

facility specific compliance schedules that are expeditious, as required by subpart B, and require final compliance by a date earlier than that of the generic compliance schedule under the Federal Plan, 40 CFR part 62, subpart GGG, promulgated on November 8, 1999. The Federal plan is applicable to all affected landfills located in those states without an approved plan, such as Pennsylvania, until the state plan is approved by EPA. The Pennsylvania plan meets all applicable federal requirements, as discussed in EPA's June 24, 2003 **Federal Register** notice and the related technical support document (TSD).

3. What does "controlled" mean to EPA? *Response*—Section 111 of the Act requires EPA to promulgate EG and NSPS based on the application of what is referred to as best demonstrated technology (BDT), considering costs and any nonair quality health and environmental impacts and energy requirements, at the time the EG and NSPS are promulgated. The EG and NSPS establish a nationwide minimum level of control, for specific stationary source categories, based on the use of BDT. BDT for landfills, emitting 50 megagrams per year of NMOC or more, requires the reduction of MSW landfill gas emissions with: (a) A well designed and operated gas collection system and (b) a control device capable of reducing NMOC in the collected gas by 98 weight percent. Both EPA landfill rules (the EG and NSPS) recognize that various combustion devices, including flares, can be an effective means of reducing, by 98% or better, the NMOC emissions collected from a landfill. The BDT requirements for landfills are stipulated in the promulgated March 12, 1996 MSW landfill EG and the related NSPS, subparts Cc and WWW, sections 60.33c(c); and 60.752(b)(2)(ii) and (iii), respectively. More details about landfill gas control technologies and their performance are discussed in the preamble to the proposed EPA landfill rules (56 FR 24476, May 30, 1991). Also, additional information is given in EPA's proposed landfill rule amendments, as published in the May 23, 2002 **Federal Register** (67 FR 36477).

4. EPA admits to the public health dangers of landfill gas (i.e., NMOC) emissions, so why wouldn't EPA require the safest technology? *Response*—Consistent with the requirements of section 111 of the Act, EPA's landfill rules set a nationwide minimum level of control based on the use of BDT. EPA believes BDT control alternatives are safe for the operators and impacted community, providing the control equipment is properly designed,

constructed, and operated. Because NMOC are health-related, states plans must ordinarily be at "least as stringent" as the EG. However, nothing under EPA's section 111 plan regulations, 40 CFR part 60, subpart B, prohibits the PADEP from adopting and enforcing more stringent emission standards. Nevertheless, the submitted Pennsylvania plan control requirements are no less stringent than BDT, as stipulated and required in subpart B and the EG, subpart Cc.

5. Does Pennsylvania have the legal authority to do anything about Clean Air Act [MSW landfill rule] violations in the past? *Response*—A state can only enforce section 111(d) plan requirements if (a) it has received EPA approval of the state plan, or (b) it has requested and received delegation of the Federal plan, 40 CFR part 62, subpart GGG. Neither is the case with the PADEP. At this time, the PADEP can enforce state only requirements. When EPA approves the Pennsylvania plan, PADEP will then have the authority under federal law to enforce the state plan, including possible "past" violations. PADEP has satisfactorily demonstrated its authority to implement the state plan, as stated in EPA's approval notice (68 FR 37422) of June 24, 2003.<sup>1</sup>

6. Why hasn't the Pottstown Landfill been included in this source inventory? *Response*—Any landfill that was modified or reconstructed after May 30, 1991 is subject to subpart WWW, and not the requirements of section 111(d) of the Act. A modification occurs if there is a physical change at the landfill that increases the capacity of the landfill beyond its permitted capacity. Based on documents from the PADEP and the Pottstown's landfill engineer, the landfill is a modified source, and thus subject to the NSPS, subpart WWW, and not section 111(d) requirements of either the Pennsylvania or Federal plan. Although the landfill EG and NSPS both require use of the same BDT, both stipulate different initial reporting and final compliance date requirements. However, if we assume that the Pottstown Landfill is a designated facility, subject to section 111(d) requirements, and was somehow overlooked in the Pennsylvania plan inventory, EPA's earlier plan approval notice (68 FR 37424) states, " \* \* \* if an unknown designated landfill is not

covered by the scope of this plan and is discovered after EPA plan approval, that landfill will be subject to the promulgated Federal plan requirements until the PADEP amends its plan to include the previously unknown designated landfill." In other words, under EPA's approval action, the Pottstown landfill would be covered by the promulgated Federal plan, even if at a later date it is determined that the facility is in fact subject to section 111(d) requirements.

7. With a health threat of NMOC emissions, why would a landfill get 2½ years to comply? *Response*—Considering the size and NMOC applicability thresholds of affected landfills, EPA believes 2½ years is generally expeditious. This timeframe is reflected in the promulgated EG, NSPS, and the Federal plan. As noted above, the Pennsylvania plan requires final compliance earlier than what is stipulated in the Federal plan.

8. How is the applicability threshold (50 megagrams per year) determined and by whom? *Response*—The measurement methods, applicable to both existing and new landfills, are specified in the landfill NSPS at section 60.754, Test Methods and procedures. Although the landfill owner/operator conducts the tests, both PADEP and EPA have oversight authority and can require a source retest with regulatory personnel on site during the test.

9. Were violations reported to EPA by PADEP under the plan provision that requires state submittal of annual reports on plan enforcement? *Response*—Under the plan, the noted reports are not due until one year after EPA approval of the plan. See the EPA **Federal Register** notice of June 24, 2003 (68 FR 37423), section II. K, Provision for Annual State Progress Reports to EPA. Within one year of EPA's approval of the plan, EPA expects the PADEP will begin submittal of annual compliance reports.

10. How were the people notified about changes to the original plan? *Response*—Other than changes in order to meet EPA promulgated revisions to the EG, we know of no plan changes, subsequent to its original submittal, that relaxes plan applicability, emission standards, operating requirements, recordkeeping and reporting, and compliance dates.

11. The commenter objects to PADEP's retention of source "trade secret" information, and its unavailability to the public, and questions what method or process trade secret information can be expected from operating a landfill. *Response*—It appears that PADEP's willingness to

<sup>1</sup> With respect to the enforcement of NSPS requirements, on May 8, 1985, PADEP received automatic delegation of all NSPS from EPA. See the August 23, 1985 **Federal Register**. Accordingly, the PADEP has had the authority to enforce subpart WWW requirements since March 12, 1996, the date of rule promulgation.