



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF THE COMMISSIONER

Mail Code 401-07

P.O. Box 402

Trenton, NJ 08625-0402

TEL (609) 292-2885

FAX (609) 292-7695

PHIL MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

SHAWN M. LATOURETTE  
*Commissioner*

DATE, 2023

The Honorable Lisa Garcia  
Regional Administrator  
United States Environmental Protection Agency - Region 2  
290 Broadway – 26<sup>th</sup> Floor  
New York, NY 10007-1866

RE: Request for Delegation of Authority to Implement the Federal Plan for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014 (Subpart OOO) in New Jersey

Dear Regional Administrator Garcia:

This letter serves as a request by the New Jersey Department of Environmental Protection (NJDEP) for delegation of authority to implement the Federal Plan for Municipal Solid Waste Landfills that Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014 in Title 40 of the Code of Federal Regulations, (40 CFR), Part 62, Subpart OOO, which was promulgated by the U.S. Environmental Protection Agency (EPA) on May 21, 2021, pursuant to Section 111(d) of the Federal Clean Air Act (CAA). The Federal Plan was promulgated to implement the 2016 Emissions Guidelines (EG) in 40 CFR Part 60, Subpart Cf (81 Federal Register [FR] 59276 and 59332) for municipal solid waste (MSW) landfills located in states that do not presently have an approved and effective state plan (86 FR 27756).

The CAA requires states with existing MSW landfills subject to the EG to submit state plans to EPA in order to implement and enforce the EG. For states without an approved plan, CAA Section 111 and 40 CFR §60.27(c) and (d) require the EPA to develop, implement, and enforce a Federal plan for existing MSW landfills. EPA promulgated its final Federal Plan for existing MSW Landfills on May 21, 2021, (86 FR 27756) in 40 CFR Part 62, Subpart OOO.

NJDEP is requesting full delegation of these standards pursuant to the 2020-2022 Performance Partnership Agreement signed on January 12, 2021, that, "...Allows New Jersey to focus on its priorities while ensuring it meets its obligations under EPA funding. The agreement describes the shared agenda for environmental progress in New Jersey, specific measures to evaluate progress and strategies to reach beneficial environmental goals." NJDEP has the legal authority to implement the Federal MSW plan in Subpart OOO. Enclosed with this request are relevant documents for consideration for full delegation from EPA to NJDEP.

If you have any technical questions regarding this request, please contact our Director of the Division of Air Quality, Francis Steitz, at (609) 984-1484.

Sincerely,

Shawn M. LaTourette  
Commissioner

Enclosures: **2A and 2B**- State of New Jersey Attorney General's opinion in support of request by NJDEP for delegation of the Federal Plan for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014, and attachment;  
**3A**-NJ MSW Landfills Performance Test results and Federal Plan Emission Limits;  
**3B**-MSW Landfills that are subject to 40 CFR Part 62, Subpart OOO and their plans to comply with Federal Plan; and  
**4**-Proof of public hearing and related document(s)

cc: Richard Ruvo, Director, Air and Radiation Division, USEPA Region 2  
Robert Buettner, Chief, Air Compliance Branch, USEPA Region 2  
Paul Baldauf, Assistant Commissioner, Air Quality, Energy, & Sustainability  
Francis C. Steitz, Director, Division of Air Quality (electronic copy only)  
Richelle Wormley, Director, Division of Air Enforcement (electronic copy only)  
John Renella Esq., Deputy Attorney General, New Jersey Office of Attorney General, Division of Law (electronic copy only)

**The State of New Jersey  
Department of Environmental Protection**

**Request for Delegation of Authority to Implement and Enforce the  
Federal Plan Requirements for  
Municipal Solid Waste Landfills That Commenced Construction on  
or Before July 17, 2014, and Have Not Been Modified or  
Reconstructed Since July 17, 2014**

**(86 FR 27756; May 21, 2021)**

**Date, 2023**

Division of Air Quality  
New Jersey Department of Environmental Protection  
PO Box 420  
Mail Code 401-02  
401 East State Street  
2nd floor  
Trenton, NJ 08625-0420

<https://www.state.nj.us/dep/>

## **I. Background**

On August 29, 2016, the U.S. Environmental Protection Agency (EPA) promulgated revised subparts for the Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) at 40 CFR Part 60, Subpart XXX to reduce emissions of methane-rich landfill gas from new, modified and reconstructed municipal solid waste (MSW) landfills, and in a separate action, EPA also issued guidelines for reducing emissions from existing MSW landfills at 40 CFR Part 60, Subpart Cf (81 Federal Register (FR) 59276 and 59332). These revisions were based on EPA's determination that a well-designed and well-operated landfill gas collection-and-control system is the best system of emission reduction for controlling landfill gas (LFG).

The CAA regulations implementing emission guidelines require states with existing MSW landfills subject to the emission guidelines (EG), to submit state plans to EPA to implement and enforce the emission guidelines. For states that did not submit an approvable plan by the May 30, 2017, deadline, CAA section 111 and 40 CFR 60.27(c) and (d) directs the EPA develop, implement, and enforce a Federal plan for existing MSW landfills located in any state – i.e., state, territory, or protectorate, or Indian country that does not have an approved state plan that implements the 2016 MSW Landfills EG.

In August 2019, the EPA proposed a Federal plan to implement the 2016 MSW Landfills EG and compliance times for MSW landfills located in states and Indian country where state and tribal plans are not currently in effect – i.e., the state or local agency failed to submit a plan or a plan has not been approved (40 CFR Part 62, Subpart OOO) (84 FR 43745, August 22, 2019).

In March 2020, EPA issued a notice of finding of failure to submit state plans, identifying 42 states that failed to submit for review and approval state plans to implement the 2016 EG for MSW Landfills. The Federal Plan was finalized on May 21, 2021 (86 FR 27756) and requires all MSW landfills in states without approved 111(d) Plans to comply with the Federal Plan requirements until a state 111(d) plan is approved by the EPA.

## **II. Inventory of Sources**

The following MSW landfills in New Jersey are subject to the Federal Plan:

1. CAPE MAY COUNTY MUA SECURE LANDFILL  
Woodbine / Cape May County
2. CINNAMON BAY LLC & EDGEBORO LANDFILL DISPOSAL, INC.  
East Brunswick / Middlesex County
3. GLOUCESTER CNTY SOLID WASTE COMPLEX  
Swedesboro / Gloucester County
4. KEEGAN SLF  
Kearny Town / Hudson County
5. LINDEN CITY SLF  
Linden City / Union County
6. MONMOUTH COUNTY RECLAMATION CENTER

- Tinton Falls / Monmouth County
7. PARKLANDS RECYCLING & DISPOSAL FACILITY  
Bordentown / Burlington County
  8. PINELANDS PARK  
Egg Harbor Township, Atlantic County

### **III. Requirements for Delegation of the Federal Plan**

All of the Federal Plan requirements in 40 CFR, Part 60, Subpart Cf will be incorporated in each facility's Title V operating permit or preconstruction permit (PCP) for affected designated facility, when issued. New Jersey meets the requirements for delegation of the Federal Plan to the NJDEP, pursuant to 40 CFR §62.23(a) for the following reasons:

#### **A. Demonstration of Adequate Resources and Legal Authority**

The NJDEP has the authority to administer the MSW Landfills Federal Plan requirements codified in 40 CFR Part 60, Subpart Cf. Additionally, NJDEP certifies that it has adequate staffing levels (over 2,800 employees) 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. Pertinent divisions and programs within the NJDEP that are assigned to implement and enforce the requirements of 40 CFR Part 62, Subpart OOO are briefly discussed below.

#### **1. Resources and Responsibilities of the NJDEP**

##### *a. Division of Air Quality*

The NJDEP's Division of Air Quality (DAQ) includes the Bureau of Stationary Sources (BoSS), which is responsible for permitting both existing and new stationary sources of air pollution in the State. BoSS staff are accountable for reviewing air pollution control permit applications and evaluating air quality impacts and health risks.

The NJDEP's DAQ also oversees the Emission Statement Program, which is responsible for submitting to the EPA the annual source emissions reports required by 40 C.F.R. § 51.321.

##### *b. Division of Air Enforcement*

The Bureau of Air Compliance and Enforcement (ACE), within the NJDEP's Division of Air Enforcement, ensures compliance with New Jersey's 1954 Air Pollution Control Act (APCA) (New Jersey Statutes Annotated [N.J.S.A.] Title 26, Chapter 2C-1 et seq.).

The Division of Air Enforcement also includes the Emissions Measurement Section (EMS), which oversees the testing (quality assurance/quality control) of air emissions measurements in the State. More specifically, EMS supervises the review of stack emissions tests and continuous emissions monitoring systems (CEMS) to ensure that the emissions data collected from stack emissions testing and continuous emissions monitoring are reliable and accurate.

##### *c. Division of Waste & Underground Storage Tank Compliance and Enforcement*

Enforcement of rules/regulations is essential to ensuring that transporters, solid waste facilities and recycling centers comply with applicable solid waste and recycling regulations

and site-specific permits requirements and/or approvals (e.g., capacities listed for landfills).

The Bureau of Solid Waste Compliance & Enforcement (BSWCE) and the Transportation Oversight Unit (TOU) are two groups operating as part of the Department's Division of Waste & Underground Storage Tank (UST) Compliance and Enforcement. BSWCE conducts compliance and enforcement activities at solid waste and recycling facilities and investigations of solid waste incidents. TOU performs compliance inspections, investigations and enforcement for transporters, vehicles and equipment used to transport solid, regulated medical waste, and hazardous waste to waste facilities. Both groups work to ensure that solid waste is collected, transported and disposed of in the manner as directed by the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Solid Waste Utility Control Act (N.J.S.A. 48:13A-1 et seq.), and New Jersey regulations (N.J.A.C. 7:26-1 [General Provisions], 7:26A-1 [Recycling Regulations] and 7:26H et seq. [New Jersey Solid Waste Utility Regulations]).

*d. Division of Sustainable Waste Management*

NJDEP's Division of Sustainable Waste Management administers both the hazardous and solid (nonhazardous) waste planning, licensing, and permitting programs in the State. The Division is comprised of three (3) Bureaus: the Bureau of Solid Waste Planning and Licensing; the Bureau of Solid Waste Permitting; and the Bureau of Recycling and Hazardous Waste Management.

Bureau of Solid Waste Planning and Licensing oversees county solid waste planning and economic regulation related to solid waste public utilities. The Bureau manages licensing of commercial companies engaged in the solid waste industry. It also oversees escrow accounts for the closure and post-closure of sanitary landfills, as well as administering county recycling and NJ Clean Communities grants. In addition, the Bureau provides administrative support to the Division in the areas of budgets, fee collection, Open Public Records Act (OPRA), and data management.

The Bureau of Solid Waste Permitting administers the program for obtaining solid waste facility operating permits for sanitary landfills, resource recovery facilities (incinerators) and transfer stations/materials recovery facilities. It also reviews and approves closure and post-closure plans for sanitary landfills that have terminated operations. It is responsible for solid waste emergency planning, including the review of Temporary Debris Management Areas for use during Federally and State Declared Emergencies.

The Bureau of Recycling & Hazardous Waste Management is responsible for the review and approval of Class B, Class C, Class D, and Multi-Class recycling centers; the review of applications for Hazardous Waste Facilities permits; the oversight of the electronics manufacturer funded program to recycle covered electronic devices including computers, televisions, and desktop printers and fax machines; and the oversight of the regulatory program to ensure the safe management, transportation and disposal of Regulated Medical Waste (RMW). It also makes waste classification and beneficial use determinations.

## **2. Legal Authority (40 CFR §60.26)**

Pursuant to 40 CFR §60.26(a), NJDEP must demonstrate that it has the legal authority to implement and enforce the plan. The demonstration of legal authority must establish that the state of New Jersey is authorized to (1) adopt emission standards and compliance schedules applicable to designated facilities; (2) enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief; (3) obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities; and (4) require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; and make such data available to the public as reported and as correlated with applicable emission standards.

New Jersey's legal authority to support delegation of the MSW Landfills Federal Plan is demonstrated by the opinion of the Acting Attorney General of New Jersey that the NJDEP has adequate legal authority to implement and enforce the MSW Landfills Federal Plan. That opinion and supporting documents are enclosed with this letter. (See Enclosures 2A and 2B). Additionally, the APCA provides the NJDEP with adequate legal authority to (a) adopt emission standards and compliance schedules applicable to designated facilities; (b) enforce applicable laws, regulations, standards, and compliance schedules and seek injunctive relief; (c) obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities; (d) require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such facilities; and (e) make such data available to the public as reported and as correlated with applicable emission standards.

### **B. Inventory of Affected MSW Landfills, their Emissions, and Provisions for Progress Reports to the EPA (40 CFR §60.25 (a))**

#### **1. Inventory of Affective MSW Landfills (40 CFR §60.31f)**

There are eight (8) existing MSW landfill facilities (as defined under 40 CFR §62.16711) in New Jersey that are expected to be affected by the MSW Landfills Federal Plan. Of the eight (8) identified MSW landfills, four (4) facilities are currently in operation - Cape May County MUA Secure Landfill, Gloucester County Solid Waste Complex, Keegan SLF, and Monmouth County Reclamation Center. The remaining four (4) landfills are closed. Keegan SLF has begun the process to close and cease landfill operations. In 2020, the NJ Superior Court entered a final consent order officially memorializing the settlement between the Town of Kearny, the New Jersey Sports and Exposition Authority (NJSEA) and the NJDEP to permanently close the landfill.

All of the affected MSW landfills (except for Keegan SLF) have been issued Title V permits; two (2) landfills (Parklands Recycling & Disposal Facility and Pinelands Parks) hold PCPs, one (1) landfill (Keegan SLF) has a PCP currently pending approval. Although not yet approved, Keegan SLF has prepared and submitted to the NJDEP an initial operating permit application (BOP200001). Parklands Recycling & Disposal Facility has reduced their potential-to-emit below major facility

threshold levels (as specified in N.J.A.C. 7:27-22.2) and has transitioned from the Title V program to the New Jersey's minor source permit program (as specified in N.J.A.C. 7:27-8). Similarly, Pineland Parks has reduced their potential-to-emit below Title V thresholds and is complying with New Jersey's minor source permit program requirements.

It should be noted that Keegan SLF was issued temporary Certificate of Authority to Operate in 2016, 2017, and 2018 that increased the vertical height of the landfill from 60 to 100 feet and increased the permitted volume design capacity of the landfill. Although these modifications occurred after the Subpart OOO applicability deadline (July 17, 2014), in February 2020, EPA Region 2 found that Keegan SLF was in violation of the requirements of the NSPS for MSW Landfills codified at 40 CFR Part 60, Subpart WWW (40 CFR §§ 60.750 - 60.759) and issued an Administrative Compliance Order (ACO). The ACO requires Keegan SLF to take actions to come into compliance. The finding of violation of the requirements of Subpart WWW by EPA Region 2 subsequently subjects Keegan SLF to Subpart OOO requirements.

It should be also noted that Monmouth County Reclamation Center reported that although they are currently complying with Part 62, Subpart OOO they have a pre-draft approval for a Solid Waste permit revision that will increase capacity for the future and will then be subject to XXX once that portion of landfill is built.

Table 1 below contains a list existing MSW landfills in New Jersey subject to 40 CFR, Part 62, Subpart OOO requirements, NMOC emissions rates each affected MSW landfill for FY2020 and an inventory of existing air pollution control equipment at each MSW landfill.

**Table 1. Existing MSW Landfills in New Jersey Subject to Emission Guidelines (EG) 40 CFR, Part 60, Subpart Cf**

Permit No.	Facility	2020 Non-Methane Organic Compounds (NMOC) Mg/Year*	Existing Air Pollution Control Equipment/Devices
BOP150001	Cape May County MUA Secure Landfill (OPEN)	<1	2 Flares (Enclosed and Candlestick), 3 Electric Generators (2 Operational and 1 Non-operational)
BOP170001	Cinnamon Bay LLC & Edgeboro Landfill Disposal (CLOSED)	20.3	GCCS, 4 Flares (2 Enclosed and 2 Candlestick)**
BOP140001	Gloucester County Solid Waste Complex (OPEN)	7.6	GCS/2 LFG Enclosed Flares
BOP200001 PCP190001	Keegan SLF (OPEN)	***	****
BOP140001	Linden City SFL (CLOSED)	<1	GCS/LFG Enclosed Flare
BOP200001	Monmouth County Reclamation Center (OPEN)	<1	GCS/3 LFG Enclosed Flares (1 Operational, 1 Backup and 1 Non-operational)
PCP160001	Parklands Recycling & Disposal Facility (CLOSED)	<1	2 Flares (Enclosed and Candlestick [Backup])
PCP110001	Pinelands Park (CLOSED)	6.5	GCS/LFG Control Flare (replacement flare)

\*Emission rates reported in Emission Statements prepared by the above designated MSW landfills and are submitted to the Department are reported in concentrations of VOCs. For the purpose of this table, it is assumed that annual VOC emission rates reported in these reports are 100% NMOCs.

\*\* Note: As said by James Aversano, Attorney, who responded on the behalf of Cinnamon Bay LLC & Edgeboro Landfill Disposal, prior to being provided to a nearby waste-to-energy facility, a treatment system processes the collected landfill gas.

\*\*\* The NMOC emission statement/report for FY2020 was not available at the time this document was prepared.

\*\*\*\*At the time this document was prepared, Keegan SLF had not been issued an operating or preconstruction permit. The landfill operates an active LFG collection and control system. Pending applications include the Title V Operating permit for the landfill and the installation of an enclosed, permanent flare. Note that one utility flare will remain in operation as backup.

LFG = Landfill gas; GCCS = Gas collection system; GCCS = Gas collection and control system



## **2. Inventory of Emissions from the MSW Landfills (40 CFR §60.33f)**

As previously noted, the NJDEP approves, and issues permits and certificates under the authority of N.J.S.A. 26:2C-9.2. All Title V operating permits (issued under N.J.A.C. 7:27-22) and PCPs (issued under N.J.A.C. 7:27-8) for affected MSW landfill facilities will have matching, or stricter, emissions limits than are stipulated under the MSW Landfills Federal Plan at 40 CFR §62.16714 and §62.16716.

Enclosure 3A summarizes an inventory of emissions from affected MSW landfills in New Jersey compared to the MSW Landfills Federal Plan emissions limits.

## **3. Provision for Progress Reports to the EPA (40 CFR §60.38f)**

The NJDEP will submit reports (as directed by 40 CFR §62.16724) on progress in the implementation and enforcement of the MSW Landfills Federal Plan to the EPA along with the annual source emissions and state action reports required by 40 CFR §51.321. In addition, enforcement actions will be reported in accordance with the EPA's CAA Stationary Source Compliance Monitoring Strategy (CMS) using EPA's Integrated Compliance Information System (ICIS-Air).

## **C. Compliance Schedule (40 CFR §62.32f)**

Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the emission standards of 40 CFR §62.16714 must be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions equal or exceed 34 megagrams per year (Mg/yr); or within 30 months after the date of the most recent NMOC emission rate report that shows NMOC emissions equal or exceed 34 megagrams per year, if Tier 4 surface emissions monitoring (SEM) shows a surface emission concentration of 500 parts per million methane or greater. Legacy controlled landfills that have not yet reached increment 5 (full compliance) must demonstrate compliance with any remaining increments of progress on this schedule.

Owners or operators of each designated MSW landfill must comply with emission limitations according to the compliance schedule prescribed in 40 CFR §62.16712. The NJDEP will follow the dates and requirements outlined in the MSW Landfills Federal Plan.

Title V and preconstruction permits of the owners or operators of designated MSW landfills, subject to this subpart, will be modified to include all of the Federal Plan requirements. At the present time, the Department does not foresee any new permits or additional modifications needed to existing permits to ensure compliance, by designated MSW landfills, with the Federal Plan at 40 CFR, Part 62, Subpart OOO. Although, six out of the eight designated MSW landfills subject to this subpart have a design capacity equal to or greater than 2.5 million megagrams; five of the identified MSW landfills reported calculated NMOC emission rates greater than 34 Mg/yr for FY2020. Note that Keegan SLF has a design capacity equal to or greater than 2.5 million megagrams; however, FY2020 NMOC emission calculations for the landfill were not available at the time of this analysis and therefore, could not be evaluated for compliance.

All identified, designated MSW landfills subject to this subpart currently operate one or more control

devices (CD)/equipment (*e.g.*, gas collection and control system and/or add-on control devices) to reduce NMOC emissions. In the event that a designated MSW landfill (with a design capacity equal to or greater than 2.5 million megagrams) calculates an annual NMOC emission rate equal to or greater than 34 Mg/yr., the Department predicts that additional air pollution control equipment may need to be install/modified, pursuant to N.J.A.C. 7:27-8 and N.J.A.C. 7:27-22, to ensure ongoing compliance with the Federal Plan.

**D. Certification of Public Hearing on the State Delegation Request (40 CFR §60.23)**

A public hearing will be held in accordance with the requirements outlined in 40 CFR §60.23. A copy of the Public Notice of the public hearing, as required, is attached in Enclosure 4. A list of witnesses and their organizational affiliation, along with a brief summary of their statement can also be found in Enclosure 4. The Appendices will be available after the close of the public comment period on May 5, 2023.

**E. Commitment to Enter into a Memorandum of Agreement with the EPA**

The NJDEP hereby commits to enter into a Memorandum of Agreement (MOA), if needed, with the Regional Administrator of the EPA's Region 2 that sets forth the terms, conditions and effective date of the delegation and serves as the mechanism for the transfer of authority, as described in 86 FR 27756.