



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R10-OAR-2020-0074; FRL-10011-40-Region 10]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Oregon Department of Environmental Quality; 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 Oregon Department of Environmental Quality (ODEQ). This state plan submittal pertains to the regulation of nonmethane organic compounds from existing municipal solid waste (MSW) landfills. This 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 plan will be 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 DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2020-0074. 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: Geoffrey Glass (he/him), at (206) 553-1847 or by email at glass.geoffrey@epa.gov.

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

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I. Proposed Action

On March 13, 2020 (85 FR 14621), the EPA proposed to approve a section 111(d) plan submitted by the ODEQ for existing municipal solid waste landfills. The submitted section 111(d) plan was in response to the August 29, 2016 promulgation of federal New Source Performance Standards 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 Oregon Administrative Rules at Chapter 340, Division 236 (OAR 340-236-0500) entitled “Solid Waste Landfills: Emission Standards for Municipal Solid Waste Landfills,” amended on July 19, 2019.

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, the EPA is approving the plan submitted by the ODEQ.

IV. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing regulatory text that includes the incorporation by reference of OAR 340-236-0500 entitled "Solid Waste Landfills: Emission Standards for Municipal Solid Waste Landfills" amended on July 19, 2019, which is part of the CAA section 111(d) plan applicable to existing MSW landfills in the state of Oregon 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 nonmethane organic compounds from certain existing MSW landfills located in Oregon that commenced construction, modification, or reconstruction on or before July 17, 2014. These provisions set forth requirements meeting criteria promulgated by the EPA at 40 CFR part 60, subpart Cf. The EPA has made, and will continue to make, the entire Oregon state plan, generally available through www.regulations.gov, Docket No. EPA-R10-OAR-2020-0074, and through the EPA Region 10 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

In reviewing state plan submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 proposed 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 (Public Law 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, this approval of the ODEQ plan submittal for existing MSW landfills does not apply in Indian Country. Therefore, the state plan does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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, Landfills, Incorporation by reference, Intergovernmental relations, Methane, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 1, 2020.

Christopher Hladick,
Regional Administrator,
Region 10.

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 MM--Oregon

2. Revise § 62.9350(b)(5) to read as follows:

§ 62.9350 Identification of plan.

* * * * *

(b) * * *

(5) Control of emissions from existing municipal solid waste landfills was submitted by Oregon Department of Environmental Quality on August 2, 2019, amending a plan previously submitted on May 14, 1997 and approved by the EPA on June 26, 1998.

3. Revise § 62.9510 to read as follows:

§ 62.9510 Identification of plan.

(a) The plan for the control of emissions from existing municipal solid waste landfills, submitted by the Oregon Department of Environmental Quality on May 14, 1997, to implement the emission guideline of 40 CFR part 60, subpart Cc, applies to all existing MSW landfill facilities in Oregon meeting the requirements as stated in their State regulations.

(b) The plan for the control of emissions from existing municipal solid waste landfills, submitted by the Oregon Department of Environmental Quality on August 2, 2019, to implement

the emission guideline of 40 CFR part 60, subpart Cf, applies to all existing MSW landfill facilities in Oregon for which construction, reconstruction, or modification was commenced on or before July 17, 2014. The plan includes the regulatory provisions cited in paragraph (d)(2) 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 Oregon 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 from the EPA Docket Center—Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004 or U.S. EPA, Region 10 office by calling 206-553-1200. The telephone number for the Public Reading Room is (202) 566-1744. You may inspect the material 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 Oregon, Secretary of State, Oregon Administrative Rules, <https://secure.sos.state.or.us/oard/processLogin.action>;

(i) OAR 340-236-0500: Oregon Administrative Rules; Chapter 340, Oregon Department of Environmental Quality; Division 236, Emission Standards for Specific Industries; Rule 0500, Solid Waste Landfills: Emission Standards for Municipal Solid Waste Landfills, effective July 19, 2019.

(ii) [Reserved]

4. Add § 62.9511 to read as follows:

§ 62.9511 Identification of sources.

The plan in § 62.9510(b) applies to all existing municipal solid waste landfills in the state of Oregon, excluding Indian Country, for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

5. Add § 62.9512 to read as follows:

§ 62.9512 Effective date.

The effective date of the plan submitted on August 2, 2019 by the Oregon Department of Environmental Quality for municipal solid waste landfills is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

[FR Doc. 2020-19886 Filed: 10/7/2020 8:45 am; Publication Date: 10/8/2020]