

(3272) or visit the Department's website ([www.dol.gov/ebsa](http://www.dol.gov/ebsa)).

**SUPPLEMENTARY INFORMATION:** The Department of Labor's (Department) authority to establish the Voluntary Fiduciary Correction Program (VFC Program or Program) derives from its authority to enforce the fiduciary standards in Title I of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1132(a)(2) and 1132(a)(5), and thereby to establish policies on how this authority will be implemented. The Department also has the authority under section 408(a) of ERISA (29 U.S.C. 1108) to issue exemptions from the prohibited transaction rules in sections 406 and 407 of ERISA (29 U.S.C. 1106 and 1107) and in section 4975 of the Internal Revenue Code (Code).<sup>1</sup>

The Employee Benefits Security Administration (EBSA) originally adopted the VFC Program in 2002, and later revised it in 2005 and 2006.<sup>2</sup> EBSA designed the VFC Program to encourage employers and plan fiduciaries to voluntarily comply with ERISA and allow those potentially liable for certain specified fiduciary breaches under ERISA to voluntarily apply for relief from civil enforcement actions and certain civil penalties, provided they meet the Program's criteria and follow the procedures outlined in the Program. Based on a review of the current VFC Program, the Department concluded that certain revisions to the Program would facilitate more efficient and less costly corrections of fiduciary breaches under the Program, encourage greater participation in the Program, and respond to requests from stakeholders for adjustments based on their experiences using the Program. Accordingly, on November 21, 2022, the Department published in the **Federal Register** an amended and restated VFC Program.<sup>3</sup> On the same date, EBSA also published a proposed amendment to PTE 2002-51, the Program's associated class exemption, to make certain conforming amendments to the class exemption.<sup>4</sup> The Department solicited general comment on any aspect of the VFC Program, including the amendments being announced, and furthermore expressed particular interest in public comments on whether

there are other circumstances in which the VFC Program could be integrated with corrections under the Voluntary Correction Program of the Internal Revenue Service's Employee Plans Compliance Resolution System (EPCRS). The Department requested that comments on the amended and restated VFC Program be submitted on or before January 20, 2023. For a more comprehensive discussion of the VFC Program, please see 87 FR 71164.

H.R. 2617, Consolidated Appropriations Act, 2023 (CAA) was signed into law on December 29, 2022. CAA includes a number of provisions related to retirement and other types of plans in Division T, which is also cited as SECURE 2.0 Act of 2022 (SECURE 2.0). Section 305 of SECURE 2.0 provides for expansion of EPCRS to cover any "eligible inadvertent failure." The term "eligible inadvertent failure" as defined in section 305(e) generally includes a failure that occurs despite the existence of practices and procedures that satisfy EPCRS standards and is not egregious, related to the diversion or misuse of plan assets, or related to an abusive tax avoidance transaction. Section 305(b) specifically provides for correction of an "eligible inadvertent failure" relating to a loan from a plan to a participant, and furthermore indicates that the Department shall treat any such loan failures self-corrected in accordance with applicable requirements as meeting the requirements of the VFC Program, although the Department may impose reporting or other procedural requirements. Section 305(g) contemplates the issuance of further guidance by the Department of Treasury ("Treasury") on EPCRS to take into account the provisions of section 305.

Given the general effect of section 305 of SECURE 2.0 on EPCRS and the specific references to the VFC Program in connection with corrected loans to participants, the Department is reopening for 60 days the period for submitting comments on the amended and restated VFC Program and proposed amendment to PTE 2002-51.<sup>5</sup> The Department is interested in comments on what revisions, if any, should be made to the VFC Program to reflect the treatment of corrections of loans to participants as described in SECURE 2.0

section 305(b). Specifically, how should the VFC Program be modified in the future to implement the new deeming provision in SECURE 2.0 section 305(b)(2) ("the Secretary of Labor shall treat any such failure which is so self-corrected under subsection (a) as meeting the requirements of the Voluntary Fiduciary Correction Program of the Department of Labor if . . .")? For example, should Section 7.3 be amended to include a specific paragraph treating items self-corrected under EPCRS as meeting the requirements of the VFC Program? In addition, should the VFC Program impose additional reporting or other procedural requirements for these specific corrections, and why? Are changes needed to PTE 2002-51 to implement SECURE 2.0 section 305(b)(2)? The Department is interested in comments that address these and related issues. The Department also is interested more generally in any other aspects of section 305 as it affects EPCRS that should be taken into account by the Department in making further revisions to the VFC Program and PTE 2002-51.

Signed at Washington, DC, this 1st day of February, 2023.

**Lisa M. Gomez,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2023-02545 Filed 2-13-23; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R04-OAR-2022-0741; FRL-10507-01-R4]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; South Carolina; 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 a Clean Air Act (CAA) section 111(d) plan submitted by the South Carolina Department of Health and Environmental Control (SCDHEC) on January 19, 2022. This state plan was submitted to fulfill the requirements of the CAA and is responsive to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The South

<sup>1</sup> Under Reorganization Plan No. 4 of 1978, 5 U.S.C. App. at 237 (2012), the authority of the Secretary of Treasury to issue exemptions pursuant to section 4975 of the Internal Revenue Code was transferred, with certain exceptions not relevant here, to the Secretary of Labor.

<sup>2</sup> 70 FR 17516 (Apr. 6, 2005), 71 FR 20262 (April 19, 2006).

<sup>3</sup> 87 FR 71164 (Nov. 21, 2022).

<sup>4</sup> 87 FR 70753 (Nov. 21, 2022).

<sup>5</sup> The Department has advised Treasury of the reopening of this comment period, and the Department understands that Treasury and the Internal Revenue Service intend to review comments submitted to the Department (as well as other stakeholder input) in developing updates to EPCRS with respect to section 305 of SECURE 2.0. The Department will forward to Treasury comments as they are received.

Carolina state plan establishes emission limits for existing MSW landfills and provides for the implementation and enforcement of those standards and requirements.

**DATES:** Written comments must be received on or before March 16, 2023.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0741 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:** Tracy Watson, Communities and Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St. SW, Atlanta, Georgia 30303. The telephone number is (404) 562-8998. Mr. Watson can also be reached via electronic mail at [watson.marion@epa.gov](mailto:watson.marion@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On August 29, 2016, EPA finalized revised Standards of Performance for new MSW landfills and Emission Guidelines and Compliance Times for existing MSW landfills in 40 CFR part 60 subpart XXX and Cf, respectively (81 FR 59332 and 81 FR 59276). These actions were taken in accordance with section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any existing source of any air pollutant: (1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source

category which is regulated under CAA section 112, but (2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittals in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. If the state plan is complete and approvable with reference to these requirements, EPA notifies the public, promulgates the plan pursuant to 40 CFR part 62, and delegates implementation and enforcement of the standards and requirements of the emission guidelines to the state under the terms of the state plan as published in the CFR.

On January 19, 2022, the SCDHEC submitted to EPA a formal section 111(d) plan for existing MSW landfills. The section 111(d) plan was submitted in response to the August 29, 2016, promulgation, and the March 26, 2020, subsequent amendments, of the emission guidelines requirements for MSW landfills, 40 CFR part 60, Cf (81 FR 59276 and 85 FR 17244, respectively).

**II. Summary and Analysis of the Plan Submittal**

EPA has reviewed the South Carolina section 111(d) plan submittal in the context of the plan completeness and approvability requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. EPA is proposing to determine that the submitted section 111(d) plan meets the above cited requirements. The South Carolina 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 section 111(d) plan are regulations under the South Carolina Code of State Regulations Annotated (S.C. Code Ann. Regs.) specifically, S.C. Code Ann. Regs. 61-62.60, Subpart Cf—"Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills." South Carolina houses its implementation and enforcement authority for the state plan requirements in this regulation. In this action, EPA is proposing to incorporate by reference S.C. Code Ann. Regs. 61-62.60, Subpart Cf, which became effective in the State of South Carolina on November 26, 2021. A detailed explanation of the rationale behind this proposed approval is available in the Technical Support

Document (TSD) included in the docket for this action.

**III. Proposed Action**

EPA is proposing to approve the South Carolina section 111(d) plan for MSW landfills pursuant to 40 CFR part 60, subparts B and Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart PP to reflect this action. This approval is based on the rationale previously discussed 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 S.C. Code Ann. Regs. 61-62.60, Subpart Cf, which became effective in the State of South Carolina on November 26, 2021. The regulatory provisions of this section of the South Carolina rule incorporate all the CAA 111(d)/129 state plan elements required by the EG for existing MSW landfill units promulgated at 40 CFR part 60, subpart Cf. The emissions standards and compliance times established within the South Carolina 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-2022-0741, 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**

In reviewing state plan submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- 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; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of South Carolina's state plan for existing MSW landfills does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the state plan is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Environmental protection, Landfills, Incorporation by reference, Intergovernmental relations, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 3, 2023.

**Daniel Blackman,**

*Regional Administrator Region 4.*

[FR Doc. 2023–02700 Filed 2–13–23; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Part 1355 and 1356

RIN 0970–AC91

#### Separate Licensing Standards for Relative or Kinship Foster Family Homes

**AGENCY:** Children's Bureau (CB); Administration on Children, Youth and Families (ACYF); Administration for Children and Families (ACF); Department of Health and Human Services (HHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** ACF is proposing to revise the definition of “foster family home” to allow each title IV–E agency to adopt foster family home licensing or approval standards for foster family homes of individuals related to a child by blood, marriage, or adoption and other individuals who have an emotionally significant relationship with the child, including fictive kin, (referred herein as “relative(s) and kin(ship)”) that differ from non-relative foster family homes agency standards. In this context, a “non-relative” foster family home means a home of an unrelated individual who is not kin or fictive kin. This notice of proposed rulemaking (NPRM) would allow a title IV–E agency to claim title IV–E federal financial participation (FFP) for the cost of foster care maintenance payments (FCMP) on behalf of an otherwise eligible child who is placed in a relative or kinship licensed or approved foster family home when the agency uses different licensing or approval standards for relative or kinship foster family homes and non-relative foster family homes. In addition, the NPRM would amend the requirement that title IV–E agencies review the amount of FCMPs to also assure that the agency provides a licensed or approved relative and kinship foster family home the same amount of FCMP that would have been made if the child was placed in a non-related foster family home.

**DATES:** In order to be considered, ACF must receive written comments on this NPRM on or before April 17, 2023.

**ADDRESSES:** ACF encourages the public to submit comments electronically to ensure they are received in a timely manner. Please be sure to include identifying information on any correspondence. To download an electronic version of the proposed rule,

please go to <http://www.regulations.gov/>. You may submit comments, identified by docket number, by any of the following methods:

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

- *Email:* [CBComments@acf.hhs.gov](mailto:CBComments@acf.hhs.gov). Include [docket number and/or Regulatory Information Number (RIN number)] in subject line of the message.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Kathleen McHugh, Director, Policy Division, Children's Bureau, (202) 401–5789 [cbcomments@acf.hhs.gov](mailto:cbcomments@acf.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Statutory Authority

This NPRM is published under the authority granted to the Secretary of Health and Human Services (the Secretary) by section 1102 of the Social Security Act (the Act), 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act.

#### II. Background

When parents are unable to safely care for their own children, it is often grandparents, other relatives, or kin who step forward to provide a loving home for those children, either temporarily or permanently. All over the nation, there is a preference to prioritize placing children entering foster care with relatives and kin over non-relative foster families when appropriate (“How can we prioritize kin in the home study and licensure process, and make placement with relatives the norm?” Casey Family Programs, 2020.). This preference stems from the knowledge that it is generally best for children to be with family and also from the increasing shortage of qualified foster parents (Miller, Jennifer, “Creating a Kin-First Culture,” *American Bar Association*, July 1, 2017). The Government Accountability Office found “in 2018, an estimated 2.7