



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R04-OAR-2025-1180; FRL-12940-01-R4]

Kentucky; Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Clean Air Act (CAA or Act) section 111(d) State Plan submitted by the Commonwealth of Kentucky (Commonwealth) through the Kentucky Energy and Environment Cabinet (Cabinet) via a letter dated June 11, 2024, for implementing and enforcing the Emissions Guidelines (EG) and Compliance Times applicable to existing municipal solid waste (MSW) landfills (hereinafter “State Plan” or “MSW Landfill State Plan”). The State Plan provides for implementation and enforcement of the EG, as finalized by EPA on August 29, 2016, applicable to existing MSW landfills that commenced construction, modification, or reconstruction on or before July 17, 2014. The State Plan establishes emission limits, monitoring, operating, recordkeeping, and reporting requirements for affected MSW landfills.

DATES: 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-R04-OAR-2025-1180] at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tamara Hayes, Regulatory and Community Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. Ms. Hayes can be reached via telephone at (404) 562-9582 and via email at hayes.tamara@epa.gov.

SUPPLEMENTARY INFORMATION:

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(d) addresses the process by which EPA and states regulate standards of performance for existing sources. When NSPS are promulgated for new sources, section 111(d) and EPA regulations require that EPA publish an EG to regulate the same pollutants from existing facilities. While NSPS are directly applicable to new sources, EGs for existing sources (designated facilities) are intended for states to use to develop a state plan to submit to EPA.

State plan submittals and revisions under CAA section 111(d) must be consistent with the applicable EG and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A. The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans under CAA section 111(d). Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which EPA will approve or disapprove such plans

submitted by a state. Once approved by EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to EPA, EPA is responsible for developing, implementing, and enforcing a federal plan.

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

The current MSW landfill EG, 40 CFR part 60, subpart Cf, concerns the regulation of landfill gas and its components, including methane, from MSW landfills for which construction, reconstruction, or modification was commenced on or before July 17, 2014. The deadline to submit a state plan to EPA was May 30, 2017. On May 21, 2021, EPA finalized the MSW landfill Federal Plan in 40 CFR part 62, subpart OOO (86 FR 27756). The MSW landfill Federal Plan applies to states that do not have an EPA-approved state plan based on 40 CFR part 60, subpart Cf. The MSW landfill Federal Plan is currently in effect in Kentucky.

The Commonwealth previously submitted an MSW Landfill State Plan, adopting 40 CFR part 60, subpart Cc, that was approved by EPA on April 20, 1999 (64 FR 19290), and took effect on June 21, 1999. To fulfill the obligation under CAA section 111(d) to submit a revised state plan reflecting amendments to the MSW landfill EG, the Commonwealth submitted a revised MSW Landfill State Plan on June 11, 2024.¹ The Commonwealth's State Plan submittal incorporates by reference the applicable provisions under the MSW landfill EG at 40 CFR part 60, subpart Cf. For the reasons discussed below, EPA finds that the Kentucky MSW Landfill State Plan meets the relevant requirements of the CAA section 111(d) implementing regulations

¹ EPA received this submission on June 12, 2024, in a letter dated June 11, 2024. Throughout this notice of proposed rulemaking, this submission will be referred to as the June 11, 2024, submission.

at 40 CFR part 60, subpart B, and 40 CFR part 60, subpart Cf. The sources subject to the Federal Plan for MSW Landfills will become subject to the Commonwealth's State Plan upon approval by EPA. The submittal is included in the public docket for this rulemaking (Docket No. EPA-R04-OAR-2025-1180).

II. Summary and Analysis of Kentucky's MSW Landfill State Plan Submittal

EPA has reviewed the Kentucky MSW Landfill State Plan submittal in the context of the plan completeness and approvability requirements of 40 CFR part 60, subparts B and Cf, and 40 CFR part 62, subpart A. EPA's detailed rationale and discussion on the Kentucky MSW Landfill State Plan can be found in the EPA Technical Support Document (TSD), located in the docket for this rulemaking.

The Kentucky MSW Landfill State Plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR 60.27. Included within the Kentucky MSW Landfill State Plan are regulations under the Kentucky Administrative Regulations (KAR), specifically, 401 KAR 61:036, "Emission guidelines and compliance times for municipal solid waste (MSW) landfills." The Commonwealth houses its implementation for the state plan requirements in this regulation. Necessary State legal and enforcement authorities required for plan approval are located elsewhere in the Commonwealth's regulations and have been reviewed and approved of by EPA, as explained in the TSD.

III. Proposed Action

EPA is proposing to approve the Kentucky MSW Landfill State Plan submitted by the Cabinet pursuant to 40 CFR part 60, subparts B and Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart S, to reflect this action. This approval is based on the rationale previously discussed herein and in further detail in the TSD associated with this action.

The EPA Administrator continues to retain authority for approval of alternative methods to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR 60.30f(c).

IV. Incorporation by Reference

In this document, EPA is proposing to include regulatory text that incorporates by reference the State Plan. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference KAR 61:036, which became effective in the Commonwealth of Kentucky on June 3, 2021. The regulatory provisions of this section of the Kentucky rule incorporate all the CAA 111(d) state plan elements required by the EG for existing MSW landfill units promulgated at 40 CFR 60, subpart Cf. The emissions standards and compliance times established within the Kentucky State Plan are at least as stringent as those required by the EG for existing MSW landfill units subject to subpart Cf. EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R04-OAR-2025-1180, at <https://www.regulations.gov> and at EPA Region 4 Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

V. 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. In reviewing 111(d) plan submissions, EPA’s role is to approve State choices, provided they meet the criteria and objectives of the CAA and EPA’s implementing regulations. Accordingly, this action merely proposes to approve 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 CAA.

In addition, the Kentucky MSW Landfill State Plan is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Aluminum, Environmental protection, Fertilizers, Fluoride, Incorporation by reference, Industrial facilities, Intergovernmental relations, Methane, Ozone, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Waste treatment and disposal.

(Authority: 42 U.S.C. 7411.)

Dated: April 14, 2026.

Kevin McOmber,

Regional Administrator,

Region 4.