



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 62**

**[EPA-R06-OAR-2026-0233; FRL-13256-01-R6]**

### **Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Louisiana; Control of Emissions From Existing Other Solid Waste Incineration Units**

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is notifying the public that we have received a CAA section 111(d)/129 negative declaration from Louisiana for existing incinerators subject to the Other Solid Waste Incineration units (OSWI) Emission Guidelines (EG). This negative declaration certifies that existing incinerators subject to the OSWI EG and the requirements of sections 111(d) and 129 of the CAA do not exist within specified jurisdictions in Louisiana. The EPA is proposing to accept the negative declaration and amend the agency regulations in accordance with the requirements of the CAA.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2026-0233, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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. The 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, please contact Kevin Kim, (214)-665-8554, [kim.kevin@epa.gov](mailto:kim.kevin@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov). While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Kevin Kim, EPA Region 6 Office, Air and Radiation Division - State Planning and Implementation Branch, (214)-665-6530, [kim.kevin@epa.gov](mailto:kim.kevin@epa.gov). We encourage the public to submit comments via <https://www.regulations.gov>. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## **I. Background**

### *A. Clean Air Act Sections 111(d) and 129*

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 CAA section 111(b) for new sources of the same type, and the EPA has established emission guidelines for such existing sources. CAA section 129 directs the EPA to establish standards of performance for new sources (NSPS) and emissions guidelines (EG) for

existing sources for each category of solid waste incineration unit. Under CAA section 129, NSPS and EG must contain numerical emissions limitations for particulate matter, opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. While NSPS are directly applicable to affected facilities, EG for existing units are intended for states to use to develop a state plan to submit to the EPA. Once approved by the EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a Federal plan.

The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans for controlling designated pollutants.

Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which EPA will approve or disapprove such plans submitted by a state. When existing 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 a 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.

#### *B. Other Solid Waste Incineration Units Emission Guidelines*

EPA promulgated the OSWI NSPS and EG on December 16, 2005, codified at 40 CFR part 60, subparts EEEE and FFFF, respectively (70 FR 74870). Thus, states were required to submit plans for incinerators subject to the OSWI EG pursuant to sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the 2005 OSWI EG, the

designated facilities to which the OSWI EG apply were existing incinerators<sup>1</sup> subject to the OSWI EG that commenced construction on or before December 9, 2004, and were not modified or reconstructed on or after June 16, 2006, as specified in 40 CFR 60.2991 and 60.2992, with limited exceptions as provided under 40 CFR 60.2993. EPA finalized revisions to the OSWI EG and NSPS on April 17, 2024 (89 FR 27392), removing the title V permitting requirements for air curtain incinerators (ACIs) that only burn wood waste, clean lumber, yard waste, or a mixture of those, and are not located at title V major sources or subject to title V for other reasons. Technical corrections addressing inadvertent errors in the regulatory text amended the rule on November 14, 2024 (89 FR 89928).

On June 30, 2025 (90 FR 27910), the EPA finalized a comprehensive periodic review of and revisions to the OSWI NSPS and EG. These revisions include applicability-related and definitional changes as well as changes to OSWI subcategories and the standards for the new subcategories. Under the 2025 OSWI EG, the applicability of designated facilities to which the OSWI EG apply was revised to include existing incinerators that commenced construction on or before August 31, 2020.<sup>2</sup> The 2025 OSWI EG also included new subcategories of less than or equal to 10 tons per day (TPD) and greater than 10 TPD for existing categories of OSWI (institutional waste incinerator units (IWI) and very small municipal waste combustion unit (VSMWC)).<sup>3</sup>

### *C. Negative Declarations from Louisiana*

In order to fulfill obligations under CAA sections 111(d) and 129, the Louisiana Department of Environmental Quality (LDEQ) submitted negative declarations for incinerators subject to the OSWI EG for its air pollution control jurisdiction. The

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<sup>1</sup> These incinerators include both OSWI and air curtain incinerators (ACI). The ACI that are subject to the OSWI EG at 40 CFR part 60, subpart FFFF, are those ACI that may not fit the definition of an “OSWI” under the OSWI EG due to burning certain types of wastes. See 40 CFR 60.2994(b) and 60.3078.

<sup>2</sup> As specified in 40 CFR 60.2991 and 60.2992, with limited exceptions as provided under 40 CFR 60.2993.

<sup>3</sup> See 40 CFR 60.3022 and 40 CFR part 60 subpart FFFF, tables 2 and 2a.

submittal of these negative declarations exempts Louisiana from the requirement to submit a state plan for incinerators subject to the OSWI EG under 40 CFR part 60, subpart FFFF.

On November 24, 2020, LDEQ submitted a negative declaration for the 2005 OSWI EG under 40 CFR part 60, subpart FFFF. We accepted that negative declaration and amended the CFR accordingly in a *Federal Register* final rule published on April 30, 2021 (86 FR 22875).

Revisions to the OSWI EG in 2025 changed the applicability and requirements of designated facilities, which necessitated the submission of new state plans or negative declarations to EPA. LDEQ submitted a new OSWI negative declaration letter to the EPA on November 4, 2025, to address 2025 OSWI EG requirements.<sup>4</sup> In that letter, the LDEQ certified that there are no sources subject to the current OSWI EG, as revised in 2025, in accordance with CAA sections 111(d) and 129 requirements in its individual air pollution control jurisdiction in Louisiana. A copy of LDEQ's negative declaration letter is included in the docket for this proposed rulemaking.

## **II. Proposed Action**

The EPA is proposing to amend 40 CFR part 62, subpart T, to reflect receipt of the negative declaration letter from LDEQ, submitted on November 4, 2025, certifying that there are no existing incinerators subject to the OSWI EG at 40 CFR part 60, subpart FFFF, under the specified jurisdictions of Louisiana in accordance with 40 CFR 60.2982, 40 CFR 60.23(b), 40 CFR 62.06, and sections 111(d) and 129 of the CAA.

## **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a CAA section 111(d)/129 submission that complies with the provisions of the Act and applicable Federal

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<sup>4</sup> The Louisiana negative declaration letter for incinerators subject to the OSWI EG does not cover sources located in Indian country.

regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and FFFF; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d)/129 state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act and implementing regulations. Accordingly, this action merely proposes to accept a CAA section 111(d)/129 negative declaration from a state and does not impose additional requirements. For that reason:

*A. Executive Order 12866: Regulatory Planning and Review*

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993) and was therefore not subject to a requirement for Executive Order 12866 review.

*B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA (44 U.S.C. 3501 et seq.) because it does not contain any information collection activities.

*D. Regulatory Flexibility Act (RFA)*

This action is certified to not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 et seq.). This action will approve a state plan pursuant to CAA section 111(d)/129 and will therefore have no net regulatory burden for all directly regulated small entities.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or Tribal Governments or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will 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.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action will not apply to areas of Indian country within the State and therefore does not have tribal implications as specified in E.O. 13175 (65 FR 67249, November 9, 2000). This action will neither impose substantial direct compliance costs on federally recognized Tribal Governments, nor preempt Tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal Governments because no actions will be required of Tribal Governments. This action will also not preempt Tribal law as no State tribe implements a regulatory program under the CAA and thus does not have applicable or related Tribal laws.

*H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definitions of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it approves a state program.

*I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution and Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards. This action 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 Clean Air Act.

**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.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 11, 2026.

**Walter Mason,**

*Regional Administrator, Region 6.*

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