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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2026-4225; FRL-13428-01-R3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Negative Declaration for Existing Other Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the negative declaration submitted by the Maryland Department of the Environment (MDE) on April 17, 2026. The negative declaration submitted by MDE certifies that there are no existing other solid waste incinerators (OSWI) subject to sections 111(d) and 129 of the Clean Air Act (CAA) within the jurisdiction of the State of Maryland.

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 ID No. EPA-R03-OAR-2026-4225 at *Regulations.gov,* or via email to *Supplee.Gwendolyn@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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, please contact the

person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/ commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Krystal Stankunas, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5271. Ms. Stankunas can also be reached via electronic mail at *Stankunas.Krystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The CAA requires State regulatory agencies to implement emission guidelines and associated compliance times using a State plan developed under sections 111(d) and 129 of the CAA. Section 111(d) of the CAA establishes standards of performance for certain existing sources. Air pollutants included under this section are those which have not already been established as air quality criteria pollutants via 42 United States Code (U.S.C.) 7408(a) or hazardous air pollutants via 42 U.S.C. 7412. Section 111(d)(1) of the CAA requires States to submit to EPA for approval a plan that establishes standards of performance. The plan must provide that the State will implement and enforce the standards of performance.

Section 129 of the CAA requires emission guidelines to be promulgated for solid waste incineration units, including OSWI. Section 129 of the CAA mandates that all plan requirements be at least as protective as the promulgated emission guidelines, including fixed final compliance dates, fixed compliance schedules, and title V permitting requirements for all affected sources. Section 129 of the CAA also requires the States to submit plans to the EPA within one year after promulgation of the emission guidelines and compliance times.

The EPA prescribes a Federal plan if a State does not submit a State-specific plan or the submitted plan is disapproved. If a State has no designated facilities for a standards of

performance source category, it may submit a negative declaration in lieu of a State plan for that source category in accordance with 40 Code of Federal Regulations (CFR) 60.23(b), 60.23a(b) and 62.06.

The Emissions Guidelines and Compliance Times for Other Solid Waste Incineration Units, as codified at 40 CFR part 60 subpart FFFF (subpart FFFF) apply to States with existing OSWI. The existing OSWI to which the emission guidelines and compliance times apply is defined at 40 CFR 60.2992 and 60.3078. Existing air curtain incinerators that are subject to this part are defined at 40 CFR 60.2994.

II. Summary of Action and EPA Analysis

The MDE submitted a negative declaration to the EPA on April 17, 2026, certifying that there are no existing OSWI in its jurisdiction that are subject to the requirements of 40 CFR part 60 subpart FFFF. For additional background information on MDE's negative declaration, see the documents that are available at *Regulations.gov*, Docket ID No. EPA-R03-OAR-2026-4225.

III. Proposed Action

The EPA is proposing to amend 40 CFR part 62 to reflect EPA's receipt of MDE's negative declaration for OSWI. The negative declaration satisfies the requirements of 40 CFR 60.23(b) and 62.06, serving in lieu of a CAA section 111(d)/129 plan for existing OSWI. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA has the authority to approve a 129/111(d) negative declaration in lieu of a State plan that complies with the provisions of the CAA and applicable Federal regulations. *See* 40 CFR 62.06. In reviewing 129/111(d) negative declaration letters, EPA's role is to approve State choices, provided that they meet the criteria of the CAA and of EPA's implementing regulations. Accordingly, this action merely notifies the public of the EPA's

receipt of MDE's negative declaration for OSWI and does not impose additional requirements. For that reason, the EPA concludes the following.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be 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 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*.).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because 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 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. This action is not subject to the 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.

J. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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