



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

**[EPA-R05-OAR-2025-0355; FRL-13131-01-R5]**

**Approval and Promulgation of Delegation of Authority for  
Designated Facilities and Pollutants; Ohio; Delegation of  
Authority**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving delegation of authority to the Ohio Environmental Protection Agency (Ohio EPA) for implementing and enforcing the Federal plan requirements for municipal solid waste (MSW) landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014.

Additionally, Ohio EPA has requested to withdraw an existing MSW landfill State plan which will be replaced with the delegation of authority of the Federal plan. On June 12, 2025, the Ohio EPA Director signed a Memorandum of Agreement concerning the delegation of authority of the Federal plan to Ohio EPA by EPA. On June 24, 2025, the Memorandum of Agreement became effective upon the EPA Region 5 Regional Administrator's signature. The Federal plan addresses the implementation and enforcement of emission guidelines that impose emission limits and other control requirements on designated air pollutants from MSW landfills. This document informs the public of the Memorandum

of Agreement, provides a copy of the signed document, and amends regulatory text in accordance with the Clean Air Act (CAA).

**DATES:** This final rule is effective on **[Insert date of publication in the *Federal Register*]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2025-0355. All documents in the docket are listed on the website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information, Proprietary 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 electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Robert Berkowitz, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312) 353-4306, or by email at [Berkowitz.Robert@epa.gov](mailto:Berkowitz.Robert@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **I. Background**

Section 111 of the CAA, "Standards of Performance for New Stationary Sources," directs EPA to establish emission standards for stationary sources of air pollution that could potentially

endanger public health or welfare. These standards are referred to as New Source Performance Standards (NSPS). Section 111(b) directs EPA to publish and periodically revise a list of categories of stationary sources which cause or significantly contribute to air pollution, and to establish NSPS within these categories. Section 111(d) addresses the process by which EPA and States regulate standards of performance for existing sources belonging to those categories established in section 111(b). When NSPS are promulgated for new sources, section 111(d) and EPA regulations require that EPA publish an Emission Guideline (EG) to regulate the same pollutants from existing facilities. While the NSPS are directly applicable to new sources, an EG for an existing source (designated facility) is intended for States to use to develop a State plan to submit to EPA. CAA section 111 and 40 CFR 60.27(c) and (d) require EPA to develop, implement, and enforce a Federal plan for designated facilities located in any State or Indian country that does not have an approved State plan under CAA section 111 that implements the EG. A State may then meet its CAA 111(d) obligations by submitting a formal written request for delegation of authority to implement and enforce the Federal plan. The language in the preamble of "Federal Plan Requirements for MSW Landfills that Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014" provides a framework for EPA to transfer implementation and enforcement authority to a State

or Tribe through a Memorandum of Agreement (MOA) (86 FR 27756, May 21, 2021). A State or Tribe must request delegation through a letter that:

- Demonstrates the State or Tribe has adequate resources, as well as the legal authority, to administer and enforce the program;
- Includes an inventory of designated facilities, which includes those that have ceased operation, but have not been dismantled or rendered inoperable, and an inventory of the designated units' air emissions;
- Certifies a public hearing was held on the State or Tribal delegation request; and
- Includes a MOA between the State or Tribe and EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement, and the mechanism to transfer authority.

Upon signature of the agreement, the approved document will be published in the Federal Register, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

The MSW landfills NSPS for new landfills and EG for existing MSW landfills were first promulgated by EPA on March 12, 1996 (61 FR 9905), in 40 CFR part 60, subparts WWW and Cc, respectively. EPA finalized revisions to the MSW landfills NSPS and EG in 40 CFR part 60, subparts XXX and Cf on August 29, 2016 (81 FR 59332; 81 FR 59276), respectively. The 2016 EG revision

updates the control requirements and monitoring, reporting, and recordkeeping provisions for existing MSW landfill sources.

The current MSW landfills EG, found at 40 CFR part 60, subpart Cf, concerns the regulation of landfill gas and its components, including methane and nonmethane organic compounds, from MSW landfills for which construction, reconstruction, or modification was commenced on or before July 17, 2014. Pursuant to section 111(d) of the CAA and 40 CFR part 60, subpart B, States are required to revise their State plans to comply with the amended regulations. On May 21, 2021 (86 FR 27756), EPA finalized the MSW landfills Federal plan in 40 CFR part 62, subpart 000. EPA issued technical amendments on February 3, 2022 (87 FR 8202), for both the NSPS in 40 CFR part 60, subpart XXX, and the Federal plan in 40 CFR part 62, subpart 000. The MSW landfills Federal plan at 40 CFR part 62, subpart 000, applies to States that do not have an EPA approved State plan based on 40 CFR part 60, subpart Cf.

Ohio EPA submitted a MSW landfills State plan on March 30, 1998. EPA approved Ohio EPA's State plan on August 7, 1998 (63 FR 42235), and it became effective on October 6, 1998. Ohio EPA's adopted rules for MSW landfills can be found at Ohio Administrative Code Chapter 3745-76 01-15. In order to fulfill continued obligations under CAA section 111(d), Ohio EPA submitted a package to withdraw their previous State plan and request delegation of the Federal plan through a signed MOA. For the reasons discussed below, EPA believes that Ohio EPA's

request for delegation of authority of the Federal plan meets the relevant requirements of the CAA section 111(d) implementing regulations at 40 CFR part 60, subparts B and Cf.

## **II. Memorandum of Agreement Contents and EPA Analysis**

EPA has evaluated Ohio EPA's Federal plan delegation request submittal package to determine whether the package meets the previously mentioned applicable requirements. EPA's detailed rationale and discussion on the submittal package can be found in the Technical Support Document (TSD), located in the docket for this rulemaking. The applicable provisions and EPA's analysis are briefly summarized below.

- Ohio EPA demonstrated that it has adequate legal authority to administer the Federal plan through its CAA 40 CFR part 70 title V operating permits program by incorporating all Federal plan requirements into each facility's permit to install and title V operating permit for each affected designated facility when issued. Ohio EPA also certified that it has adequate staffing levels and divisional resources to ensure complete and timely review and issuance of conforming permits, and to monitor and ensure compliance of all affected landfills in the State.
- Ohio EPA submitted an inventory of designated MSW landfills including those that are no longer operational but have not been dismantled or rendered inoperable, an inventory of emissions, and listed each source's existing air pollution controls. Ohio has thirty (30) existing MSW landfills that

are expected to be affected by the Federal plan.

- Ohio EPA submitted certification that a public hearing was held on March 6, 2025.
- Ohio EPA included a MOA with all information detailed in the MSW landfills Federal plan preamble (86 FR 27756).

The MOA was signed by the Ohio EPA Director on June 12, 2025, and became effective upon the signature of the EPA Region 5 Regional Administrator on June 24, 2025. The effective MOA applies to the designated facilities within the State of Ohio and is not implemented and enforced on Indian land.

EPA has evaluated Ohio EPA's submittal for consistency with the CAA, EPA regulations, and EPA policy. EPA determined that Ohio EPA has met all the requirements of EPA's guidance for obtaining the delegation of authority to implement and enforce the Federal plan.

### **III. Good Cause Finding**

Section 553(b) (B) of the Administrative Procedure Act, 5 U.S.C. 553(b) (B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary.

EPA opened the final MSW landfills Federal plan to public

input on August 22, 2019 (84 FR 43745), and likewise solicited comments on the proposed technical amendments on April 13, 2021 (86 FR 19176). EPA has already approved the delegation of authority to implement and enforce the Federal plan for MSW landfills to Ohio EPA, and it has already become effective following the signature of both parties on the MOA. Ohio EPA also held a public hearing and solicited public comment about the request for delegation of authority in Ohio, pursuant to the requirements in 40 CFR 60.23 and 62.09. Notice and comment are “unnecessary” as this final rule only takes the ministerial action of updating the regulatory text in part 62 to reflect this transfer of authority. It does not alter the universe of sources regulated under the Federal plan and it does not change the regulatory requirements applicable to those sources.

#### **IV. Final Action**

EPA is amending regulatory text at 40 CFR part 62, subpart KK - Ohio, to promulgate the approved delegation of authority through the MOA to Ohio EPA for implementing and enforcing the MSW landfills Federal plan requirements.

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

Under the CAA, the Administrator has the authority to delegate the authority to implement a 111(d) Federal plan that complies with the provisions of the CAA and applicable Federal regulations. (40 CFR 60.27). In reviewing CAA section 111(d) delegation requests, EPA’s role is to approve State choices, provided they meet the criteria of the CAA and of EPA’s

implementing regulations. Accordingly, this action merely codifies in the Code of Federal Regulations EPA's delegation of authority to implement the Federal plan and does not impose additional requirements beyond those imposed by the already applicable Federal plan.

*A. Executive Order 12866: Regulatory Planning and 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 subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because approvals of 111(d) actions are exempt from review under Executive Order 12866.

*C. Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*D. Regulatory Flexibility Act*

This action merely codifies in the approval of the transfer of authority from EPA to Ohio EPA for the MSW landfills Federal plan. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by the already-applicable Federal plan. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, will result from this action.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. 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 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This action is not subject to Executive Order 13045 because

it is not 3(f)(1) significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer Advancement Act*

This rulemaking does not involve technical standards and is therefore not subject to the requirements of section 1(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

*K. Congressional Review Act*

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

*L. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from the date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

**Dated:** December 19, 2025.

**Anne Vogel,**  
*Regional Administrator, Region 5.*

For the reasons set forth in the preamble, 40 CFR part 62 is amended as follows:

**PART 62-APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS**

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

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

**Subpart KK - Ohio**

2. Sections 62.8870, 62.8871, and 62.8872 are revised to read as follows:

\* \* \* \* \*

Sec.

62.8870 Identification of plan-delegation of authority.

62.8871 Identification of sources.

62.8872 Effective date.

\* \* \* \* \*

**§ 62.8870 Identification of plan-delegation of authority.**

On June 16, 2025, the Ohio Environmental Protection Agency (Ohio EPA), submitted a letter requesting delegation of authority from EPA to implement and enforce the Federal plan requirements for existing municipal solid waste landfills as required under subpart 000 of this part. The Federal plan will be administered by both Ohio EPA and EPA.

**§ 62.8871 Identification of sources.**

The plan applies to all existing municipal solid waste landfills that commenced construction, reconstruction, or

modification on or before July 17, 2014, and accepted waste at any time since November 8, 1987, or has additional capacity for future waste deposition, as described in 40 CFR part 60, subpart Cf.

**§ 62.8872 Effective date.**

On June 12, 2025, the Ohio EPA Director signed the Memorandum of Agreement concerning the Delegation of Authority of the Federal plan. On June 24, 2025, the EPA Region 5 Regional Administrator signed the Memorandum of Agreement, making the delegation effective.

[FR Doc. 2026-00253 Filed: 1/8/2026 8:45 am; Publication Date: 1/9/2026]