

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34) (g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

## Regulation

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A temporary § 165.T05–901 is added to read as follows: *§ 165.T05–901 Safety Zone: Trent River between New Bern and James City, North Carolina.*

(a) *Regulated area:* The following area is a safety zone: waters of the Trent River, from the Norfolk Southern Railroad Bridge and Union Point New Bern, NC to the U.S. Route 17 Highway Bridge at James City, NC, latitude 35°06' N, longitude 77°02' W. All coordinates reference Datum NAD 1983.

(b) *Definitions:* Captain of the Port Representative any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or a Captain of the Port Representative. All vessel movement within the safety zone is

prohibited except as specifically authorized by the Captain of the Port or a Captain of the Port Representative. The general requirements of § 165.23 also apply to this regulation.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or his Representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or (252) 247–4546, or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(e) *Enforcement period:* This rule is effective from 10:00 a.m. to 2:00 p.m. each Tuesday, Wednesday, and Thursday from January 25, 2008 through February 28, 2008.

Dated: January 23, 2008.

**J.E. Ryan,**

*Commander, U.S. Coast Guard, Captain of the Port, North Carolina.*

[FR Doc. 08–448 Filed 1–29–08; 9:57 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 239 and 258

[EPA–R07–RCRA–2006–0878; FRL–8523–2]

### Adequacy of Nebraska Municipal Solid Waste Landfill Program

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

**ACTION:** Final rule.

**SUMMARY:** This action approves Nebraska’s Research, Development and Demonstration (RD&D) permit program and updates to the approved Municipal Solid Waste Landfill Permit (MSWLP) program. On March 22, 2004, the EPA issued final regulations allowing RD&D permits to be issued to certain municipal solid waste landfills by approved States. On September 27, 2006, Nebraska submitted an application to the EPA seeking Federal approval of its RD&D requirements and to update Federal approval of its MSWLP Program. On November 16, 2006, the EPA published direct final and proposed rules to approve the

application on January 16, 2007, if adverse comment was not received. EPA received adverse comment and withdrew the direct final rule on January 16, 2007. This action addresses the comment and approves the Nebraska application.

**DATES:** This final determination is effective January 31, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R07–RCRA–2006–0878. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Solid Waste/Pollution Prevention Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office’s official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

#### FOR FURTHER INFORMATION CONTACT:

Chilton McLaughlin, EPA Region 7, Solid Waste/Pollution Prevention Branch, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7666, or by e-mail at [mclaughlin.chilton@epa.gov](mailto:mclaughlin.chilton@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On March 22, 2004, the EPA issued final regulations allowing RD&D permits to be issued at certain municipal solid waste landfills (69 FR 13242). This new provision may only be implemented by an approved State. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to municipal solid waste landfills must seek approval from EPA before issuing such permits. The current request is for approval to issue RD&D permits. Nebraska received partial approval for 40 CFR part 258 provisions on October 5, 1993 (58 FR 51819). The provision that it received partial approval for did not include requirements for groundwater monitoring at small, arid landfills as required by an opinion by the United States Court of Appeals on February 12, 1992, which instructed

EPA to require groundwater monitoring at all landfills. The updated State rules impose groundwater monitoring at small, arid landfills. The current request also incorporates the August 7, 1995, rule (60 FR 40105) which modifies the financial assurance criteria; September 25, 1996, rule (61 FR 50413) which relates to groundwater exemptions of small, arid, remote landfills; November 27, 1996, rule (61 FR 60328 at 60337) which adds financial mechanisms for local governments; and April 10, 1998, rule (63 FR 17706 at 17729) which adds a financial test and corporate guarantee to financial assurance mechanisms. Approval procedures for new provisions of 40 CFR part 258 are outlined in 40 CFR 239.12.

On September 27, 2006, Nebraska submitted an application to the EPA seeking Federal approval of its RD&D requirements and to update Federal approval of its MSWLP Program. On November 16, 2006, the EPA published direct final and proposed rules (71 FR 66686 and 71 FR 66722, respectively) to approve the application on January 16, 2007, if adverse comment was not received. EPA received adverse comment and withdrew the direct final rule on January 16, 2007 (72 FR 1670).

### B. Response to Comment

The comment was from the GrassRoots Recycling Network (GRRN). The GRRN objected to Nebraska's effort to implement an RD&D permit program alleging that the underlying RD&D violates the Resource Conservation and Recovery Act (RCRA) and the National Environmental Policy Act (NEPA). The commenter objected to what it claims are inadequacies in the underlying RD&D rule, namely, an allegedly unlimited number of permits and an allegedly unlimited program duration.

EPA is proceeding with its approval of the Nebraska program. First, it should be noted that the timeframe within which challenges to the Federal underlying RD&D rule may be filed has expired. (See 42 U.S.C. 6976, petitions challenging a RCRA regulation must be filed within 90 days of promulgation.) The GRRN has challenged the rule before the U.S. Court of Appeals for the D.C. Circuit, which found that GRRN did not have standing to challenge the rule (*GrassRoots Recycling Network v. EPA*, No. 04-1196 (D.C. Cir.)).

Moreover, EPA does not intend to reopen the underlying RD&D rule in its approval of state programs. The issue before the Agency in this action is whether Nebraska's submitted RD&D program is adequate under RCRA and EPA's Subtitle D regulations, but the comment is addressed to the underlying

Federal program. Thus, the comment does not change EPA's decision to approve Nebraska's submitted RD&D program.

### C. Decision

After a thorough review, EPA Region 7 determined that Nebraska's RD&D provisions and the updated rules for its Municipal Solid Waste Landfill Permit Program (the August 7, 1995, rule (60 FR 40105) which modifies the financial assurance criteria; September 25, 1996, rule (61 FR 50413) which relates to groundwater exemptions of small, arid, remote landfills; November 27, 1996, rule (61 FR 60328, at 60337) which adds financial mechanisms for local governments; and April 10, 1998, rule (63 FR 17706, at 17729) which adds a financial test and corporate guarantee to financial assurance mechanisms) as defined under Nebraska Title 132—Integrated Solid Waste effective March 7, 2006, are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.1, 258.4, 258.70, 258.74, and 258.75.

### D. Statutory and Executive Order Reviews

This action approves State solid waste requirements pursuant to Resource Conservation and Recovery Act (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 and 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—EPA approves State programs so long as the State programs meet the criteria delineated in RCRA. It would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets RCRA requirements. Thus, section 12(d) of the National Technology Transfer and Advancement Act does not apply to this action;

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 18, 2008.

**John B. Askew,**

*Regional Administrator, Region 7.*

[FR Doc. E8-1786 Filed 1-30-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R01-RCRA-2007-1171; FRL-8521-8]

### Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

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

**ACTION:** Immediate final rule.

**SUMMARY:** The Commonwealth of Massachusetts has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this immediate final action.

**DATES:** This final authorization will become effective on March 31, 2008 unless EPA receives adverse written comment by March 3, 2008. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take immediate effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-RCRA-2007-1171, by one of the following methods:

- *www.regulations.gov*: Follow the online instructions for submitting comments.
- *E-mail*: [biscaia.rob@epa.gov](mailto:biscaia.rob@epa.gov).
- *Fax*: (617) 918-0642, to the attention of Robin Biscaia.
- *Mail*: Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023.
- *Hand Delivery or Courier*: Deliver your comments to: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystem Protection, EPA New England—Region 1, One Congress Street, 11th Floor, (CHW), Boston, MA 02114-2023. Such deliveries are only accepted during the Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Identify your comments as relating to Docket ID No. EPA-R01-RCRA-2007-1171. EPA'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](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or claimed to be 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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* EPA has established a docket for this action under Docket ID No. EPA-R01-RCRA-2007-1171. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although it may be listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the following two locations: (i) Massachusetts Department of Environmental Protection, Business Compliance Division, One Winter Street—8th Floor, Boston, MA 02108, business hours Monday through Friday 9 a.m. to 5 p.m., tel: (617) 556-1096; and (ii) EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114-2023, by appointment only, (617) 918-1990.

**FOR FURTHER INFORMATION CONTACT:** Robin Biscaia, Hazardous Waste Unit, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023; telephone number: (617) 918-1642; fax number: (617) 918-0642, e-mail address: [biscaia.rob@epa.gov](mailto:biscaia.rob@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

#### B. What Decisions Have We Made in This Rule?

We have concluded that Massachusetts's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Massachusetts final authorization to operate its hazardous waste program with the changes described in the authorization application. The Massachusetts Department of Environmental Protection (MassDEP) has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program covered by its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Massachusetts, including issuing permits, until the State is granted authorization to do so.

#### C. What is the Effect of This Authorization Decision?

The effect of this decision is that a facility in Massachusetts subject to RCRA will now have to comply with the authorized State requirements instead of