

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.*).

B. Submission to Congress and the Comptroller General

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. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. 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 November 9, 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, approving the Virginia HMIWI plan, 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, Sulfur acid plants, Waste treatment and disposal.

Dated: August 31, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

- 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. 7401-7671q.

Subpart VV—Virginia

- 2. Add a new center heading and §§ 62.11625, 62.11626, and 62.11627 to subpart VV to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerators (HMIWI) Units—Section 111(d)/129 Plan

§ 62.11625 Identification of plan.

Section 111(d)/129 HMIWI plan submitted on August 25, 2003, including related supplemental information submitted on August 11, 2003, and April 6 and July 23, 2004.

§ 62.11626 Identification of sources.

The plan applies to all affected HMIWI units for which construction commenced on or before June 20, 1996.

§ 62.11627 Effective date of plan.

Effective date of the plan is November 9, 2004.

[FR Doc. 04-20429 Filed 9-9-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[FRL-7810-9]

Adequacy of Minnesota Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: On March 22, 2004, the U.S. EPA issued final regulations allowing research, development, and demonstration (RD&D) permits to be issued to certain municipal solid waste landfills by approved States. On June 2, 2004, Minnesota submitted an application to the U.S. EPA seeking Federal approval of its RD&D requirements. Subject to public review and comment, this action approves Minnesota's RD&D permit requirements.

DATES: This final determination is effective November 9, 2004, unless adverse comments are received on or before October 12, 2004. If adverse comments are received a second **Federal Register** document responding to the adverse comments will be subsequently published.

ADDRESSES: Send written comments to Donna Twickler, Waste Management

Branch (Mail Code: DW-8J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments may also be submitted electronically to twickler.donna@epa.gov. See **SUPPLEMENTARY INFORMATION** for file formats for electronic submittals. Documents pertaining to this action can be viewed and copied during regular business hours at the EPA Region 5 office located at the address noted above.

FOR FURTHER INFORMATION CONTACT: Donna Twickler, mailcode DW-8J, Waste Management Branch, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886-6184, twickler.donna@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, the U.S. EPA issued final regulations allowing RD&D permits to be issued at certain municipal solid waste landfills (69 FR 13242, March 22, 2004). This new provision may only be implemented by an approved State. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to municipal solid waste landfills must seek approval from EPA before issuing such permits. Approval procedures for new provisions of 40 CFR part 258 are outlined in 40 CFR 239.12. On June 2, 2004, Minnesota submitted an amended application for approval of its RD&D permit provisions. Minnesota received full approval for all other 40 CFR part 258 provisions on August 16, 1993 (58 FR 43350, August 16, 1993).

B. Decision

After a thorough review, U.S. EPA Region 5 determined that Minnesota's RD&D provisions as defined under Minnesota Rule 7035.0450 are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.4.

C. Electronic Access and Filing

You may submit comments by sending electronic mail to twickler.donna@epa.gov. Please submit comments as ASCII files and avoid the use of special characters and any form of encryption. Please identify this specific action in your comments.

D. Statutory and Executive Order Reviews

This action approves State solid waste requirements pursuant to RCRA Section 4005 and imposes no Federal requirements. Therefore, this rule complies with applicable executive orders and statutory provisions as

follows: 1. *Executive Order 12866: Regulatory Planning Review*—The Office of Management and Budget has exempted this action from its review under Executive Order (EO) 12866; 2. *Paperwork Reduction Act*—This action does not impose an information collection burden under the Paperwork Reduction Act; 3. *Regulatory Flexibility Act*—After considering the economic impacts of today's action on small entities under the Regulatory Flexibility Act, I certify that this action will not have a significant economic impact on a substantial number of small entities; 4. *Unfunded Mandates Reform Act*—Because this action approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, this action does not contain any unfunded mandate, or significantly or uniquely affect small governments, as described in the Unfunded Mandates Act; 5. *Executive Order 13132: Federalism*—EO 13132 does not apply to this action because this action will not have federalism implications (*i.e.*, there are no substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities between Federal and

State governments); 6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—EO 13175 does not apply to this action because it will not have tribal implications (*i.e.*, there are no substantial direct effects 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); 7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This action is not subject to EO 13045 because it is not economically significant and is not based on health or safety risks; 8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This action is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866; 9. *National Technology Transfer Advancement Act*—EPA approves State programs so long as the State programs meet the criteria delineated in RCRA. It would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets RCRA requirements. Thus, section 12(d) of the

National Technology Transfer and Advancement Act does not apply to this action; 10. *Congressional Review Act*—EPA will submit a report containing this action and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment disposal, Water pollution control.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: August 30, 2004.

Norman Niedergang,

Acting Regional Administrator, Region 5.

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