other means, the operator of a vessel shall proceed as directed.

Dated: July 17, 1998.

R.E. Bennis,

Captain, U.S. Coast Guard,

Captain of the Port, New York.

[FR Doc. 98–21187 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OH116–1a; FRL–6134–5]

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

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the Ohio State Plan submittal for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines. The State's plan submittal was made pursuant to requirements found in the Clean Air Act (CAA). The State's plan was submitted to USEPA on March 30, 1998, in accordance with the requirements for adoption and submittal of State plans for designated facilities in 40 CFR part 60, subpart B. It establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards. The USEPA finds that Ohio's Plan for existing MSW landfills adequately addresses all of the Federal requirements applicable to such plans. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, this approval. If adverse comments are received on this action, the USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes the State's rule federally enforceable.

DATES: The ''direct final'' is effective on October 6, 1998, unless USEPA receives adverse or critical written comments by September 8, 1998. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section , Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested SIP revision and USEPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the CAA, USEPA 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 CAA) or hazardous air pollutants (HAPs) regulated under section 112 of the CAA. As required by section 111(d) of the CAA, USEPA established a process, at 40 CFR part 60, subpart B, similar to the process required by section 110 of the CAA (regarding State Implementation Plan (SIP) approval) which States must follow in adopting and submitting a section 111(d) plan. Whenever USEPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, USEPA establishes emissions guidelines in accordance with title 40 of the Code of Federal Regulations, § 60.22 (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, USEPA published emissions guidelines for existing MSW landfills (EG) 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 9905–9929.). The NSPS and EG regulate 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 if 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 submit a plan for the control of the designated pollutant to which the EG applies within nine months after publication of the EG (i.e. by December 12, 1996). If there were no designated facilities in the State, then the State was required to submit a negative declaration by December 12, 1996.

On March 30, 1998, the State of Ohio submitted its ''Section 111(d) Plan for MSW Landfills'' for implementing USEPA's MSW Landfill EG. The following provides a brief discussion of the requirements for an approvable State plan for existing MSW landfills and USEPA's review of Ohio's submittal with respect to those requirements. More detailed information on the requirements for an approvable plan and Ohio's submittal can be found in the Technical Support Document (TSD) accompanying this notice, which is available upon request.

II. Review of Ohio's MSW Landfill Plan

USEPA has reviewed Ohio's section 111(d) plan for existing MSW landfills against the requirements of 40 CFR part 60, subpart B and subpart Cc, as follows:

A. Identification of Enforceable State Mechanism for Implementing the EG

The regulation at 40 CFR 60.24(a) requires that the section 111(d) plan include emissions standards, defined in 40 CFR 60.21(f) as ''a legally enforceable regulation setting forth an allowable rate

of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.''

The State of Ohio, through the Ohio Environmental Protection Agency (OEPA), has adopted State rules to control air emissions from existing landfills in the State. The Ohio rules for Municipal Solid Waste Landfills are found at Rule 3745–76 of the Ohio Administrative Code (OAC). They were certified by the Director of OEPA, filed with the Ohio Secretary of State on December 17, 1997 and became effective on January 31, 1998. Thus Ohio has met the requirement of 40 CFR 60.24(a) to have legally enforceable emission standards.

B. Demonstration of the State's Legal Authority to Carry Out the Section 111(d) State Plan as Submitted

40 CFR 60.26 requires the section 111(d) plan to demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules.

OEPA has demonstrated that it has legal authority to adopt and implement the rules governing landfill gas emissions from existing MSW landfills. Ohio Revised Code 3704.03 grants OEPA statutory authority to request this revision to the Ohio State Implementation Plan. OAC 3745–76 provides the regulatory authority necessary to implement the plan.

C. Inventory of Existing MSW Landfills in the State Affected by the State Plan

The regulation at 40 CFR 60.25(a) requires the section 111(d) plan to include a complete source inventory of all existing MSW landfills (i.e., those MSW landfills that constructed, reconstructed, or modified prior to May 30, 1991) in the State that are subject to the plan. This includes all existing landfills that have accepted waste since November 8, 1987 or that have additional capacity for future waste deposition.

A list of the existing MSW landfills in Ohio and an estimate of NMOC emissions from each landfill have been submitted as part of the State's landfill 111(d) plan.

D. Inventory of Emissions From Existing MSW Landfills in the State

The regulation at 40 CFR 60.25(a) requires that the plan include an emissions inventory that estimates emissions of the pollutant regulated by the EG, which in the case of MSW landfills is NMOC. Ohio included as a part of appendix B of its section 111(d) plan an estimation of NMOC emissions for all of the landfills in the State using the Landfill Air Emissions Estimation Model and AP–42 default emission factors.

E. Emission Limitations for MSW Landfills

The regulation at 40 CFR 60.24c specifies that the State plan must include emission standards that are no less stringent than the EG (except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met). 40 CFR 60.33c contains the emissions standards applicable to existing MSW landfills.

The OAC Rule 3745–76–01 through 15 requires existing MSW landfills to comply with the same equipment design criteria and level of control as prescribed in the NSPS. The controls required by the NSPS are the same as those required by the EG. Thus, the emission limitations/standards are ''no less stringent than'' subpart Cc, which meets the requirements of 40 CFR 60.24(c).

The regulation at § 60.24(f) allows States, in certain case-by-case situations, to provide for a less stringent standard. To account for this provision, the Ohio Rule requires an owner/operator to apply a less stringent standard, or longer compliance schedule to submit a written request to the Director of OEPA.

Thus, Ohio's plan meets the emission limitation requirements by requiring emission limitations that are no less stringent than the EG.

F. A Process for State Review and Approval of Site-Specific Gas Collection and Control System Design Plans

The provision of the EG at 40 CFR 60.33c(b) requires State plans to include a process for State review and approval of site-specific design plans for required gas collection and control systems.

Ohio's rules regulating landfill gas emissions from MSW landfills essentially make the Federal NSPS applicable to existing MSW landfills. The design criteria and the design specifications for active collection systems specified in the NSPS also apply to existing landfills, unless a request pursuant to 40 CFR 60.24(f) has been approved by the State. The OEPA will then review the submittal for completeness and will request additional information if necessary. The Director will either approve or disapprove the request within six months of its receipt.

Thus, Ohio's section 111(d) plan adequately addresses this requirement.

G. Compliance Schedules

The State's section 111(d) plan must include a compliance schedule that owners and operators of affected MSW landfills must meet in complying with the requirements of the plan. 40 CFR 60.36c provides that planning, awarding of contracts, and installation of air emission collection and control equipment capable of meeting the EG must be accomplished within 30 months of the effective date of a State emission standard for MSW landfills. 40 CFR 60.24(e)(1) provides that any compliance schedule extending more than 12 months from the date required for plan submittal shall include legally enforceable increments of progress as specified in 40 CFR 60.21(h), including deadlines for submittal of a final control plan, awarding of contracts for emission control systems, initiation of on-site construction or installation of emission control equipment, completion of on-site construction/installation of emission control equipment, and final compliance.

Ohio Rule 3745–76–06 provides that landfills that are required to install collection and control systems be in final compliance with the requirements of the State plan no later than 30 months from the effective date of State adoption of the State rule or, for those MSW landfills which are not currently subject to the collection and control system requirements, within 30 months of first becoming subject to such requirements (i.e., within 30 months of reporting a NMOC emission rate of 50 Mg/yr or greater). Thus, the State's rule satisfies the requirement of 40 CFR 60.36c.

H. Testing, Monitoring, Recordkeeping and Reporting Requirements

The regulation at 40 CFR 60.34c specifies the testing and monitoring provisions that State plans must include (60.34c actually refers to the requirements found in 40 CFR 60.754 to 60.756), and 40 CFR 60.35c specifies the reporting and recordkeeping requirements (60.35c refers to the requirements found in 40 CFR 60.757 and 60.758). Ohio Rule 3745–76 satisfies these requirements.

I. A Record of Public Hearings on the State Plan

The regulation at 40 CFR 60.23 contains the requirements for public hearings that must be met by the State in adopting a section 111(d) plan. Additional guidance is found in USEPA's ''Summary of the Requirements for section 111(d) State Plans for Implementing the Municipal

Solid Waste Landfill Emission Guidelines (EPA–456R/96–005, October 1996).'' Ohio included documents in its plan submittal demonstrating that these procedures, as well as the State's administrative procedures, were complied with in adopting the State's plan. Therefore, USEPA finds that Ohio has adequately met this requirement.

J. Submittal of Annual State Progress Reports to USEPA

The regulation at 40 CFR 60.25(e) and (f) requires States to submit to USEPA annual reports on the progress of plan enforcement. Ohio committed in its section 111(d) plan to submit annual progress reports to USEPA. The first progress report will be submitted by the State one year after USEPA approval of the State plan.

III. Final Action

Based on the rationale discussed above, and in further detail in the TSD associated with this action, USEPA is approving Ohio's March 30, 1998 section 111(d) plan for the control of landfill gas from existing MSW landfills. As provided by 40 CFR 60.28(c), any revisions to Ohio's section 111(d) 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 USEPA in accordance with 40 CFR part 60, subpart B.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse or critical written comments be filed. This action will be effective without further notice unless USEPA receives relevant adverse written comment by September 8, 1998. Should USEPA receive such comments, it will publish a final rule informing the public that this action will not take effect. 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 October 6, 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 has exempted this regulatory action from Executive Order 12866 review.

B. Executive Order 13045

This 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.

C. 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 direct final rule will not have a significant impact on a substantial number of small entities because plan approvals under section 111(d) 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 a flexibility analysis would constitute Federal inquiry into the economic reasonableness of a State action. The CAA forbids USEPA 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).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with 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. This Federal action approves pre-existing requirements under State law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and penalty immunity law sections 3745.70–3745.73 of the Ohio Revised Code or its impact upon any approved provision in the SIP, including the revision 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 CAA program resulting from the effect of Ohio's audit privilege and immunity law. A State audit privilege and immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities. USEPA may at any time invoke its authority under the CAA including, for example, sections 113, 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 CAA is likewise unaffected by a State audit privilege or immunity law.

F. 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. The USEPA 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 the publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

G. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 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 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: July 24, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

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. 7401–7671q.

Subpart KK—Ohio

2. Subpart KK is amended by adding a new center heading and §§ 62.8870, 62.8871, and 62.8872 to read as follows:

Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

§ 62.8870 Identification of plan.

The Ohio State Implementation Plan for implementing the Federal Municipal Solid Waste Landfill Emission Guidelines including Ohio Administrative Code (OAC) Rules 3745–76–01 through 3745–76–15 was submitted on March 30, 1998.

§ 62.8871 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.

§ 62.8872 Effective date.

The effective date of the plan for municipal solid waste landfills is October 6, 1998.

[FR Doc. 98–21030 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 430

[FRL–6132–6]

RIN 2040–AB53

National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting minor errors in the effluent limitations guidelines and standards promulgated under the Clean Water Act for a portion of the pulp, paper and paperboard industry and the national emission standards for hazardous air pollutants promulgated under the Clean Air Act for the pulp and paper production category, which appeared in the **Federal Register** on April 15, 1998 (63 FR 18504).

DATES: Effective on August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Swackhammer by voice on (202) 260–7128 or by e-mail at swackhammer.j-troy@epa.gov.

SUPPLEMENTARY INFORMATION:

Overview

The EPA published a document in the April 15, 1998 **Federal Register** (63 FR 18504–18751) promulgating the effluent limitations guidelines and standards under the Clean Water Act (CWA) for a portion of the pulp, paper and paperboard industry and national emission standards for hazardous air pollutants (NESHAP) under the Clean Air Act (CAA) as amended in 1990 for the pulp and paper production source category. The final rules promulgated in the April 15, 1998 **Federal Register** contained some minor errors that are discussed briefly below and are corrected by this notice.

Administrative Requirements and Related Government Acts

A. The Administrative Procedure Act

Consistent with section 553(b) of the Administrative Procedure Act (APA), EPA has found for good cause that notice and an opportunity to comment on these technical corrections is unnecessary because this rule merely corrects typographical errors and clerical oversights and would not benefit from public comment. In addition, EPA has found good cause under APA section 553(d)(3) for waiving the APA's 30-day delay in effectiveness as to these final rules. It is important that these minor technical corrections become effective immediately because they correct or clarify certain regulatory requirements that are currently applicable to facilities within the affected subcategories.

B. Executive Order 12866 and OMB Review

EPA has determined that these corrections do not constitute ''significant regulatory action'' that would trigger review by the Office of Management and Budget.

C. The Regulatory Flexibility Act

EPA has determined that these corrections will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605. With respect to the underlying regulations that this rule corrects, EPA incorporates herein the findings set forth in 63 FR 18504.

D. Paperwork Reduction Act

EPA has determined that these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. chapter 35. With respect to the underlying regulations that these rules correct, EPA incorporates herein the discussion set forth in 63 FR 18504.

E. Unfunded Mandates Reform Act

EPA incorporates herein the discussion set forth in 63 FR 18504.

F. Congressional Review Act

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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding,