

comment, and it allows EPA to contact you if further information on the substance of the comment is needed or if your comment cannot be read due to technical difficulties. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EDOCKET*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EDOCKET at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, <http://www.epa.gov>, select "Information Sources," "Dockets," and "EDOCKET." Once in the system, select "search," and then key in Docket ID No. ORD-2005-0023. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by electronic mail (e-mail) to [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov), Attention Docket ID No. ORD-2005-0023. In contrast to EPA's electronic public docket, EPA's e-mail system is not an anonymous access system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM mailed to the mailing address identified in Unit I.B.2. These electronic submissions will be accepted in Word, WordPerfect or rich text files. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments to: U.S. Environmental Protection Agency, ORD Docket, EPA Docket Center (EPA/DC), Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. ORD-2005-0023.

3. *By Hand Delivery or Courier*. Deliver your comments to: EPA Docket Center (EPA/DC), Room B102, EPA West

Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. ORD-2005-0023 (note: this is not a mailing address). Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.1.

Dated: November 3, 2005.

**Kevin Y. Teichman,**

*Director, Office of Science Policy.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7995-1]

### Adequacy of Indiana Municipal Solid Waste Landfill Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Final Determination of Adequacy.

**SUMMARY:** The U.S. Environmental Protection Agency, Region 5 is approving a modification to Indiana's approved municipal solid waste landfill (MSWLF) permit program. The modification allows the State to issue research, development and demonstration (RD&D) permits to owners and operators of MSWLF units in accordance with its state law.

**DATES:** This final determination is effective November 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** Susan Mooney, mailcode DW-8J, Waste Management Branch, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886-3585, [mooney.susan@epa.gov](mailto:mooney.susan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits. (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are only available in states with approved MSWLF permit programs which have been modified to incorporate RD&D permit authority. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs 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.

Indiana's MSWLF permit program was approved on October 8, 1996 (61 FR 52791). On May 11, 2005, Indiana applied for approval of its RD&D permit provisions. On July 26, 2005, EPA published a proposed determination of adequacy (70 FR 43105) of Indiana's RD&D permit requirements. The notice provided a public comment period that ended on August 25, 2005. EPA received two comments on the proposed adequacy determination. One comment supported the proposed determination and one comment expressed concerns.

##### B. Response to Comment

The adverse commenter urged EPA not to approve Indiana's or any state's application to modify its approved MSWLF permit program to add RD&D permit authority, because of a pending legal challenge to the EPA's rule amending 40 CFR part 258 to allow for RD&D variances (*GrassRoots Recycling Network v. EPA*, No. 04-1196 (D.C. Cir.)). EPA does not agree that the pending legal challenge prevents implementation of the RD&D rule. The existence of a petition for review does not, by itself, suspend implementation of the RD&D rule. The commenter also opposes modification of the state program in order to preserve state resources. It is the State's, not EPA's, decision to implement the RD&D rule during the pendency of the legal challenge, and Indiana has decided to seek approval of its permit program modification even with the knowledge of the pending case.

In sum, the comment did not address either the substance or adequacy of Indiana's RD&D permit requirements, or the basis of EPA's proposed decision to approve those requirements. EPA has concluded that the comment is not a basis for disapproving Indiana's permit program modification.

##### C. Decision

After a thorough review, EPA Region 5 has determined that Indiana's RD&D permit provisions as defined under 329 IAC 10-11-6.5 are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.4.

**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: October 28, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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