

4. The demonstration that the SIP provides for transportation control strategies and measures sufficient to offset any growth in emissions from growth in VMT or the number of vehicle trips, and to provide for RFP and attainment, as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1105(a)(1) and 51.1100(o)(10).

We are also approving the revised MVEBs for RFP for 2017 and for the attainment year of 2018, because they are derived from approvable RFP and attainment demonstrations and meet the requirements of CAA sections 176(c) and 40 CFR part 93, subpart A.

#### *B. Request for Public Comments*

The EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

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

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

#### *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. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

#### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

#### *D. 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 does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to

the private sector, will result from this action.

#### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. 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.

#### *F. Executive Order 13175: Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

#### *H. Executive Order 13211: Actions 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)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population*

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 19, 2016.

**Alexis Strauss,**

*Acting Regional Administrator, EPA Region IX.*

[FR Doc. 2016–26376 Filed 10–31–16; 8:45 am]

**BILLING CODE 6560–50–P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 62**

[EPA–R02–OAR–2016–0161; FRL–9954–59–Region 2]

#### **Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New York, New Jersey and Commonwealth of Puerto Rico; Other Solid Waste Incineration Units (OSWIs)**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve the Clean Air Act (CAA) section 111(d)/129 negative declaration for the States of New York and New Jersey and the Commonwealth of Puerto Rico, for other solid waste incineration units (OSWIs) units. Other solid waste incineration (OSWI) unit means either a very small municipal waste combustion unit or an institutional waste incineration unit within our regulations. This negative declaration certifies that existing OSWI units subject to sections 111(d) and 129 of the CAA do not exist within the jurisdiction of the States of New York and New Jersey or the Commonwealth of Puerto Rico. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

**DATES:** Comments must be received on or before December 1, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–OAR–2016—to <http://>

[www.regulations.gov](http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Edward J. Linky, Environmental Protection Agency, Air Programs Branch, 290 Broadway New York, New York 1007-1866 at 212-637-3764 or by email at [linky.edward@epa.gov](mailto:linky.edward@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, the EPA is approving the State of New York's negative declaration submitted November 13, 2006, the State of New Jersey's negative declaration submitted April 5, 2006 and the Commonwealth of Puerto Rico's negative declaration submitted September 25, 2006 as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments to this action.

A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

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

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Sewage sludge incinerators.

Dated: October 3, 2016.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2016-26172 Filed 10-31-16; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 241**

[EPA-HQ-OLEM-2016-0248; FRL-9953-38-OLEM]

**RIN 2050-AG83**

**Additions to List of Section 241.4 Categorical Non-Waste Fuels: Other Treated Railroad Ties**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is proposing to issue amendments to the Non-Hazardous Secondary Materials rule, initially promulgated on March 21, 2011, and amended on February 7, 2013 and February 8, 2016, under the Resource Conservation and Recovery Act. The Non-Hazardous Secondary Materials rule generally established standards and procedures for identifying whether non-hazardous secondary materials are solid wastes when used as fuels or ingredients in combustion units. In the February 7, 2013 amendments, the EPA listed particular non-hazardous secondary materials as "categorical non-waste fuels" provided certain conditions are met. Persons burning these non-hazardous secondary materials do not need to evaluate them under the general self-implementing case-by-case standards and procedures that would otherwise apply to non-hazardous secondary materials used in combustion units. The February 8, 2016 amendments added three materials including creosote treated railroad ties to the list of categorical non-waste fuels. This action proposes to add other treated railroad ties to the list, which are processed creosote-borate, copper naphthenate and copper naphthenate-borate treated railroad ties, under certain conditions depending on the chemical treatment.

**DATES:** Comments must be received on or before January 3, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OLEM-2016-0248, at <http://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:**

George Faison, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, MC 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 305-7652; email: [faison.george@epa.gov](mailto:faison.george@epa.gov).

**SUPPLEMENTARY INFORMATION:**

The following outline is provided to aid in locating information in this preamble.

- I. General Information
  - A. List of Abbreviations and Acronyms Used in This Proposed Rule
  - B. What is the statutory authority for this proposed rule?
  - C. Does this proposed rule apply to me?
  - D. What is the purpose of this proposed rule?
- II. Background
  - A. History of the NHSM Rulemakings
  - B. Background to This Proposed Rule
  - C. How will EPA make categorical non-waste determinations?
- III. Proposed Categorical Non-Waste Listing Determination for OTRTs
  - A. Detailed Description of OTRTs
  - B. OTRTs under Current NHSM Rules
  - C. Scope of the Proposed Categorical Non-Waste Listing for OTRTs
  - D. Rationale for Proposed Listing
  - E. Summary and Request for Comment
  - F. Copper and Borates Literature Review and Other EPA Program Review Summary