

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

**PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS**

1. The authority citation for 21 CFR part 178 continues to read as follows:  
**Authority:** 21 U.S.C. 321, 342, 348, 379e.
2. Section 178.2010 is amended in the table in paragraph (b) by revising the

entry for “3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane” under the headings “Substances” and “Limitations” to read as follows:

**§ 178.2010 Antioxidants and/or stabilizers for polymers.**  
\* \* \* \* \*  
(b) \* \* \*

Substances	Limitations
* * * *	* * * *
3,9-Bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane (CAS Reg. No. 154862-43-8), which may contain not more than 2 percent by weight of triisopropanolamine (CAS Reg. No. 122-20-3).	For use only: 1. At levels not to exceed 0.15 percent by weight of all polymers, except as specified below. 2. At levels not to exceed 0.2 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter. 3. At levels not to exceed 0.3 percent by weight of polyetherimide resins complying with § 177.1595 of this chapter.
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Dated: October 28, 1999.  
**L. Robert Lake,**  
*Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.*  
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**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4003, 4007, 4011, 4041, 4041A, 4043, and 4050**

**Disaster Relief in Response to Hurricanes Floyd and Irene**

**AGENCY:** Pension Benefit Guaranty Corporation.  
**ACTION:** Notice of disaster relief.

**SUMMARY:** The Pension Benefit Guaranty Corporation is waiving certain penalties and extending certain deadlines in response to the major disasters declared by the President of the United States on account of Hurricanes Floyd and Irene.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024 (202-326-4179 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001 *et seq.*). Under

ERISA and the PBGC's regulations, a number of deadlines must be met in order to avoid the imposition of penalties or other consequences.

The President of the United States issued declarations, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*), that major disasters exist in the States of Connecticut, Delaware, Florida, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Vermont, and Virginia because of Hurricane Floyd, Hurricane Irene, or both.

**Relief From Certain Deadlines and Penalties**

The PBGC is providing relief from certain deadlines and penalties. In general, this relief is applicable with respect to plans for which the administrator's or sponsor's principal place of business, or the office of a service provider, bank, insurance company, or other person maintaining information necessary to meet the applicable deadlines, is located in an area that has been (or will be) designated a major disaster area on account of Hurricanes Floyd or Irene (a "designated disaster area"). However, the extension (discussed below) for filing requests for reconsideration or appeals is applicable to any aggrieved person who is residing in, or whose principal place of business is within, a designated disaster area, or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request

for reconsideration or appeal, is within such an area.

**Premiums**

The PBGC will waive the late payment penalty charge with respect to any premium payment required to be made on or after September 15, 1999, and before November 30, 1999, if the payment is made by November 30, 1999. The PBGC is not permitted by law to waive late payment interest charges. (ERISA section 4007(b); 29 CFR 4007.7 and 4007.8(b)(3).)

**Section 4071 Penalties**

For any of the following notices that is required to be filed with the PBGC on or after September 15, 1999, and before November 30, 1999, in order to avoid the assessment of section 4071 penalties, the PBGC will not assess a section 4071 penalty if the notice is filed by November 30, 1999:

- (1) Post-distribution certification for single-employer plans (PBG Form 501 or 602; ERISA section 4041(b)(3)(B) or (c)(3)(B); 29 CFR 4041.29 or 4041.50),
- (2) Notice of termination for multiemployer plans (ERISA section 4041A; 29 CFR 4041A.11),
- (3) Notice of plan amendments increasing benefits by more than \$10 million (ERISA section 307(e)),
- (4) Missing participants information for single-employer plans (Schedule MP (including Attachments A and B) to PBGC Forms 501 and 602; ERISA section 4050; 29 CFR 4050.6), and

(5) Premium declarations (PBGC Forms 1 (including Schedule A) and 1-ES; ERISA section 4007; 29 CFR 4007.3).

The PBGC will not assess a section 4071 penalty for a failure to provide certain supporting information and documentation when a notice of failure to make required contributions totaling more than \$1 million (including interest) is timely filed, if the timely filed notice includes at least items 1 through 7 and items 11 and 12 of Form 200; the responses to items 8 through 10, with the certifications in items 11 and 12, may be filed late (PBGC Form 200; ERISA section 302(f)(4); 29 CFR 4043.81). This relief applies to notices required to be filed with the PBGC on or after September 15, 1999, and before November 30, 1999, provided that all supporting information and documentation are filed by November 30, 1999.

The PBGC is not automatically forgoing assessment of penalties under section 4071 for failure to comply with other information submission requirements, but relief may be granted in individual cases. For example, 29 CFR 4010.11 provides for waivers and extensions for financial and actuarial information reporting under 29 CFR Part 4010.

#### Reportable Events Notices

With respect to a reportable event for which a post-event notice is required to be filed under subpart B of the PBGC's regulation on Reportable Events (29 CFR 4043.20 through 4043.35) on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4043.4(d)) extending to November 30, 1999, the time within which to provide certain supporting information and documentation when a notice of the reportable event is timely filed, if the timely filed notice includes at least the information specified on the front of PBGC Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(1) through (5); the extension applies to the information specified on the back of Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(6) through (8) and in paragraph (b) of the regulation section that describes the event.

The PBGC is not providing automatic extensions for advance notices of reportable events described in subpart C of the Reportable Events regulation (29 CFR 4043.61 through 4043.68), but waivers and extensions for such notices may be granted individually pursuant to 29 CFR 4043.4(d).

#### Standard and Distress Termination Notices and Distribution of Assets

With respect to a standard termination for which the standard termination notice is required to be filed, or the distribution of plan assets is required to be completed, on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which the standard termination notice must be filed (and, thus, the time within which notices of plan benefits must be provided) and the time within which the distribution of plan assets must be completed.

With respect to a distress termination for which the distress termination notice is required to be filed on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which the termination notice must be filed. With respect to a distress termination for which notices of benefit distribution must be provided or plan assets must be distributed on or after September 15, 1999, and before November 30, 1999, as a result of the PBGC's issuance of a distribution notice, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which such actions must be taken. In addition, as noted above, the PBGC is providing relief from penalties for late filing of the post-distribution certification.

#### Participant Notices

For Participant Notices that are required to be issued on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4011.8) extending the due date to November 30, 1999.

#### Requests for Reconsideration or Appeals

For persons who are aggrieved by certain agency determinations and for whom a request for reconsideration or an appeal is required to be filed on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4003.4(b)) extending the time for filing to November 30, 1999.

#### Designated Disaster Areas

When this notice was prepared, the following counties had been designated by the Federal Emergency Management Agency (pursuant to 44 CFR 206.40(b)) as areas affected by one or both of these disasters:

In the state of Connecticut: Fairfield, Hartford, and Litchfield counties.

In the state of Delaware: New Castle county.

In the state of Florida: Brevard, Broward, Collier, Dade, Duval, Flagler, Glades, Hendry, Highlands, Indian River, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Polk, St. Johns, St. Lucie, Seminole, and Volusia counties.

In the state of Maryland: Anne Arundel, Calvert, Caroline, Cecil, Charles, Harford, Kent, Queen Anne's, Somerset, St. Mary's, and Talbot counties.

In the state of New Hampshire: Belknap, Cheshire, and Grafton counties.

In the state of New Jersey: Bergen, Essex, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, and Union counties.

In the state of New York: Albany, Dutchess, Essex, Greene, Nassau, Orange, Putnam, Rockland, Rensselaer, Schenectady, Schoharie, Suffolk, Ulster, Warren, and Westchester counties.

In the state of North Carolina: Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, and Wilson counties.

In the state of Pennsylvania: Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia, and York counties.

In the state of South Carolina: Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marlboro, Marion, Orangeburg, Richland, Sumter, and Williamsburg counties.

In the state of Vermont: Bennington, Caledonia, Essex, Lamoille, Orange, Orleans, Rutland, Washington, Windham, and Windsor.

In the state of Virginia: Accomack, Brunswick, Caroline, Chesterfield, Dinwiddie, Essex, Fairfax, Gloucester, Greensville, Hanover, Halifax, Henrico, Isle of Wight, James City, King, King & Queen, King George, King William, Lancaster, Lunenburg, Mathews,

Mecklenburg, Middlesex, New Kent, Northhampton, Northumberland, Prince George, Richmond, Southampton, Suffolk, Surry, Sussex, Westmoreland, and York counties, and the cities of Charles City, Chesapeake, Colonial Heights, Emporia, Franklin, Hampton, Hopewell, Portsmouth, Newport News, Norfolk, Richmond, Virginia Beach, Williamsburg, and Poquoson.

#### Applying for Waivers/Extensions

A submission to the PBGC to which a waiver or an extension is applicable under this notice should be marked in bold print "HURRICANE FALL 1999, [name of county], [name of state]" at the top center.

Issued in Washington, DC, this 17th day of November 1999.

**David M. Strauss,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 99-30467 Filed 11-22-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 49 and 52

[TRI-FIP-003a; FRL-6479-8]

#### Source Specific Federal Implementation Plan for Tri-Cities Landfill; Salt River Pima-Maricopa Indian Community

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating a direct final, source-specific Federal Implementation Plan (FIP) to regulate emissions from a proposed gas-to-energy project at the Tri-Cities landfill. This facility is located on the reservation of the Salt River Pima-Maricopa Indian Community (SRPMIC), within the Phoenix area designated by EPA as nonattainment for CO, PM-10, and ozone. This facility will be owned and operated by the Salt River Project (SRP) under the terms of an agreement and lease entered into with the SRPMIC.

**DATES:** This direct final rule is effective on January 24, 2000 unless adverse or critical comments are received by December 23, 1999. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments should be addressed to: Steve Branoff, Air Division (AIR-3), U.S. EPA Region IX,

75 Hawthorne Street, San Francisco, CA 94105-3901.

**FOR FURTHER INFORMATION CONTACT:** Steve Branoff, Air Division (AIR-3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1290.

#### SUPPLEMENTARY INFORMATION:

#### I. EPA's Authority To Promulgate a FIP in Indian Country

The Clean Air Act Amendments of 1990 greatly expanded the role of Indian tribes in implementing the provisions of the Clean Air Act in Indian country. Section 301(d) of the Act authorizes EPA to issue regulations specifying the provisions of the Clean Air Act for which Indian tribes may be treated in the same manner as states. EPA promulgated the final rule under section 301(d) of the Act, entitled "Indian Tribes: Air Quality Planning and Management," on February 12, 1998. 63 FR 7254. This rule is generally referred to as the "Tribal Authority Rule" or "TAR."

In the preamble to the proposed<sup>1</sup> and final TAR, EPA discussed generally the legal basis under the CAA by which EPA and tribes are authorized to regulate sources of air pollution in Indian country. EPA concluded that the CAA constitutes a statutory grant of jurisdictional authority to eligible Indian tribes that allows them to develop CAA programs for EPA approval in the same manner as states for all air resources within the exterior boundaries of a reservation. 63 FR 7254-7259; 59 FR 43958-43960. In addition, the CAA authorizes eligible tribes to develop CAA programs for non-reservation areas over which a tribe can demonstrate jurisdiction under Federal Indian law. 63 FR 7258-7259.

EPA also concluded that the CAA authorizes EPA to protect air quality throughout Indian country. See 63 FR 7262; 59 FR 43960-43961 (citing to CAA sections 101(b)(1), 301(a), and 301(d)); see also 63 FR 8247, 8250 (citing to CAA sections 301(d)(4) and 301(d)(2)(B)). In fact, in promulgating the TAR, EPA specifically provided that, pursuant to the discretionary authority explicitly granted to EPA under sections 301(a) and 301(d)(4) of the Act, EPA:

shall promulgate without unreasonable delay such federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, appendix V, or does not receive EPA

approval of a submitted tribal implementation plan.

63 FR 7273 (codified at 40 CFR 49.11(a)).<sup>2</sup>

It is EPA's policy to aid tribes in developing comprehensive and effective air quality management programs by providing technical and other assistance to them. EPA recognizes, however, that just as it required many years to develop state and federal programs to cover lands subject to state jurisdiction, it will also require time to develop tribal and federal programs to cover Indian country. 59 FR 43961.

The Salt River Pima-Maricopa Indian Community has expressed an interest in seeking authority under the TAR to regulate sources of air pollution located on the Reservation under the Clean Air Act. EPA has been informed by the SRPMIC that it will not be ready to apply under the TAR for Clean Air Act permitting responsibilities before the desired date of construction of the proposed gas-to-energy project at the Tri-Cities landfill.

Therefore, in this FIP, EPA is exercising its discretionary authority under section 301(a) and 301(d) of the CAA and 40 CFR 49.11(a) to promulgate such FIP provisions as are necessary or appropriate to regulate the Tri-Cities landfill project. Given the fact that this project will be a new source of greater than 100 tons per year of CO emissions within the boundaries of a designated CO nonattainment area, EPA believes that the FIP provisions are both necessary and appropriate to protect air quality on the Reservation.

#### II. EPA Action

The Tri-Cities landfill is located within the Phoenix area which EPA has designated as serious nonattainment for three pollutants: CO, PM-10, and ozone. The proposed project involves the installation of electricity-producing equipment at the Tri-Cities landfill. This equipment would run on the landfill gas currently being collected and flared at this facility. Based on the preliminary emissions data submitted to EPA by SRP, this equipment would be considered a major source of CO emissions, according to the definition of "major source" in section 302(j) of the

<sup>2</sup>In the preamble to the final TAR, EPA explained that it believed it was inappropriate to treat tribes in the same manner as states with respect to section 110(c) of the Act, which directs EPA to promulgate a FIP within two years after EPA finds a state has failed to submit a complete state plan or within two years after EPA disapproval of a state plan. EPA promulgated 40 CFR 49.11(a) to clarify that EPA will continue to be subject to the basic requirement to issue any necessary or appropriate FIP provisions for affected tribal areas within some reasonable time. See 63 FR 7264-7265.

<sup>1</sup>See 59 FR 43956 (August 25, 1994).