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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 239, 257, and 258**

[FRL-8024-2]

**Maine: Determination of Adequacy for the State Municipal Solid Waste Landfill Permit Program****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve the State of Maine's permit program for municipal solid waste landfills (MSWLFs) and to approve the State's approach of not allowing conditionally exempt small quantity generator (CESQG) hazardous waste to be sent to non-municipal, non-hazardous waste disposal units. Under the Resource Conservation Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA), States may develop and implement permit programs for MSWLFs and for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste, and submit them for review and an adequacy determination by EPA. Today's approval documents EPA's determination that Maine's MSWLF permit program, and the manner in which the State addresses CESQG hazardous waste with respect to non-municipal, non-hazardous waste disposal units, are adequate to ensure compliance with federal requirements.

**DATES:** This rule is effective on March 27, 2006 without further notice, unless EPA receives adverse comment by February 23, 2006. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments (including requests for a public hearing) by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. E-mail: Chuck Franks at: [franks.chuck@epa.gov](mailto:franks.chuck@epa.gov).

3. Mail: Chuck Franks, EPA New England—Region 1, One Congress Street, Suite 1100, (Mail Code: CHW), Boston, MA 02114-2023.

4. Hand Delivery or Courier: Deliver your comments to Chuck Franks, EPA

New England—Region 1, One Congress Street, Suite 1100, (CHW), Boston, MA 02114-2023.

**Instructions:** We must receive your comments by February 23, 2006. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The Federal [regulations.gov](http://regulations.gov) website 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 [regulations.gov](http://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.

You can view and copy Maine's application and associated publicly available materials at the following locations: (1) Maine Department of Environmental Protection (ME DEP), State House Station 17, Hospital Street, Augusta, Maine 04333, business hours: Monday through Thursday, 8:30 a.m. to 4:30 p.m. and Friday, 8:30 a.m. to 12:30 p.m.; interested persons wanting to examine documents at the state office should make an appointment with the ME DEP, Bureau of Remediation and Waste Management at least one day in advance by calling (207) 287-2651; and (2) EPA New England—Region 1 Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours: 10 a.m. to 3 p.m., Monday through Thursday, telephone number: (617) 918-1990.

**FOR FURTHER INFORMATION CONTACT:** Chuck Franks, EPA New England—Region 1, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023; telephone number: (617) 918-1554, e-mail: [franks.chuck@epa.gov](mailto:franks.chuck@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On October 9, 1991, the Environmental Protection Agency (EPA) promulgated the "Solid Waste Disposal Facility Criteria: Final Rule" (56 FR 50978). This rule promulgates part 258

of Title 40 of the Code of Federal Regulations (CFR) (40 CFR part 258) which establishes the minimum criteria for Municipal Solid Waste Landfills (MSWLF's). The criteria set out in 40 CFR part 258 include location restrictions and standards for design, operation, groundwater monitoring, corrective action, financial assurance and closure and post-closure care for MSWLFs. On July 1, 1996, EPA amended part 257 of Title 40 of the CFR (40 CFR part 257) by adding Subpart B, "Federal Disposal Standards for the Receipt of CESQG Wastes at Non-Municipal, Non-Hazardous Waste Disposal Units" (61 FR 34252). The 40 CFR part 257 criteria include location restrictions and groundwater monitoring and corrective action standards for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste. Today's rule refers to the 40 CFR part 257, subpart B criteria and the 40 CFR part 258 criteria together as the "Subtitle D federal revised criteria." The Subtitle D federal revised criteria establish minimum federal standards that take into account the practical capability of owners and operators of MSWLFs and non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste while ensuring that these two types of facilities are designed and managed in a manner that is protective of human health and the environment.

Section 4005(c)(1)(B) of Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that MSWLFs and non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste will comply with the Subtitle D federal revised criteria. RCRA Section 4005(c)(1)(C) requires EPA to determine whether the permit programs that states develop and implement for these two types of facilities are adequate.

To fulfill this determination requirement, EPA promulgated the State Implementation Rule (SIR). The SIR, which established part 239 of Title 40 of the CFR (40 CFR part 239), has the following four purposes: (1) It spells out the requirements that State programs must satisfy to be determined adequate; (2) it confirms the process for EPA approval or partial approval of State permit programs for MSWLFs and non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste; (3) it provides the procedures for withdrawal of such

approvals; and (4) it establishes a flexible framework for modifications of approved programs.

To receive a determination of adequacy under the SIR, a State must have: (1) Enforceable standards for new and existing MSWLFs and non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste that are technically comparable to the Subtitle D federal revised criteria; (2) authority to issue a permit or other notice of prior approval and conditions to all new and existing MSWLFs and non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste in its jurisdiction; (3) provisions for public participation in permit issuance and enforcement, as required in RCRA Section 7004(b); and (4) sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with the state program. EPA expects States to meet all of these requirements for all elements of a permit program before it gives full approval to a State's program.

## II. State of Maine

On September 29, 1993, Maine submitted an application for a determination of adequacy of its MSWLF permit program to EPA (Region 1). EPA reviewed the application and requested additional information about program implementation. This information was provided and is part of the application record. Also, as a part of the application process, ME DEP initiated a process to revise portions of Maine's statutes and the Department's solid waste management rules as necessary to make the program consistent with the Federal criteria under 40 CFR part 258.

After EPA provided Maine with initial comments regarding the application, Maine provided EPA with a copy of the proposed draft revisions to their solid waste management rules on August 28, 1995. The August 28, 1995 draft revisions were distributed to an extensive list of potentially interested parties and Maine DEP received public comments concerning this draft which it determined warranted additional draft changes and public review and comment. Subsequent revision drafts dated September 1996 and January 1998 were prepared and distributed for public review and comment and were also forwarded to EPA for agency review relative to the criteria under 40 CFR part 258. The revised MSWLF permit program regulations were adopted by Maine DEP and became effective on November 2, 1998. Subsequent minor

revisions to correct errors and omissions or to provide greater clarity to the MSWLF permit program regulations were drafted, distributed for public comment, adopted through formal rulemaking and made effective on September 6, 1999.

On March 22, 2004, the EPA promulgated the Research Development and Demonstration amendments at 40 CFR 258.4. Maine is not seeking approval to implement the provisions of the RD&D amendments in this determination of adequacy. Adopting these provisions is optional. Maine may apply for, and be approved to implement these provisions at a later time.

Based on our review, EPA has determined that Maine's MSWLF permit program meets all of the criteria necessary to qualify for full program approval. The bases for this determination are set forth in checklists comparing the state program to the federal criteria, and other documents, contained in the Administrative Docket.

Maine has not submitted an application for a determination of adequacy under Subtitle D for a permit program for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste because it does not have such a program. The State instead requires that all hazardous waste disposal, including CESQG hazardous waste disposal, must occur only at hazardous waste disposal facilities that comply with the disposal requirements of RCRA Subtitle C. Therefore, the state exceeds the requirements as set out in 40 CFR part 257, subpart B for non-municipal, non-hazardous waste disposal units receiving CESQG hazardous waste and is, therefore, approved by EPA as having met or exceeded all RCRA Subtitle D CESQG disposal requirements. The State has no plans to revise its current CESQG hazardous waste disposal requirements and has indicated that any potential future changes to Maine's solid waste management rules that may alter these requirements will be forwarded to EPA for approval under the provisions of Subtitle D.

Owners and operators located in States with approved permit programs may benefit from the site-specific flexibility provided by 40 CFR part 257, subpart B, and 40 CFR part 258, to the extent the State program allows such flexibility. States with approved programs may choose to require facilities to comply with the Subtitle D federal revised criteria exactly, or they may choose to allow owners and operators to use site-specific alternative approaches to meet the federal criteria.

The flexibility allowed by 40 CFR part 257, subpart B is not applicable in Maine since, as explained above, Maine requires CESQG hazardous waste to be disposed of only at hazardous waste disposal facilities. The Maine regulations generally track the federal regulations and, therefore, generally allow the flexibility provided by 40 CFR part 258.

RCRA Section 4005(a) provides that citizens may use the citizen suit provisions of RCRA Section 7002 to enforce the RCRA Subtitle D Federal revised criteria independent of any State enforcement program. EPA expects that any owner or operator complying with the provisions in a State program approved by EPA should be considered to be in compliance with the criteria set out in 40 CFR part 257, subpart B and 40 CFR part 258.

Maine is not applying at this time for the authority to carry out its federal program in Indian country. Therefore, today's EPA action does not include approval for the State to carry out its program in Indian country within the State, which includes the lands of the Houlton Band of Maliseet Indians, the Aroostook Band of Micmacs, the Passamaquoddy Tribe at Pleasant Point and Indian Township, and the Penobscot Nation. Today's action has no effect on Indian country. EPA will address any issues relating to the State's authority regarding Indian country only if and when the State applies to be authorized to carry out this federal program in Indian country.

## III. Public Comments and Public Hearing

The public may submit written comments on this rule. The deadline for submitting written comments is in the **DATES** section of this rule. The mailing and email addresses to which comments should be sent are in the **ADDRESSES** section of this rule. EPA will consider all public comments on this direct final rule that it receives during the public comment period and during any public hearing, if held.

Although RCRA does not require EPA to hold a public hearing on a determination to approve a State's MSWLF permit program and the manner in which CESQG hazardous waste is addressed at non-municipal, non-hazardous waste disposal units, EPA will hold a public hearing on this determination if sufficient public interest is expressed by persons either writing to EPA at the address in the **ADDRESSES** section above or calling the EPA representative listed in the **FOR FURTHER INFORMATION CONTACT** section by February 23, 2006. Should EPA

decide to hold a public hearing, this direct final rule will be revoked and the final deadline for submitting comments will be extended. EPA will notify any persons who submit comments on this notice if there is a public hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the EPA representative listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Copies of Maine's application are available for inspection and copying at the location indicated in the **ADDRESSES** section of this direct final rule.

#### IV. Regulatory Assessments

The Office of Management and Budget has exempted this type of action from the requirements of Executive Order 12866; therefore, this action is not subject to review by OMB. This action approves State requirements for the purposes of RCRA and imposes no additional requirements beyond those imposed by State law. Accordingly, this action 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 action authorizes 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 (Pub. L. 104-4). For the same reason, and because this action has no effect in Indian country, this action also does not significantly or uniquely affect the communities or Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not 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 approves State requirements as part of the State RCRA program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA, EPA grants a State's application as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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 in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2) and therefore is not subject to the additional requirements for major rules.

#### List of Subjects

##### 40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

##### 40 CFR Part 257

Waste treatment and disposal.

##### 40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

**Authority:** This action is issued under the authority of the Solid Waste Disposal Act as amended 42 U.S.C. 6912, 6945, 6949(a).

Dated: December 27, 2005.

**Robert Varney,**

*Regional Administrator, New England.*

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## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 105

[GSPMR Amendment 2006-01; GSPMR Case 2006-105-1]

### General Services Administration Property Management Regulations; GSA Privacy Act Rules

**AGENCY:** Office of the Chief People Officer, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is revising its Privacy Act rules to reflect organizational changes and to update policies and procedures. This revision informs individuals of procedures for obtaining personal information in GSA's systems of records and provides current organizational titles and addresses of offices to contact about the GSA Privacy Program and the systems of records that are maintained by GSA.

**DATES:** Effective January 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** GSA Privacy Act Officer, General Services Administration, Office of the Chief People Officer, 1800 F Street NW, Washington DC 20405; telephone (202) 501-1452; or e-mail at [gsa.privacyact@gsa.gov](mailto:gsa.privacyact@gsa.gov).

**ADDRESSES:** GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW, Washington, DC 20405.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

GSA undertook a project that focused on making sure that all GSA Privacy Act Rules are still relevant, necessary, and covered by a legal or regulatory authority and that the GSA regulations implementing the Privacy Act Rules reflect the current GSA organization, policies, standards, and practices. As a result of this review GSA is publishing updated Privacy Act Rules. Nothing in the final rule indicates a change in authorities or practices regarding the collection and maintenance of information. The changes do not impact individuals' rights to access or amend their records in the systems of records.

##### B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.