



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R09-OAR-2019-0344; FRL-10001-01-Region 9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Arizona; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state plan submitted by the State of Arizona. This state plan submittal pertains to the regulation of landfill gas and its components, including methane, from existing municipal solid waste (MSW) landfills. Arizona's state plan was submitted in response to the EPA's promulgation of Emissions Guidelines and Compliance Times for MSW landfills. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on **insert date 30 days after date of publication in the Federal Register**. The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register as of **insert date 30 days after publication in the Federal Register**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0344. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will

be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4152 or by email at buss.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On July 8, 2019 (84 FR 32363), the EPA proposed to approve a section 111(d) plan submitted by the Arizona Department of Environmental Quality (ADEQ) for existing municipal solid waste landfills. The submitted section 111(d) plan was in response to the August 29, 2016 promulgation of Federal NSPS and emission guidelines requirements for MSW landfills, 40 CFR part 60, subparts XXX and Cf, respectively (81 FR 59332 and 81 FR 59276). Included within the section 111(d) plan are regulations under the Arizona Administrative Code (A.A.C.), specifically at A.A.C. R18-2-731 entitled, “Standards of Performance for Existing Municipal Solid Waste Landfills,” and A.A.C. R18-2-901(79), entitled “Standards of Performance for New Stationary Sources,” effective July 6, 2018. A detailed explanation of the rationale behind this proposed

approval is available in the Technical Support Document (TSD).

We proposed to approve this plan because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the plan and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving the plan submitted by the ADEQ.

IV. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, EPA is finalizing regulatory text that includes the incorporation by reference of A.A.C. R18-2-731, entitled "Standards of Performance for Existing Municipal Solid Waste Landfills," and A.A.C. R18-2-901(80), entitled "Standards of Performance for New Stationary Sources," effective August 10, 2018, which is part of the CAA section 111(d) plan applicable to existing MSW landfills in Arizona as discussed in section I of this preamble. These regulatory provisions in the section 111(d) plan establish emission standards and compliance times for the control of methane and other organic compounds from certain existing MSW landfills located in Arizona that commenced construction, modification, or reconstruction on or before July 17, 2014. These provisions set forth requirements meeting criteria promulgated by EPA at 40 CFR part 60, subpart Cf. EPA has made, and will continue to make, the entire Arizona plan, generally available through www.regulations.gov, Docket No. EPA-R03-OAR-2019-0344, and at the EPA Region IX Office

(please contact the person identified in the “For Further Information Contact” section of this preamble for more information). This incorporation by reference has been approved by the Office of the Federal Register and the plan is federally enforceable under the CAA as of the effective date of this final rulemaking.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve section 111(d) state plan submissions that comply with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d) state plan submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Act and implementing regulations. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the CAA section 111(d) Plans are not approved to apply in Indian country, as defined at 18 U.S.C. 1151, located in the state. As such, this rule does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), and it will not impose substantial direct costs on tribal governments or preempt tribal law.

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. EPA will submit a report containing this action 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 action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental relations, Landfills, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Note: The EPA fully approved Arizona’s state plan on August 30, 2019, when the EPA signed an unpublished hard copy of a Notice of Final Rulemaking that is identical to this electronically signed notice. Arizona’s state plan will become effective on the date set forth herein.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR

part 62 as follows:

**PART 62 – APPROVAL AND PROMULGATION OF STATE PLANS FOR
DESIGNATED FACILITIES AND POLLUTANTS**

1. The authority citation for part 62 continues to read as follows:

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

Subpart D--Arizona

2. Section 62.600 is revised to read as follows:

§ 62.600 Identification of plan.

(a) The Arizona Department of Environmental Quality submitted on June 17, 1997, and June 29, 1999, the State of Arizona's Section 111(d) Plan for Existing Municipal Solid Waste Landfills.

(b) Control of landfill gas emissions from existing municipal solid waste landfills, submitted by the Arizona Department of Environmental Quality on July 24, 2018, to implement 40 CFR par 60, subpart Cf. The Plan includes the regulatory provisions cited in paragraph (d) of this section, which the EPA incorporates by reference.

(c) After **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the substantive requirements of the municipal solid waste landfills state plan are contained in paragraph (b) of this section and owners and operators of municipal solid waste landfills in Arizona must comply with the requirements in paragraph (b) of this section.

(d)(1) The material incorporated by reference in this section was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies at the EPA Region 9 office, 75 Hawthorne Street, San Francisco, California 94105, 415-

947-8000 or from the source listed in this paragraph (d). Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

(2) State of Arizona, Arizona Secretary of State, 1700 W Washington St Floor 7, Phoenix AZ 85007.

(i) Title 18 Arizona Administrative Code, Title 2. Department of Environmental Quality – Air Pollution Control:

(A) Article 7. Existing Stationary Source Performance Standards R18-2-731 Standards of Performance for Existing Municipal Solid Waste Landfills, effective August 10, 2018.

(B) Article 9. New Source Performance Standards R18-2-901 Standards of Performance for New Stationary Sources, paragraph (80), effective August 10, 2018.

(ii) [Reserved]

3. Section 62.601 is revised to read as follows:

§ 62.601 Identification of sources.

(a) The plan applies to all existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, as described in 40 CFR part 60, subpart Cc.

(b) The plan in § 62.600(b) applies to all existing municipal solid waste landfills under the jurisdiction of the Arizona Department of Environmental Quality for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

4. Section 62.602 is revised to read as follows:

§ 62.602 Effective date.

(a) The effective date of EPA approval of the plan is November 19, 1999.

(b) The effective date of the plan submitted on July 24, 2018, by the Arizona Department of Environmental Quality for municipal solid waste landfills is **insert date 30 days after date of publication in the Federal Register**.

[FR Doc. 2020-15499 Filed: 7/27/2020 8:45 am; Publication Date: 7/28/2020]