

publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), are not available to the public. If an application is identified in the file contents of another application, but not the published patent application or patent itself, a granted petition for access (see paragraph (i)), or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.

(2) Information concerning a patent application may be communicated to the public if the patent application is identified in a published patent document or in an application as set forth in paragraphs (a)(1)(i) through (a)(1)(vi) of this section. The information that may be communicated

to the public (*i.e.*, status information) includes:

* * * * *

(b) *Electronic access to an application.* Where a copy of the application file or access to the application may be made available pursuant to this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application.

* * * * *

(h) *Access by a Foreign Intellectual Property Office.* (1) Access to the application-as-filed may be provided to any foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office), if the application contains written authority granting such access. Written authority under this paragraph should be submitted prior to filing a subsequent foreign application with a participating intellectual property office in which priority is claimed to the patent application.

(2) Written authority provided under paragraph (h)(1) of this section must include the title of the invention (§ 1.71(a)), comply with the requirements of paragraph (c) of this section, and be submitted on a separate document (§ 1.4(c)).

(3) Written authority provided under paragraph (h)(1) of this section will be treated as authorizing the Office to provide to all participating foreign intellectual property offices indicated in the written authority in accordance with their respective agreements with the Office:

(i) A copy of the application-as-filed; and

(ii) A copy of the application-as-filed with respect to any application the filing date of which is claimed by the application in which written authority under paragraph (h)(1) of this section is filed.

* * * * *

■ 3. Section 1.19 is amended by adding paragraph (b)(1)(iv) to read as follows:

§ 1.19 Document supply fees.

* * * * *

(b) * * *

(1) * * *

(iv) If provided to a foreign intellectual property office pursuant to a priority document exchange agreement (see § 1.14(h)(1)) 0.00

* * * * *

■ 4. Section 1.55 is amended by adding a new paragraph (d) to read as follows:

§ 1.55 Claim for foreign priority.

* * * * *

(d)(1) The requirement in this section for the certified copy of the foreign application will be considered satisfied if:

(i) The applicant files a request, in a separate document, that the Office obtain a copy of the foreign application from a foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office (see § 1.14(h)(1));

(ii) The foreign application is identified in the oath or declaration (§ 1.63(c)) or an application data sheet (§ 1.76(a)(6)); and

(iii) The copy of the foreign application is received by the Office within the period set forth in paragraph (a) of this section. Such a request should be made within the later of four months from the filing date of the application or sixteen months from the filing date of the foreign application.

(2) If the foreign application was filed at a foreign intellectual property office that is not participating with the Office in a priority document exchange agreement, but a copy of the foreign application was filed in an application subsequently filed in a participating foreign intellectual property office, the request under paragraph (d)(1)(i) of this section must identify the participating foreign intellectual property office and the application number of the subsequent application in which a copy of the foreign application was filed.

Dated: December 18, 2006.

Jon W. Dudas,

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

[FR Doc. E7-113 Filed 1-9-07; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket No. EPA-R02-OAR-2006-0615, FRL-8268-9]

Approval and Promulgation of Plans for Designated Facilities; New Jersey; Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request from the New Jersey Department of

Environmental Protection (NJDEP) for delegation of authority to implement and enforce the following three Federal plans: Municipal Solid Waste Landfills (MSW Landfills); Hospital/Medical/Infectious Waste Incinerators (HMIWI); and Small Municipal Waste Combustion Units (Small MWC). On November 8, 1999, August 15, 2000 and January 31, 2003 respectively, EPA promulgated the Federal plans for MSW Landfills, HMIWI and Small MWCs to fulfill the requirements of sections 111(d)/129 of the Clean Air Act (CAA). The Federal plans impose emission limits and control requirements for existing affected facilities located in areas not covered by an approved and currently effective State plan.

On May 15, 2006, NJDEP signed Memorandums of Agreement (MOAs) which act as the mechanism for the transfer of EPA authority to NJDEP. The intended effect is to approve MOAs that define the policies, responsibilities, and procedures by which the Federal plans for MSW Landfills, HMIWI and Small MWCs will be administered on behalf of EPA by NJDEP.

EPA proposed approval of NJDEP's delegation request on August 31, 2006.

DATES: *Effective Date:* This rule will be effective February 15, 2007.

ADDRESSES: Copies of the state submittal(s) 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 Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

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 Environmental Protection Agency (EPA) is approving the New Jersey Department of Environmental Protection's (NJDEP's) request for delegation of authority of three Federal plans. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section.

- I. What Action Is EPA Taking Today?
- II. What Are the Details of EPA's Specific Action?
- III. What Comments Were Received and How Has EPA Responded to Them?
- IV. What Are EPA's Conclusions?
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is approving NJDEP's request for delegation of authority to implement and enforce three Federal plans and to adhere to the terms and conditions prescribed in the Memorandums of Agreement (MOAs) signed between EPA and NJDEP, as further explained below. NJDEP requested delegation of authority of the following three Federal plans: Municipal Solid Waste Landfills (MSW Landfills); Hospital/Medical/Infectious Waste Incinerators (HMIWI); and Small Municipal Waste Combustion Units (Small MWC). The Federal plans were promulgated by EPA to implement emission guidelines pursuant to sections 111(d) and 129 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (CAA). The purpose of this delegation is to acknowledge NJDEP's ability to implement a program and to transfer primary implementation and enforcement responsibility from EPA to NJDEP for existing sources of MSW Landfills, HMIWI and Small MWC. While NJDEP is delegated the authority to implement and enforce the three Federal plans, nothing in the delegation agreement shall prohibit EPA from implementing and enforcing the Federal plans for MSW Landfills, HMIWI and Small MWC.

II. What Are the Details of EPA's Specific Action?

On May 13, 2005, NJDEP submitted to EPA a request for delegation of authority from EPA to implement and enforce the Federal plans for existing MSW Landfills, HMIWI and Small MWC. EPA prepared the MOAs that define the policies, responsibilities, and procedures by which the Federal plans will be administered by both NJDEP and EPA, pursuant to the following: "Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991," 40 CFR part 62, subpart GGG, 40 CFR 62.14350-14356; "Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before June 20, 1996," 40 CFR part 62, subpart HHH, 40 CFR 62.14400-14495 and "Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999," 40 CFR part 62, subpart JJJ, 40 CFR 62.15000-15410. The MOAs are the mechanism for the transfer of responsibility between EPA and NJDEP.

On April 24, 2006, Alan J. Steinberg, EPA Region 2 Administrator, signed the three MOAs and forwarded them to

NJDEP for signature. On May 15, 2006, Lisa P. Jackson, NJDEP Commissioner, signed the MOAs, thereby agreeing to the terms and conditions of the MOAs and accepting responsibility to implement and enforce the policies, responsibilities and procedures of the Federal plans for MSW Landfills, HMIWI, and Small MWC. The transfer of authority to NJDEP became effective on May 15, 2006. EPA proposed approval on August 31, 2006 (71 FR 51790).

III. What Comments Were Received and How Has EPA Responded to Them?

There were no comments received on EPA's proposed approval of NJDEP's request for delegation of the three Federal plans.

IV. What Are EPA's Conclusions?

For reasons described in this action and in EPA's proposal action, EPA is approving NJDEP's request for delegation of the three Federal plans. For further details, the reader is referred to the proposal action.

V. Statutory and Executive Order Reviews

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 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). This action approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a plan submission, to use VCS in place of a plan submission that otherwise satisfies the provisions of the 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. 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. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 19, 2007. 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, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: January 4, 2007.

Alan J. Steinberg,
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: 62 U.S.C. 7401–7671q.

Subpart FF—New Jersey

■ 2. Part 62 is amended by adding new § 62.7605 and an undesignated heading to subpart FF to read as follows:

Air Emissions from Existing Municipal Solid Waste Landfills, Small Municipal Waste Combustion Units, and Hospital/Medical/Infectious Waste Incinerators.

§ 62.7605 Identification of plan—delegation of authority.

(a) Letter from the New Jersey Department of Environmental Protection (NJDEP), submitted May 13, 2005, requesting delegation of authority from EPA to implement and enforce the following three Federal plans: Municipal Solid Waste Landfills (MSW Landfills), Hospital/Medical/Infectious Waste Incinerators (HMIWI) and Small Municipal Waste Combustion Units (Small MWCs). The Federal plans will be administered by both NJDEP and EPA, pursuant to the following: "Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction Prior to May 30, 1991 and Have Not Been Modified or Reconstructed Since May 30, 1991," 40 CFR part 62, subpart GGG; "Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before June 20, 1996," 40 CFR part 62, subpart HHH; and "Federal Plan Requirements for Small Municipal Waste Combustion

Units Constructed on or Before August 30, 1999," 40 CFR part 62, subpart JJJ.

(b) Identification of sources: The three Federal plans apply to existing facilities as follows: MSW Landfills which commenced construction, reconstruction, or modification before May 30, 1991 and a MSW Landfill that has accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition; HMIWIs that combust any amount of hospital, medical or infectious waste and that commenced construction on or before June 20, 1996; and Small MWCs with a capacity to combust at least 35 tons per day of municipal solid waste or refuse-derived fuel but no more than 250 tons per day of municipal solid waste or refuse-derived fuel and if the Small MWC commenced construction on or before August 30, 1999.

(c) On April 24, 2006, EPA prepared and signed Memorandums of Agreement (MOAs) between EPA and NJDEP that define the policies, responsibilities and procedures pursuant to the three Federal plans identified in (a) above by which the Federal plans will be administered by both NJDEP and EPA. On May 15, 2006, Lisa P. Jackson, NJDEP Commissioner, signed the MOAs, therefore agreeing to the terms and conditions of the MOAs and accepting responsibility to enforce and implement the policies, responsibilities, and procedures for MSW Landfills, HMIWIs and Small MWCs.

(d) The delegation became fully effective on May 15, 2006, the date the MOAs were signed by the NJDEP Commissioner.

[FR Doc. E7–413 Filed 1–12–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[EPA–RO7–RCRA–2006–0878; FRL–8269–1]

Adequacy of Nebraska Municipal Solid Waste Landfill Program; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comment, we are withdrawing the direct final rule for Adequacy of Nebraska Municipal Solid Waste Landfill Program, published on November 16, 2006.

DATES: Effective January 16, 2007, EPA withdraws the direct final rule