BILLING CODE: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R08-OAR-2014-0811; FRL-9923-24-Region 8]

Promulgation of State Air Quality Implementation Plans for Designated Facilities and Pollutants: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming; Negative Declarations; Control of Emissions from Existing Sewage Sludge Incineration Units

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action publishing negative declarations for sewage sludge incineration (SSI) units for: the State of Colorado, the State of Montana, the State of North Dakota, the State of South Dakota, the State of Utah, and the State of Wyoming. Each state notified EPA in its negative declaration letter that there are no SSI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) within the jurisdictional boundaries of their state. EPA is accepting the negative declarations in accordance with the requirements of the CAA.

DATES: This rule is effective on [Insert date 60 days after date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days after date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. **EPA-R08-OAR-2014-**

0811, by one of the following methods:

- http://www.regulations.gov. Follow the on-line instructions for submitting comments.
- Email: morrison.kendra@epa.gov
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you are faxing comments).
- Mail: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2014-0811. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through http://www.regulations.gov or email. The http://www.regulations.gov web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through http://www.regulations.gov your email address will be

automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, see Section I, General Information of this document.

Docket: All documents in the docket are listed in the http://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in http://www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kendra Morrison, Air Program, 1595 Wynkoop Street, Denver, Colorado 80202-1129, 303-312-6145, morrison.kendra@epa.gov.

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Definitions

For the purpose of this document, we are giving meaning to certain words and initials as follows:

(i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials EG mean emission guidelines.

(iii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.

(iv) The initials NSPS mean new source performance standards.

(v) The initials SSI mean sewage sludge incineration.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through http://regulations.gov or

email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).

b. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background

EPA's statutory authority for the regulation of new and existing solid waste incineration units is outlined in CAA sections 111 and 129. Section 129 of the CAA is specific to solid waste combustion, and requires EPA to establish performance standards for each category of solid waste incineration units. Section 111 of the Act gives EPA the statutory authority to promulgate new source performance standards (NSPS), applicable to new units, and/or emission guidelines (EG) for existing units. EG are implemented and enforced through either an EPA-approved state plan or a promulgated federal plan. If a state does not have any existing solid waste incineration units for the relevant EG, the state shall submit a letter to EPA certifying that no such units exist within the state (i.e., negative declaration) in lieu of a state plan.

A SSI unit is a solid waste incinerator located at a wastewater treatment facility designed to treat domestic sewage sludge. On March 21, 2011 (76 FR 15372), EPA promulgated (40 CFR Part 60) NSPS for new SSI units (subpart LLLL) and EG for existing SSI units (subpart MMMM). Existing SSI units are units that commenced construction on or before October 14, 2010. The State of Colorado, the State of Montana, the State of North Dakota, the State of South Dakota, the State of Utah, and the State of Wyoming each determined, through negative declarations, that there are no existing SSI units subject to CAA sections 111 and 129 within the jurisdictional boundaries of their state.

A. Colorado

Colorado Department of Public Health and Environment submitted a negative declaration on April 3, 2013, certifying the Air Pollution Control Division identified no SSI units affected

by the EG.

B. Montana

Montana Department of Environmental Quality submitted a negative declaration on December 10, 2013, certifying no SSI units covered under 40 CFR 60, subpart MMMM.

C. North Dakota

North Dakota Department of Health submitted a negative declaration on November 27, 2012, certifying no SSI units covered under 40 CFR 60, subpart MMMM.

D. South Dakota

South Dakota Department of Environment and Natural Resources submitted a negative declaration on November 21, 2012, certifying no SSI units subject to 40 CFR 60, subpart MMMM.

E. Utah

Utah Department of Environmental Quality submitted a negative declaration on December 23, 2013, certifying no existing SSI units.

F. Wyoming

Wyoming Department of Environmental Quality submitted a negative declaration dated February 28, 2013, certifying no SSI units operating within the state.

Under subpart MMMM, Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units, EPA has no formal review process for negative declaration letters (40 CFR 60.5030).

III. Final Action

EPA is publishing the negative declarations for existing SSI units for the State of

Colorado, the State of Montana, the State of North Dakota, the State of South Dakota, the State of Utah, and the State of Wyoming. The negative declarations satisfy the requirements of 40 CFR 62.06 and will serve in lieu of CAA section 111(d)/129 state plans for the specified states and source category.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to publish the negative declarations should relevant adverse comments be filed. This rule will be effective [Insert date 60 days after date of publication in the Federal Register] without further notice unless the Agency receives relevant adverse comments by [Insert date 30 days after date of publication in the Federal Register.]

If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Orders Review

This final action merely publishes some state negative declarations 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 Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 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 USC 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);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 USC 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 rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have a substantial direct effect on one or more Indian tribes, and EPA notes that 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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document 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 CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Solid waste incineration, Sewage sludge incineration.

Dated: January 30, 2015.

Debra H. Thomas
Acting Regional Administrator
Region 8

40 CFR part 62 is amended to read 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 G - Colorado

2. Subpart G is amended by adding an undesignated center heading and § 62.1390 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.1390 Identification of plan—negative declaration.

Letter from Colorado Department of Public Health & Environment submitted to EPA on April 3, 2013, certifying that there are no known existing sewage sludge incineration units in the State of Colorado.

Subpart BB – Montana

3. Subpart BB is amended by adding an undesignated center heading and § 62.6640 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.6640 Identification of plan—negative declaration.

Letter from Montana Department of Environmental Quality submitted to EPA on December 10, 2013, certifying that there are no known existing sewage sludge incineration units in the State of Montana.

Subpart JJ - North Dakota

4. Subpart JJ is amended by adding an undesignated center heading and § 62.8640 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.8640 Identification of plan—negative declaration.

Letter from North Dakota Department of Health submitted to EPA on November 27, 2012, certifying that there are no known existing sewage sludge incineration units in the State of North Dakota.

Subpart QQ – South Dakota

5. Subpart QQ is amended by adding an undesignated center heading and § 62.10390 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.10390 Identification of plan—negative declaration.

Letter from South Dakota Department of Environmental Quality submitted to EPA on November 21, 2012, certifying that there are no known existing sewage sludge incineration units in the State of South Dakota.

Subpart TT – Utah

6. Subpart TT is amended by adding an undesignated center heading and § 62.11150 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.11150 Identification of plan – negative declaration.

Letter from Utah Department of Environmental Quality submitted to EPA on December

23, 2013, certifying that there are no known existing sewage sludge incineration units in the State of Utah.

Subpart ZZ – Wyoming

7. Subpart ZZ is amended by adding an undesignated center heading and § 62.12640 to read as follows:

EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATION UNITS

§ 62.12640 Identification of plan – negative declaration.

Letter from Wyoming Department of Environmental Quality submitted to EPA and dated February 28, 2013, certifying that there are no known existing sewage sludge incineration units in the State of Wyoming.

[FR Doc. 2015-03922 Filed 02/26/2015 at 8:45 am; Publication Date: 02/27/2015]