

imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the section 111(d)/129 plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

#### IV. Proposed Action

EPA is proposing to approve the Virginia section 111(d)/129 plan for SSI units submitted pursuant to 40 CFR part 60, subpart M. Therefore, EPA is proposing to amend 40 CFR part 62, subpart VV to reflect this action. This approval is based on the rationale previously discussed and in further detail in the TSD associated with this action. The scope of the proposed approval of the section 111(d)/129 plan is limited to the provisions of 40 CFR parts 60 and 62 for existing SSI units, as referenced in the emission guidelines, subpart M.

The EPA Administrator continues to retain authority for several tasks, as stipulated in 40 CFR § 60.5050 as well as the “Plan Provisions” section of Virginia’s section 111(d)/129 plan submittal. This retention of federal authority includes the granting of waivers for performance tests.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also does 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), nor will it 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), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing VADEQ’s submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 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 a VADEQ submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a VADEQ submission, to use VCS in place of a VADEQ submission that otherwise satisfies the provisions of the CAA.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General’s “Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This proposed rule for the approval of VADEQ’s section 111(d)/129 plan for SSI units does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### 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: November 15, 2013.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2013–28958 Filed 12–2–13; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R05–OAR–2013–0678; FRL–9903–34–Region 5]

### Proposal for Hospital/Medical/ Infectious Waste Incinerator Negative Declaration for Designated Facilities and Pollutants: Michigan and Wisconsin

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is notifying the public that we have received from Michigan and Wisconsin negative declarations for Hospital/Medical/Infectious Waste Incinerators (HMIWI). The Michigan Department of Environmental Quality submitted on August 9, 2013 a negative declaration certifying that there are no HMIWI units currently operating in the

state of Michigan. The Wisconsin Department of Natural Resources submitted on July 15, 2013 a negative declaration certifying that there are no HMIWI units currently operating in the state of Wisconsin.

**DATES:** Comments must be received on or before January 2, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2013-0678, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email: nash.carlton@epa.gov*.
3. *Fax: (312) 692-2543*.
4. *Mail: Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.*

5. *Hand Delivery:* Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:**

Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT-18J), Chicago, Illinois 60604, (312) 353-1151, *sieffert.margaret@epa.gov*.

**SUPPLEMENTARY INFORMATION:** In the Rules section of this **Federal Register**, EPA is amending 40 CFR part 62 to reflect the States' submittals of the negative declarations as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, we will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period.

Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on any part of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: November 8, 2013.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2013-28964 Filed 12-2-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[EPA-HQ-OAR-2013-0684; FRL-9903-38-OAR]

#### Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations; Panel Closure Redesign

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** With this notice, the U.S. Environmental Protection Agency (EPA, or the Agency) proposes to approve the U.S. Department of Energy's (DOE, or the Department) planned change request to implement the Run-of-Mine Panel Closure System (ROMPCS) at the Waste Isolation Pilot Plant (WIPP) and to amend the WIPP Compliance Criteria to allow an EPA-approved panel closure other than the currently-required Option D design. Technical analyses demonstrate that, with the modified panel closure design, WIPP remains in compliance with the release limits set by the "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic (TRU) Radioactive Waste." The proposed changes do not lessen the requirements for complying with the Compliance Criteria, nor do these changes impact the technical approach that the EPA will employ when considering any future planned changes to the panel closure system. Compliance with environmental or public health regulations other than the EPA's disposal regulations and WIPP Compliance Criteria is not addressed by today's action. Today's notice marks the beginning of a 60-day public comment period on this proposed action.

**DATES:** Comments must be received on or before February 3, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0684, by one of the following methods—

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email:* to *a-and-r-docket@epa.gov*; Docket ID No. EPA-HQ-OAR-2013-0684.
- *Fax:* (202) 566-1741.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

*Instructions:* Direct your comments to Attn: Docket ID No. EPA-HQ-OAR-2013-0684. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the Agency may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.