

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 proposed 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.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

*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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 8, 2004.

**Walter Mugdan,**

*Acting Regional Administrator, Region 2.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 239 and 257**

[FRL-7787-4]

**Adequacy of Indiana Solid Waste Landfill Permit Programs Under RCRA Subtitle D**

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to approve Indiana's solid waste

regulation, which ensures that hazardous waste from conditionally exempt small quantity generators (CESQGs) will be disposed of only in accordance with EPA regulations. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving Indiana's regulations by a direct final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this approval in the preamble to the direct final rule. Unless we receive written comments that oppose this approval during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule, and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You will not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by August 16, 2004.

**ADDRESSES:** Written comments should be sent to Susan Mooney, Waste Management Branch (Mail code: DW-8J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, telephone: 312/886-3585. Comments may also be submitted electronically to: [mooney.susan@epa.gov](mailto:mooney.susan@epa.gov) or by facsimile at (312) 353-4788. You may examine copies of the relevant portions of Indiana's regulations during normal business hours at EPA Region 5.

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

**SUPPLEMENTARY INFORMATION:** For additional information, please see the Direct Final Rule published in the "Rules and Regulations" section of today's **Federal Register**.

Dated: June 16, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, US EPA, Region 5.*

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