



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

**[EPA-R05-OAR-2023-0283; FRL-11127-02-R5]**

**Air Plan Approval; Indiana; Municipal Solid Waste Landfill State  
Plan Approval for Designated Facilities and Pollutants**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving Indiana's state plan to control air pollutants from Municipal Solid Waste (MSW) Landfills. The Indiana Department of Environmental Management (IDEM) submitted the state plan on March 20, 2023. The Indiana MSW landfill state plan was submitted to fulfill the state's obligations under section 111(d) of the Clean Air Act (CAA) to implement and enforce the requirements under the MSW Landfills Emission Guidelines (EG). EPA is approving the state plan.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2023-0283. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., 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 either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Melissa Hulting, Clean Air Strategies Section Supervisor, at (312) 886-2265 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Margaret Sieffert, Clean Air Strategies Section, Air Toxics Branch (AT-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-1151, *sieffert.margaret@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **I. Background**

IDEM initially submitted a MSW landfill state plan on September 30, 1999. EPA approved the state plan, and it became effective on May 30, 2000 (65 FR 1632). In order to fulfill obligations under CAA section 111(d) to submit a revised state plan to reflect amendments to the MSW landfill EG at 40 CFR part 60, subpart Cf. IDEM submitted a revised MSW landfill state plan on March 20, 2023, 326 Indiana Administrative Code (IAC) 8-8.2. In this regulation, IDEM incorporated by reference the Federal plan located at 40 CFR part 62, subpart 000 to use as the

underlying rule which implements and enforces the applicable provisions under the MSW landfill EG.

On July 19, 2023, EPA published a proposed approval of Indiana's MSW landfill state plan (88 FR 46123). The specific details of Indiana's 111(d) state plan submittal and the rationale for EPA's proposed approval are discussed in the proposal and technical support document and will not be restated here.

## **II. Response to Public Comments**

EPA provided a 30-day review and comment period for the July 19, 2023, proposed rule. The comment period ended on August 18, 2023. We received one adverse comment. The comment is summarized and addressed below.

*Comment:* The commenter states that it is hard to determine what steps the state is planning to take. The commentor also asserts that the specifics of the plan need to be discussed in more detail explaining the potential environmental impacts or benefits of the implementation, and that the proposal does not explain what will be expected with this approval.

*Response:* After EGs are promulgated, EPA or the state and local regulatory agencies need a Federal plan promulgated under 40 CFR part 62, or a state plan approved under 40 CFR part 62 to implement and enforce the requirements. Under CAA section 111, EPA is authorized to transfer primary implementation and enforcement authority for most of the Federal standards to state or local regulatory agencies upon submittal of a state plan.

There are two methods for transferring implementation and enforcement authorities to state or local agencies: (1) EPA approval of a state plan; and (2) a Memorandum of Agreement between EPA and the state which delegates the authority to implement and enforce certain portions of the Federal plan. Both actions are approved in the *Federal Register* and codified into 40 CFR Part 62.

Currently, the Federal plan located at 40 CFR part 62, subpart 000 applies to all MSW landfills in Indiana that meet the applicability requirements. Indiana is seeking implementation and enforcement authority through this CAA section 111(d) state plan submittal. No additional environmental impacts or benefits will be expected beyond those previously described in the Regulatory Impact Analysis for the EG which can be found in Docket ID EPA-HQ-OAR-2014-0451. The docket can be found on the [www.regulations.gov](http://www.regulations.gov) web site. Upon approval of this delegation, Indiana becomes the primary implementation and enforcement authority for the rule, excluding those authorities specifically retained by EPA.

### **III. Final Action**

EPA is approving Indiana's MSW landfill state plan and amending 40 CFR part 62 to reflect this approval. EPA received Indiana's MSW landfill state plan on March 20, 2023. In this action, EPA is finalizing its approval. EPA is also revising 40 CFR part 63.3630, 62.3631, and 62.3632 to reflect these changes.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a CAA section 111(d) submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subparts A and 000. Thus, in reviewing CAA section 111(d) state plan submissions, 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 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) 14094 (88 FR 21879, April 11, 2023);
- 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, as 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); and
- 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.

In addition, the CAA 111(d) state plan is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national

origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

EPA believes that this action is not likely to change existing disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. This action approves IDEM’s rule to implement and enforce EPA’s MSW landfill Federal plan that has been in effect for MSW landfills since June 21, 2021. EPA previously conducted an EJ analysis as part of the revised MSW landfill regulations, and determined that the MSW Federal plan increased the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. To the extent that any minority, low income, or Indigenous subpopulation is disproportionately impacted by landfill gas emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions under the Federal plan. The results of the demographic analysis are presented in

the EJ Screening Report for Municipal Solid Waste Landfills, July 2016, a copy of which is available in the 2016 MSW Landfills EG Docket (Docket ID Item No. EPA-HQ-OAR-2014-0451-0223).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, 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,  
Intergovernmental relations, Reporting and recordkeeping  
requirements, Waste treatment and disposal.

Dated: November 21, 2023.

**Debra Shore,**  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, title 40 CFR part 62 is amended 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 P - Indiana**

2. Amend §§ 62.3630, 62.3631, and 62.3632 to read as follows:

\* \* \* \* \*

**§ 62.3630 Identification of plan.**

On March 20, 2023, Indiana submitted a revised CAA section 111(d) state plan for implementing the revised emission guidelines for Municipal Solid Waste (MSW) Landfills. The enforceable mechanism for this state plan is a state rule codified in 326 Indiana Administrative Code (IAC) 8-8.2. The rule was adopted on September 14, 2022, and became effective on March 10, 2023.

**§ 62.3631 Identification of sources.**

The Indiana CAA section 111(d) state plan for existing MSW landfills applies to all MSW landfills for which commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014.

**§ 62.3632 Effective Date.**

The Federal effective date of the Indiana CAA Section 111(d) state plan for existing MSW landfills is **[INSERT DATE 30**

**DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] .**

[FR Doc. 2023-26490 Filed: 12/6/2023 8:45 am; Publication Date: 12/7/2023]