

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 approving the negative declaration for existing HMIWI units within the City of Philadelphia 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, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: February 23, 2018.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R03-OAR-2017-0509; FRL-9975-38-Region 3]

#### Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; City of Philadelphia; Control of Emissions From Existing Sewage Sludge Incineration Units

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to notify the public that it has received a negative declaration for sewage sludge incineration (SSI) units within the City of Philadelphia. This negative declaration certifies that SSI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in Pennsylvania within the jurisdictional boundaries of the Philadelphia Air Management Service (AMS). EPA is accepting the negative declaration in accordance with the requirements of the CAA.

**DATES:** This rule is effective on April 16, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R03-OAR-2017-0509. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, 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 <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Mike Gordon, (215) 814-2039, or by email at [gordon.mike@epa.gov](mailto:gordon.mike@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. CAA section 129 directs EPA to establish standards of performance for new sources and emissions guidelines for existing sources for each category of solid waste incineration unit. CAA section 129(a) and (b). EPA also must specify numerical emissions limitations for particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. CAA section 129(a)(4).

On March 21, 2011 (76 FR 15372), EPA promulgated SSI unit new source performance standards, 40 CFR part 60, subpart LLL, and EG at 40 CFR part 60, subpart MMMM. The designated facilities to which the EG apply are existing SSI units that: (1) Commenced construction on or before October 14, 2010; (2) meet the definition of a SSI unit as defined in 40 CFR 60.5250; and (3) are not exempt under 40 CFR 60.5065.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Also, 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a state, the state must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there

are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (i.e., negative declaration) in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B that require the submittal of a CAA section 111(d)/129 plan.

On October 26, 2017 (82 FR 49563 and 82 FR 49511), EPA simultaneously published a notice of proposed rulemaking (NPR) and a direct final rule (DFR) for the City of Philadelphia approving a negative declaration from Philadelphia AMS that there are no existing SSI units subject to the requirements of sections 111(d) and 129 of the CAA in its respective air pollution control jurisdiction. EPA received an adverse comment on the rulemaking and withdrew the DFR prior to the effective date on December 26, 2017 (82 FR 60872). In this final rulemaking, EPA is responding to the comment submitted on the proposed approval of the negative declaration and is approving the negative declaration.

##### II. State Submittal and EPA Analysis

Philadelphia AMS has determined that there are no existing SSI units subject to the requirements of sections 111(d) and 129 of the CAA in its respective air pollution control jurisdiction. Accordingly, Philadelphia AMS submitted a negative declaration letter to EPA certifying this fact on March 28, 2012. The negative declaration letter and EPA's technical support document for this action are available in the docket for this rulemaking and are available online at [www.regulations.gov](http://www.regulations.gov).

##### III. Public Comments and EPA Responses

EPA received one adverse comment on the proposed approval of the negative declaration for SSI units submitted by Philadelphia AMS. All other comments received were either supportive of or not specific to this action and thus are not addressed here.

*Comment:* The commenter stated that EPA must confirm that no additional SSI units exist or have been constructed since the time of Philadelphia's certification letter, citing the amount of time between receipt of the negative declaration and the proposed approval.

*Response:* EPA does not agree with the commenter's assertion that EPA must ensure that no additional SSI units have been constructed since Philadelphia AMS submitted the negative declaration in order to finalize this action. As stated in the technical support document for the NPR and in the EG for existing SSI units (40 CFR 60,

subpart MMMM), the designated facilities to which the EG apply are SSI units that: (1) Commenced construction on or before October 14, 2010; (2) meet the definition of a SSI unit as defined in 40 CFR 60.5250; and (3) are not exempt under 40 CFR 60.5065. Thus, for EPA approval of Philadelphia AMS' negative declaration regarding existing SSI, Philadelphia only needed to assert no SSI units exist that commenced construction on or before October 14, 2010. Because Philadelphia's negative declaration was submitted on March 28, 2012—after the October 14, 2010 deadline to be considered an existing SSI unit—there is no need to revisit the initial determination of Philadelphia AMS that no existing SSI units exist within the jurisdictional boundaries of the local air pollution control agency. Prior to Philadelphia's submission, EPA worked with Philadelphia AMS and reviewed Philadelphia's inventory of sources to ensure no existing SSI units existed within Philadelphia, and the commenter has not provided any information to the contrary that would cause EPA to reconsider the assessment of Philadelphia AMS's negative declaration. EPA's acceptance of Philadelphia's negative declaration therefore is appropriate. SSI units constructed after the above cited date (*i.e.*, October 14, 2010) would be considered “new,” as opposed to “existing,” and therefore would be subject to a separate rule—40 CFR 60 subpart LLL, “Standards of Performance for new Sewage Sludge Incineration Units.” EPA is therefore finalizing the negative declaration for existing SSI units in this action.

#### IV. Final Action

In this final action, EPA is amending 40 CFR part 62 to reflect receipt of the negative declaration letter from Philadelphia AMS. EPA is accepting the negative declaration in accordance with the requirements of the CAA and 40 CFR 60.23(b) and 62.06.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely notifies the public of EPA receipt of a negative

declaration from an air pollution control agency without any existing SSI units in their jurisdiction. This action imposes no requirements. Accordingly, EPA 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.*). Because this action does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves the negative declaration for existing SSI units from the Philadelphia AMS and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

With regard to negative declarations for designated facilities received by EPA from states, EPA's role is to notify the public of the receipt of such negative declarations and revise 40 CFR part 62 accordingly. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to approve or disapprove a CAA section 111(d)/129 plan negative declaration submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a CAA section 111(d)/129 negative declaration, to use VCS in place of a section 111(d)/129 negative declaration that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 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. 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 U.S.C. 804(2).

##### C. 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 *May 14, 2018*. 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 approving the negative declaration for SSI units within the City of Philadelphia 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, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: February 23, 2018.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

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 NN—Pennsylvania

■ 2. Subpart NN is amended by adding a new undesignated centerheading and § 62.9665 to read as follows:

#### Emissions From Existing Sewage Sludge Incineration Units

##### § 62.9665 Identification of plan—negative declaration.

Letter from the City of Philadelphia, Department of Public Health, submitted March 28, 2012, certifying that there are no existing sewage sludge incineration units within the City of Philadelphia, Pennsylvania that are subject to 40 CFR part 60, subpart Mmmm.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2016-0365; FRL-9973-20]

#### Trinexapac-ethyl; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of trinexapac-ethyl in or on poppy, seed. Syngenta Crop Protection, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) in order to cover residues of trinexapac-ethyl in imported poppy seed commodities.

**DATES:** This regulation is effective March 15, 2018. Objections and requests for hearings must be received on or before May 14, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0365, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional

information about the docket available at <http://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Michael L. Goodis, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; Main telephone number: (703) 305-7090; email address: [RDfRNNotices@epa.gov](mailto:RDfRNNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

###### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

###### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2016-0365 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 14, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please

submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0365, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of November 30, 2016 (81 FR 86312) (FRL-9954-06), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E8462) by Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide trinexapac-ethyl, ethyl 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylate expressed as its primary metabolite trinexpac, 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylic acid, in or on poppy, seed at 8 parts per million (ppm). That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA