advising any small governments that may be significantly or uniquely impacted by the rule.

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 30, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7641q.

Subpart B—Alabama

2. Section 52.50 is amended by revising the word ''Delaware'' in paragraph (a) to read ''Alabama'' and by adding a new paragraph (e) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) EPA-approved Alabama non-regulatory provisions.

Provision	State effective date	EPA approval date	Federal Register notice	Comments
Birmingham 1990 Baseline Emissions Inventory	November 13, 1992 ..	June 4, 1999	[Insert cite of publication].	

[FR Doc. 99–13944 Filed 6–3–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FL–79–9918a; FRL–6352–7]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Florida

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Florida Department of Environmental Protection (DEP) for the State of Florida on October 28, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills. *See* 40 CFR part 60, subpart Cc.

DATES: This final rule is effective on August 3, 1999 unless significant, material, and adverse comments are received by July 6, 1999. If such adverse comments are received, timely notice of the withdrawal will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Florida Department of Environmental Protection, Air Resources Management Division, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at (404) 562–9035 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (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 EG 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, local, or tribal agency's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published EG for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (*See* 61 FR 9905–9944.) The pollutants regulated by the NSPS and EG are 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 60.32c) 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 (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 32743–32753, 32783–32784. 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. The State of Florida has amended their rules for MSW landfills in Chapter 62–204 of the Florida Administrative Code (FAC), Rule 62–204.800(8)(c) and Rule 62-204.800(7)(b)72 (effective dates of October 19, 1998), to reflect the June 16, 1998, amendments to subparts Cc and WWW. Accordingly, the MSW landfill EG published on March 12, 1996, and amended on June 16, 1998, was used as the basis by EPA for review of this section 111(d) Plan submittal.

This action approves the section 111(d) Plan submitted by the Florida DEP for the State of Florida to implement and enforce subpart Cc.

II. Discussion

The Florida DEP submitted to EPA on October 28, 1998, the following in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in the State of Florida: Legal Authority; Enforceable Mechanisms; MSW Landfill Source and Emission Inventory; Emission Limits; Review and Approval Process for Collection and Control System Design Plans; Compliance Schedules; Testing, Monitoring, Recordkeeping and Reporting Requirements; Demonstration That the Public Had Adequate Notice and Public Hearing Record; Submittal of Progress Reports to EPA; and applicable State of Florida statutes and rules of the FAC.

The approval of the Florida State Plan is based on finding that: (1) The Florida DEP provided adequate public notice of public hearings for the proposed rulemaking which allows the Florida DEP to implement and enforce the EG for MSW landfills; and (2) the Florida DEP also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In section 1.0 and Appendix B of the Plan, the Florida DEP cites the following references for the legal authority: Florida Statutes (FS) section 403.061; section 403.8055; section 403.061(6), (7), (8), (12), and (13); section 403.121; section 403.131; section 403.141; section 403.161; and section 119.07. These statutes are approved as being at least as protective as the Federal requirements for existing MSW landfills.

In section 2.0 of the Plan, the Florida DEP cites the enforceable mechanisms for implementing the EG for existing MSW landfills. The enforceable mechanisms are the State regulations adopted by the State of Florida in Rule 62–204.800(8)(c) and Rule 62–204.800(7)(b)72 of the FAC. Florida's regulations meet the Federal requirements for an enforceable mechanism and are approved as being at least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 2.0 of the Plan, the Florida DEP cites all emission limitations for the major pollutant categories related to the designated sites and facilities. These limitations in Rule 62-204.800(8)(c) are approved as being at least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 3.0 and 4.0 of the Plan, the Florida DEP submitted a source and emission inventory of all designated pollutants for each MSW landfill in the State of Florida. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

Section 5.0 of the Florida State Plan describes the process that Florida DEP will utilize for the review of site-specific design plans for gas collection and control systems. The process outlined in the Plan meets the Federal requirements contained in subpart Cc for existing MSW landfills.

In section 5.0 of the Plan, the Florida DEP cites the compliance schedules adopted in Rule 62–204.800(8)(c) for each existing MSW landfill to be in compliance within 30 months of the designated date of December 31, 1996, in their implementing regulation. These compliance times for affected MSW landfills will be no later than June 30, 1999, and address the required compliance time lines of the EG. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

Section 6.0 of the Florida State Plan includes its legal authority to require owners and operators of designated facilities to maintain records and report to their agency the nature and amount of emissions and any other information that may be necessary to enable their agency to judge the compliance status of the facilities. The Florida DEP also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MSW landfill emissions data, correlated with emission standards that apply, available to the general public. Rule 62–204.800(8)(c) and Rule 62–204.800(7)(b)72 of the FAC support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These Florida rules have been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

Section 7.0 of the Plan outlines how the Florida DEP will provide progress

reports of Plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for Plan reporting.

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

Final Action

Based on the rationale discussed above, EPA is approving the State of Florida section 111(d) Plan, as submitted on October 28, 1998, 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 the Florida State Plan or associated regulations will not be considered part of the applicable plan until submitted by the Florida DEP in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

The 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, the EPA is proposing to approve the revision should significant, material, and adverse comments be filed. This action will be effective August 3, 1999 unless by July 6, 1999, adverse or critical comments are received.

If the 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 be addressed in a subsequent final rule based on the proposed rule. The 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 August 3, 1999.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

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

B. 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 rule does not impose any enforceable duties on these entities.

C. 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.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation

of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 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: April 21, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR Part 62 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.

Subpart K—Florida

2. Section 62.2350 is amended by adding paragraphs (b)(6) and (c)(4) to read as follows:

§ 62.2350 Identification of plan.

* * * * *

(b) * * *

(6) State of Florida Department of Environmental Protection Section 111(d) State Plan For Municipal Solid Waste Landfills, submitted on October 28, 1998, by the Florida Department of Environmental Protection.

(c) * * *

(4) Existing municipal solid waste landfills.

Subpart K—[Amended]

3. Subpart K is amended by adding a new § 62.2360 and a new undesignated center heading to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.2360 Identification of sources.

The plan applies to 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.

[FR Doc. 99–13942 Filed 6–3–99; 8:45 am]

BILLING CODE 6560–50–P