



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R03-OAR-2019-0678; FRL-10011-93-Region 3]

#### **Approval and Promulgation of State Plans for Designated Facilities and Pollutants: City of Philadelphia and District of Columbia**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve negative declarations submitted to satisfy the requirements of the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills for the City of Philadelphia, located in the Commonwealth of Pennsylvania, and the District of Columbia. The negative declarations certify that there are no existing municipal solid waste landfills in the City of Philadelphia or the District of Columbia that are subject to the requirements of 40 CFR part 60 subpart Cf.

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2019-0678 at <https://www.regulations.gov>, or via email to [Opila.MaryCate@epa.gov](mailto:Opila.MaryCate@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, 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. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. 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>.

**FOR FURTHER INFORMATION CONTACT:** Matthew Willson, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5795. Mr. Willson can also be reached via electronic mail at [Willson.Matthew@epa.gov](mailto:Willson.Matthew@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 111(d) of the Clean Air Act (CAA) establishes standards of performance for certain existing sources. Air pollutants included under this section are those which have not already been established as air quality criteria pollutants via 42 U.S.C. 7408(a) or hazardous air pollutants via 42 U.S.C. 7412. Section 111(d)(1) requires states to submit to EPA for approval a plan that establishes standards of performance. The plan must provide that the state will implement and enforce the standards of performance. A Federal plan is prescribed if a state does not submit a state-specific plan or the submitted plan is disapproved. If a state has no designated facilities for a standards of performance source category, it may submit a negative declaration in lieu of a state plan for that source category according to 40 CFR 60.23a(b) and 62.06.

## **II. Municipal Solid Waste Landfill Regulations**

A municipal solid waste (MSW) landfill is defined in 40 CFR 60.41f as, “an entire disposal facility in a contiguous geographical space where household waste is placed in or on land.” Other substances may be placed in the landfill which are regulated under the Resource Conservation and Recovery Act (RCRA) subtitle D, 40 CFR 257.2. MSW landfills emit gases generated by the decomposition of organic compounds or evolution of new organic compounds from the deposited waste. EPA regulations specifically delineate measures to control methane and nonmethane organic compound (NMOC) emissions, which can adversely impact public health.

The Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, as codified at 40 CFR part 60 subpart Cf (subpart Cf, or Emission Guidelines) apply to states with MSW landfills that accepted waste after November 8, 1987 and commenced construction, reconstruction, or modification before July 17, 2014. Such landfills are considered to be “existing” landfills. In states with facilities meeting the applicability criteria of an existing MSW landfill, the Administrator of an air quality program must submit a state plan to EPA that implements the Emission Guidelines.

The City of Philadelphia Air Management Services (AMS) and the District of Columbia Department of Energy and Environment (DOEE) have determined that there are no MSW landfills in their respective jurisdictions subject to Federal CAA landfill regulations pursuant to part 40 CFR part 60 subpart Cf. AMS and DOEE have submitted negative declarations to EPA on March 15, 2018 and November 15, 2019, respectively, pursuant to the requirements at 40 CFR 60.23a(b) and 62.06, certifying that there are no existing source MSW landfills in their respective jurisdictions subject to the requirements of 40 CFR part 60 subpart Cf. A

typographical error in the letter from AMS was noted and clarified by Philadelphia AMS in an e-mail on May 1, 2020

### **III. Proposed Action**

EPA is proposing to approve the City of Philadelphia's and the District of Columbia's negative declarations. The negative declarations satisfy the requirements of 40 CFR 60.23a(b) and 62.06, serving in lieu of a CAA 111(d) state plan for existing MSW landfills. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a 111(d) plan submission that complies with the provisions of the CAA and applicable Federal regulations (40 CFR 62.04). Thus, in reviewing 111(d) plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 proposed 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 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, 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 proposed rulemaking, certifying that there are no existing municipal solid waste landfills that are subject to the requirements of 40 CFR part 60 subpart Cf in the City of Philadelphia or the District of Columbia, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP 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.

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

Environmental protection, Administrative practice and procedure, Air pollution control,

Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 13, 2020.

Cosmo Servidio,  
Regional Administrator,  
Region III.

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