

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart BB—Montana**

■ 2. Section 52.1370(e), under “(4) Lewis and Clark County,” is amended by adding the entry “East Helena 1971 SO<sub>2</sub> Maintenance Plan” after the entry “Sulfur Dioxide NAAQS—Plan

Summary, Plan Summary, East Helena Sulfur Dioxide (SO<sub>2</sub>) Attainment Plan” to read as follows:

**§ 52.1370 Identification of plan.**

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

Title/subject	State effective date	Notice of final rule date	NFR citation
*	*	*	*
(4) Lewis and Clark County			
East Helena 1971 SO <sub>2</sub> Maintenance Plan .....	*	9/11/2019	[Insert <b>Federal Register</b> citation].
*	*	*	*

■ 3. Section 52.1398 is amended by adding paragraphs (c) and (d) to read as follows:

**§ 52.1398 Control strategy: Sulfur dioxide.**

(c) *Redesignation to attainment.* The EPA has determined that the East Helena sulfur dioxide (SO<sub>2</sub>) nonattainment area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 1971 primary and secondary SO<sub>2</sub> NAAQS. The EPA is

therefore redesignating the East Helena 1971 SO<sub>2</sub> nonattainment area to attainment.

(d) *Maintenance plan.* The EPA is approving the maintenance plan for the East Helena nonattainment area for the 1971 SO<sub>2</sub> NAAQS submitted by the State of Montana on October 26, 2018.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 4. The authority citation for part 81 continues to read as follows:

**MONTANA—1971 SULFUR DIOXIDE NAAQS**  
[Primary and Secondary]

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

**Subpart C—Section 107 Attainment Status Designations**

■ 5. In § 81.327, the table entitled “Montana—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” is amended by revising the entry for “East Helena Area” to read as follows:

**§ 81.327 Montana.**

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
*	*	*	*	*
East Helena Area .....	*	*	*	X
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2019–19576 Filed 9–10–19; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[EPA–R06–OAR–2019–0306; FRL–9998–59–Region 6]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Mexico and Albuquerque-Bernalillo County; Municipal Solid Waste Landfills**

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the section 111(d) Plan submitted by the New Mexico Environment Department (NMED) on May 25, 2017, to regulate landfill gas and its components, including methane, from existing municipal solid waste (MSW) landfills. The Plan provides for the implementation and enforcement of the Emissions Guidelines (EG) for existing landfills in New Mexico, except Albuquerque-Bernalillo County. We are also approving revisions to the section 111(d) Plan submitted by the New

Mexico Environment Department (NMED) on behalf of the Albuquerque-Bernalillo County Air Quality Control Board on May 24, 2017, to implement and enforce the EG for existing MSW landfills in Albuquerque and Bernalillo County. The EG requires States to develop plans to reduce air emissions from all affected MSW landfills within their jurisdiction.

**DATES:** This rule is effective on October 11, 2019. The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register October 11, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2019-0306. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 <https://www.regulations.gov> or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Dallas, Texas 75270.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, EPA Region 6 Office, State Planning Implementation Branch, 1201 Elm Street, Dallas, TX 75270, 214-665-6691, [shar.alan@epa.gov](mailto:shar.alan@epa.gov). To inspect the hard copy materials, please schedule an appointment with Alan Shar at 214-665-6691.

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

## I. Background

The background for this action is discussed in detail in our June 21, 2019 (84 FR 29138) proposal. In that document, we proposed to approve revisions to the section 111(d) Plan submitted by the NMED on May 25, 2017, to regulate landfill gas and its components, including methane, from existing MSW landfills. We also proposed to approve revisions to the section 111(d) Plan for the Albuquerque-Bernalillo County (ABC) Air Quality Control Board submitted on May 24, 2017, to implement and enforce the EG for existing MSW landfills in Albuquerque and Bernalillo County. For more information, see the technical support document<sup>1</sup> prepared in

conjunction with the June 21, 2019 proposal.

We received one comment<sup>2</sup> on the proposal during the public comment period that closed on July 22, 2019.

## II. Response to Comments

*Comment:* The commenter supports our proposed approval action. The commenter also urges the EPA to fully comply with the remainder of the terms of the court’s order in California et al. v. EPA, 2019 WL 19995769 (N.D. Cal. 2019), with respect to other jurisdictions.

*Response:* The EPA appreciates the commenter’s support. The June 21, 2019 proposal concerned revisions to section 111(d) Plans for the State of New Mexico and Albuquerque-Bernalillo County only. The EPA Region 6 is responsible for rulemaking actions within its jurisdictional area. With this final action, the EPA Region 6 has met its obligations in the court’s order referenced by the commenter. Actions on Plans outside of the EPA Region 6’s geographical jurisdiction are beyond the scope of this particular rulemaking action.

This concludes our response to the comment received. No changes have been made to the proposal (84 FR 29138, June 21, 2019) as a result of this comment.

## III. Final Action

The EPA is finalizing revisions to the CAA section 111(d) Plan submitted by the NMED on May 25, 2017, to regulate landfill gas and its components, including methane, from existing MSW landfills in New Mexico, except for Albuquerque and Bernalillo County. We are also finalizing revisions to the CAA section 111(d) Plan submitted by the NMED on behalf of the Albuquerque-Bernalillo County Air Quality Control Board on May 24, 2017, for existing MSW landfills in Albuquerque and Bernalillo County. Both Plans implement and enforce the EG for existing MSW landfills. See 40 CFR part 60, subpart Cf. The scope of the approval of the section 111(d) Plans is limited to the provisions of 40 CFR parts 60 and 62 for existing MSW landfills, as referenced in the emission guidelines, 40 CFR part 60, subpart Cf.

## IV. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, we are finalizing regulatory text that includes the incorporation by reference of 20.2.64 NMAC (effective May 31, 2017) and

20.11.71 NMAC (effective May 13, 2017) which are part of the CAA section 111(d) Plans applicable to existing MSW landfills in New Mexico and Albuquerque-Bernalillo County, respectively. The regulatory provisions of 20.2.64 NMAC and 20.11.71 NMAC incorporate by reference the Emissions Guidelines (EG) for existing MSW landfills promulgated by the EPA at 40 CFR part 60, subpart Cf, and establish emission standards and compliance times for the control of methane and other organic compounds from certain MSW landfills that commenced construction, modification, or reconstruction on or before July 17, 2014. The emissions standards and compliance times of the two standards contain the same substantive requirements but apply to MSW landfills in different jurisdictions. The regulatory provisions of 20.2.64 NMAC apply to MSW landfills located in the State of New Mexico, except for MSW landfills located in Albuquerque and Bernalillo County, which are subject to the regulatory provisions of 20.11.71 NMAC. The EPA has made, and will continue to make, 20.2.64 NMAC and 20.11.71 NMAC (as well as the entire New Mexico and Albuquerque-Bernalillo County 111(d) Plans for MSW landfills) generally available electronically through [www.regulations.gov](https://www.regulations.gov), Docket No. EPA-R06-OAR-2019-0306 and in hard copy at the EPA Region 6 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 Plans are federally enforceable under the CAA as of the effective date of this final rulemaking.

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve section 111(d) state plan submissions that comply with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d) state plan submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Act and implementing regulations. 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:

<sup>1</sup> EPA Document ID No. EPA-R06-OAR-2019-0306-0002 available at [www.regulations.gov](https://www.regulations.gov).

<sup>2</sup> EPA Document ID No. EPA-R06-OAR-2019-0306-0005 available at [www.regulations.gov](https://www.regulations.gov).

- 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 (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 CAA section 111(d) Plans are not approved to apply in Indian country, as defined at 18 U.S.C. 1151, located in the state. As such, this rule does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), and 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 November 12, 2019. 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, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Methane, Municipal solid waste landfill, Reporting and recordkeeping requirements.

Dated: September 3, 2019.

**Kenley McQueen,**

*Regional Administrator, Region 6.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 62 as follows:

#### PART 62—[AMENDED]

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

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

#### Subpart GG—New Mexico

■ 2. Section 62.7855 is revised to read as follows:

##### § 62.7855 New Mexico Environment Department.

(a) *Identification of plan.* Section 111(d) plan for municipal solid waste landfills and the associated 20.2.64 NMAC, as submitted on May 25, 2017. The plan includes the regulatory provisions cited in paragraph (d) of this section, which EPA incorporates by reference.

(b) *Identification of sources.* The plan applies to all existing municipal solid waste landfills under the jurisdiction of the New Mexico Environment

Department for which construction, reconstruction, or modification was commenced on or before July 17, 2014, and are subject to the requirements of 40 CFR part 60, subpart Cf.

(c) *Effective date.* The effective date of the plan for municipal solid waste landfills is October 11, 2019.

(d) *Incorporation by reference.* (1) The material incorporated by reference in this section was approved by the Director of the Federal Register Office in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the material may be inspected or obtained from the EPA Region 6 office, 1201 Elm Street, Suite 500, Dallas, Texas 75270, 214–665–2200 or electronically through [www.regulations.gov](http://www.regulations.gov), Docket No. EPA–R6–OAR–2019–0306. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

(2) State of New Mexico, New Mexico Environment Department, New Mexico Administrative Code, <http://164.64.110.134/nmac/>.

(i) 20.2.64 NMAC, Chapter 20—Environmental Protection, Chapter 2—Air Quality (Statewide), Part 64—Municipal Solid Waste Landfills, New Mexico Administrative Code, effective May 31, 2017.

(ii) [Reserved]

■ 3. Section 62.7856 is revised to read as follows:

##### § 62.7856 Albuquerque-Bernalillo County Air Quality Control Board.

(a) *Identification of plan.* Section 111(d) plan for municipal solid waste landfills and the associated 20.11.71 NMAC, as submitted on May 24, 2017. The plan includes the regulatory provisions referenced in paragraph (d) of this section, which EPA incorporates by reference.

(b) *Identification of sources.* The plan applies to all existing municipal solid waste landfills under the jurisdiction of the Albuquerque-Bernalillo County Air Quality Control Board for which construction, reconstruction, or modification was commenced on or before July 17, 2014, and are subject to the requirements of 40 CFR part 60, subpart Cf.

(c) *Effective date.* The effective date of the plan for municipal solid waste landfills is October 11, 2019.

(d) *Incorporation by reference.* (1) The material incorporated by reference in this section was approved by the Director of the Federal Register Office in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the material may

be inspected or obtained from the EPA Region 6 office, 1201 Elm Street, Suite 500, Dallas, Texas 75270, 214-665-2200 or electronically through [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2019-0306. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

(2) State of New Mexico, Albuquerque-Bernalillo County Air Quality Control Board, New Mexico Administrative Code, <http://164.64.110.134/nmac/>.

(i) 20.11.71 NMAC, Title 20—Environmental Protection, Chapter 11—Albuquerque-Bernalillo-County Air Quality Control Board, Part 71—Municipal Solid Waste Landfills, New Mexico Administrative Code, effective May 13, 2017.

(ii) [Reserved]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 190905-0022]

RIN 0648-B168

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 6

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement management measures described in Framework Amendment 6 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagics (CMP) of the Gulf of Mexico (Gulf) and Atlantic Region (FMP), as prepared by the South Atlantic Fishery Management Council (Council). This final rule revises the Atlantic migratory group king mackerel commercial trip limits in the Atlantic southern zone during the March through September fishing season. The purpose of this final rule is to support increased fishing activity and economic opportunity while continuing to constrain harvest to the annual catch

limit and providing for year-round access for the commercial sector.

**DATES:** This final rule is effective September 11, 2019.

**ADDRESSES:** Electronic copies Framework Amendment 6 may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-amendment-6-atlantic-king-mackerel-commercial-trip-limits>.

**FOR FURTHER INFORMATION CONTACT:**

Karla Gore, NMFS Southeast Regional Office, telephone: 727-551-5753, or email: [karla.gore@noaa.gov](mailto:karla.gore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The CMP fishery in the Atlantic region is managed under the FMP and includes king mackerel, Spanish mackerel, and the Gulf cobia stock, which ranges from Texas through the east coast of Florida. The Council and the Gulf of Mexico Fishery Management Council (Gulf Council) jointly manage the FMP. The FMP was prepared by both Councils and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Council and Gulf Council can develop and approve individual framework amendments to the FMP for certain actions that are specific to each region; however, plan amendments must be approved by both Councils.

On March 26, 2019, NMFS published a proposed rule for Framework Amendment 6 and requested public comment (84 FR 11275). The proposed rule and Framework Amendment 6 outline the rationale for the action contained in this final rule. A summary of the management measure described in Framework Amendment 6 and implemented by this final rule is described below.

The Atlantic migratory group of king mackerel (Atlantic king mackerel) is divided into a northern zone and a southern zone. The fishing year for the commercial sector for Atlantic king mackerel in both the northern and southern zones is March 1 through the end of February. The current trip limit system for the Atlantic southern zone (the EEZ from the North Carolina/South Carolina boundary to the Miami-Dade/Monroe County, FL, boundary (25°20'24" N)) was implemented on May 11, 2017, through Amendment 26 to the FMP (68 FR 17387, April 11, 2017). The Atlantic southern zone has two commercial seasons, March 1 through September 30 (Season 1), and October 1 through the end of February (Season 2), each with its own seasonal quota allocations: 60 percent of the

zone's commercial quota is allocated for Season 1 and 40 percent is allocated for Season 2. Any unused quota from Season 1 transfers during the fishing year to Season 2. There is no provision to allow the carryover of any unused quota at the end of Season 2. When the quota for a season is reached or expected to be reached, commercial harvest of king mackerel in the Atlantic southern zone is prohibited for the remainder of the season.

In addition, the southern zone is further divided into two areas with different trip limits. This rule does not revise the current 3,500 lb (1,588 kg) year-round trip limit for Atlantic migratory group king mackerel north of the Flagler/Volusia County, FL, boundary in the southern zone. In the area between the Flagler/Volusia County, FL, boundary (29°25' N. lat.), and the Miami-Dade/Monroe County, FL, boundary (25°20'24" N. lat.), the trip limit is 50 fish during March in Season 1. From April 1 through September 30 during Season 1, the trip limit is 75 fish, unless NMFS determines that 75 percent or more of the Atlantic southern zone quota for the first season has been landed, then the trip limit is 50 fish.

Commercial fishermen from Florida's east coast, primarily those from south of Flagler/Volusia County, FL, expressed concern to the Council about the current commercial trip limits for king mackerel in some of the areas in the Atlantic southern zone, especially the Season 1 (March through September) trip limits in the EEZ off Volusia County, FL. Comments from stakeholders indicated that commercial fishermen operating out of Volusia County, FL, travel farther offshore than elsewhere off the east coast of Florida to target king mackerel and often complete multi-day commercial trips. Commercial fishermen who target king mackerel off Volusia County, FL, indicate that the 50-fish commercial trip limit during the month of March makes it challenging to earn enough money to pay for the cost of a trip, potentially causing undue hardship. At their April 2017 meeting, the Council's Mackerel Cobia Advisory Panel recommended that the Council review the commercial trip limits in place for the Atlantic southern zone and consider a different trip limit that would support the concerns of the commercial fishermen operating out of Volusia County, FL, while still allowing year-round access to king mackerel by the commercial sector. The Council then developed, and subsequently approved, Framework Amendment 6 to the FMP. Framework Amendment 6 would revise some of the commercial trip limits for Season 1 (March 1 through September