

VIA Regulations.gov

December 13, 2018

U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2018-0695
1200 Pennsylvania Avenue NW
Washington, DC 20460

***Re: Adopting Subpart Ba Requirements to Apply to the Emission Guidelines for
Municipal Solid Waste Landfills***

Connecticut Department of Energy & Environmental Protection (DEEP) opposes the U.S. Environmental Protection Agency's (EPA's) proposed replacement of the implementing regulations that apply to the emission guidelines for municipal solid waste landfills. 83 FR 54527 (30 October 2018). Specifically, EPA proposes to apply the 40 CFR Part 60, subpart Ba, implementing regulations that were proposed with the Affordable Clean Energy (ACE) Rule, to 40 CFR 60, subpart Cf. As DEEP explained in its comments on the ACE Rule, "modernization" of the implementing regulations in the form proposed by EPA is unnecessary and will delay air quality improvements.

One result of applying the proposed Subpart Ba requirements to the emission guidelines for municipal solid waste landfills is an extension of the timeframes for states and EPA to act on the emissions guidelines. For example, Subpart Ba extends the time for a state to submit a state plan that applies the emissions guidelines to the state's municipal solid waste landfills from 12 to 24 months. EPA supports the need for such an extension because "almost all of the states" did not submit a state plan within the prescribed 9-month period in response to the most recent iteration of the emission guidelines.¹ What EPA's justification for the extension fails to note is that states are uncertain about the status of certain requirements of the emission guidelines as a result of EPA's delay in resolving an ongoing reconsideration of six issues including the Tier 4 surface emission monitoring, annual liquids reporting and design plan approval. The emission guidelines in question were issued on August 29, 2016. On May 5, 2017, EPA announced that it was reconsidering several issues and on May 31, 2017 announced a 90-day stay of the emission guidelines. Although the stay expired on August 29, 2017, the reconsideration continues.² This could be the reason that so few states submitted state plans. Furthermore, the emissions guidelines issued in 2016 were updates to existing requirements for MSW landfill sources promulgated in 1996. As states had been regulating MSW landfills for 20 years, submitting an updated state plan is a reasonable task to accomplish within a 12-month period.

¹ Adopting Subpart Ba Requirements in Emission Guidelines for Municipal Solid Waste Landfills. 83 FR 54527 at 54530 (30 October 2018).

² In October 2018, an EPA spokesperson said the reconsideration would be completed by March 13, 2020, on the same schedule as the Risk and Technology Review. *Waste Dive*, October 31, 2018, <https://www.wastedive.com/news/epa-offers-public-clarification-on-timeline-for-nsps-eg-landfill-rules-mon/508484>

EPA further justifies the extension for submitting state plans because it makes the state plan timeframes similar to those for attainment plan preparation under Clean Air Act (CAA) Section 110. However, the preparation of a state plan under CAA Section 111 emission guidelines is a less complex task than the preparation of a plan for how a state would attain a national ambient air quality standard under CAA Section 110. For instance, no air quality modeling is required for a CAA Section 111 state plan. An “inventory” for a Section 111 state plan is a list of units, generally limited in number, as Section 111 emission guidelines apply to a single category of stationary source. CAA Section 111 state plans also lack conformity, RACT/RACM analysis, New Source Review Permitting provisions, motor vehicle emission budgets and contingency plans, all elements of certain attainment plans under CAA Section 110. States have been submitting state plans under Section 111 for years using the timelines of 40 CFR 60, Subpart B, and there is no need for additional time for this task.

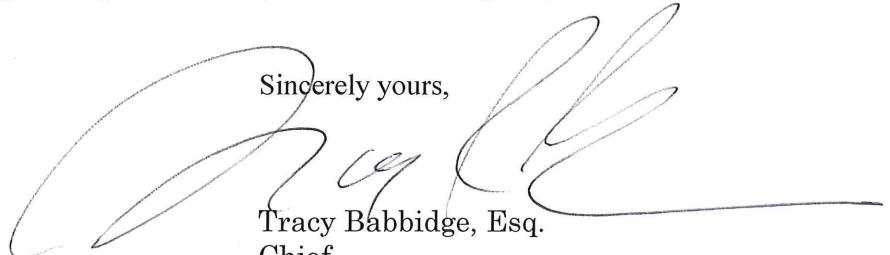
EPA also proposes in Subpart Ba to increase the time for EPA to promulgate a federal plan from six months to 24 months, should a state fail to submit a state plan EPA fails to provide a rationale on why an additional 18 months is necessary to promulgate a federal plan after EPA has already issued the emission guidelines that are essentially the requirements of the federal plan. EPA provided no justification for this time extension, which will only increase the period of time during which the regulated sources in states without a state plan will emit unhealthy emissions of regulated pollutants.

EPA also increases the time for EPA’s review and approval or disapproval of a state plan from 4-months in Subpart B to 12-months in Subpart Ba. Such an extension is inconsistent with the NACAA-ECOS-EPA SIP Reform Workgroup and its dedication to clearing SIP backlog and managing timely SIP review and approval. Such an extension is justified by the need for public comment on EPA’s proposed action on the state plan. However, the state plan has already been through a public comment process by the state prior to submittal to EPA, so additional public comment is unlikely to raise new issues.

Proposed Subpart Ba also includes variance provisions in 40 CFR 60.24a(e) and (f) that are unnecessary and that will only dilute the expected emissions reductions achieved by the emission guidelines. Earlier emission guidelines for a number of incineration source categories promulgated under CAA Sections 129 and 111 were very successful without such provisions. Had such variance provisions been available as early as 1998, many old, high-emitting, inefficient municipal waste combustors and medical waste incinerators that shut down as a result of the emissions guidelines might still be operating today, to the detriment of our air quality and public health.

EPA should not apply the proposed Subpart Ba implementing regulations to the emission guidelines for municipal solid waste landfills or any other emission guidelines promulgated under CAA section 129 or 111(d). None of the extensions of time for EPA and states to act are necessary. Nor are the variance provisions that allow states to promulgate less stringent standards or compliance times. The overall result will be delays in achieving meaningful and permanent improvements in air quality, to the detriment of the citizens breathing unhealthy air.

Sincerely yours,



Tracy Babbidge, Esq.
Chief
Bureau of Air Management