

NEVADA—SO₂

Designated area	Does not meet primary stand- ards	Does not meet secondary standards	Cannot be classified	Better than na- tional stand- ards
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Steptoe Valley (179)(10–29N, 61–67E): Central	X
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[FR Doc. 02–8289 Filed 4–11–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[RI 044–6991a; FRL–7170–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the sections 111(d)/129 negative declarations submitted by the Rhode Island Department of Environmental Management (DEM) on January 8, 2002. These negative declarations adequately certify that there are no existing commercial and industrial solid waste incineration units (CISWIs) or small municipal waste combustors (MWCs) located within the boundaries of the state of Rhode Island. EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (e.g., CISWIs). The state of Rhode Island submitted these negative declarations in lieu of a state control plan.

DATES: This direct final rule is effective on June 11, 2002 without further notice unless EPA receives significant adverse comment by May 13, 2002. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permit Programs Unit, Office of Ecosystem Protection, U.S. EPA, One

Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking Today?

EPA is approving the negative declarations of air emissions from CISWI and small MWC units submitted by the state of Rhode Island.

EPA is publishing these negative declarations without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve these negative declarations should relevant adverse comments be filed. If EPA receives no significant adverse comment by May 13, 2002 this action will be effective June 11, 2002.

If EPA receives significant adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. 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. If EPA

receives no comments, this action will be effective June 11, 2002.

II. What Is the Origin of the Requirements?

Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

III. When Did the Requirements First Become Known?

On November 30, 1999 (64 FR 67092) and August 30, 1999 (64 FR 47276), EPA proposed emission guidelines for CISWI units and small MWCs, respectively. These separate actions enabled EPA to list CISWI units and small MWCs as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants for each category by proposing emission guidelines for existing CISWI units and small MWCs. These guidelines were published in final form on December 1, 2000 (65 FR 75362) and December 6, 2000, respectively.

IV. When Did Rhode Island Submit Its Negative Declarations?

On January 8, 2002, the Rhode Island Department of Environmental Management (DEM) submitted a letter certifying that there are no existing CISWI units and no small MWCs subject to 40 CFR part 60, subpart B. Section 111(d) and 40 CFR 62.06 provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. EPA is publishing these negative declarations at 40 CFR 62.9970 and 62.9980, respectively.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule 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, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a

disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action does not create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Negative declaration approvals under section 111(d) of the Clean Air Act do not create any new requirements on any

entity affected by this rule, including small entities. Furthermore, in developing the CISWI and small MWC emission guidelines and standards, EPA prepared a written statements pursuant to the Regulatory Flexibility Act which it published in the respective 1999 proposal notices (*see* 64 FR 67100 and 64 FR 47243). In accordance with EPA's determination in issuing the 2000 CISWI and small MWC emission guidelines, these negative declaration approvals do not include any new requirements that will have a significant economic impact on a substantial number of small entities.

Therefore, because this approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that this approval action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this negative declaration does not substantially affect the rights or obligations of non-agency parties.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In approving or disapproving negative declarations under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 13, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: April 3, 2002.

Robert W. Varney,
Regional Administrator, EPA New England.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

Subpart OO—Rhode Island

2. Subpart OO is amended by adding a new § 62.9970 and a new undesignated center heading to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.9970 Identification of plan—negative declaration.

On January 8, 2002, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing commercial and industrial solid waste incineration units in the state subject to the emission guidelines under part 60, subpart DDDD of this chapter.

3. Subpart OO is also amended by adding a new § 62.9980 and a new undesignated center heading to read as follows:

Air Emissions From Existing Municipal Waste Combustors With the Capacity To Combust at Least 35 Tons Per Day But No More Than 250 Tons Per Day of Municipal Solid Waste

§ 62.9980 Identification of plan—negative declaration.

On January 8, 2002, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing small municipal waste combustors in the state subject to the emission

guidelines under part 60, subpart BBBB of this chapter.

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GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–10 and 301–53

[FTR Amendment 104]

RIN 3090–AH57

Federal Travel Regulation; Using Promotional Materials and Frequent Traveler Programs

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to remove those provisions requiring that promotional benefits, including frequent flyer miles, earned on official travel are considered the property of the Government and may only be used for official travel. On December 28, 2001, The President signed into law a provision that Federal employees may retain such promotional items for personal use.

DATES: This final rule is effective April 12, 2002 and applies to travel performed before, on, or after December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Program Analyst (Travel Team Leader and Facilitator) at telephone (202) 501–0483.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to Section 1116 of the National Defense Authorization Act for Fiscal Year 2002 (the Act) (Public Law 107–107, December 28, 2001), the General Services Administration (GSA) is issuing regulations allowing Federal employees to retain and make personal use of promotional items earned while on official Government travel. A Federal traveler who receives a promotional item such as frequent flyer miles, upgrades, or access to carrier clubs or facilities received as a result of using travel or transportation services obtained at Federal Government expense, or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use, if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government. The Act also repealed Section 6008 of the Federal Acquisition Streamlining Act of