

Given that most area source landfills subject to the final rule are already subject to the requirements of title V, it is important to note the following. In cases where the owner/operator of a landfill has submitted a timely and complete title V application⁴, but the draft title V permit has not yet been released by the permitting authority, the owner/operator must supplement his title V application⁵ by incorporating the applicable requirements of the final landfills NESHAP in accordance with 40 CFR 70.5(b) or 71.5(b). Additionally, if a landfill is a major source, or is a part of a major source, and is covered by a title V permit with a remaining permit term of 3 or more years on the promulgation date of the landfills NESHAP, the title V permitting authority must complete a reopening of the source's title V permit to incorporate the requirements of the final rule within 18 months of the promulgation date of the final rule. See CAA section 502(b)(9) and 40 CFR 70.7(f)(1)(i) and 71.7(f)(1)(i).

Comment: Two commenters recommended that we clarify that deviations that are properly addressed in accordance with the SSM plan under the proposed rule will not become violations under any CAA program or permit, such as a title V permit, in which the standard, limitation, prohibition, or other Federally-enforceable requirement is contained. The commenters stated that the proposed rule suggested that any deviations that occur during SSM would not be violations under section 112 if the SSM plan were adequate and followed. The commenters are concerned that such a deviation might be considered a violation under title V and/or the EG/NSPS for MSW landfills.

Response: To the extent that a source is in compliance with the applicable

SSM provisions of parts 60 and 63, the source is in compliance with its title V permit with respect to these specific applicable requirements. In terms of the EG/NSPS for landfills, deviations, and, therefore, potential violations, will be defined by the applicable requirements (i.e., 40 CFR part 60, subpart WWW, an EPA approved and effective State or tribal plan, or the landfills Federal plan.)

Furthermore, in response to this comment, section 63.1970 has been removed from the final rule to eliminate any confusion regarding the use of SSM plans. Given that the revisions to the General Provisions for part 63 (67 FR 16582, April 5, 2002) included revisions to 40 CFR 63.6(e), a subsection which addresses SSM plans, and given the other language in the General Provisions for parts 60 and 63, the NSPS for landfills, and the landfills Federal plan relevant to this topic, EPA does not believe a regulatory section regarding the use of SSM plans is needed in the final rule. See 40 CFR 60.11(c), 60.755(e), 63.6(e), 63.6(f)(1), and 62.14354(b).

Comment: Two commenters requested a more detailed discussion of which reporting requirements under the final rule would satisfy specific requirements under the title V program. The commenters cited a specific example: the proposed rule requires that the landfill owner/operator notify EPA within 2 days of a SSM event. The commenters questioned whether this requirement would satisfy the prompt reporting requirements of the title V program.

Response: As many owners/operators of landfills subject to this subpart will have the requirements of the final rule in their title V permits, any reports submitted for such sources will need to satisfy the reporting requirements of the landfills NESHAP and title V (e.g., type of report, content of report, and frequency of submission.) A permitting authority is not, however, precluded from consolidating required reports as long as all reporting requirements of the landfills NESHAP and title V are met.

We would like to emphasize that under 40 CFR part 70 or 71, any application form, report, compliance certification, or other document required by a permit to be submitted to a permitting authority must contain certification by a responsible official that the statements and information in the document are true, accurate, and complete. See 40 CFR 70.5(d), 70.6(c)(1), 71.5(d), and 71.6(c)(1). Thus, to the extent reports submitted under the final rule are also required by a title V permit to be submitted, they must meet the title

V certification requirement to meet the reporting requirements of title V.

The commenters mentioned a specific requirement in 40 CFR 63.10(d)(5)(ii). This provision states that any time an owner/operator takes an action during a SSM event which is not consistent with the procedures specified in the affected source's SSM plan, the owner/operator shall report the actions taken for that event within 2 working days after commencing actions inconsistent with the plan followed by a letter within 7 working days after the end of the event. The commenters questioned whether this requirement would satisfy the prompt reporting requirements of title V.

In terms of the prompt reporting of deviations, 40 CFR 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Therefore, it is the responsibility of the part 70 permitting authority to determine whether the timing of reports under 40 CFR 63.10(d)(5)(ii) is sufficient to meet the permitting authority's requirements for the prompt reporting of deviations. The permitting authority may decide for a particular source or source category, or as a general matter, to impose more stringent reporting requirements (e.g., type of report, content of report, and frequency of submission) than those specified in the applicable requirement.

IV. Summary of the Energy, Environmental, and Economic Impacts

We foresee minimal economic impacts to major sources since all of these landfills are currently required to comply with the EG/NSPS. For such sources, the final rule will only impose a requirement to prepare a SSM plan, recordkeeping and reporting requirements for SSM events, and semiannual reports instead of annual reports. The expected annual cost to affected major source landfills is only \$1,700 (1998 dollars), which represents less than 0.001 percent of the tipping fees collected by an average sized landfill. For more information on the economic impacts of the standards, refer to the economic impact analysis in the docket.

We also foresee no environmental, energy, or economic impacts for collection and control of landfill gas to area source landfills. As with major source landfills, all area source landfills subject to the final rule are already required to implement the EG/NSPS. Area source landfills that are too small to trigger the EG/NSPS applicability are not subject to control under the

for a source cannot be superseded by another later application deadline unless the title V program itself changes (e.g., a State program under 40 CFR part 70 becomes a Federal program under 40 CFR part 71).

⁴ A title V application should be submitted early enough for the permitting authority to find the application either complete or incomplete before the title V application deadline. In the event the application is found incomplete by the permitting authority, the source must submit the information needed to make the application complete by the application deadline in order to obtain an application shield. (An application shield allows a source to operate without being in violation of title V prior to being issued a final title V permit.) To maintain an application shield, a source must submit information as requested by the permitting authority and by the specified deadline. See section 503(d) of the CAA, 40 CFR 70.5(a)(2), 70.7(b), 71.5(a)(2), and 71.7(b).

⁵ A title V application from a major source must address all emissions units at the title V source, not just the section 111 or 112 emissions unit. See 40 CFR 70.3(c)(1) and 71.3(c)(1).