



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2026-4952; FRL-13457-02-R7]

Approval and Promulgation of State Plan (Negative Declaration) for Designated Facilities and Pollutants; Nebraska; Commercial and Industrial Solid Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to accept a negative declaration submitted by the Nebraska Department of Water, Energy, and Environment (NDWEE) to satisfy the emission guidelines and associated compliance times requirements for Commercial and Industrial Solid Waste Incineration (CISWI) units for the State of Nebraska. The negative declaration certifies that there are no existing sources within the jurisdiction of Nebraska that must comply with the rule. This action is being taken in accordance with the Clean Air Act (CAA) requirements for emission guidelines and state plans for existing sources.

DATES: This direct final rule will be effective **[insert date 60 days after date of publication in the Federal Register]**, without further notice, unless the EPA receives adverse comment by **[insert date 30 days after date of publication in the Federal Register]**. If the EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take

effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2026-4952, to <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, 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>.

FOR FURTHER INFORMATION CONTACT: Allyson Prue, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7277; email address: prue.allyson@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” refer to the EPA.

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I. What is a CAA 111(d) Plan?

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. Section 129 of the CAA is specific to solid waste combustion and requires the EPA to establish the new source performance standards (NSPS) and emission guidelines for existing sources for each category of solid waste incineration units, which include CISWI units, as addressed in this action. Under CAA section 129, the NSPS and emission guidelines must contain 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. While the NSPS are directly applicable to affected facilities, emission guidelines 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. The regulations at 40 CFR part 62, subpart A, provide the procedural framework by which the EPA will approve or disapprove such plans submitted by a state.

However, 40 CFR 60.23(b) and 62.06 provide that if a state does not have any existing solid waste incineration units for the relevant emission guidelines, the state shall submit a letter to the EPA certifying that no such units exist within the state (*i.e.*, a negative declaration) in lieu of a state plan. A negative declaration exempts the state from the provisions of subpart B regarding the submittal of a CAA section 111(d)/129 plan.

II. What are the Regulatory Requirements for CISWIs?

On December 1, 2000, the EPA originally promulgated the NSPS and emission guidelines to reduce air pollution from CISWI units, which are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. See 65 FR 75338. These rulemakings underwent a number of revisions and amendments throughout the 2000s, with the most recent amendments being finalized on June 23, 2016. See 81 FR 40956. Due to significant changes to applicability in the March 21, 2011 CISWI rulemaking, the EPA required states to resubmit state plans for existing source CISWI. See 76 FR 15704 and 78 FR 9112. Existing source CISWI units are those which have commenced construction on or before June 4, 2010, or were modified no later than August 7, 2013. The emission guidelines

for existing source CISWI are codified at 40 CFR part 60, subpart DDDD.

States subject to 40 CFR part 60, subpart DDDD (subpart DDDD) must submit a state plan to the EPA that implements the CISWI emission guidelines as per 40 CFR 60.2505. A state with no existing units submits a negative declaration letter in place of a state plan in accordance with 40 CFR 60.2510. The Nebraska Department of Water, Energy, and Environment, formerly the Nebraska Department of Environmental Quality at the time of submission, submitted a negative declaration to the EPA on March 26, 2018, certifying that there are no existing sources in the State of Nebraska subject to the requirements of subpart DDDD. On May 21, 2026, the EPA received confirmation from the NDWEE that the 2018 negative declaration is current and that there continues to be no existing sources in the State subject to the requirements of subpart DDDD.

III. Why is this Action Necessary?

In this final rule, the EPA will amend 40 CFR part 62 to reflect receipt of the negative declaration letter for the State of Nebraska, certifying that there are no existing CISWI units within its jurisdiction subject to 40 CFR part 60, subpart DDDD, in accordance with section 111(d) of the CAA.

If a designated facility is later found within the mentioned jurisdictions after publication of the final action, then the facility will become subject to the requirements of the federal plan for that designated facility, including the

compliance schedule. The federal plan will no longer apply if we subsequently receive and approve a CAA section 111(d)/129 plan from the jurisdiction with the overlooked facility.

We are publishing this direct final rule without prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this *Federal Register*, we are publishing a separate document that will serve as the proposed rule to approve the negative declaration if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If the EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to approve a 111(d) negative declaration in lieu of a state plan that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and DDDD; and 40 CFR part 62, subpart A. Thus, in reviewing 111(d) negative declaration letters, the EPA's role is to approve state choices, provided that 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);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, this action is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 **[insert date 60 days after date of publication in the Federal Register]**. 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 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, Commercial and industrial solid waste incinerators, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: _____

July 6, 2026.

James Macy,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 62 as set forth below:

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 CC-Nebraska

2. Revise § 62.6916 to read as follows:

§ 62.6916 Identification of plan-negative declaration.

On March 26, 2018, the State of Nebraska Department of Environmental Quality submitted a letter certifying no Commercial and Industrial Solid Waste Incineration units subject to 40 CFR part 60, subpart DDDD operate within the State's jurisdiction.

[FR Doc. 2026-14330 Filed: 7/15/2026 8:45 am; Publication Date: 7/16/2026]