

not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 25, 2009.  
**Beverly H. Banister,**  
*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart (B)—Alabama**

■ 2. Section 52.50(e) is amended by adding a new entry at the end of the table for “Conformity SIP for Birmingham and Jackson County” to read as follows:

**§ 52.50 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*

**EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Conformity SIP for Birmingham and Jackson County.	Jefferson County, Shelby County, Jackson County.	12/12/2008	3/26/2009	[Insert citation of publication].

[FR Doc. E9-6647 Filed 3-25-09; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[EPA-R09-OAR-2008-0942; FRL-8781-2]

**Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Other Solid Waste Incinerator Units; Arizona; Pima County Department of Environmental Quality**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a negative declaration submitted by the Pima County Department of Environmental Quality. The negative declaration certifies that other solid waste incinerator units, subject to the requirements of sections 111(d) and 129 of the Clean Air Act, do not exist within the agency’s air pollution control jurisdiction.

**DATES:** This rule is effective on May 26, 2009 without further notice, unless EPA receives adverse comments by April 27, 2009. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2008-0942, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).  
 3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California.

While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials,

please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, EPA Region IX, (415) 947-4124, [wang.mae@epa.gov](mailto:wang.mae@epa.gov).

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

**Table of Contents**

- I. Background
- II. Final EPA Action
- III. Statutory and Executive Order Reviews

**I. Background**

Sections 111(d) and 129 of the Clean Air Act (CAA or the Act) 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 EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the CAA also requires EPA to promulgate EG for solid waste incineration units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity).

On December 16, 2005, (70 FR 74870), EPA promulgated new source performance standards and EG for other solid waste incineration (OSWI) units, located at 40 CFR part 60, subparts EEEE and FFFF, respectively. The designated facility to which the EG apply is each existing OSWI unit, as defined in subpart FFFF, that commenced construction on or before December 9, 2004.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of State plans for controlling designated pollutants. Also, 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are 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 for the submittal of a 111(d)/129 plan.

## II. Final EPA Action

The Pima County Department of Environmental Quality (PDEQ) has determined that there are no designated facilities subject to the OSWI unit EG requirements in its air pollution control jurisdiction. On April 14, 2008, PDEQ submitted to EPA a negative declaration letter certifying this fact. EPA is amending 40 CFR part 62, subpart D—Arizona, to reflect the receipt of this negative declaration letter.

After publication of this **Federal Register** notice, if an OSWI facility is later found within the PDEQ jurisdiction, then the overlooked facility will become subject to the requirements of the Federal OSWI 111(d)/129 plan, including the compliance schedule. The Federal plan would no longer apply if EPA were to subsequently receive and approve a 111(d)/129 plan from PDEQ.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects already existing Federal requirements for State air pollution control agencies under 40 CFR parts 60 and 62. In the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve PDEQ's negative declaration should relevant adverse or critical comments be filed.

This rule will be effective May 26, 2009 without further notice unless the Agency receives relevant adverse comments by April 27, 2009. If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a state plan submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7429(b)(2); 40 CFR 62.02(a). Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Order 12866 (58 FR 51735, October 4, 1993);

- 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 Clean Air Act; 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 is not approved to apply in Indian country located in the state, 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).

## List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: February 18, 2009.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

■ Part 62, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 62—[AMENDED]

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

**Authority:** 42 U.S.C. 7401-7671q.

## Subpart D—Arizona

■ 2. Subpart D is amended by adding an undesignated center heading and § 62.660 to read as follows:

## Emissions From Existing Other Solid Waste Incineration Units

### § 62.660 Identification of plan—negative declaration.

Letter from the Pima County Department of Environmental Quality, submitted on April 14, 2008, certifying that there are no existing other solid waste incineration units in its jurisdiction subject to 40 CFR part 60, subpart FFFF, of this chapter.

[FR Doc. E9-6641 Filed 3-25-09; 8:45 am]

#### BILLING CODE

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 72, 73, 74, 77, and 78

[EPA-HQ-OAR-2008-0774; FRL-8786-8]

RIN 2060-AP35

### Rulemaking To Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because EPA received an adverse comment, EPA is withdrawing the direct final rule for “Rulemaking to Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules,” which was published in the **Federal Register** on December 15, 2008.

**DATES:** Effective March 26, 2009, EPA withdraws the direct final rule published at 73 FR 75954 on December 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Dwight C. Alpern, Clean Air Markets Division, U.S. Environmental Protection Agency, Clean Air Markets Division, Mailcode: 6204J, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 343-9151, e-mail at [alpern.dwight@epa.gov](mailto:alpern.dwight@epa.gov).

**SUPPLEMENTARY INFORMATION:** Because EPA received an adverse comment, EPA is withdrawing the direct final rule for “Rulemaking to Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules,” which was published on December 15, 2008 (73 FR 75954).

EPA stated in that direct final rule that if EPA received adverse comment by January 29, 2009, the direct final rule would not take effect and EPA would publish a timely withdrawal of the direct final rule in the **Federal Register**. EPA subsequently received an adverse comment on the direct final rule.

Because EPA received an adverse comment, EPA is withdrawing the direct final rule for “Rulemaking to Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules.” As stated in the parallel proposed rule (73 FR 75983) published on the same day as the direct final rule, EPA will not institute a second comment period in this proceeding concerning the Acid Rain Program rule revisions addressed in the direct final and parallel proposed rules. EPA will address the adverse comment on the direct final rule in a subsequent final rule based on the parallel proposed rule.

The revisions of the Acid Rain Program rules whose promulgation EPA proposed to reaffirm in the parallel proposed rule were described in detail, along with EPA’s reasons for such reaffirmation, in the interim final rule (73 FR 75959) that was published on the same day as the direct final and that reaffirmed—on an interim basis pending final action in this proceeding—the promulgation of the Acid Rain Program rule revisions. EPA notes that it is not withdrawing the interim final rule.

### List of Subjects in 40 CFR Parts 72, 73, 74, 77, and 78

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Electric utilities, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 19, 2009.

**Elizabeth Craig,**

*Acting Assistant Administrator.*

■ Accordingly, the direct final rule published in the **Federal Register** on December 15, 2008 (73 FR 75954) is withdrawn as of March 26, 2009.

[FR Doc. E9-6764 Filed 3-25-09; 8:45 am]

#### BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 370

[EPA-HQ-SFUND-1998-0002; FRL 8785-3]

RIN 2050-AE17

### Hazardous Chemical Reporting; Tier II Inventory Information

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

**ACTION:** Final rule.

**SUMMARY:** EPA issued a final rule in the **Federal Register** on November 3, 2008, amending the Emergency Planning and Emergency Release Notification and

Hazardous Chemical Reporting regulations, as well as re-writing the regulations in a plain language format. This document is being issued to correct a technical error to the regulatory text in Hazardous Chemical Reporting, specifically in the Tier II inventory information section.

**DATES:** This final rule is effective March 26, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-SFUND-1998-0002. All documents in the docket are listed on the <http://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 either electronically through <http://www.regulations.gov> or in hard copy at the Superfund Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-0276.

**FOR FURTHER INFORMATION CONTACT:** Sicy Jacob, Office of Emergency Management (OEM), Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20004; *telephone number:* (202) 564-8019; *fax number:* (202) 564-2620; *e-mail address:* [jacob.sicy@epa.gov](mailto:jacob.sicy@epa.gov). Also contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at (800) 424-9346 or (703) 412-9810 (in the Washington, DC metropolitan area). The Telecommunications Device for the Deaf (TDD) number is (800) 553-7672 or (703) 412-3323 (in the Washington, DC metropolitan area). You may wish to visit the OEM Internet site at <http://www.epa.gov/emergencies>.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this Action Apply to Me?

The Agency included in the November 3, 2008 final rule who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.