



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2025-0487; FRL-12943-01-R3]

Approval and Promulgation of Delegation of Authority for Designated Facilities and Pollutants; Allegheny County; Delegation of Authority of the Federal Plan for Existing Sewage Sludge Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from the Allegheny County Health Department (ACHD) for delegation of authority to implement and enforce the Federal Plan Requirements for Sewage Sludge Incineration (SSI) units within Allegheny County in the Commonwealth of Pennsylvania. On April 29, 2016, the EPA promulgated the Federal Plan for SSI units to fulfill the requirements of sections 111(d)/129 of the Clean Air Act (CAA). The Federal Plan addresses the implementation and enforcement of the emission guidelines applicable to existing SSI units located in areas not covered by an approved and currently effective state plan. The Federal Plan imposes emission limits and other control requirements for existing affected SSI facilities which will reduce designated pollutants.

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-2025-0487 at www.regulations.gov, or via email to talley.david@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the 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. The 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 www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Krystal Stankunas, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Blvd, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5271. Ms. Stankunas can also be reached via electronic mail at stankunas.krystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 17, 2025, the Regional Administrator for EPA Region III signed a Memorandum of Agreement (MoA) which is the mechanism for the transfer of authority between the EPA and the ACHD and defines the policies, responsibilities and procedures by which the ACHD will implement and enforce the Federal Plan for existing SSI units. The EPA is proposing to approve the ACHD request for delegation of authority to implement and enforce the SSI Federal Plan found at 40 CFR part 62 subpart LLL and to adhere to the terms and conditions prescribed in the MoA signed by the EPA and representatives of Allegheny County and the ACHD, as explained further in this action. The purpose of this SSI Federal Plan delegation is to transfer primary implementation and enforcement responsibility from the EPA to the ACHD for all affected facilities within the jurisdiction of Allegheny County. However, nothing in this action, nor in the MoA, shall be construed to prohibit the EPA from enforcing the SSI Federal Plan.

Sections 111(d) and 129 of the CAA 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 the EPA has established emission guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria has been issued or which is not included on a list published under section 108(a) (national ambient air quality standards) or section 112 (hazardous air pollutants) of the CAA, but emissions of which would be subject to a standard of performance for new stationary sources under section 111(b). In addition, section 129 of the CAA also requires the EPA to promulgate emission guidelines for solid waste incineration units that emit specific air pollutants or a mixture of air pollutants. These pollutants include organics (dioxins and dibenzofurans), carbon monoxide, metals (cadmium, lead and mercury), acid gases (hydrogen chloride, sulfur dioxide and oxides of nitrogen), particulate matter and opacity (as appropriate).

On March 21, 2011 (76 FR 15372), the EPA promulgated new source performance standards and emission guidelines for SSI units at 40 CFR part 60 subparts LLLL and MMMM, respectively. The designated facilities to which the emission guidelines apply are existing SSI units, as stipulated in subpart MMMM, that commenced construction on or before October 14, 2010.

Pursuant to section 129(b)(2) of the CAA, state plan requirements must be “at least as protective” as the emission guidelines and become federally enforceable upon approval by the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. For states that fail to submit a state plan, the EPA is required to develop and implement a Federal Plan within two years following promulgation of the emission guidelines. 42 U.S.C. 7429(b)(3). The EPA implementation and enforcement of the Federal Plan is viewed as an interim measure until states assume their role as the preferred implementers of the emission guidelines requirements stipulated in the Federal Plan. Accordingly, the EPA promulgated the

SSI Federal Plan on April 29, 2016 (81 FR 26040) which is codified at 40 CFR part 62, subpart LLL. In that rulemaking, the EPA strongly encouraged state and local agencies in jurisdictions that did not submit approvable state plans to request delegation of the SSI Federal Plan so that they can have the primary responsibility for implementing and enforcing regulations affecting existing source SSI units, consistent with the intent of section 129 of the CAA. 81 FR 26040, 26055 (April 29, 2016).

II. Summary of Action and EPA Analysis

On November 13, 2017, the ACHD submitted to the EPA a request for delegation of authority to implement and enforce the SSI Federal Plan. The scope of the request includes only the geographical area of Allegheny County. The EPA evaluated the ACHD request for delegation pursuant to the provisions of the SSI Federal Plan and the EPA's Delegation Manual.¹ 40 CFR 62.15865 of the SSI Federal Plan establishes that a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal Plan that includes the following requirements: (1) a demonstration of adequate resources and legal authority to administer and enforce the Federal Plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (see items under 40 CFR 60.5015(a)(1), (2) and (7) from the SSI emission guidelines); (3) certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into an MoA with the Regional Administrator that sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority.

¹ Item 7-139 of the EPA's Delegation Manual is entitled "Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans" and the reader may refer to it in the docket for this rulemaking at www.regulations.gov (see Docket ID Number EPA-R03-OAR-2025-0487).

Under the EPA's Delegation Manual, item 7-139, the Regional Administrator is authorized to delegate implementation and enforcement of sections 111(d)/129 Federal Plans to states. The Regional Administrator may consider delegating authority to implement and enforce Federal Plans to a state provided the following conditions are met: (1) the state does not already have an EPA approved state plan; (2) the state submits a demonstration of adequate resources and legal authority to administer and enforce the Federal Plan; and (3) the state enters into an MoA with the Regional Administrator that sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority.

In parallel with our review of the delegation request, the EPA prepared the MoA which defines the policies, responsibilities, and procedures by which the SSI Federal Plan will be administered and enforced by both the ACHD and the EPA.

Both the EPA and Allegheny County signed the MoA in which the parties agreed to the terms and conditions regarding the policies, responsibilities, and procedures for the implementation and enforcement of the delegated SSI Federal Plan. The MoA is the mechanism for the transfer of authority from the EPA to the ACHD. The MoA became effective upon signature by the EPA on June 17, 2025.

The ACHD has met all the EPA's delegation requirements as described above. The reader may view the ACHD letter to the EPA requesting delegation and the MoA signed by both parties at www.regulations.gov, identified by Docket ID Number EPA-R03-OAR-2025-0487.

III. Proposed Action

The EPA has evaluated the ACHD delegation request submittal for consistency with the CAA, EPA regulations, and EPA policy. The ACHD has met all the requirements for obtaining delegation of authority to implement and enforce the SSI Federal Plan. Allegheny County entered into an MoA with the EPA, and it became effective on June 17, 2025. Accordingly, the EPA is proposing to approve the ACHD request dated November 13, 2017 for delegation of authority to implement and enforce the Federal Plan for existing SSI units. The EPA will

continue to retain certain specific authorities reserved to the EPA in the SSI Federal Plan, as indicated in the MoA (*e.g.*, authority to approve major alternatives to test methods or monitoring, etc.), and as required under 40 CFR 62.16050.

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA has the authority to delegate to a state or local agency the authority to implement a 111(d)/129 Federal Plan so long as the delegation complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7411(d) and 7429(b)(3); 40 CFR 60.5045; 40 CFR 62.15865. In reviewing 111(d)/129 Federal Plan delegation requests, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA and the EPA's implementing regulations. Accordingly, this action merely proposes to codify in the Code of Federal Regulations the EPA's delegation of authority to the ACHD to administer the Federal Plan and does not impose additional requirements beyond those imposed by the already applicable SSI Federal Plan.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action 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.*). This action

merely delegates to the local agency the authority to implement the already applicable requirements of the Federal Plan.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action merely delegates to a local agency the authority to administer the already applicable SSI Federal Plan.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. This action merely delegates to a local agency the authority to administer the already applicable SSI Federal Plan.

J. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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