standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

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 April 30, 2004. 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).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: February 17, 2004.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

■ Chapter I, title 40 of the Code of Federal Regulation 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 et seq.

Subpart PP—South Carolina

■ 2. Subpart PP is amended by adding an undesignated center heading and § 62.10190 to read as follows:

AIR EMISSIONS FROM COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION (CISWI) UNITS—SECTION 111(d)/129 PLAN

§ 62.10190 Identification of Sources.

The Plan applies to existing Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999.

[FR Doc. 04–4461 Filed 2–27–04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Regional Docket Nos. II–2002–13–A; FRL–7627–6]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for the Al Turi Landfill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on a petition to object to a State operating permit.

SUMMARY: This document announces that the EPA Administrator has responded to a citizen petition asking EPA to object to an operating permit issued to a facility by the New York State Department of Environmental Conservation (NYSDEC). Specifically, the Administrator has partially granted and partially denied the petition submitted by the New York Public Interest Research Group (NYPIRG) to object to the State operating permit issued to the following facility: Al Turi Landfill in Goshen, NY.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), Petitioner may seek judicial review of those portions of the petition which EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petition, and other supporting information at the EPA Region 2 Office, 290 Broadway, New York, New York 10007–1866. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final order for the Al Turi Landfill is available electronically at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/al_turi_decision2002.pdf.*

FOR FURTHER INFORMATION CONTACT: Steven Riva, Chief, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone (212) 637–4074.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to the State operating permit if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

On October 4, 2002, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for Al Turi Landfill. The petition raises issues regarding the permit application, the permit issuance process, and the permit itself. NYPIRG asserts that: (1) the permit does not comply with 40 CFR part 70 because the permit's expiration limits the effective date of many permit conditions; and (2) the final permit fails to correct deficiencies noted in NYPIRG's comments to NYSDEC on the draft Al Turi permit, including that (i) the permit is based on an inadequate permit application in violation of 40 CFR 70.5(c); (ii) the permit is not supported by an adequate statement of basis as required by 40 CFR 70.7(a)(5); (iii) the permit fails to specify whether or not the facility must submit an accidental release plan under section 112(r) of the

CAA, 42 U.S.C. 7412(r); (iv) the permit distorts the annual compliance certification requirement of section 114(a)(3) of the CAA, 42 U.S.C. 7414(a)(3), and 40 CFR 70.6(c)(5); (v) the permit does not require prompt reporting of all deviations from permit requirements as mandated by 40 CFR 70.6(a)(3)(iii)(B); (vi) the permit's startup/shutdown, malfunction, maintenance, and upset provision violates 40 CFR part 70; (vii) the permit has an inadequate compliance schedule in violation of 40 CFR 70.5(c)(8) and 70.6(c)(3); and (viii) the permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because many individual permit conditions lack adequate periodic monitoring and are not practically enforceable.

On January 30, 2004, the Administrator issued an order partially granting and partially denying the petition on the Al Turi Landfill. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Include the New York State Implementation Plan (SIP) version of the provision that allows the NYSDEC Commissioner to excuse certain unavoidable start-up, maintenance, and malfunction violations per criteria set in 6 N.Y.C.R.R. section 201.5; (2) clarify how the requirement to maintain and repair emission control equipment applies to the equipment located at the neighboring gas conversion facility; (3) clarify how the requirement regarding reintroduction of air contaminants from an air control device to outside air applies to the control equipment at the neighboring gas conversion facility; and (4) clarify that the internal combustion engines serving as control devices are ''enclosed combustors'' rather than ''other control devices,'' that the requirements for the enclosed combustors apply to these engines, and that there are no ''other control devices'' in use for control of landfill gas emissions from this landfill. The order also explains the reasons for denying NYPIRG's remaining claims. In conjunction with the reopening, EPA has directed NYSDEC to add Maximum Achievable Control Technology (MACT) requirements and to re-examine whether or not the landfill and the gas conversion facility must be treated as a single source for non-attainment New Source Review, Prevention of Significant Deterioration, and title V applicability purposes.

Dated: February 20, 2004.

Kathleen C. Callahan,

Acting Regional Administrator, Region 2.

[FR Doc. 04–4463 Filed 2–27–04; 8:45 am]

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