



40 CFR Part 62

[EPA-R03-OAR-2025-0487; FRL-12943-02-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: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is codifying the approval of a request submitted by the Allegheny County Health Department (ACHD) for delegation of authority to implement and enforce the Federal plan for existing affected Sewage Sludge Incineration (SSI) units within Allegheny County in the Commonwealth of Pennsylvania. 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: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2025-0487. All documents in the docket are listed on the *Regulations.gov* website. Some information is not publicly available, e.g., confidential business information (CBI) 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 through *Regulations.gov*, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additionally available information.

FOR FURTHER INFORMATION CONTACT: Krystal Stankunas, Permits Branch (3AP10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, 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 April 29, 2016, in accordance with sections 111 and 129 of the Clean Air Act (CAA), the EPA codified at 40 Code of Federal Regulations (CFR) part 62, subpart LLL, a Federal plan for existing SSI units (“Federal plan”) that implements the emission guidelines (EG) in States that do not have an approved State plan. *See* 81 FR 26040 (April 29, 2016). 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 EG requirements stipulated in the Federal plan. Accordingly, the EPA encourages States to either develop their own plan or to request delegation of the Federal plan, as the ACHD has done. State plans and requests for delegations of authority that have been approved by the EPA are reflected in the Code of Federal Regulations at 40 CFR part 62, subparts B through DDD.

On November 20, 2025 (90 FR 52313), the EPA published a notice of proposed rulemaking (NPRM) in accordance with the EPA’s Delegation Manual, item 7-139. In the NPRM, the EPA proposed approval of the ACHD request dated November 13, 2017 for delegation of authority to implement and enforce the Federal plan for existing SSI units. The EPA is now taking final action to delegate authority to the ACHD to implement and enforce the Federal plan. The purpose of this delegation is to acknowledge the ACHD’s ability to implement the Federal plan and to transfer primary implementation and enforcement responsibility from the EPA to the ACHD for existing applicable sources of SSI units.

II. Summary of Action and EPA Analysis

On November 13, 2017, the ACHD requested delegation of authority from the EPA to implement and enforce the Federal plan for existing SSI units, codified at 40 CFR part 62 subpart LLL. The scope of the request from the ACHD included all affected facilities within Allegheny County. Evaluation of the ACHD's requested delegation authority from the EPA to implement and enforce the Federal plan for existing SSI units is discussed in the NPRM for this action. November 20, 2025 (90 FR 52313).

The EPA prepared the Memorandum of Agreement (MOA) that defined the policies, responsibilities, and procedures by which the SSI Federal Plan would be administered by both the ACHD and the EPA, pursuant to 40 CFR part 62, subpart LLL for SSI units. The MOA serves as the transfer mechanism for the implementation and enforcement authority to the ACHD.

The MOA became effective upon signature by Regional Administrator, Amy Van Blarcom-Lackey, on June 17, 2025. The EPA continues to retain enforcement authority along with the ACHD. The delegation of authority is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

III. EPA's Response to Comments Received

The EPA received one set of comments on the November 20, 2025 NPRM. A summary of the comments and the EPA's responses are included in this section. A copy of the set of comments can be found in the docket for the rulemaking action.

Comment 1: The comment states that to the extent that the action relies on Administrative Procedure Act (APA) provisions at 5 USC 553(b)(B), (b)(A), or (d)(3), the EPA should provide a detailed justification. The comment requests that the EPA otherwise provide the standard prior notice-and-comment and a 30-day delayed effective date.

Response 1: The EPA is not relying on any of the APA provisions at 5 USC 553 specified in the comment. The EPA published the proposed rule on November 20, 2025, with a comment period ending December 22, 2025. That proposed rule was not a final action for the commenter

to petition the EPA for a stay or delay of a yet-to-be-established effective date. The EPA is now finalizing that proposed rule with an effective date 30 days after the date of publication in the *Federal Register*.

Comment 2: The comment claims that the EPA did not provide a factual basis for the certification under the Regulatory Flexibility Act (RFA) and states that the EPA should consult with the Small Business Administration's Office of Advocacy under the Small Business Regulatory Enforcement Fairness Act (SBREFA) consistent with SBREFA best practices.

Response 2: The EPA disagrees. The EPA certified this rule will not have a significant economic impact because it delegates to the ACHD authority to implement the Federal plan. Per the source inventory which is included in the docket, the ACHD will only regulate a single entity in implementing the delegated Federal plan. The Federal Plan, which applies to the existing SSI units in Allegheny County and all other SSI units nationwide for which there is no State plan, was certified not to have a significant impact on a substantial number of small entities. See 81 FR 26050 at 26062 (April 29, 2016). This final rule delegates authority to the ACHD to implement and enforce the Federal Plan for existing SSI units in Allegheny County and does not regulate a greater number of SSI units than those regulated under the Federal Plan. The facility with the SSI unit is not a small entity. Consultation with the SBA is not necessary.

Comment 3: The comment states that the rulemaking asserts that it imposes no new information collection burden under the Paperwork Reduction Act (PRA) but should support that statement by providing Office of Management and Budget (OMB) control numbers covering reporting and recordkeeping for each facility/pollutant affected by this delegation and explain how the local delegatee's collection role is addressed under those information collection requests. The comment claims that information collections conducted by a non-Federal entity "for or on behalf of" a Federal agency are subject to the PRA under 5 CFR 1320.3(d).

Response 3: The EPA disagrees. The PRA does not apply because the action does not involve an information collection burden as defined by the Act. The delegated Federal plan only

applies to a single facility. Therefore, this action is not conducting or sponsoring the collection of information from ten or more persons such that Office of Management and Budget approval is required. See 44 USC 3502(3) and (10), 3507; 5 CFR 1320.3(c).

Comment 4: The comment states that the EPA should provide in the docket the basis for the E.O. 12866 determination that the action is not a significant regulatory action. Without providing specifics, the comment speculates that this action could be a significant regulatory action because delegation of Federal plan/emission guideline implementation across multiple designated facilities and pollutants may raise novel legal or policy issues, especially where it allocates site-specific discretionary approval authorities from EPA to a State/local agency. Finally, the comment states that if the EPA consulted the Office of Information and Regulatory Affairs (OIRA) informally, the EPA should add a memorandum to the file to reflect OIRA consultation.

Response 4: The EPA disagrees. The Agency has complied with E.O. 12866 by determining that the rulemaking is not a significant regulatory action as defined in E.O. 12866. This action authorizes the ACHD to implement and enforce the Federal plan for existing SSI units, and the agency certified that the Federal plan was not a significant regulatory action. See 81 FR 26040 at 26062 (April 29, 2016). Consultation with the OIRA was not required. This action does not raise novel legal or policy issues as it relates to implementation of the Federal plan. Furthermore, per paragraph VI.B. of the MOA, the EPA retains authorities such as site-specific operating limits and alternatives to the emission limits and standards in Tables 2 and 3 of the Federal Plan, approval of major alternatives to test methods, monitoring, and recordkeeping and reporting, and performance test and data reduction waivers.

Comment 5: The comment states that the following items ought to be included in the docket to allow for “the public to evaluate the impacts and legality of this delegation,” provide a meaningful opportunity to comment, and to reopen the comment period if such documents were not provided: 1) a delegation request letter from the State/local agency, 2) the delegation

agreement or memorandum of agreement, 3) a subpart-by-subpart matrix identifying the specific authorities being delegated and those retained by EPA, 4) evidence of the delegatee's legal authority and adequate resources, and 4) guidance or implementation procedures that will govern permit writers and regulated sources under the delegation.

Response 5: The EPA provided a meaningful opportunity to comment by including in the docket all documents that are most critical to the EPA's decision to delegate implementation of the Federal Plan to the ACHD. See *Chamber of Commerce of the United States v. SEC*, 443 F.3d 890, 900 (D.C. Cir. 2006) ("In essence, the question is whether at least the most critical factual material that is used to support the agency's position on review . . . has been made public in the proceeding and exposed to refutation.") (internal quotation marks and citations omitted). The EPA included in the docket the memorandum of agreement (MOA), the delegation request letter from the State/local agency, and the delegation request submission which provides the ACHD's legal authority and an explanation of its resources.

The suggested subpart-by-subpart matrix is inapplicable, as the EPA is only delegating authority to implement a single subpart in this action. Moreover, paragraph VI of the MOA identifies which authorities the EPA retains as the Federal plan requires at 40 CFR part 62, subpart LLL.

While the MOA mentions enforcement and permitting documents,¹ these documents are not critical to the EPA's decision to delegate implementation of the Federal plan to the ACHD. Nor are they specific to the sewage sludge incinerator MOA between the EPA and the ACHD. Rather they are the general policies and procedures that the ACHD already follows in enforcing and administering its air program.

IV. Final Action

¹ Public enforcement and permitting documents are available at, www.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy, www.epa.gov/enforcement/revised-timely-and-appropriate-t-and-enforcement-response-high-priority-violations-hpvs, www.epa.gov/compliance/guidance-federally-reportable-violations-stationary-air-sources, and www.epa.gov/caa-permitting/caa-permitting-tools-related-resources. For approval of ACHD's permitting program. See 66 FR 55112 (November 11, 2001), 78 FR 13493 (February 28, 2013), and 85 FR 36164 (June 15, 2020).

In this action, the EPA is delegating to the ACHD the authority to implement and enforce the Federal plan for SSI units within Allegheny County. The Code of Federal Regulations is being amended at 40 CFR part 62, subpart NN to reflect this delegation, thus satisfying the procedural requirements outlined in EPA's Delegation Manual².

V. Statutory and Executive Order Reviews

1. General Requirements

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 USC 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 codifies 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 USC

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

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 USC 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 USC 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 final rule 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.

2. *Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 USC 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 USC 804(2).

3. *Petitions for 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 AFTER 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 action 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, codifying approval of a request submitted by the ACHD for delegation of authority to implement and enforce the Federal plan for existing affected SSI units, may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

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

For the reasons stated in the preamble, the Environmental Protection Agency amends part 62, chapter I, title 40 of the Code of Federal Regulations 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 USC 7401 *et seq.*

Subpart NN—Pennsylvania

2. Add an undesignated center heading and § 62.9695 to subpart NN to read as follows:

AIR EMISSIONS FROM EXISTING SEWAGE SLUDGE INCINERATORS (SSI)—SECTION 111(D)/129

FEDERAL PLAN DELEGATIONS

§ 62.9695 Identification of plan—delegation of authority.

(a) *Identification of plan—delegation of authority.* On June 17, 2025, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the Allegheny County Health Department (ACHD).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units within Allegheny County, Pennsylvania that meet all the following criteria under § 62.15855:

(1) The SSI unit(s) commenced construction on or before October 14, 2010, or physical or operational changes to the SSI unit(s) commenced construction on or before September 21, 2011 primarily to comply with 40 CFR part 62, subpart LLL.

(2) The SSI unit(s) meets the definition of an SSI unit as defined in § 62.16045; and

(3) The SSI unit(s) is not exempt under § 62.15860.

(c) *Effective date of delegation.* The delegation became fully effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

[FR Doc. 2026-09043 Filed: 5/6/2026 8:45 am; Publication Date: 5/7/2026]