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 to approve VOC and NO_X RACT determinations for a number of individual sources in Pennsylvania as a revision to the Commonwealth's SIP 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 27, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(136) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(136) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on April 20, May 29, and July 24, 1998, by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) Three letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations in the form of plan approvals or operating permits on the following dates: April 20, May 29, and July 24, 1998.

(B) Plan approvals (PA), Operating permits (OP):

(*1*) Eldorado Properties Corporation, Northumberland County, OP 49–0016, effective May 1, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 7, 8, 9, and 10 relating to non-RACT provisions.

(*2*) Endura Products, Inc., Bucks County, OP 09–0028, effective May 13, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11A and 15 through 21 relating to non-RACT provisions.

(*3*) Ford Electronics & Refrigeration Company, Montgomery County, OP 46–0036 , effective April 30, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 18, 20, and 22 through 26 relating to non-RACT provisions.

(*4*) H & N Packaging, Inc., Bucks County, OP 09–0038, effective June 8, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 7, 8, and 11 through 20 relating to non-RACT provisions.

(*5*) Lancaster County Solid Waste Management Authority, Lancaster County, PA 36–2013, effective June 3, 1998; except for the plan approval expiration date and item (or portions thereof) Nos. 3 through 9, 11 through 24, 27 through 37, and 39 relating to non-RACT provisions.

(*6*) Monsey Products Company, Chester County, OP 15–0031, effective June 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 9 through 24 relating to non-RACT provisions.

(*7*) Ortho-McNeil Pharmaceutical, Montgomery County, OP 46–0027, effective June 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 9, and 13 through 20 relating to non-RACT provisions.

(*8*) Piccari Press, Inc, Bucks County, OP 09–0040, effective April 29, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 14, 15, 17, and 19 through 22 relating to non-RACT provisions.

(*9*) Pierce and Stevens Corporation, Chester County, OP 15–0011, effective March 27, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 15 relating to non-RACT provisions.

(*10*) PQ Corporation, Delaware County, OP 23–0016, effective June 16, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 8, 13, and 15 through 19 relating to non-RACT provisions.

(*11*) Reynolds Metals Company, Chester County, OP 15–0004, effective May 8, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 4, 5, 14, 15, 17 through 42, and 44 through 48 relating to non-RACT provisions.

(*12*) Rhone-Poulenc Rorer Pharmaceutical, Inc, Montgomery County, OP 46–0048B, effective April 2, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 42 relating to non-RACT provisions.

(*13*) Superior Tube Company, Montgomery County, OP 46–0020, effective April 17, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 17 through 25 relating to non-RACT provisions.

(*14*) Uniform Tubes Inc., Montgomery County, OP 46–0046A, effective March 26, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 16, 17, and 19 through 24 relating to non-RACT provisions.

(*15*) U.S. Air Force—Willow Grove Air Reserve Station, Montgomery County, OP 46–0072, effective May 1, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11 through 15 relating to non-RACT provisions.

(*16*) U.S. Navy—Willow Grove Naval Air Station Joint Reserve Base, Montgomery County, OP 46–0079, effective May 4, 1998; except for the operating permit expiration date and item (or portions thereof) Nos. 11, 12, 15 through 26, and 28 through 33 relating to non-RACT provisions.

(ii) Additional Material.

(A) Remainder of the Commonwealth of Pennsylvania's April 20, May 29, and July 24, 1998 submittals VOC and NO_X RACT SIP submittals.

[FR Doc. 98–29656 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[OK–15–1–7399a: FRL–6183–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Plan submitted by the State of Oklahoma on July 10, 1998. The plan was developed in accordance with sections 111 and 129 of the Clean Air Act, and provides for implementation and enforcement of the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) with capacity to combust more than 250 tons per day of municipal solid waste (MSW) (see 40 CFR part 60, subpart Cb).

DATES: This direct final rule is effective January 5, 1999 without further notice, unless EPA receives adverse comment by December 7, 1998. If adverse comments are 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 should be addressed to: Mr. Thomas H. Diggs, Chief, Air Planning Section, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 6, Air Planning Section, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, telephone (214) 665–7214.

Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73101–1677, telephone (405) 702–4100.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 1995, pursuant to sections 111 and 129 of the Clean Air Act (the Act), EPA promulgated New Source Performance Standards (NSPS) applicable to new MWCs and EG applicable to existing MWCs. The NSPS and EG are codified at 40 CFR part 60, subparts Eb and Cb, respectively (see 60 FR 65387). Subparts Cb and Eb regulate the following: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

On April 8, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated Subparts Cb and Eb as they apply to MWC units with capacity to combust less than or equal to 250 tons per day of MSW (small MWCs), consistent with their opinion in Davis County Solid Waste Management and Recovery District v. EPA, 101 F.3d 1395 (D.C. Cir. 1996), as amended, 108 F.3d 1454 (D.C. Cir. 1997). As a result, subparts Eb and Cb apply only to MWC units with individual capacity to combust more than 250 tons per day of MSW (large MWC units).

Under section 129 of the Act, EG are not Federally enforceable. Section 129(b)(2) of the Act requires states to submit to EPA for approval, plans that implement and enforce the EG. State plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. The EPA originally promulgated the subpart B provisions on November 17, 1975. The EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in Subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules (see 60 FR 65414).

This action approves the plan submitted by Oklahoma to implement and enforce subpart Cb, as it applies to large MWC units.

II. Discussion

Oklahoma submitted to EPA on July 10, 1998, the following in their 111(d)/129 State Plan for implementation and enforcement of the EG for existing MWCs under their direct jurisdiction in the State of Oklahoma pursuant to 40 CFR 60.23 through 60.26: Demonstration of Legal Authority; Enforceable Mechanism; Inventory of MWC Plants/Units; MWC Emissions Inventory; Emission Limits; Compliance Schedule; Testing, Monitoring, Recordkeeping and Reporting Requirements; Demonstration that the Public had Adequate Notice and Opportunity to Submit Written Comments; Provisions for Submittal of Progress Reports to EPA; and applicable State of Oklahoma statutes. Oklahoma submitted its State Plan after the Court of Appeals vacated subpart Cb as it applies to small MWC units. Thus, the Oklahoma State Plan covers only large MWC units.

One MWC facility exists in Oklahoma with units affected by the MWC EG. This facility is owned by the City of Tulsa, and operated by Ogden-Martin Systems of Tulsa, Incorporated. The Facility has three MWC units, each with the capacity to burn more than 250 tons per day of municipal solid waste.

The approval of the Oklahoma State Plan is based on finding that: (1) The Oklahoma Department of Environmental Quality (ODEQ) provided adequate public notice of public hearings for the proposed rulemaking and State Plan which allow the ODEQ to implement and enforce the EG for large MWCs, and (2) the ODEQ also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facility; 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. Please see the Region & Evaluation Report and the State Plan submittal, as enclosed in the official file, for the detailed technical evaluation of the Oklahoma State Plan.

III. Final Action

The EPA is approving the above referenced State Plan because it meets the Agency requirements. The 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 section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. This rule will be effective January 5, 1999 without further notice unless, by December 7, 1998, relevant adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. 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 January 5, 1999.

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 the State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 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. If the mandate is unfunded, EPA must 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 written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. 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.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must provide 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, 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 E.O. 13084 do not apply to this rule.

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 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 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 mostly 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.

The 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. The 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.** A major rule cannot take effect until 60 days after it is published 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 December 7, 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, Air pollution control, Municipal waste combustors, Reporting and recordkeeping requirements.

Dated: October 28, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

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. 7401–7671q.

Subpart LL—Oklahoma

2. Section 62.9100 is amended by adding paragraphs (b)(3) and (c)(3) as follows:

§ 62.9100 Identification of plan.

* * * * *

(b) * * *

(3) Oklahoma State Plan for Existing Large Municipal Waste Combustors, submitted on July 10, 1998, by the Oklahoma Department of Environmental Quality.

(c) * * *

(3) Existing municipal waste combustors.

3. Subpart LL is amended by adding a new § 62.9150 and a new undesignated center heading to read as follows:

Metals, Acid Gases, Organic Compounds and Nitrogen Oxide Emissions From Existing Municipal Waste Combustors with the Capacity To Combust Greater Than 250 Tons Per Day of Municipal Solid Waste

§ 62.9150 Identification of sources.

The plan applies to existing facilities with a municipal waste combustor (MWC) unit capacity greater than 250 tons per day of municipal solid waste (MSW) at the following MWC site: Ogden-Martin Systems of Tulsa, Incorporated, 2122 South Yukon Avenue, Tulsa, OK 74107.

[FR Doc. 98–29654 Filed 11–5–98; 8:45 am]

BILLING CODE 6560–50–M