

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 62**

[RI-1047a; FRL-7458-5]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declaration****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the sections 111(d) negative declaration submitted by the Rhode Island Department of Environmental Management (DEM) on May 27, 1998. This negative declaration adequately certifies that there are no existing municipal solid waste (MSW) landfills located in the state of Rhode Island that have accepted waste since November 8, 1987 and that must install collection and control systems according to EPA's emissions guidelines for existing MSW landfills. 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., landfills). The state of Rhode Island submitted this negative declaration in lieu of a state control plan.

**DATES:** This direct final rule is effective on May 5, 2003, without further notice unless EPA receives significant adverse comment by April 7, 2003. 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 Permits, Toxics & Indoor 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.

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**I. What Action Is EPA Taking Today?**

EPA is approving the negative declaration submitted by the state of Rhode Island on May 27, 1998.

EPA is publishing this negative declaration 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 this negative declaration should relevant adverse comments be filed. If EPA receives no significant adverse comment by April 7, 2003, this action will be effective May 5, 2003.

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**. 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 May 5, 2003.

**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 May 30, 1991 (56 FR 24468), EPA proposed emission guidelines for existing MSW landfills. This action enabled EPA to list existing MSW landfills as designated facilities. EPA specified non-methane organic compounds (NMOC) as a designated pollutant by proposing the emission guidelines for existing MSW landfills. These guidelines were published in final form on March 12, 1996 (61 FR 9905).

**IV. When Did Rhode Island Submit Its Negative Declaration?**

On May 27, 1998, the Rhode Island Department of Environmental Management (DEM) submitted a letter certifying that there are no existing MSW landfills 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 this negative declaration at 40 CFR 62.7405.

**V. Regulatory Assessment Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a