

final rule approving limits that would limit emissions of Oxides of Nitrogen (NO<sub>x</sub>) from large stationary sources (*i.e.* power plants, industrial boilers and cement kilns). The State of Michigan submitted this revision as a modification to the State Implementation Plan on April 3, 2003. After minor deficiencies in the April 3, 2003 submittal were identified, a subsequent submittal was made on May 27, 2004 to address these deficiencies. In the December 23, 2004 direct final approval, EPA found the changes made to the State's rules in the May 27, 2004 submittal approvable. In that direct final rule, EPA stated that if adverse comments were submitted by January 24, 2005, the rule would be withdrawn and not take effect. Comments were received during the public comment period. EPA believes these comments are adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comments in a subsequent final action based upon the proposed action also published on December 23, 2004 (69 FR 76886). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 69 FR 76848 on December 23, 2004 is withdrawn as of February 15, 2005.

**FOR FURTHER INFORMATION CONTACT:** Douglas Aburano, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 353-6960. E-Mail Address: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 4, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

#### PART 52—[AMENDED]

■ Accordingly, the amendment to 40 CFR 52.1170 published in the **Federal Register** on December 23, 2004 (69 FR 76848) on pages 76848–76854 are withdrawn as of February 15, 2005.

[FR Doc. 05–2895 Filed 2–14–05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 239 and 258

[FRL–7873–1]

#### Adequacy of Minnesota Municipal Solid Waste Landfill Program

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 5 is approving a modification to Minnesota'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 February 15, 2005.

**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](mailto:twickler.donna@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.

Minnesota's MSWLF permit program was approved on August 16, 1993 (58 FR 43350). On June 2, 2004, Minnesota applied for approval of its RD&D permit provisions. On September 10, 2004, EPA published both an immediate final rule (69 FR 54756) approving Minnesota's RD&D permit requirements, and a parallel proposed rule (69 FR 54756) proposing to approve Minnesota's RD&D permit requirements. Both notices provided a public comment period that

ended on October 12, 2004. The immediate final rule would have become effective on November 9, 2004, if no adverse comments were received. However, EPA received one adverse comment on the immediate final rule. Therefore, on November 3, 2004, EPA withdrew the immediate final rule (69 FR 65381, Nov. 12, 2004). Today's rule takes final action on the proposed approval of Minnesota's program modification for RD&D permit authority. After a thorough review, EPA Region 5 has determined that Minnesota's RD&D permit provisions as defined under Minnesota Rule 7035.0450 are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.4.

##### B. Response to Comment

The commenter urged EPA not to approve Minnesota'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 Minnesota 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 Minnesota'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 Minnesota's permit program modification.

##### C. 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—This provision directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards. 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: January 26, 2005.

**Norman Neidergang,**

*Acting Regional Administrator, U.S. EPA, Region 5.*

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## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 501, 502, 515

[Docket No. 05-01]

#### Agency Reorganization and Delegations of Authority

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission ("FMC" or "Commission") amends its regulations relating to agency organization to reflect the reorganization of the agency that took effect August 23, 2004, and to delegate authority to certain FMC bureaus in order to improve the FMC's ability to carry out its statutory responsibilities over the ocean shipping industry in a more effective and efficient manner.

**DATES:** Effective February 15, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Amy W. Larson, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523-5740, E-mail: [GeneralCounsel@fmc.gov](mailto:GeneralCounsel@fmc.gov).

**SUPPLEMENTARY INFORMATION:** The FMC is amending part 501 of Title 46, Code of Federal Regulations to reflect the reorganization of the agency that took effect on August 23, 2004. The FMC was reorganized in order to improve its ability to carry out its statutory responsibilities over the ocean shipping

industry in a more effective and efficient manner.

Because the changes made in this proceeding address internal agency operating procedure and organization, and are routine and ministerial in nature within the meaning of the Administrative Procedure Act, 5 U.S.C. 553, this rule is published as final.

This Rule also makes nomenclature changes in certain CFR units to reflect a change in a relevant Commission bureau name since these CFR units were last revised.

#### List of Subjects

##### 46 CFR Part 501

Organization and functions, Official seal, Authority delegations, Administrative practice and procedure.

##### 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

##### 46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the Federal Maritime Commission amends 46 CFR Parts 501, 502 and 515 as follows.

■ 1. Part 501 is revised to read as follows:

## PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

### SUBCHAPTER A—GENERAL AND ADMINISTRATIVE PROVISIONS

## PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

### Subpart A—Organization and Functions

Sec.

501.1 Purpose.

501.2 General.

501.3 Organizational components of the Federal Maritime Commission.

501.4 Lines of responsibility.

501.5 Functions of the organizational components of the Federal Maritime Commission.

### Subpart B—Official Seal

501.11 Official seal.

### Subpart C—Delegation and Redelelegation of Authorities

501.21 Delegation of authorities.

501.22 [Reserved]

501.23 Delegation to the General Counsel.

501.24 Delegation to the Secretary.

501.25 Delegation to the Director, Office of Operations.