

NO<sub>x</sub> Budget Trading Program and cement kiln rule, which was submitted on October 30, 2000, and revised on July 30, 2001. EPA finds that South Carolina's submittal will be fully approvable when it becomes state-effective because it meets the requirements of the Phase I NO<sub>x</sub> SIP Call.

#### IV. Administrative Requirements:

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act.

Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed approval of the South Carolina NO<sub>x</sub> Budget Trading Program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

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

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 1, 2002.

#### A. Stanley Meiburg,

*Acting Regional Administrator, Region 4.*

[FR Doc. 02-8685 Filed 4-9-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Region 2 Docket No. PR8-239, FRL-7169-5]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the Section 111(d) plan submitted by the Commonwealth of Puerto Rico, for the purpose of implementing and enforcing the emission guidelines for existing municipal solid waste landfills. The plan was submitted to fulfill requirements of the Clean Air Act (the Act). The Puerto Rico plan establishes emission limits for existing municipal solid waste landfills, and provides for the implementation and enforcement of those limits.

**DATES:** Comments must be received on or before May 10, 2002.

**ADDRESSES:** Comments should be mailed to Raymond W. Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Division of Environmental Planning and Protection, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866;

Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, San Juan, Puerto Rico 00907-4127; and the Puerto Rico Environmental Quality Board, National Plaza Building, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico.

#### FOR FURTHER INFORMATION CONTACT:

Demian P. Ellis at (212) 637-3713, or by e-mail at [ellis.demian@epa.gov](mailto:ellis.demian@epa.gov).

**SUPPLEMENTARY INFORMATION:** This document is divided into Sections I—V, and answers the questions posed below:

#### I. General Provisions

- What action is being taken by the Environmental Protection Agency (EPA) today?
- What is a State 111(d) plan?
- What pollutants will this action control?
- What are the expected environmental and public health benefits from controlling municipal solid waste (MSW) landfill gas emissions?

#### II. Federal Requirements the Puerto Rico 111(d) Plan Must Meet for Approval

- What general EPA requirements must Puerto Rico meet to receive approval of its MSW landfill 111(d) plan?
- What does the Puerto Rico plan contain?
- Does the Puerto Rico plan meet all EPA requirements for approval?

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

- How does a MSW landfill determine if it is subject to the Puerto Rico 111(d) plan?
- What general requirements must a facility meet as an affected landfill owner/operator that is subject to the EPA approved Puerto Rico plan?
- If a landfill is subject to the plan's requirement for installation of a landfill gas collection and control system, what emissions limits must it meet, and in what time frame?
- Are there any operational requirements for an installed landfill gas collection and control system?
- What are the testing, monitoring, record keeping, and reporting requirements for a landfill?
- Is a landfill owner/operator required to apply for a Title V permit?
- If the capacity of a landfill is modified or expanded, what additional requirements must it meet?

#### IV. Conclusion

#### V. Administrative Requirements

##### I. General Provisions

*What Action Is Being Taken by the EPA Today?*

EPA is proposing to approve the Commonwealth of Puerto Rico MSW landfill Clean Air Act (the Act) Section 111(d) plan, as submitted by the Puerto Rico Environmental Quality Board

(EQB), on February 20, 2001, for the implementation of EPA's emission guidelines for existing municipal solid waste (MSW) landfills. Once the state plan is approved, affected sources will become subject to the state plan and no longer be subject to the federal plan.

#### *What Is a State 111(d) Plan?*

A State 111(d) plan is a plan which implements emission guidelines for designated pollutants and facilities. Under Section 111(d), EPA is required to establish procedures for state submittal and EPA approval of state plans that implement state adopted emissions guidelines, promulgated by EPA, for the control of designated pollutants and facilities. State plans, when approved by EPA, implement and provide for federal enforcement of the emission guidelines requirements. For the purposes of the Act, Puerto Rico is treated as a state.

#### *What Pollutants Will This Action Control?*

The emission guidelines promulgated by EPA on March 12, 1996 (61 FR 9919) are applicable to existing MSW landfills (i.e., the designated facilities) that emit landfill gas. Landfill gas consists primarily of carbon dioxide, methane, and nonmethane organic compounds (NMOC). MSW landfills are the largest man made source of methane emissions in the United States. The designated pollutant, NMOC, is a mixture of more than 100 different compounds, including volatile organic compounds (VOC), and hazardous air pollutants (HAP), such as vinyl chloride, toluene, and benzene. A collateral benefit in the control of landfill NMOC is the control of methane.

#### *What Are the Expected Environmental and Public Health Benefits From Controlling Landfill Gas Emissions?*

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

Puerto Rico 111(d) plan will serve to significantly reduce these potential problems associated with landfill gas emissions.

## **II. Federal Requirements Puerto Rico's 111(d) Plan Must Meet for Approval**

### *What General EPA Requirements Must Puerto Rico Meet To Receive Approval of Its 111(d) Plan (the "plan")?*

EPA promulgated detailed procedures for submitting and approving State plans in 40 CFR part 60, subpart B. Also, EPA promulgated the MSW landfill emission guidelines (subpart Cc) and a related NSPS (subpart WWW) on March 12, 1996, and amended them both on June 16, 1998 and February 24, 1999. The Puerto Rico plan must meet the requirements of (1) 40 CFR part 60, subpart Cc, 60.30c through 60.36c, and the related subpart WWW. In addition, under 40 CFR part 60, subpart B, 60.23 through 26, a state plan submitted for EPA approval under the landfill emission guidelines must demonstrate that it has adequate resources and the legal authority to administer and enforce the program. The EQB has made such a demonstration.

States were required to submit their MSW landfill 111(d) plans to EPA on December 12, 1996. As a result of litigation over the landfill rule, on November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association v. Browner, et al.*, No. 96-1152 (D.C. Cir.), in accordance with Section 113(g) of the Act, 42 U.S.C. Section 7413(g). See 62 FR 60898, November 13, 1997. Pursuant to the proposed settlement agreement, EPA published, in the **Federal Register**, a direct final rulemaking on June 16, 1998, in which EPA amended 40 CFR part 60, subparts Cc and WWW, to add clarifying language, to make editorial amendments, and to correct typographical errors. The proposed settlement did not vacate or void the March 12, 1996 MSW landfill emission guidelines or NSPS. See 63 FR 32743-32753, 32783-32784. In part, these amendments clarified the emission guidelines regulatory text with respect to landfill applicability (i.e., mass and volume) and Title V permit requirements. On February 24, 1999 (64 FR 9258), EPA amended the MSW landfill rule to further clarify the regulatory text and correct errors with respect to the due date for the submittal of the initial landfill design capacity and emissions rate reports, and the definition of landfill "modification." In summary, these amendments result in four substantive emission guidelines

changes: (1) Landfill mass "and" volume applicability threshold language, (2) timely Title V permit applications, (3) the definition of landfill "modification," and (4) the due date for submittal of initial design capacity and NMOC emissions rate reports. Additional technical corrections to the NSPS were published on April 10, 2000 (65 FR 18906).

### *What Does the Puerto Rico Plan Contain?*

Consistent with the requirements of subparts B and Cc, as amended, the Puerto Rico Plan contains the following:

1. A demonstration of the Commonwealth's legal authority to implement the Section 111(d) plan;
  2. A demonstration of the Commonwealth's legal authority to enforce the Section 111(d) plan;
  3. A list of known MSW landfills including NMOC emissions rate estimates;
  4. A regulation requiring installation of emission collection and control equipment which is no less stringent than the requirements in subpart Cc;
  5. A description of the process Puerto Rico will use to review and approve site-specific gas collection and control design plans;
  6. Compliance schedules for each source that requires final compliance no later than that required in EPA's November 8, 1999 Federal 111(d) plan (64 FR 60703), to which Puerto Rico is currently subject;
  7. Requirements for sources to test, monitor, keep records, and report to Puerto Rico;
  8. Records of the public hearings on the Commonwealth's Plan; and
  9. A provision for the Commonwealth's submittal to EPA of annual reports on Puerto Rico's progress in the enforcement of its plan.
- The reader is referred to the technical support document (TSD) for further details on Puerto Rico's plan.

### *Does the Puerto Rico Plan Meet All EPA Requirements for Approval?*

Yes. EPA has reviewed Puerto Rico's Section 111(d) plan for existing MSW landfills against the requirements of 40 CFR part 60, subparts B and Cc and finds that it has satisfied the requirements for a MSW landfill 111(d) plan submittal.

Although an issue regarding applicability and enforceability had been previously identified, Puerto Rico has addressed this issue to EPA's satisfaction. Specifically, Puerto Rico had inadvertently omitted certain language from the definition of "modification" included in the

emission guidelines (as revised on February 24, 1999). To address this issue, Puerto Rico subsequently revised its definition to conform with the complete definition provided in the emission guidelines. Therefore, EPA is proposing to approve the Puerto Rico plan. Details regarding the approvability of plan elements are included earlier in this notice and in the TSD associated with this action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

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

*How Does a MSW Landfill Determine if It Is Subject to the Puerto Rico 111(d) Plan?*

If a facility commenced construction, reconstruction, or modification of its MSW landfill before May 30, 1991, and has accepted waste at any time since November 8, 1987, or the landfill has added capacity for future waste deposition, then it is subject to the 111(d) plan requirements.

*What General Requirements Must a Facility Meet as an Affected Landfill Owner/Operator That Is Subject to the EPA Approved Puerto Rico Plan?*

The plan requires a facility to submit an initial design capacity report, and

possibly a NMOC emissions rate report. If the design capacity of the landfill is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters of MSW, the plan requires the facility to also submit, concurrently with the design capacity report, an initial NMOC emissions rate report. Puerto Rico is currently subject to the federal landfill plan, 40 CFR part 62, subpart GGG. As required under 40 CFR 62.14355(a) of the Federal landfill 111(d) plan, both the initial design capacity and NMOC emissions rate reports were due April 6, 2000. The initial NMOC and any subsequent emissions rate determinations are required to be calculated according to methods specified in the regulation. If the facility's calculated landfill NMOC emissions rate were 50 megagrams per year, or more, then it is required to install a MSW landfill gas collection and control system that meets the design and operational requirements specified in Part VII, which incorporates all the pertinent requirements in 40 CFR 60.759 and 60.753. 40 CFR 62.14352(e) of the federal plan also requires that all Title V permitting applications for landfills with a design capacity equal to or above 2.5 million megagrams and 2.5 million cubic meters were to have been submitted by April 6, 2001. Facilities, as a courtesy, should send copies of the NMOC emission rate reports, initial

design capacity report, and Title V permit application required under the federal plan to the Puerto Rico Environmental Quality Board. Any compliance timelines which were triggered by the submittal of an initial NMOC emission rate report under the federal plan do not change as a result of EPA's action today.

*If a Landfill Is Subject to the Plan's Requirement for Installation of a Landfill Gas Collection and Control System, What Emissions Limits Must It Meet, and in What Time Frame?*

A facility must install a landfill gas collection and control system to reduce the collected NMOC emissions by 98 weight-percent, or reduce the emissions from the control device to a concentration of 20 parts per million by volume, or less, for an enclosed combustor. A landfill's final compliance date and the related increments of progress are dependent upon when its annual emissions rate report initially shows that NMOC emissions are 50 megagrams per year or more. Based on the Puerto Rico plan requirements (which are at least as stringent as the Federal plan requirements at 40 CFR 62.14356(a) and (c), except as provided in 40 CFR 62.14356(d)), a landfill must meet the following compliance schedule and increments of progress:

**COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS**

Increment	Action	Compliance date *
Increment 1 .....	Submit a final control plan	1 year after report.
Increment 2 .....	Award Contracts .....	20 months after report.
Increment 3 .....	Initiate on-site construction	24 months after report.
Increment 4 .....	Complete on-site construction.	30 months after report.
Increment 5 .....	Final compliance .....	30 months after report.
Increment 6 .....	Performance test .....	36 months after report.

\* Report refers to the initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥ 50 megagrams per year. The initial NMOC emission rate report is due 90 days after effective date of the Federal Plan or April 6, 2000.

For a landfill with an initial NMOC emission rate report showing 50 megagrams per year, its final compliance date according to the Puerto Rico plan (which incorporates the the federal compliance schedule and increments of progress) is October 6, 2002.

*Are There Any Operation Requirements for an Installed Landfill Gas Collection and Control System?*

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

1. Operate the collection system wellheads at negative pressure;

2. Operate the interior collection wellheads with a landfill gas temperature less than 550 degrees Celsius and with either a nitrogen level less than 20 percent, or an oxygen level less than 5 percent;

3. Operate the collection system so that the methane gas concentration is less than 500 parts per million by volume above background at the surface of the landfill;

4. Operate the collection system so that the collected gases are vented to the control system; and

5. Operate the collection and control system at all times.

Details regarding all operational requirements are stipulated in 40 CFR part 60, subpart WWW, 40 CFR 60.753.

*What Are the Testing, Monitoring, Record Keeping, and Reporting Requirements for a Landfill?*

A landfill's testing, monitoring, record keeping, and reporting requirements are summarized below:

Performance testing, to determine compliance with 98 weight-percent efficiency or the 20 parts per million by volume (ppmv) outlet concentration level, must be completed within 180 days after construction completion on the collection and control system. Testing methods must be consistent

with EPA source test methods referenced in the PREQB landfill regulation.

Monitoring temperature on a continuous basis is required for enclosed combustion control devices, and flares. Measurement of the gas flow rate from the collection system to an enclosed combustion device, or flare, is required at least once every 15 minutes, unless the bypass line valves are secured in a closed position. Monthly monitoring requirements are specified in the regulation for the gas collection system. Gas wellhead monitored parameters include gauge pressure, nitrogen or oxygen concentration, and temperature. Quarterly monitoring is required of NMOC surface concentrations.

Reporting requirements relate to landfill design capacity and NMOC emission rates; submittal of a collection and control system design plan; and system start-up, performance testing, operations, closure notification, and equipment removal. Records must be kept on-site of maximum design capacity, current amount of solid waste in-place, year-by-year waste acceptance rate; up-to-date readily accessible records for the life of the control equipment of certain data measured during the initial performance test or compliance determination; and control device vendor specifications until removal. Details regarding testing, monitoring, record keeping, and reporting requirements within the emission guidelines reference the corresponding sections in the NSPS, 40 CFR part 60, subpart WWW in 40 CFR 60.754, 60.755, 60.756, and 60.757.

#### *Is a Landfill Owner/Operator Required To Apply for a Title V Permit?*

As stated previously, if a landfill's design capacity is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, as provided under 40 CFR 62.14352(e) of the federal plan, it was required to apply for a Title V permit no later than April 6, 2001.

#### *If the Capacity of a Landfill Is Modified or Expanded, What Additional Requirements Must It Meet?*

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

#### **IV. Conclusion**

EPA has reviewed Puerto Rico's MSW 111(d) plan and finds that it satisfies all the requirements for a 111(d) plan

submittal. Therefore, based upon the rationale discussed herein and in further detail in the TSD associated with this action, EPA is proposing to approve the Puerto Rico MSW landfill 111(d) plan. Upon final approval of the Puerto Rico 111(d) plan for landfills, the Federal plan promulgated on November 8, 1999, will no longer apply in Puerto Rico. As provided by 40 CFR 60.28(c), any revisions to the Puerto Rico Section 111(d) plan or associated regulations will not be considered part of the applicable plan until submitted by the EQB in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B, requirements.

#### **V. Administrative Requirements**

##### *Executive Order 12866*

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

##### *Paperwork Reduction Act*

This action will not impose any collection information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060-0220. For additional information concerning these requirements, see 40 CFR 60.35c. 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.

##### *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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### *Executive Order 13132*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10,

1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

Under section 6(b) of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. Under section 6(c) of Executive Order 13132, EPA may not issue a regulation that has federalism implications and that preempts state law, unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

EPA has concluded that this rule does not have federalism implications. Thus, the requirements of sections 6(b) and 6(c) of the Executive Order do not apply to this rule.

##### *Executive Order 13175*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

*Regulatory Flexibility*

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 rule will not have a significant impact on a substantial number of small entities because such businesses have already been subject to the federal plan, which mirrors this rule. Therefore, because the Federal 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.

*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.

*National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available

and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action.

Today's action does not require the public to perform activities conducive to the use of VCS.

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: March 28, 2002.

**William J. Muszynski,**  
Acting Regional Administrator, Region 2.  
[FR Doc. 02-8686 Filed 4-9-02; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[MD Docket No. 02-64; FCC 02-92]

**Assessment and Collection of Regulatory Fees for Fiscal Year 2002**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Commission is proposing to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 2002. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and (b)(3), respectively, for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees.

**DATES:** Comments are due on or before April 23, 2002, and reply comments are due on or before May 3, 2002.

**FOR FURTHER INFORMATION CONTACT:** Terry Johnson, Office of Managing Director at (202) 418-0445 or Roland Helvajian, Office of Managing Director at (202) 418-0444.

**SUPPLEMENTARY INFORMATION:**

*Adopted:* March 22, 2002.

*Released:* March 27, 2002.

By the Commission:

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**I. Introduction**

1. By this *Notice of Proposed Rulemaking* (NPRM), the Commission begins a proceeding to revise its Schedule of Regulatory Fees to collect the amount of regulatory fees that Congress, pursuant to section 9(a) of the