

inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-30010006, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends a time limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive

Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 25, 2000

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.532 [Amended]

2. In § 180.532, in the table to paragraph (b), the entry for strawberries is amended by revising the date "5/31/00" to read "5/31/01".

[FR Doc. 00-14774 Filed 6-9-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL-6710-3]

State of West Virginia: Final Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: This document approves the portions of the West Virginia Municipal Solid Waste Management Permit Program which did not receive Environmental Protection Agency (EPA) approval in the **Federal Register** document published on March 29, 2000 (65 FR 16523-16528). EPA published a document in the **Federal Register** on March 29, 2000 (65 FR 16523-16528), giving final approval to the portions of West Virginia's Solid Waste Management Rule which had been tentatively approved in the March 8, 1996 document (61 FR 9451-9454). This

action approves those portions of West Virginia's solid waste permit program which were not previously approved by EPA.

DATES: This final determination of program adequacy for the State of West Virginia shall become effective August 11, 2000 unless adverse comments are received on or before July 12, 2000.

ADDRESSES: Comments should be sent to the following address where the full West Virginia application supporting program adequacy is on file and may be reviewed: EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, or alternatively at West Virginia Division of Environmental Protection (WVDEP), 1356 Hansford Street, Charleston, West Virginia 25301-1401.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, Attn: Mr. Michael C. Giuranna, mailcode 3WC21, telephone (215) 814-3298. The contact for the State of West Virginia Division of Environmental Protection is Mr. Larry Atha, 1356 Hansford Street, Charleston, West Virginia 25301-1401, telephone (304) 558-6350.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised criteria for Municipal Solid Waste Landfills (MSWLFs) (40 CFR part 258). Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments, requires states to develop permit or other similar programs that incorporate the federal criteria under 40 CFR part 258. Section 4005(c)(1)(C) of RCRA requires that EPA determine the adequacy of state MSWLF permit programs to ensure that facilities comply with the revised federal criteria. To fulfill this requirement, the Agency promulgated the State Implementation Rule (SIR) on October 23, 1998 (63 FR 57025) which provides procedures by which EPA will approve or partially approve state landfill permit programs.

EPA interprets the requirements for states or tribes to develop "adequate" programs for permits, or other forms of prior approval, as imposing several minimum requirements. First, each state must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the state must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The state also must provide for public

participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the state must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator who fails to comply with an approved MSWLF program.

EPA Regions determine whether state programs are "adequate" based on the criteria outlined above.

B. State of West Virginia

In September 1998, West Virginia submitted its revised Solid Waste Management Rule (the Rule), which incorporated all of the provisions of 40 CFR part 258. After a thorough review, EPA determined that the Rule met the requirements of 40 CFR part 258 and on July 1, 1999, West Virginia submitted the Rule with proper documentation as required by the SIR to EPA and requested approval under 40 CFR part 258. Upon review of this submittal, EPA found that West Virginia is in compliance with all provisions of the SIR and that West Virginia has demonstrated that the State's MSWLF permit program adequately meets the location restrictions, operating criteria, design criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised federal criteria. In addition, the State of West Virginia also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

EPA issued final partial approval for all of subparts B, C and D and portions of subparts A, E and F of 40 CFR part 258, in the **Federal Register** of March 29, 2000 (65 FR 16523-16528). These portions of West Virginia's Municipal Solid Waste Landfill Permit Program had received tentative approval in a **Federal Register** document published on March 8, 1996 (61 FR 9451-9454). EPA is today publishing this document approving the remaining elements of West Virginia's MSWLF permit program that are analogous to the subpart G, Financial Assurance Criteria, of 40 CFR part 258 and the remaining portions of subparts A, E and F listed below.

1. Subpart A—General— The definitions listed in 40 CFR 258.2;

2. Subpart E—Groundwater Monitoring and Corrective Action—The requirements of 40 CFR 258.51, Groundwater Monitoring Systems; 40 CFR 258.54, Detection Monitoring Program; and 40 CFR 258.55, Assessment Monitoring Program;

3. Subpart F—Closure and Post Closure Care—The criteria in 40 CFR 258.60, Closure Criteria, pertaining to the time allowed to apply the final cover.

By approving these portions of the West Virginia Municipal Solid Waste Permit Program, EPA will be in effect granting full program approval of West Virginia's MSWLF permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the federal MSWLF criteria in 40 CFR part 258 independent of any state enforcement program. As explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions of a state program approved by EPA should be considered to be in compliance with the federal criteria (see 56 FR 50978, 50995, October 9, 1991).

C. Decision

EPA concludes that West Virginia's application for a full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, West Virginia is granted approval of the provisions of its municipal solid waste landfill permit program noted above. This action will take effect 60 days from the date of publication, if no significant adverse comments are received within 30 days. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect 60 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. EPA is approving the State regulations noted above through this immediate final action and is publishing this rule without a prior proposal to approve the changes because EPA believes it is not controversial and expects no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** EPA is publishing a separate document that proposes to approve the State changes. If EPA receives comments which oppose this approval or portion(s) thereof, that document will serve as a proposal to approve such changes. If EPA receives comments that oppose this approval decision or portion(s) thereof, we will withdraw this approval, or those portion(s) for which EPA received comments opposing its decision, by publishing a document in the **Federal Register**. We will address all public comments in a subsequent final action based on the proposed rule.

The EPA's action today does not impose any new requirements that the regulated community must begin to comply with nor do these requirements become enforceable by EPA as federal law.

Compliance With Executive Order 12866—Regulatory Planning and Review

The Office of Management and Budget has exempted today's action from the requirements of Executive Order 12866.

Compliance With Executive Order 12898—Environmental Justice

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities. EPA does not believe that today's action will have a disproportionately high and adverse environmental or economic impact on any minority or low-income group, or on any other type of affected community.

Compliance With Executive Order 13045—Children's Health Protection

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) The Office of Management and Budget determines is "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 is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance With Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. West Virginia is not authorized to implement the MSWLF permit program in Indian country.

Compliance With Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and

local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a 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.

This approval does not have federalism implications. It will not have a substantial direct effect on 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, because this rule affects only one State. This action simply approves portions of West Virginia's MSWLF permit program that the State has voluntarily chosen to operate. Thus, the requirements of section 6 of the Executive Order do not apply.

Certification Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this approval on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are owners or operators of municipal solid waste landfills are already subject to the regulatory requirements under the State laws which EPA is now approving. This

action merely approves for the purpose of RCRA 4005(c) those existing State requirements.

Compliance With the Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit a report containing today's document and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of today's action in the **Federal Register**. Today's action is not a "major rule" as defined by section 5 U.S.C. 804(2).

Compliance With the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling

officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the West Virginia program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may own or operate municipal solid waste landfills, they are already subject to the regulatory requirements under the existing State laws that are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Compliance With the National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) 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. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

Authority: This notice 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:

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00-14164 Filed 6-9-00; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000119015-0015-01; I.D. 010500A]

RIN 0648-AM32

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of expiration date; request for comments.

SUMMARY: NMFS extends the expiration date of an emergency interim rule that implemented reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions, or adversely modify their critical habitat. The emergency interim rule that is effective from January 20, 2000, through July 19, 2000, is extended through December 31, 2000. This emergency action is necessary to continue to implement reasonable and prudent alternatives until permanent rulemaking is implemented.

DATES: The expiration date of the emergency interim rule published January 25, 2000 (65 FR 3892), is extended to December 31, 2000. Comments must be received by July 12, 2000.