



## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OAR-2019-0338; FRL-10006-53-OAR]**

### **Notice of Finding of Failure to Submit State Plans for the Municipal Solid Waste Landfills Emission Guidelines**

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

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) finds that 42 states and territories have failed to submit state plans for the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (MSW Landfills EG). According to the MSW Landfills EG, states were required to submit state plans to the EPA for review and approval by August 29, 2019. The compliance times in the new implementing regulations for the MSW Landfills EG also establish a deadline of 2 years for the EPA to promulgate a federal plan for states that have failed to submit a state plan. It should be noted that the new implementing regulations do not impose sanctions or set deadlines for imposing sanctions for these states.

**DATES:** The findings are effective on February 29, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2019-0338. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, 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 Docket Center, WJC West Building,

Room Number 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Eastern Standard Time, Monday through Friday.

The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For questions about this document, contact Andrew Sheppard, Natural Resources Group, Sector Policies and Programs Division (E143-03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4161; fax number: (919) 541-0516; and email address: *sheppard.andrew@epa.gov*. For information regarding state plan submissions, contact the appropriate EPA Regional office listed in Table 1 of this preamble.

TABLE 1. EPA REGIONAL OFFICES

Region	Address	States and Territories
Region I	5 Post Office Square–Suite 100, Boston, MA 02109-3912	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont
Region II	290 Broadway, New York, NY 10007-1866	New York, New Jersey, Puerto Rico, Virgin Islands
Region III	Air Protection Division, Mail Code 3AP00, 1650 Arch Street, Philadelphia, PA 19103-1129	Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia
Region IV	61 Forsyth Street, SW, Atlanta, GA 30303-3104	Florida, Georgia, North Carolina, Alabama, Kentucky, Mississippi, South Carolina, Tennessee
Region V	Mail Code A-17J, 77 West Jackson Blvd., Chicago, IL 60604-3590	Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio
Region VI	1201 Elm Street–Suite 500, Dallas, TX 75270-2102	Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Region VII	Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219	Iowa, Kansas, Missouri, Nebraska
Region VIII	Director, Air Program, Office of Partnerships and Regulatory Assistance, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, CO	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

	80202-1129	
Region IX	75 Hawthorne Street, San Francisco, CA 94105	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands
Region X	1200 6th Avenue, Suite 155, Seattle, WA 98101	Washington, Alaska, Idaho, Oregon

**SUPPLEMENTARY INFORMATION:**

*Organization of This Document.* The information in this document is organized as follows:

- I. Background
- II. Status of State Plan Submittals
- III. Findings for State Plan Submittals

**I. Background**

In a **Federal Register** document dated August 29, 2016, the EPA promulgated new EG for MSW Landfills (81 FR 59332). Additionally, on August 26, 2019, the EPA revised the MSW Landfills EG to update the timing requirements for the submission, review, and approval of state plans and promulgation of a federal plan (84 FR 44547). Pursuant to 40 CFR 60.30f(b), states were required to submit state plans for the MSW Landfills EG by August 29, 2019. Furthermore, pursuant to 40 CFR 60.27a(c), the EPA is required to promulgate a federal plan applicable to any states that were found to have failed to submit complete state plans implementing the MSW Landfills EG within 2 years of such a finding. While such findings would typically be included in the preamble to a proposed federal plan, the proposed rule, Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014, was published on August 22, 2019 (84 FR 43748), which preceded the revised state plan due date. Therefore, this notice

provides supplemental information to update the list of submitted state plans as of February 29, 2020.

For the purposes of this document, the word “state” means any of the 50 United States, local agencies that have been delegated implementation and enforcement authority within those states, and the protectorates of the United States. The word “protectorate” means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

These findings of failure to submit do not impose sanctions or set deadlines for imposing sanctions. Notably, Clean Air Act (CAA) section 111(d), the new implementing regulations for CAA section 111(d) (84 FR 32564, July 8, 2019), and the MSW Landfills EG adopting the new implementing regulations (84 FR 44547, August 26, 2019) do not contain sanctions provisions. Particularly, the new implementing regulations largely changed the timing of deadlines for submission, review, and approval of state plans and promulgation of a federal plan; as well as clarified the procedures for state plan submission and review. Relevant for this document, the new compliance times established a 2-year deadline from findings of failure to submit state plans for the EPA to promulgate a federal plan to implement the MSW Landfills EG.

## **II. Status of State Plan Submittals**

The EPA previously published a summary of state plan submittals in Table 2 of the proposed rule, Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014, on August 22, 2019 (84 FR 43748). This notice updates that list to reflect the amendments to 40 CFR 60.30f(a) and (b) that changed the deadline for state plan submittals for the MSW Landfills EG to August 29, 2019, and 40 CFR 60.27a(c)(1) that updated the

procedures for the promulgation of the federal plan to include findings of failures to submit state plans. As of February 29, 2020, the EPA had received three negative declarations and 11 plans to implement the MSW Landfills EG. These totals include plans submitted under both the old subpart B and the new subpart Ba implementing regulations in 40 CFR part 60. The EPA reviewed and approved eight of the state plans that were submitted, which are listed in section I of Table 2 of this document, and documented the plans in the memorandum, *Approved State Plans Implementing the 2016 MSW Landfills Emission Guidelines*, which is available in the docket for this document. The EPA is currently reviewing the other negative declarations and state plans that were submitted (listed in sections II and III of Table 2 of this document). A summary of the status of all state plans is also provided in Table 2 of this document.

TABLE 2. STATUS OF STATE PLAN SUBMITTALS

Status	States
I. EPA-Approved State Plans	Arizona (one plan covering Pinal County and another covering the state), <sup>1</sup> California (partial approval, partial disapproval), Delaware, New Mexico (one plan covering Albuquerque – Bernalillo County and another covering the state), Virginia, West Virginia
II. Negative Declarations Submitted to the EPA <sup>2</sup>	Philadelphia, Vermont, Washington DC
III. Final State Plans Submitted to the EPA <sup>3</sup>	New York, Oregon, South Dakota
IV. EPA Has Not Received a Final State Plan or Negative Declaration	Alabama, <sup>4</sup> Alaska, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, <sup>5</sup> Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virgin Islands, Washington, Wisconsin,

	Wyoming
V. Indicated Intent to Submit Negative Declarations to the EPA	Maine, Rhode Island
VI. Indicated Intent to Submit State Plans to the EPA	Arkansas, Minnesota, Michigan, North Dakota, Ohio, Oklahoma, Texas
VII. Indicated Intent to Accept Delegation of Federal Plan	Connecticut, Idaho, Maryland, Massachusetts, New Hampshire, Pennsylvania, Washington

<sup>1</sup> The Arizona State Plan does not cover Maricopa, Pinal, or Pima counties. A plan for Maricopa County was submitted but subsequently withdrawn.

<sup>2</sup> The negative declarations were submitted on the following dates: Philadelphia – March 15, 2018; Vermont – September 10, 2019; Washington, DC – November 15, 2019.

<sup>3</sup> The state plans were submitted on the following dates: New York – December 11, 2019; Oregon – August 2, 2019; South Dakota – January 7, 2020.

<sup>4</sup> A plan for Alabama was submitted but subsequently withdrawn.

<sup>5</sup> The Pennsylvania State Plan does not cover the City of Philadelphia.

The EPA is not making any finding in this document regarding plans from the eight states that have already been approved. These plans are Arizona; Pinal County, Arizona; California (partial approval, partial disapproval); Delaware; New Mexico; Albuquerque – Bernalillo County, New Mexico; Virginia, and West Virginia. Similarly, the EPA is not making any finding in this action for the six states that have submitted negative declarations or state plans that are currently under review: New York, Oregon, Philadelphia, South Dakota, Vermont, and Washington, DC. The EPA intends to publish any applicable findings for the states that submitted state plans after August 29, 2019, in conjunction with future **Federal Register** documents proposing or promulgating a state plan for the applicable states or the federal plan to implement the MSW Landfills EG. The EPA is making findings that certain states, as identified in section III of this document, have failed to submit a state plan by February 29, 2020, that implements the MSW Landfills EG. The EPA is committed to working with these states to expedite the needed submissions and to working with all the states to review and act on their MSW Landfills EG state plan submissions.

### **III. Findings for State Plan Submittals**

The EPA is finding that the 42 states and territories listed in section IV of Table 2 of this document have not met the requirements of 40 CFR 60.23a(a)(1) and 60.30f(b) for the MSW Landfills EG because they have not submitted a negative declaration or a final state plan. The following states and territories failed to make a complete submittal to satisfy the requirements of the MSW Landfills EG: Alabama, Alaska, Arkansas, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania (except for Philadelphia), Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virgin Islands, Washington, Wisconsin, and Wyoming.

By this action, the EPA is starting a 2-year deadline by which time the EPA must promulgate a federal plan implementing the MSW Landfills EG for these states, unless a state submits, and the EPA approves a state plan prior to promulgation of a federal plan for the MSW Landfills EG. As noted earlier, this finding does not impose sanctions and the EPA is committed to working with these states to expedite the needed submissions and to review and act on their state plan submissions.

Dated: March 6, 2020.

**Anne L. Idsal,**

*Principal Deputy Assistant Administrator, Office of Air and Radiation.*

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