

27, 1998. The conditions for approvability is as follows:

(1) Provide final estimates for two stationary sources from the 1990 base year emissions inventory and adjust the total 1990 VOC base year inventory, accordingly. The two sources are: J & L Specialty Steel Inc., Midland and Indspec Chemical Corp., Petrolia Plant.

(2) Remodel the I/M program (as implemented in the Pittsburgh ozone nonattainment area) in accordance with EPA guidance (December 23, 1996 memo entitled "Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance) and to submit that remodeling to EPA; and

(3) Fulfill the conditions listed in the conditional interim approval notice granted by EPA to Pennsylvania's enhanced I/M program (January 28, 1997), by the deadlines set forth in that rulemaking. The conditions of that EPA's I/M approval are summarized here as: geographic coverage and program start dates; ongoing program evaluation; test types, test procedures and emission standards; test equipment specifications and; motorist compliance enforcement demonstration.

(e) The Commonwealth of Pennsylvania's March 22, 1996 submittal for the 1990 VOC Base Year

Emissions Inventory for the Pittsburgh ozone nonattainment area (summarized in the table in this paragraph), is hereby conditionally approved based on the following contingency:

(1) Provide final estimates for two facilities sources from the 1990 base year emissions inventory and adjust the total 1990 VOC base year inventory to reflect those estimates, by no later than July 27, 1998. The two affected sources are: J & L Specialty Steel Inc., Midland and Indspec Chemical Corp., Petrolia Plant.

COUNTY-BY-COUNTY SUMMARY FOR THE PITTSBURGH OZONE NONATTAINMENT AREA
[1990 Emissions Inventory—VOC (tons/day)]

County	Point	Area	Non-road mobile	Highway mobile
Allegheny	80.44	73.3	15.48	76.54
Armstrong	1.1	3.3	1.01	3.9
Beaver	5.77	8.19	1.91	12.8
Butler	4.34	8.59	2.19	9.28
Fayette	0.57	7.53	1.42	7.8
Washington	0.85	10.74	2.53	14.96
Westmoreland	3.54	16.31	3.67	24.84
Total	96.61	127.96	28.21	150.12

(2) [Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[UT001-0010a and UT001-0011a; FRL-5948-7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Utah; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the Utah plan and associated regulations for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which were required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan was originally submitted to EPA on April 2, 1997 with revisions to the plan submitted on October 31, 1997, in accordance with the requirements for adoption and submittal of State plans for designated

facilities in 40 CFR part 60, subpart B. The State's plan establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards. EPA finds that Utah's plan for existing MSW landfills, as amended, adequately addresses all of the Federal requirements applicable to such plans.

DATES: This action is effective on March 16, 1998 unless adverse or critical comments are received in writing by February 13, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Vicki Stamper, 8P2-A, at the EPA Region VIII Office listed. Copies of the documents relative to this action are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466; and the Division of Air Quality, Utah Department of Environmental Quality, 150 North 1950 West, P.O. Box 144820, Salt Lake City, Utah 84114-4820.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312-6445.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes emissions guidelines in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the emission guideline for that source

category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published Emission Guidelines (EG) for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30-c-60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750-60.759). (See 61 FR 9905-29.) The pollutant regulated by the NSPS and EG is MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.31c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to either: (1) Submit a plan for the control of the designated pollutant to which the EG applies or (2) submit a negative declaration if there were no designated facilities in the State within nine months after publication of the EG, or by December 12, 1996.

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association v. Browner, et al.*, No. 96-1152 (D.C. Cir.), in accordance with section 113(g) of the Act. (See 62 FR 60898.) It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Accordingly, the currently-promulgated MSW landfill EG was used as a basis for EPA's review of Utah's submittals.

II. Analysis of State's Submittals

On April 2, 1997, the State of Utah submitted its plan and regulations (hereafter referred to as the "State Plan") for implementing EPA's MSW landfill EG. However, the State Plan did not adequately address all of the requirements of 40 CFR part 60, subparts B and Cc. Consequently, the

State adopted amendments to the State Plan and submitted those amendments to EPA for approval on October 31, 1997. The Utah State Plan, as amended, includes the "Utah State Plan for Implementation of Emission Controls for Existing Designated Facilities, Section I. Municipal Solid Waste Landfills," technical support documentation for the plan, and the State's implementing regulations in Utah Air Conservation Regulations (UACR) R307-20-2 and R307-21.

Utah has incorporated by reference the NSPS regulations of 40 CFR part 60, subpart WWW, at UACR R307-21-3 with a few minor revisions to: make the rule apply to existing MSW landfills, ensure that the rules comply with the EG, reference the State's solid waste requirements for MSW landfills, and make other minor changes. The EG specifies essentially the same provisions that are in the NSPS, except that the EG requirements apply to existing MSW landfills. Utah has also adopted compliance deadlines in UACR 307-21-5 to comply with the compliance timelines of the EG and the increments of progress requirements of 40 CFR part 60, subpart B. Thus, the State's regulations adequately address the requirements of the EG, including the required applicability, emission limitations, test methods and procedures, reporting and recordkeeping requirements, and compliance times. Specifically, Utah's regulation requires that existing MSW landfills that: (1) Accepted waste since November 8, 1987; (2) have a design capacity equal to or greater than 2.5 million megagrams (Mg) or 2.5 million m³; and (3) have a NMOC emission rate, calculated in accordance with the procedures of 40 CFR 60.754, equal to or greater than 50 Mg/year to install a gas collection and control system meeting the requirements of 40 CFR 60.752 within thirty months from the date of EPA approval of the State Plan (or, for those existing MSW landfills whose NMOC emission rate is less than 50 Mg/yr on the date EPA approves the State Plan, within thirty months after the landfill's NMOC emission rate equals or exceeds 50 Mg/yr).

The State Plan also includes documentation showing that all requirements of 40 CFR part 60, subpart B have been met. Specifically, the State Plan includes a demonstration of legal authority to adopt and implement the plan, an emissions inventory, increments of progress compliance deadlines, a commitment to submit to EPA annual State progress reports on plan implementation and enforcement, and documentation that the State

addressed the public participation requirements of 40 CFR part 60.23 for both the original submittal of April 2, 1997 and the amendments to the State Plan submitted on October 31, 1997. In addition, as stated above, the State has adopted emission standards and compliance schedules into an enforceable State regulation that is no less stringent than the EG.

Consequently, EPA finds that the State Plan, as amended, meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. The State did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this State Plan as it relates to those sources.

More detailed information on the requirements for an approvable plan and Utah's submittals can be found in the Technical Support Document (TSD) accompanying this notice, which is available upon request.

III. Final Action

Based on the rationale discussed above and in further detail in the TSD associated with this action, EPA is approving Utah's section 111(d) plan and associated regulations, as submitted on April 2, 1997 and on October 31, 1997, for the control of landfill gas from existing MSW landfills, except for those existing MSW landfills located in Indian Country. As provided by 40 CFR 60.28(c), any revisions to Utah's State Plan or associated regulations will not be considered part of the applicable plan until submitted by the State in accordance with 40 CFR 60.28 (a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State Plan should adverse or critical comments be filed. This action will be effective March 16, 1998 unless, by February 13, 1998, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting

on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 16, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Plan. Each request for revision to a State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111 of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-

effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: December 30, 1997.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart TT—Utah

2. A new center heading and §§ 62.11110, 62.11111, and 62.11112 are added to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.11110 Identification of plan.

"Utah State Plan for Implementation of Emission Controls for Existing Designated Facilities, Section I. Municipal Solid Waste Landfills" and the associated State regulations in R307-20-2 and R307-21 of the Utah Air Conservation Regulations, submitted by the State on April 2, 1997 with amendments to the plan submitted on October 31, 1997.

§ 62.11111 Identification of sources.

The plan applies to all existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991 that accepted waste at any time since November 8, 1987 or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

§ 62.11112 Effective date.

The effective date of the plan for municipal solid waste landfills is March 16, 1998.

[FR Doc. 98-937 Filed 1-13-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300593; FRL 5760-8]

RIN 2070-AB78

Bifenthrin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of bifenthrin in or on cabbage. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cabbage. This regulation establishes maximum permissible levels for residues of