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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, regarding the 1990 emission inventory for the Washington, DC ozone nonattainment area submitted by the District of Columbia, State of Maryland and Commonwealth of Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, and SIP requirements.

Dated: June 23, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.474 is amended by adding paragraph (c) to read as follows:

§ 52.474 1990 Base Year Emission Inventory.

* * * * *

(c) EPA approves as a revision to the District of Columbia State Implementation Plan an amendment to the 1990 base year emission inventories for the District's portion of the Metropolitan Washington, D.C. ozone nonattainment area submitted by the Director, Department of Consumer and Regulatory Affairs, on November 3, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile, and non-road source emission inventories in the area for the following pollutants: volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

Subpart V—Maryland

3. Section 52.1075 is amended by adding paragraph (f) to read as follows:

§ 52.1075 1990 Base Year Emission Inventory.

* * * * *

(f) EPA approves as a revision to the Maryland State Implementation Plan an amendment to the 1990 base year emission inventories for the Maryland portion of the Metropolitan Washington DC ozone nonattainment area submitted by the Secretary of Maryland of the Department Environment on December 24, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile, and non-road mobile source emission inventories in the area for the following pollutants: Volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

Subpart VV—Virginia

4. Section 52.2425 is amended by adding paragraph (d) to read as follows:

§ 52.2425 1990 Base Year Emission Inventory.

* * * * *

(d) EPA approves as a revision to the Virginia State Implementation Plan amendments to the 1990 base year emission inventories for the Northern Virginia ozone nonattainment area submitted by the Director, Virginia Department Environmental Quality, on December 17, 1997. This submittal consists of amendments to the 1990 base year point, area, non-road mobile, and on-road mobile source emission inventories for the following pollutants: volatile organic compounds (VOC), and oxides of nitrogen (NO_X).

[FR Doc. 98–17971 Filed 7–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MT–001–0004a; FRL–6122–2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Montana; 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 Montana 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 submitted to EPA on July 2, 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 Montana's plan for existing MSW landfills adequately addresses all of the Federal requirements applicable to such plans.

DATES: This direct final rule is effective on September 8 1998 without further notice, unless EPA receives adverse comment by August 7, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final

rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action may be mailed 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 Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, 1520 East 6th Avenue, P.O. Box 200901, Helena, Montana 59620–0901.

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 60.30c–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. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. See 63 FR 32783–4, 32743–53. EPA regulations at 40 CFR 60.23(a)(2) provide that a State has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. Thus, States are not yet required to submit State Plan revisions to address the June 16, 1998 direct final amendments to the EG. In addition, as stated in the June 16, 1998 preamble, the changes to 40 CFR part 60, subparts Cc and WWW, do not significantly modify the requirements of those subparts. See 63 FR 32744. Accordingly, the MSW landfill EG published on March 12, 1996 was used as a basis for EPA's review of Montana's submittal.

II. Analysis of State's Submittal

On July 2, 1997, the State of Montana submitted its plan and regulations (hereafter referred to as the ''State Plan'') for implementing EPA's MSW landfill EG. The Montana State Plan includes the ''Section 111(d) Plan for Municipal Solid Waste Landfills'' and the State's implementing regulations in Sections 17.8.302(1)(j) and 17.8.340 of the Administrative Rules of Montana (ARM).

Montana has incorporated by reference the EG of 40 CFR part 60, subpart Cc, at ARM 17.8.302(1)(j). In addition, ARM 17.8.340(4) provides that designated MSW landfill facilities under 40 CFR part 60, subpart Cc, shall comply with the requirements in 40 CFR 60.33c, 60.34c, and 60.35c that are applicable to designated facilities and that must be included in a State plan for approval. Montana has also adopted compliance deadlines in ARM 17.8.340(4)(b) 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, Montana'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 m^3; 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 complete installation of a gas collection and control system meeting the requirements of 40 CFR 60.752 within twenty-seven 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 twenty-seven months after submittal of an NMOC emission rate report showing NMOC emissions equal to or greater than 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 60.23. 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 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 Montana's submittal 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 Montana's section 111(d) plan and its implementing regulations in ARM 17.8.302(1)(j) and ARM 17.8.340, as submitted on July 2, 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 Montana'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.

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.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should adverse comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives adverse comments by August 7, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review,'' review.

The final rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111 of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (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 Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Montana's audit privilege and penalty immunity law [The Voluntary Environmental Audit Act, 75–1–101 *et seq.*, M.C.A. (H.B. 293, effective October 1, 1997)] or its impact upon any approved provision in the State Plan, including the submittal at issue here.

The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Montana's audit privilege and penalty immunity law. A State audit privilege and penalty immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 114, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the State Plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a State audit privilege and penalty immunity law.

F. 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 September 8 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; June 29, 1998.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 62, subpart BB, 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. Subpart BB is added to read as follows:

Subpart BB—Montana

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

Sec.
62.6600 Identification of plan.
62.6601 Identification of sources.
62.6602 Effective date.

Subpart BB—Montana

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.6600 Identification of plan.

''Section 111(d) Plan for Municipal Solid Waste Landfills'' and the associated State regulations in sections 17.8.302(1)(j) and 17.8.340 of the Administrative Rules of Montana, submitted by the State on July 2, 1997.

§ 62.6601 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.

§ 62.6602 Effective date.

The effective date of the plan for municipal solid waste landfills is September 8, 1998.

[FR Doc. 98–18082 Filed 7–7–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6119–6]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Hanford 100-Area (USDOE) Superfund site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 10 announces the deletion of portions of the Hanford 100-Area (USDOE) Superfund Site. The portions deleted are waste areas located in the 100–IU–1 and 100–IU–3 Operable Units. The 100–IU–1 and IU–3 Operable Units are part of the Hanford 100 Area NPL Site located at the U.S. Department of Energy (DOE) Hanford Site, located in southeastern Washington State. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion pertains to all known waste areas located in the 100–IU–1 and 100–IU–3 Operable Units. EPA and the Washington State Department of Ecology have determined that no further cleanup under CERCLA is required and that the selected remedy has been protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 8, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Faulk, Superfund Site Manager, USEPA, 712 Swift #5, Richland, Washington 99352; (509) 376–8631.

SUPPLEMENTARY INFORMATION: The partial deletion of the Hanford 100-Area (USDOE) NPL Site applies specifically to the 100–IU–1 and 100–IU–3 Operable Unit waste areas located at the U.S. Department of Energy (DOE) Hanford Site, located in southeastern Washington State. The waste areas in the 100–IU–1 and 100–IU–3 Operable Units were cleaned up by the DOE between 1992 and 1994 using expedited response actions (ERA). At the Hanford Site, the term ERA is used to describe actions taken under CERCLA removal authority as described in 40 CFR 300.415. In February 1996, a no further action record of decision was signed documenting that previous ERA's had removed all contaminants from the waste areas in the 100–IU–1 and 100–IU–3 Operable Units to below cleanup levels for residential use established under the Washington State Model Toxics Control Act (MTCA). It should be noted, cleanup activities are continuing at other operable units of the Hanford 100 Area NPL Site.

This partial deletion is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, (60 FR 55466 (Nov. 1, 1995)).

A Notice of Intent to Delete for Partial Deletion was published on May 22, 1998 (63 FR 28317). The closing date for comments on the Notice of Intent to Delete was June 20, 1998. EPA received no comments.

EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action. Deletion of the waste areas from the NPL does not itself