international application must include all of the following:

* * * * *

(3) A reproduction of the mark that is the same as the mark in the basic application and/or registration and that meets the requirements of § 2.52 of this title.

(i) If the mark in the basic application and/or registration is depicted in black and white and the basic application or registration does not include a color claim, the reproduction of the mark in the international application must be black and white.

(ii) If the mark in the basic application or registration is depicted in black and white and includes a color claim, the international application must include both a black and white reproduction of the mark and a color reproduction of the mark.

(iii) If the mark in the basic application and/or registration is depicted in color, the reproduction of the mark in the international application must be in color.

(iv) If the international application is filed on paper, the mark must be no more than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide, and must appear in the box designated by the International Bureau on the International Bureau's official form;

* * * * *

(9) The certification fee required by § 7.6;

(10) If the application is filed through TEAS, the international application fees for all classes, and the fees for all designated Contracting Parties identified in the international application (see § 7.7);

(11) A statement that the applicant is entitled to file an international application in the Office, specifying that applicant: is a national of the United States; has a domicile in the United States; or has a real and effective industrial or commercial establishment in the United States. Where an applicant's address is not in the United States, the applicant must provide the address of its U.S. domicile or establishment; and

(12) If the international application is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

* * * * *

■ 7. Amend § 7.14 by revising paragraph (e) to read as follows:

§ 7.14 Correcting irregularities in international application.

(a) * * *

(e) *Procedure for response.* To be considered timely, a response must be received by the International Bureau before the end of the response period set forth in the International Bureau's notice. Receipt in the Office does not fulfill this requirement. Any response submitted through the Office for forwarding to the International Bureau should be submitted as soon as possible, but at least one month before the end of the response period in the International Bureau's notice. The Office will not process any response submitted to the Office after the International Bureau's response deadline.

■ 8. Amend § 7.21 by revising paragraphs (b) introductory text, (b)(7), and (b)(8), and adding a new paragraph (b)(9), to read as follows:

§ 7.21 Subsequent designation.

* * * * *

(b) The Office will grant a date of receipt to a subsequent designation that is either filed through TEAS, or typed on the official paper form issued by the International Bureau. The subsequent designation must contain all of the following:

* * * * *

(7) The U.S. transmittal fee required by § 7.6;

(8) If the subsequent designation is filed through TEAS, the subsequent designation fees (*see* § 7.7); and

(9) If the subsequent designation is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

* * * * *

■ 9. Amend § 7.23 by revising paragraph (a)(8) to read as follows:

§ 7.23 Requests for recording assignments at the International Bureau.

* * * * *

(a) * * *

(8) The U.S. transmittal fee required by § 7.6.

* * * * *

■ 10. Amend § 7.25 by revising paragraph (a) to read as follows:

§ 7.25 Sections of part 2 applicable to extension of protection.

(a) Except for §§ 2.130–2.131, 2.160–2.166, 2.168, 2.173, 2.175, 2.181–2.186, and 2.197, all sections in part 2 of this chapter and all sections of part 10 of this chapter apply to a request for extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless stated otherwise.

* * * * *

■ 11. Amend § 7.31 by revising paragraph (a) introductory text to read as follows:

§ 7.31 Requirements for transformation of an extension of protection to the United States into a U.S. application.

* * * * *

(a) The holder of the international registration must file a request for transformation within three months of the date of cancellation of the international registration and include:

* * * * *

Dated: September 17, 2004.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 04–21476 Filed 9–23–04; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region II Docket No. R02–OAR–2004–NJ–0003, FRL–7818–4]

Approval and Promulgation of State Plans for Designated Facilities; New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the State of New Jersey. The negative declaration fulfills EPA's promulgated Emission Guidelines for existing commercial and industrial solid waste incinerator (CISWI) sources. In accordance with the Emission Guidelines, states are not required to submit a plan to implement and enforce the Emission Guidelines if there are no existing CISWI sources in the state and if it submits a negative declaration letter in place of the State Plan.

DATES: This rule will be effective October 25, 2004.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket, Room B–108, 1301

Constitution Avenue (Mail Code 6102T), NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella (*Gardella.Anthony@epa.gov*), Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3892.

SUPPLEMENTARY INFORMATION: The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

Table of Contents

A. What Action Is EPA Taking Today?
B. Why Is EPA Approving New Jersey's Negative Declaration?
C. What if an Existing CISWI Source Is Discovered After the Effective Date of EPA's Final Action?
D. What Comments Were Received on the Proposed Approval and How Has EPA Responded to Them?
E. What Are EPA's Conclusions?
F. Statutory and Executive Order Revisions.

A. What Action Is EPA Taking Today?

The EPA is approving a negative declaration submitted by the State of New Jersey dated March 4, 2004. This negative declaration finds that there are no existing facilities subject to regulation as commercial and industrial solid waste incinerators (CISWI) in the State of New Jersey. The negative declaration satisfies the federal Emission Guidelines requirements of EPA's promulgated regulation entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (65 FR 75338, December 1, 2000; and corrected at 66 FR 16605, March 27, 2001). The negative declaration officially certifies to EPA that, to the best of the State's knowledge, there are no CISWI sources in operation in the State of New Jersey.

In its March 4, 2004 letter, New Jersey further stated that its negative declaration was consistent with the EPA's database of CISWI units which shows only one potential CISWI incinerator located at the Hoffman LaRoche (HLR) facility in Nutley, New Jersey. However, New Jersey stated that the HLR incinerator is regulated as a co-fired combustor under EPA's Hospital/Medical/Infectious Waste Incinerator (HMIWI) Federal Plan (title 40, part 62, subpart HHH of the Code of Federal Regulations (40 CFR 62, subpart HHH), promulgated on August 15, 2000) and therefore, exempt from the CISWI Emission Guidelines. EPA agrees with New Jersey that the HLR incinerator is considered a co-fired combustor under EPA's HMIWI Federal Plan and, due to the nature of the waste combusted in the incinerator, is exempt from the CISWI Emission Guidelines.

B. Why Is EPA Approving New Jersey's Negative Declaration?

EPA has evaluated the negative declaration submitted by New Jersey for consistency with the Clean Air Act (Act), EPA guidelines and policy. EPA has determined that New Jersey's negative declaration meets all applicable requirements and, therefore, EPA is approving the State's certification that there are no existing CISWI units in operation throughout the State. For additional details, see EPA's proposed approval published in the **Federal Register** on July 16, 2004 (69 FR 42641).

C. What if an Existing CISWI Source Is Discovered After the Effective Date of EPA's Final Action?

Section 60.2530 of 40 CFR 60, subpart DDDD (page 75363 @ 65 FR 75338, December 1, 2001) requires that if, after the effective date of EPA's final action on New Jersey's negative declaration, an existing CISWI unit is found in the State, the Federal Plan (40 CFR 62, subpart III, promulgated on October 3, 2003) implementing the Emission Guidelines would automatically apply to that CISWI unit until a State Plan is approved by EPA.

D. What Comments Were Received on the Proposed Approval and How Has EPA Responded to Them?

The public comment period on EPA's proposed approval ended on August 16, 2004. There were no comments received on EPA's proposed approval of New Jersey's negative declaration. Therefore, EPA is approving New Jersey's negative declaration.

E. What Are EPA's Conclusions?

EPA has determined that New Jersey's negative declaration meets all applicable requirements and, therefore, EPA is approving New Jersey's certification that no CISWI units are in operation within the State of New Jersey. If any existing CISWI sources are discovered in the future, the Federal Plan implementing the Emission Guidelines would automatically apply to that CISWI unit until the State Plan is approved by EPA.

F. Statutory and Executive Order Revisions

Executive Order 12866, Regulatory Planning and Review

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * * ''44 U.S.C. 3502(3)(A). Because the final rule applies to New Jersey's negative declaration letter for CISWI units, there are no companies affected by this approval and therefore, the Paper Reduction Act does not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because as a negative declaration no sources in the state are subject to the CISWI Emission Guidelines requirements. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

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 by the rule.

EPA has determined that the 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 approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Executive Order 13132, Federalism

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.

EPA has concluded that this rule may have federalism implications. The only reason why this rule may have federalism implications is if in the future a CISWI unit is found within the State of New Jersey the unit will become subject to the Federal Plan until a State Plan is approved by EPA. However, it will not impose substantial direct compliance costs on state or local governments, nor will it preempt state law. Thus, the requirements of sections 6(b) and 6(c) of the Executive Order do not apply to this rule.

Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination With Indian Tribal Governments'' (65 FR 67249, November 9, 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.'' This final rule does not have tribal implications, as specified in Executive Order 13175. 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. Thus, Executive Order 13175 does not apply to this rule.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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.

Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

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.

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.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Acid gases, Carbon monoxide, commercial and industrial solid waste incinerators, Intergovernmental relations, Organics, Particulate matter, Lead, Reporting and recordkeeping requirements.

Dated: September 16, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

■ Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart FF—New Jersey

■ 2. Part 62 is amended by adding new § 62.7604 and an undesignated heading to subpart FF to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerator Units

§ 62.7604 Identification of plan—negative declaration.

Letter from the New Jersey Department of Environmental Protection, submitted March 4, 2004, certifying that there are no commercial and industrial solid waste incinerators in the State of New Jersey subject to part 60, subpart DDDD of this chapter.

[FR Doc. 04–21496 Filed 9–23–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2004–0286; FRL–7678–6]

Penoxsulam, 2-(2,2-difluoroethoxy)-N-(5,8-dimethoxy[1,2,4] triazolo[1,5-c]pyrimidin-2-yl)-6-(trifluoromethyl)benzenesulfonamide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.