

### III. Proposed Action

In this action, the EPA is proposing to approve the revisions to the ARSD submitted by the State of South Dakota on January 3, 2020, specifically the additions of 74:36:01(74) and 74:36:01(75) in the definitions section of the ARSD.<sup>1</sup> The subsections of the ARSD definitions section we are proposing to approve, 74:36:01(74) and 74:36:01(75), contain the definitions of 'closed landfill' and 'closed landfill subcategory' respectively. In this action, we are proposing to approve the addition of the abovementioned subsections to the definitions section of the ARSD. Additional revisions and additions to the ARSD, related to content including 'closed landfill' and 'closed landfill subcategory' have been proposed for approval in a separate document [(85 FR 68538) Approval and Promulgation of State Plans for Designated Facilities and Pollutants; South Dakota; Control of Emissions From Existing Municipal Solid Waste Landfills].

In the table below, the key is as follows:

- A—Approve.  
D—Disapprove.

TABLE 1—ARSD ADDITIONS THAT THE EPA IS PROPOSING TO ACT ON

Additions the Administrative Rules of South Dakota (ARSD)	
74:36:01(74) .....	A
74:36:01(75) .....	A

### IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference South Dakota's January 3, 2020 submission of the ARSD of the State of South Dakota as described in the Proposed Action section of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the persons identified in the **FOR FURTHER**

**INFORMATION CONTACT** section of this preamble for more information).

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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 SIP approvals are exempted 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, as 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 SIP 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 proposed 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).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 3, 2021.

**Debra Thomas,**

*Acting Regional Administrator, Region 8.*  
[FR Doc. 2021–02680 Filed 2–23–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R06–OAR–2021–0059; FRL–10020–27–Region 6]

### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Louisiana; Control of Emissions From Existing Other Solid Waste Incineration Units

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is notifying the public that we have received a CAA section 111(d)/129 negative declaration from Louisiana for existing incinerators subject to the Other Solid Waste Incineration units (OSWI) Emission Guidelines (EG). This negative declaration certifies that existing incinerators subject to the OSWI EG and the requirements of sections 111(d) and 129 of the CAA do not exist within Louisiana. The EPA is proposing to accept the negative declaration and amend the agency regulations in accordance with the requirements of the CAA.

**DATES:** Written comments must be received on or before March 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0059, at <https://www.regulations.gov> or via email to

<sup>1</sup> The additional revisions and additions to the ARSD as they relate to the SIP referenced in the January 3, 2020 ARSD rule revision submission by the State of South Dakota were approved in a prior rule: Air Quality State Implementation Plans; Approval and Promulgation of Implementation Plans; South Dakota; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Revisions to Administrative Rules (85 FR 67653).

[ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact Karolina Ruan Lei, (214) 665–7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov). While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

**FOR FURTHER INFORMATION CONTACT:** Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division—State Planning and Implementation Branch, 1201 Elm Street, Suite 500, Dallas, TX 75270, (214) 665–7346, [ruan-lei.karolina@epa.gov](mailto:ruan-lei.karolina@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

## I. Background

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of

performance have been established under section 111(b) for new sources of the same type, and the EPA has established emission guidelines for such existing sources. CAA section 129 directs the EPA to establish standards of performance for new sources (NSPS) and emissions guidelines (EG) for existing sources for each category of solid waste incineration unit. Under CAA section 129, NSPS and EG must contain numerical emissions limitations for particulate matter, opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. While NSPS are directly applicable to affected facilities, EG for existing units are intended for states to use to develop a state plan to submit to the EPA. Once approved by the EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a federal plan.

The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans for controlling designated pollutants. Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which EPA will approve or disapprove such plans submitted by a state. When an affected facility is located in a state, the state must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require the submittal of a CAA section 111(d)/129 plan.

EPA promulgated the OSWI NSPS and EG on December 16, 2005, codified at 40 CFR part 60, subparts EEEE and FFFF, respectively (70 FR 74870). Thus, states were required to submit plans for incinerators subject to the OSWI EG pursuant to sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. The designated facilities to which the OSWI EG apply are existing incinerators<sup>1</sup> subject to the OSWI EG that commenced construction on or before December 9, 2004, and were not

modified or reconstructed on or after June 16, 2006, as specified in 40 CFR 60.2991 and 60.2992, with limited exceptions as provided under 40 CFR 60.2993. The EPA proposed revisions to the OSWI EG and NSPS on August 31, 2020 (85 FR 54178). When the EPA finalizes the revisions to the OSWI EG,<sup>2</sup> each state (and air quality control jurisdiction) will need to submit a negative declaration or plan, as applicable, for those sources subject to the requirements of the revised OSWI EG.

The Louisiana Department of Environmental Quality (LDEQ) determined that there are no sources subject to the OSWI EG in its individual air pollution control jurisdiction in Louisiana. In order to fulfill its obligations under CAA sections 111(d) and 129, LDEQ submitted a negative declaration certifying that incinerators subject to the OSWI EG and the requirements of sections 111(d) and 129 of the CAA do not exist within its jurisdiction. LDEQ submitted its OSWI negative declaration letter to the EPA on November 24, 2020.<sup>3</sup> A copy of the negative declaration letter can be found in the docket for this rulemaking. EPA is notifying the public that the negative declaration fulfills LDEQ’s obligations under CAA sections 111(d) and 129. The submittal of this negative declaration exempts Louisiana from the requirement to submit a state plan for incinerators subject to the OSWI EG under 40 CFR part 60, subpart FFFF.

## II. Proposed Action

The EPA is proposing to amend 40 CFR part 62, subpart T, to reflect receipt of the negative declaration letter from LDEQ, submitted on November 24, 2020, certifying that there are no existing incinerators subject to the OSWI EG at 40 CFR part 60, subpart FFFF, in Louisiana in accordance with 40 CFR 60.2982, 40 CFR 60.23(b), 40 CFR 62.06, and sections 111(d) and 129 of the CAA.

## III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a CAA section 111(d)/129 submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and FFFF; and 40 CFR part 62, subpart A. With regard to

<sup>1</sup> These incinerators include both OSWI and air curtain incinerators (ACI). These ACI that are subject to the OSWI EG at 40 CFR part 60, subpart FFFF, are those ACI that may not fit the definition of an “OSWI” under the OSWI EG as they burn certain types of wastes. See 40 CFR 60.2994(b) and 40 CFR 60.3078.

<sup>2</sup> The court ordered deadline to promulgate the final OSWI review is May 31, 2021. *Sierra Club v. Wheeler*, 330 F. Supp. 3d 407. (D.D.C. 2018).

<sup>3</sup> The Louisiana negative declaration letter for incinerators subject to the OSWI EG does not cover sources located in Indian country.

negative declarations for designated facilities received by the EPA from states, the EPA's role is to notify the public of the receipt of such negative declarations and revise 40 CFR part 62 accordingly. 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);
- 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 (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 the 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).

This proposed rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: February 11, 2021.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2021-03196 Filed 2-23-21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[EPA-R08-OAR-2020-0722; FRL-10019-26-Region 8]

### Proposed Full Approval of Revised Clean Air Act Operating Permit Program; North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the "Agency") is proposing full approval of the revised and recodified North Dakota operating permit program for stationary sources subject to title V of the Clean Air Act (CAA or the "Act"). On August 6, 2018, North Dakota submitted a request for approval of its revisions to the North Dakota operating permit program (the "title V program") for stationary sources subject to title V of the CAA and recodification of the State's title V program under a new title of the North Dakota Administrative Code (NDAC). The EPA determined that the revised and recodified program substantially met the requirements of title V of the Act and Code of Federal Regulations (CFR) but was not fully approvable because the State law provisions for judicial review were not consistent with program requirements found in the CFR. Thus, EPA issued an interim approval of North Dakota's title V program. North Dakota has made the changes required for full program approval. Accordingly, the EPA is proposing this action in accordance with the CAA and CFR title V program approval requirements.

**DATES:** Written comments must be received on or before March 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2020-0722, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](https://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 electronically in [www.regulations.gov](https://www.regulations.gov). To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

#### FOR FURTHER INFORMATION CONTACT:

Gregory Lohrke, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6396, [lohrke.gregory@epa.gov](mailto:lohrke.gregory@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" means the EPA.

**Proposed Action:** In the "Rules and Regulations" section of this issue of the **Federal Register**, the EPA is publishing a direct final rule without prior proposal to amend 40 CFR part 70 to reflect the full final approval of the North Dakota title V program. The EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the action is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, EPA contemplates no further action. If the EPA receives adverse comments, EPA will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this 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. For additional information, see the direct final rule of