

# Proposed Rulemaking: Legal Authority for Delegation of Federal Plans in 40 CFR Part 62

Environmental Quality Board  
April 8, 2025





Pennsylvania  
Department of  
Environmental Protection

# Purpose

- Regulatory changes required by the EPA.
- Ensure Pennsylvania law allows DEP to request delegation of authority for applicable Federal Plans established by the EPA in 40 CFR Part 62.



# Background

- DEP historically submitted requests for delegation of Federal Plans to the EPA citing 25 Pa. Code § 122.3 (relating to adoption of standards) as the express legal authority to do so.
- The EPA recently indicated:
  - Language in 25 Pa. Code § 122.3 was insufficient.
  - Pennsylvania needed explicit language addressing adoption and incorporation by reference of Federal Plans.



# Background

- The EPA establishes a Federal Plan in 40 CFR Part 62 to implement applicable emission guidelines established in 40 CFR Part 60.
- Federal Plans may be used by states that do not have an approved State Plan.
- States must request delegation of authority from the EPA to implement the Federal Plan if the State has subject sources in its jurisdiction and does not have an approved State Plan.



## Addition of § 122.4

- Specifies that Federal Plan requirements for existing sources promulgated in 40 CFR Part 62 are adopted in their entirety by DEP and incorporated by reference, if Pennsylvania does not have its own State Plan approved by the EPA for those existing sources.
- Allows DEP to ask the EPA for delegation of authority to implement an applicable Federal Plan established by the EPA in 40 CFR Part 62.



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# Affected Parties

- No facilities are directly affected by the proposed regulation.
- This administrative amendment documents existing practice.



# Advisory Committee Review

- The following advisory committees were consulted on this proposed rulemaking:
  - Air Quality Technical Advisory Committee on April 4, 2024
  - Small Business Compliance Advisory Committee on April 17, 2024
  - Citizens Advisory Council on May 14, 2024



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# Recommendation

- DEP recommends the Board adopt this proposed regulation.
- A 60-day public comment period is recommended, with three public hearings to be held at DEP regional offices in Norristown, Harrisburg and Pittsburgh, PA.



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# Questions?

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The Department of Environmental Protection's mission is to protect Pennsylvania's air, land and water resources and to provide for the health and safety of its residents and visitors, consistent with the rights and duties established under the Environmental Rights Amendment (Article 1, Section 27 of the Pennsylvania Constitution).