uses an enclosed combustor, the device must achieve either 98-percent NMOC reduction or an outlet NMOC concentration of 20 ppmv or less. Alternatively, the collected gas may be treated for subsequent sale or use, provided that all emissions from any atmospheric vent from the treatment system are routed to a control device meeting either specification above. The use of energy recovery devices that meet the above requirements is encouraged.

The Federal plan will require that three conditions be met prior to capping or removal of the collection and control system:

1. The landfill must be permanently closed;
2. The collection and control system must have been in continuous operation for a minimum of 15 years; and
3. The annual uncontrolled NMOC emission rate of gas routed to the control device must be less than 50 Mg/year.

C. Monitoring and Compliance

The proposed MSW landfills Federal plan includes operational requirements for collection and control systems, and monthly and quarterly monitoring to determine that the system is operating correctly. These include quarterly monitoring of surface methane concentration and monthly monitoring of gas collection system operating parameters. An initial performance test is required for most control devices. Open flares can meet design and operating requirements in lieu of

conducting performance tests to determine percent reduction or outlet concentration. Specified control device operating parameters are monitored after the initial performance test to assure that the control devices continue to be operated well.

D. Reporting and Recordkeeping

The proposed MSW landfills Federal plan includes reporting requirements that will require all existing MSW landfills except for those located in States that have submitted a negative declaration letter to submit an initial design capacity report. Initially, this is the only reporting requirement for MSW landfills with design capacities less than 2.5 million Mg or 2.5 million m³. An existing MSW landfill which submits an initial design capacity report showing a design capacity less than 2.5 million Mg or 2.5 million m³, but which subsequently increases its design capacity to be equal to or greater than 2.5 million Mg and 2.5 million m³ through a change that is not a modification (e.g., an increase in the compaction of waste where the rate of compaction can be increased without a permit modification) must submit an amended design capacity report within 90 days. Such a landfill would then be subject to the same requirements described below for landfills with design capacities equal to or greater than 2.5 million Mg and 2.5 million m³. Existing MSW landfills that increase the permitted design capacity (via the permit issued by the State, local or Tribal agency that regulates the landfill) to 2.5 million Mg and 2.5 million m³ or more through modification or reconstruction, will no longer be subject to the landfill Federal plan, but rather will become subject to the NSPS.

In addition to submitting design capacity reports, MSW landfills with capacities equal to or greater than 2.5 million Mg and 2.5 million m³ will also be required to submit annual NMOC emission rate reports until emissions equal or exceed 50 Mg/yr and a control system is installed or until the landfill closes. If a MSW landfill emits 50 Mg/yr NMOC or more, a collection and control system design plan must be submitted. After the collection and control system is installed, annual compliance reports are required. Finally, closure reports and control system removal reports are required. The proposed MSW landfills Federal plan includes corresponding record keeping requirements.

VI. Administrative Requirements

This section addresses the following administrative requirements: Docket,

Paperwork Reduction Act, Executive Orders 12866, 12875, 13045, and 13084, Unfunded Mandates Reform Act, Regulatory Flexibility Act, and National Technology Transfer and Advancement Act. Since today's proposed rule merely implements the emission guidelines promulgated on March 12, 1996 (codified at 40 part 60, subpart Cc) as they apply to MSW landfills and does not impose any new requirements, much of the following discussion of administrative requirements refer to the discussion of the administrative requirements contained in the preamble to the 1996 rule (61 FR 65404-65413, March 12, 1996).

A. Docket

As discussed above, a docket has been prepared for this action pursuant to the procedural requirements of section 307(d) of the Act, 42 U.S.C. 7607(d). Docket number A-88-09 contains the technical support for the March 12, 1996 emission guidelines. Additional technical support for this proposed rule is contained in docket A-98-03.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1893.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW; Washington, DC 20460 or by calling (202) 260-2740. A copy may also be accessed on the Internet at <http://www.epa.gov/icr> and in docket A-99-03, item II-F-1.

The information will be used by the Agency to ensure that the MSW landfill Federal plan requirements are implemented and are complied with on a continuous basis. Records and reports are necessary to enable EPA to identify MSW landfills that may not be in compliance with the MSW landfill Federal plan requirements. Based on reported information, EPA will decide which landfills should be inspected and what records or processes should be inspected. The records that owners and operators of MSW landfills maintain will indicate to EPA whether personnel are operating and maintaining control equipment properly.

Based on 1992 and 1996 Office of Solid Waste reports, a national survey of landfills, and recent information from States, this Federal plan is projected to affect approximately 3,459 MSW

landfills in 36 States, protectorates, and municipalities. A number of State plans are expected to be approved within the year following Federal plan promulgation. When a State plan is approved, the Federal plan, by its own terms, will no longer apply to MSW landfills covered in that State plan. Thus, the rule may affect fewer MSW landfills and States during the second and third years following promulgation, and the average annual burden may be less than the numbers presented here.

The estimated average annual burden for industry for the first 3 years after the implementation of the Federal plan is 13,621 hours annually at a cost of \$1,302,187 per year to meet the monitoring, record keeping, and reporting requirements. The estimated average annual burden, over the first 3 years, for the Agency is 5,958 hours at a cost of \$245,562 (including travel expenses) per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

Please submit any comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, Regulatory Information Division, Office of Policy, Planning and Evaluation, U.S. Environmental Protection Agency (2137), 401 M Street SW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Officer of Management and Budget, 725 17th Street, NW, Washington, DC 20503, marked "Attention: Desk Officer for

EPA." Refer to ICR No. 1893.01 in any correspondence. Because OMB is required to make a decision concerning the ICR between 30 and 60 days after December 16, 1998, a comment to OMB is most likely to have its full effect if OMB receives it by January 15, 1999. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The EPA considered the 1996 guidelines and standards to be significant and the rules were reviewed by OMB in 1996 (see 61 FR 9913, March 12, 1996). The Federal plan proposed today will simply implement the 1996 guidelines and does not result in any additional control requirements or impose any additional costs above those previously considered during promulgation of the 1996 guidelines; therefore, this regulatory action is considered "not significant" under Executive Order 12866.

D. 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, 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, 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 Federal plan proposed today does not impose any additional costs or result in any additional control requirements above those previously considered during

promulgation of the 1996 guidelines. The EPA nonetheless has involved State and local governments in the development of this rule. During development of the MSW landfills Federal plan, EPA worked with the EPA Regional Offices to identify and address State issues. In addition, EPA requested compliance schedules from States that want a schedule in the Federal plan consistent with the State plan until the State plan becomes effective. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

E. Executive Order 13045

This proposed rule is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risk that may disproportionately affect children.

F. Executive Order 13084

Under Executive Order 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, 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."

The MSW landfills Federal plan proposed today does not significantly or uniquely affect the communities of Indian tribal governments. There are very few existing landfills in Indian country large enough to require the installation of a collection and control system. For most existing landfills in Indian country, the only requirement this Federal plan will impose is to report the design capacity of landfills in

Indian country. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector will be \$100 million or more in any 1 year. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. An unfunded mandates statement was prepared and published in the March 12, 1996 promulgation notice for the 1996 guidelines and standards (see 61 FR 9913 to 9918).

The EPA has determined that the proposed MSW landfills Federal plan does not include any new Federal mandates or additional requirements above those previously considered during promulgation of the 1996 guidelines. Therefore, the requirements of the Unfunded Mandates Act do not apply to this proposed rule.

H. Regulatory Flexibility Act

Section 605 of the Regulatory Flexibility Act requires Federal agencies to give special consideration to the impacts of regulations on small entities, which are defined as small businesses, small organizations, and small governments. During the 1996 rulemaking, EPA estimated that small entities would not be affected by the promulgated guidelines and standards, and therefore, a regulatory flexibility analysis was not required (see 61 FR 9918). This proposed Federal plan would not establish any new requirements; therefore, pursuant to the provisions of 5 U.S.C. 605 (b), EPA certifies that this proposed MSW landfills Federal plan will not have a significant impact on a substantial number of small entities, and thus a regulatory flexibility analysis is not required.

I. National Technology Transfer and Advancement Act

Under section 12 of the National Technology Transfer and Advancement Act of 1995, the EPA must consider the use of "voluntary consensus standards," if available and applicable, when implementing policies and programs, unless it would be "inconsistent with applicable law or otherwise impractical." The intent of the National Technology Transfer and Advancement

Act is to reduce the costs to the private and public sectors by requiring federal agencies to draw upon any existing, suitable technical standards used in commerce or industry.

A voluntary consensus standard is a technical standard developed or adopted by a legitimate standards-developing organization. The Act defines "technical standards" as "performance-based or design-specifications and related management systems practices." A legitimate standards-developing organization must produce standards by consensus and observe principles of due process, openness, and balance of interests. Examples of organizations that are regarded as legitimate standards-developing organizations include the American Society for Testing and Materials (ASTM), International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA) and Society of Automotive Engineers (SAE). NTTAA does not apply because the Federal plan implements an existing rule to which NTTAA did not apply. In addition, the emission guidelines, which the Federal plan is based on, do not impose technical standards.

List of Subjects in 40 CFR Part 62

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

Dated: December 4, 1998.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter 1 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.

2. Amend part 62 by adding subpart GGG consisting of §§ 62.14350 through 62.14356 as follows:

Subpart GGG—Federal Plan Requirements for Municipal Solid Waste Landfills Constructed Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991

Sec.

62.14350 Scope and delegation of authority.
62.14351 Definitions.
62.14352 Designated facilities.

62.14353 Standards for municipal solid waste landfill emissions.

62.14354 Procedures, test methods, and monitoring.

62.14355 Reporting and recordkeeping requirements.

62.14356 Compliance schedules and increments of progress.

Table 1 of Subpart GGG—States That Have an Approved and Effective State Plan

Table 2 of Subpart GGG—Generic Compliance Schedule and Increments of Progress

Table 3 of Subpart GGG—[Reserved]

Subpart GGG—Federal Plan Requirements for Municipal Solid Waste Landfills Constructed Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991

§ 62.14350 Scope and delegation of authority.

(a) This subpart contains emission requirements and compliance schedules for the control of designated pollutants from certain municipal solid waste landfills in accordance with section 111(d) of the Clean Air Act and 40 CFR part 60, subpart B. This municipal solid waste landfills Federal plan applies to each designated facility as defined in § 62.14352 of this subpart that is not covered by an EPA approved and currently effective State or Tribal plan.

(b) The following authorities shall be retained by the Administrator and not transferred to the State or Tribe upon delegation of authority to the State or Tribe to implement and enforce the Federal plan pursuant to sections 101(a)(3) and 111 of the Clean Air Act:

(1) Approval of alternative methods to determine site-specific NMOC concentration (C) NMOC or site-specific methane generation rate constant (k) in calculating the annual NMOC emission rate (as provided in 40 CFR 60.754(a)(5) of subpart WWW),

(2) Alternative emission standard,

(3) Major alternatives to test methods,

(4) Major alternatives to monitoring,

or

(5) Waivers of recordkeeping.

§ 62.14351 Definitions.

Terms used but not defined in this subpart have the meaning given them in the Clean Air Act and 40 CFR part 60, subparts A, B, and WWW.

Achieve final compliance means to connect and operate the collection and control system as specified in the final control plan as designed. Within 180 days after the date the landfill is required to achieve final compliance, the initial performance test must be conducted.

Award contract means the MSW landfill owner or operator enters into

legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the MSW landfill owner or operator. The MSW landfill owner or operator may award a number of contracts to install the collection and control system. To meet this increment of progress, the MSW landfill owner or operator must award a contract or contracts to initiate on-site construction or installation of the collection and control system.

Complete on-site construction means that all necessary collection system components and air pollution control devices identified in the final control plan are on site, in place, and ready for operation.

Design Capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the State, local, or Tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually.

EPA approved State plan means a State plan that EPA has approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cc. An approved State plan becomes effective on the date specified in the notice published in the **Federal Register** announcing EPA's approval.

Federal Indian Reservation means for purposes of the Clean Air Act, all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

Final Control Plan (Collection and Control System Design Plan) means a plan that describes the collection and control system that will capture the gas generated within an MSW landfill. The collection and control system design plan must be prepared by a professional engineer and must describe the collection and control system that meets the requirements of 40 CFR 60.752(b)(2)(ii). The final control plan must contain engineering specifications and drawings of the collection and control system. The final control plan must include any alternatives to the operational standards, test methods, procedures, compliance measures,

monitoring, record keeping or reporting provisions of 40 CFR 60.753 through 60.758 proposed by the owner or operator. The final control plan must either conform with the specifications for active collection systems in 40 CFR 60.759 or include a demonstration that shows that based on the size of the landfill and the amount of waste expected to be accepted, the system is sized properly to collect the gas, control emissions of NMOC to the required level and meet the operational standards for a landfill. The final control plan also must include the same information that will be used to solicit bids to install the collection and control system.

Indian Country means all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired protectorate thereof, and whether within or without the limits of a State; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Initiate on-site construction means to begin any of the following: installation of the collection and control system to be used to comply with the emission limits as outlined in the final control plan; physical preparation necessary for the installation of the collection and control system to be used to comply with the final emission limits as outlined in the final control plan; or alteration of an existing collection and control system to be used to comply with the final emission limits as outlined in the final control plan.

Modification means an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads. A municipal solid waste

landfill may be publicly or privately owned.

Negative declaration letter means a letter from a State to EPA to declare that there are no existing MSW landfills in the State or there are no existing MSW landfills in the State that must install collection and control systems according to the requirements of 40 CFR part 60, subpart Cc. The negative declaration letter must include the design capacities of any existing MSW landfills with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) of the Clean Air Act and 40 CFR part 60, subpart B that implements and enforces 40 CFR part 60, subpart Cc. State plans includes plans developed by States, local agencies, and protectorates.

Tribal plan means a plan submitted by a Tribal Authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 that implements and enforces 40 CFR part 60, subpart Cc.

§ 62.14352 Designated facilities.

(a) The designated facility to which this subpart applies is each municipal solid waste landfill in all States, protectorates, and Indian Country that meets the conditions of paragraphs (a)(1) and (a)(2) of this section, except for landfills exempted by paragraph (b) of this section.

(1) The municipal solid waste landfill commenced construction, reconstruction, or modification before May 30, 1991 (landfills that commence construction, modification, or reconstruction on or after May 30, 1991 are subject to 40 CFR part 60, subpart WWW), and

(2) The municipal solid waste landfill has accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition.

(b) A municipal solid waste landfill regulated by an EPA approved and currently effective State or Tribal plan is not subject to the requirements of this subpart. States that have an approved and effective State plan are listed in table 1 of this subpart. Notwithstanding the exclusions in table 1 of this subpart, any MSW landfill located in a State or Indian country that does not have an EPA approved and currently effective

State or Tribal plan is subject to the requirements of this subpart.

(c) Physical or operational changes made to an existing municipal solid waste landfill solely to comply with an emission guideline are not considered a modification or reconstruction and would not subject an existing municipal solid waste landfill to the requirements of 40 CFR part 60, subpart WWW.

(d) For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of a municipal solid waste landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under part 70 or 71 of this chapter, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of a municipal solid waste landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of this subpart, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of § 70.5(a)(1)(i) or § 71.5(a)(1)(i) of this chapter 90 days after the effective date of this subpart, even if the design capacity report is submitted earlier. In addition, the owner or operator of a municipal solid waste landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters on the effective date of this subpart and not otherwise subject to either part 70 or 71, but whose design capacity subsequently increases to equal or exceed 2.5 million megagrams and 2.5 million cubic meters by a change that is not a modification becomes subject to the requirements of § 70.5(a)(1)(i) or § 71.5(a)(1)(i) of this chapter 90 days after the amended design capacity report is due.

(e) When a municipal solid waste landfill subject to this subpart is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit under part 70 or 71 of this chapter for the landfill if the landfill is not otherwise subject to the requirements of either part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement for a control system under § 62.14353 of this subpart; or

(2) The owner or operator meets the conditions for control system removal specified in 40 CFR 60.752(b)(2)(v).

§ 62.14353 Standards for municipal solid waste landfill emissions.

(a) The owner or operator of a designated facility having a design capacity less than 2.5 million megagrams or 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(a).

(b) The owner or operator of a designated facility having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(b).

§ 62.14354 Procedures, test methods, and monitoring.

(a) The owner or operator of a designated facility having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must calculate the landfill nonmethane organic compounds emission rate using the procedures listed in 40 CFR 60.754, as applicable, to determine whether the landfill nonmethane organic compounds emission rate equals or exceeds 50 megagrams per year.

(b) The owner or operator of a designated facility with a gas collection and control system used to comply with § 62.14353(b) must comply with the operational standards in 40 CFR 60.753; the test procedures in 40 CFR 60.754(b) and (d); the compliance provisions in 40 CFR 60.755; and the monitoring provisions in 40 CFR 60.756, unless alternative procedures have been approved.

§ 62.14355 Reporting and recordkeeping requirements.

(a) The owner or operator of a designated facility must comply with the recordkeeping and reporting provisions listed in 40 CFR 60.757 and 60.758, except as provided for under paragraphs (a)(1) and (a)(2) of this section.

(1) The initial design capacity report for a designated facility is due within 90 days of the effective date of this subpart. Existing MSW landfills with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters that are located in States that submitted a negative declaration letter are not required to submit an initial design capacity report.

(2) The initial nonmethane organic compounds emission rate report for a designated facility is due within 90 days of the effective date of this subpart.

(b) The owner or operator of a designated facility must submit notification to the EPA Regional Office within 10 business days of completing each increment of progress. Each

notification must indicate which increment of progress specified in § 62.14356(a)(1) through (a)(5) of this subpart has been achieved. The notification must be signed by the owner or operator of the landfill.

(1) For the first increment of progress, the final control plan (collection and control system design plan) must be submitted in addition to the notification. A copy of the design plan must also be kept on site at the landfill.

(2) For the second increment of progress, a signed copy of the contract(s) awarded must be submitted in addition to the notification.

(c) The owner or operator of a designated facility who fails to meet any increment of progress specified in § 62.14356(a)(1) through (a)(5) of this subpart according to the applicable schedule in § 62.14356 of this subpart must submit notification that the owner or operator failed to meet the increment to the EPA Regional Office within 10 business days of the applicable date in § 62.14356.

(d) The owner or operator (or the State or Tribal air pollution control authority) that is submitting alternative dates for increments 2 and 3 according to § 62.14356(d) of this subpart must do so by the date specified for submitting the final control plan. The date for submitting the final control plan is specified in § 62.14356(c)(1) and (c)(2) of this subpart, as applicable. The owner or operator (or the State or Tribal air pollution control authority) must submit a justification if any of the alternative dates are later than the increment dates in table 3 of this subpart. The owner or operator must also submit the alternative dates to the State.

§ 62.14356 Compliance schedules and increments of progress.

(a) Increments of progress. The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a nonmethane organic compound emission rate greater than or equal to 50 megagrams per year must achieve the increments of progress specified in paragraphs (a)(1) through (a)(5) of this section to install air pollution control devices to meet the

emission standards specified in § 62.14353(b) of this subpart. (Refer to § 62.14351 for a definition of each increment of progress.)

(1) Submit control plan: Submit a final control plan (collection and control system design plan) according to the requirements of § 62.14353(b) of this subpart and 40 CFR 60.752(b)(2).

(2) Award contract(s): Award contract(s) to initiate on-site construction or initiate on-site installation of emission collection and/or control equipment.

(3) Initiate on-site construction: Initiate on-site construction or initiate on-site installation of emission collection and/or control equipment as described in the final control plan.

(4) Complete on-site construction: Complete on-site construction and installation of emission collection and/or control equipment.

(5) Achieve final compliance: Complete construction as designed in the final control plan and connect the landfill gas collection system and air pollution control equipment such that they are fully operating. The initial performance test must be conducted within 180 days after the date the facility is required to achieve final compliance.

(b) Compliance date. For each designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a nonmethane organic compound emission rate greater than or equal to 50 Mg per year, planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the standards in § 62.14353(b) must be accomplished within 30 months after the date the initial emission rate report (or the annual emission rate report) first shows the nonmethane organic compounds emission rate equals or exceeds 50 megagrams per year.

(c) Compliance schedules: The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a nonmethane organic compound emission rate greater

than or equal to 50 megagrams per year must achieve the increments of progress specified in paragraphs (a)(1) through (a)(5) of this section according to the schedule specified in paragraph (c)(1) or (c)(2) of this section, unless a site-specific schedule is approved by EPA.

(1) The owner or operator of a designated facility must achieve the increments of progress according to the schedule in table 2 of this subpart, except for those affected facilities specified in paragraph (c)(2) of this section.

(2) The owner or operator of the specified designated facility in table 3 of this subpart must achieve the increments of progress according to the schedule in table 3 of this subpart.

(d) For designated facilities that are subject to the schedule requirements of paragraph (c)(1) of this section, the owner or operator (or the State or Tribal air pollution control authority) may submit for approval alternative dates for achieving increments 2 and 3.

Tables to Subpart GGG

TABLE 1 of Subpart GGG—States That Have an Approved and Effective State Plan ^a

State plan	Effective date of state plan
Colorado	09/28/98
Iowa	06/22/98
Kansas	05/19/98
Louisiana	10/28/97
Minnesota	09/25/98
Missouri	06/23/98
Montana	09/08/98
Nebraska	06/23/98
New Mexico	02/10/98
North Dakota	02/13/98
Ohio	10/06/98
Oregon	08/25/98
Utah	03/16/98
Wyoming	07/31/98

^aThis table is provided as a matter of convenience and is not controlling in determining whether a MSW landfill is subject to the Federal plan. A MSW landfill is subject to this Federal plan if it commenced construction before May 30, 1991 and has not been modified or reconstructed on or after that date and is not covered by an approved and currently effective State or Tribal plan.

TABLE 2 OF SUBPART GGG.—GENERIC COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS ^a

Increment	Date
Increment 1—Submit final control plan	1 year after first annual emission rate report showing NMOC emissions \geq 50 Mg/yr. ^b
Increment 2—Award Contracts	20 months after first annual emission rate report showing NMOC emissions \geq 50 Mg/yr. ^b
Increment 3—Begin on-site construction	24 months after first annual emission rate report showing NMOC emissions \geq 50 Mg/yr. ^b
Increment 4—Complete on-site construction	30 months after first annual emission rate report showing NMOC emissions \geq 50 Mg/yr. ^b

TABLE 2 OF SUBPART GGG.—GENERIC COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS ^a—Continued

Increment	Date
Increment 5—Final compliance	30 months after first annual emission rate report showing NMOC emissions ≥ 50 Mg/yr. ^b

^a Table 2 of subpart GGG applies to landfills with design capacities ≥2.5 million megagrams and 2.5 million cubic meters that are subject to this subpart except those with site-specific compliance schedules shown in table 3 of subpart GGG.
^b NMOC = nonmethane organic compounds; Mg/yr = megagrams per year.

Table 3 of Subpart GGG—Site-Specific
Compliance Schedules and Increments
of Progress

[Reserved]