



REGION 3 ADMINISTRATOR

PHILADELPHIA, PA 19103

July 7, 2025

Serena McIlwain
Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Dear Secretary McIlwain:

The U.S. Environmental Protection Agency (EPA) has identified an error in the Maryland Department of the Environment's (MDE) final permit decision for the Maryland Offshore Wind Project being developed by U.S. Wind, Inc. (US Wind) located approximately 10 nautical miles off the coast of Worcester County, Maryland on the outer continental shelf.¹

Specifically, the MDE identified the incorrect appeals process in the Notice of Final Determination and provided conflicting information about the appeals process for this permit on its website. The MDE issued this permit under federal law authority (40 CFR Part 55) pursuant to the EPA's delegation of authority to implement and enforce the Outer Continental Shelf (OCS) program. Therefore, the US Wind permit is subject to the requirements of 40 CFR Part 55. 40 CFR § 55.6(a)(3) directs that the administrative procedures and public participation requirements of 40 CFR Part 124 be followed. Pursuant to 40 CFR § 124.19, a petition for review of a permit is to be filed with the Clerk of the Environmental Appeals Board within 30 days from the notice of the issuance of the final permit decision. The Notice of Final Determination and the website should reference the process under 40 CFR § 124.19 and should not indicate that the permit is appealable under Maryland's appeal process found at Section 1-605 of the Environment Article, Annotated Code of Maryland.

To remedy this issue, and to satisfy the requirements in 40 CFR § 55.6 and § 124.19, Maryland must reissue the final permit decision for US Wind to:

1. Clarify that Maryland issued the permit under federal authority pursuant to 40 CFR Part 55;
2. Remove erroneous text regarding the Maryland appeal process (including reference to the state process on the website);

¹ See Maryland Department of the Environment, Air and Radiation Administration, "Notice of Final Determination Regarding a Permit to Construct, PSD Approval, and NSR Approval for the Construction and Commissioning of the Maryland Wind Offshore Project Submitted by US Wind, Inc." effective date June 6, 2025, *available at* <https://mde.maryland.gov/programs/permits/AirManagementPermits/Documents/NoticeofFinalDetermination.pdf>.

3. Include the following text as part of the final permit decision:
“The final determination may be appealed through the process set forth at 40 CFR § 124.19 for appeals of PSD permits, by filing a petition for review with the Clerk of the United States Environmental Protection Agency’s Environmental Appeals Board within the time prescribed in paragraph 124.19(a)(3).”; and
4. Identify, in accordance with 40 CFR § 124.15 requirements, the deadline to file a petition for review as within 30 days after MDE serves notice of the reissuance as required under 40 CFR § 124.19(a)(3) for parties eligible to file an appeal under 40 CFR Part 124.

Failure to rectify this error could result in invalidation of the permit on appeal and confusion among relevant stakeholders with respect to where to bring such an appeal.

If you have any questions, please do not hesitate to contact me or have your staff contact Michael Dunn, Acting Director, Air and Radiation Division, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103 at 215-814-2712 or Dunn.Michael@epa.gov.

Sincerely,

Amy Van Blarcom-Lackey
Regional Administrator

cc: Michael Dunn, EPA Region 3
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