B. Other Regulatory Assessment Requirements

Because this action does not impose or propose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various other review requirements in statutes and Executive Orders that apply when an agency impose requirements do not apply to this ANPR. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statutes and Executive Orders as applicable to that rulemaking.

As part of your comments on this ANPR, please include any comments or information that you believe could help the Agency assess the potential impact of a subsequent regulatory action with regard to the following:

Potential economic impacts on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

Potential applicability of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note);

Potential environmental health or safety effects on children pursuant to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997);

Potential human health or environmental effects on minority or low-income populations pursuant to Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994); and

Potential impacts to state and local governments or tribal governments.

The Agency will consider such comments during the development of a subsequent rulemaking as it takes appropriate steps to address any applicable requirements.

List of Subjects in 40 CFR Part 152

Environmental protection, Exemptions from pesticide regulation, Minimum risk pesticides.

Michael S. Regan,

Administrator.

[FR Doc. 2021–07033 Filed 4–7–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[EPA–R9–RCRA–2021–0127; FRL–10021–27–Region 9]

Research, Development and Demonstration (RD&D) Rule for the Salt River Pima-Maricopa Indian Community Landfill RD&D Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the site-specific Research, Development and Demonstration rule for the Salt River Pima-Maricopa Indian Community (SRPMIC), Salt River Landfill Research, Development and Demonstration Project in order to increase the maximum term for the site-specific rule from 12 to 21 years and also revise the site-specific rule to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is taking parallel action in a direct final rule without a prior proposed rule to revise the site-specific rule to allow operation of the Salt River Landfill Research, Development and Demonstration Project for a total of 21 years and to revise the site-specific rule to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. If we receive no adverse comment, we will take no further action on this proposed rule.

DATES: Written comments must be received by May 10, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R9–RCRA–2021–0127 at *http://www.regulations.gov,* or via email to *R9LandSubmit@epa.gov.* Due to COVID–19, we are not providing facsimile or regular mail options, because those are not viable at this time. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Steve Wall, EPA Region IX, (415) 972–3381, *wall.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' refer to the EPA.

I. Why is EPA issuing this proposed rule?

This document proposes to approve of revisions to the Research, Development and Demonstration (RD&D) Rule for the Salt River Pima-Maricopa Indian Community Landfill RD&D Project to extend the total project period from 12 years to 21 years. We are also proposing to revise the site-specific rule for this Project to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. We have also published a parallel direct final rule without a prior proposed rule to revise the site-specific rule to allow operation of the Salt River Landfill for a total of 21 years so as to conform the site-specific flexibility rule for this Indian country facility to the 2016 national RD&D rule. The direct final rule will also revise the site-specific rule to reflect the change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division. The direct final rule is being published in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in

any subsequent final decision based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Legal Authority for This Proposal

Under sections 1008, 2002, 4004, and 4010 of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA established revised minimum Federal criteria for Municipal Solid Waste Landfills (MSWLFs).

The MSWLF criteria are in the Code of Federal Regulations at 40 CFR part 258. These regulations are self-implementing and apply directly to owners and operators of MSWLFs. For many of these criteria, 40 CFR part 258 includes a flexible performance standard as an alternative to the self-implementing regulation; its use requires approval by the Director of an EPA-approved state.

Since EPA's approval of a state program does not extend to Indian country, owners and operators of MSWLF units located in Indian country cannot take advantage of the flexibilities available to those facilities subject to an approved state program. However, the EPA has the authority under sections 2002, 4004, and 4010 of RCRA to promulgate site-specific rules that may provide for use of alternative standards. See *Yankton Sioux Tribe* v. *EPA,* 950 F. Supp. 1471 (D.S.D. 1996); *Backcountry Against Dumps* v. *EPA,* 100 F.3d 147 (D.C. Cir. 1996). EPA has developed draft guidance on preparing a site-specific request to provide flexibility to owners or operators of MSWLFs in Indian country (Site-Specific Flexibility Requests for Municipal Solid Waste Landfills in Indian Country Draft Guidance, EPA530–R–97–016, August 1997).

In 2004, EPA issued a final rule at 40 CFR 258.4 amending the municipal solid waste landfill criteria to allow for RD&D permits. 69 FR 13242, March 22, 2004. The 2004 rule allows for variances from specified criteria for a limited time. Specifically, the rule allows for the Director of an approved state to issue a time-limited RD&D permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to use innovative and new methods which vary from either or both of the following: (1) The run-on control systems at 40 CFR 258.26(a)(1); and/or (2) the liquids restrictions at 40 CFR 258.28(a), provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30-centimeter depth of leachate on the liner. The rule also allows for the issuance of a time-limited RD&D permit for which the owner or operator proposes to use innovative and new methods that vary from the final cover criteria at 40 CFR 258.60(a)(1) and (2), and (b)(1), provided that the owner or operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination to groundwater or surface water, or cause leachate depth on the liner to exceed 30 centimeters. RD&D permits must include such terms and conditions at least as protective as the criteria for MSWLFs to assure protection of human health and the environment. In adopting the RD&D rule, EPA stated that RD&D facilities in Indian country could be approved in a site-specific rule.

The 2004 RD&D Rule included time limits such that an RD&D permit cannot exceed three years and a renewal of an RD&D permit cannot exceed three years. Although multiple renewals of an RD&D permit can be issued, the 2004 RD&D rule included a total term for an RD&D permit, including renewals, of up to twelve years. In 2016, EPA promulgated a final rule to revise the maximum permit term for MSWLF units operating under the RD&D permit program (at 40 CFR 258.4(e)) to allow the Director of an approved State to increase the number of permit renewals to six, for a total permit term of up to 21 years. 81 FR 28720, May 10, 2016. See also 80 FR 70180, November 13, 2015.

III. Background

In 2009, EPA made a final determination to approve an RD&D project at the Salt River Landfill, promulgating a site-specific rule at 40 CFR 258.42(a). 74 FR 11677, March 19, 2009. Periodic three-year extensions have allowed the continued operation of the Salt River Landfill as a bioreactor to the present. However, the 12-year total term in the current rule, issued March 19, 2009, expires on March 19, 2021.

IV. What action is the Agency proposing today?

EPA is proposing to revise 40 CFR 258.42(a) to allow operation of the Salt River Landfill RD&D unit, consistent with the RD&D rule at 40 CFR 258.4(e), for a total of up to 21 years. However, upon the effective date of these proposed revisions, a renewal of this authority must continue to be sought every three years. Each renewal request would also be subject to public notice and comment. No renewal could be granted for a period greater than three years and the overall period of operation would not exceed twenty-one years. EPA is also proposing technical corrections to its site-specific rule to reflect a change in the division title for U.S. EPA Region 9, from the Waste Management Division to the Land, Chemicals and Redevelopment Division.

This action proposes a revision of the overall term of the site-specific rule pertaining to SRPMIC's site-specific flexibility request to: (1) To operate Phase VI as an anaerobic bioreactor by recirculating leachate and landfill gas condensate, and adding storm water and groundwater to the below grade portions of Phase VI; and (2) recirculate leachate and landfill gas condensate and add storm water and groundwater to the below grade portions of areas of the landfill known as Phases IIIB and IVA to increase the moisture content of the waste mass in these phases.

The 2016 revision to the national RD&D rule at 40 CFR 258.4(e)(1) articulated the anticipated effect of extending the overall period of operations of these units from 12 to 21 years. 81 FR at 28721. Based on that rulemaking, EPA has determined that the extension of the site-specific rule's total term, if finalized, would provide EPA the ability to issue renewals to the existing authority to operate this RD&D unit pursuant to this program for up to 21 years instead of 12 years. During this time, the EPA would continue to evaluate data from this facility. In addition, the SRPMIC would not be expected to incur significant new costs as a result of these proposed revisions. Based on the 2016 rulemaking, the annual costs for ongoing recordkeeping and reporting requirements are estimated at $2,410 per facility and seeking periodic extensions of the authority to operate an RD&D unit remains voluntary. This proposed action would not impose any new regulatory burden. This proposed rule would allow EPA to increase the number of extensions of the operational period for the Salt River Landfill's RD&D unit if, the tribal owner/operator continues to choose to participate in this research program. Increasing the possible number of extensions of the RD&D unit's operational term may benefit the tribal owner/operator of RD&D units, assuming a projected increase in the rate of return for 21 years compared to 12 years, based on the findings in EPA's 2016 rulemaking. 81 FR at 28721.

The 2016 final rule also indicated that increasing the possible number of extensions of RD&D permit terms was

expected to provide more time for the EPA to collect additional data on the approaches being taken under these RD&D permits. *Id.* With respect to the continued operation of the Salt River Landfill, the proposed rule would be expected to have the following potential benefits set forth in the 2016 rule's preamble: Increased potential for revenue from the sale of landfill gas for use as a renewable source of fuel, accelerated production and capture of landfill gas for potential use as a renewable fuel, and accelerated stabilization and corresponding decreased post-closure care activities for facilities due to the accelerated decomposition of waste.

V. Statutory and Executive Order Reviews

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. 36 CFR part 800. While EPA consulted with the SRPMIC, as well as the Ak-Chin Indian Community, the Fort McDowell Yavapai Nation, the Gila River Indian Community, the Hopi Tribe, the Pascua Yaqui Tribe, the Tohono O'odham Nation, the Yavapai-Apache Nation, and the Yavapai-Prescott Indian Tribe on the original site-specific flexibility rulemaking in 2009 (*see* 74 FR at 11679), EPA finds that this proposal to extend the existing 12-year term of the authority to operate a bioreactor in accordance with EPA's RD&D Program to a 21-year term, if finalized, will have ''no potential to cause effects'' on historic properties within the meaning of Section 106 of the NHPA.

In compliance with the Endangered Species Act, 16 U.S.C. 1536 *et seq.,* EPA performed a biological assessment for the project site. No known threatened, endangered or candidate species or their habitat exist on the site. Additionally, there are no ground disturbing surface activities associated with EPA's approval of an increase to the maximum period the Salt River Landfill RD&D project can operate units as bioreactor units. No impacts to listed species that may occur in the project area are anticipated.

Under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993), this proposed rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB).

This proposed rule would not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (*44 U.S.C. 3501 et seq.*) because it would apply to a particular facility only.

Because this proposed rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (*5 U.S.C. 601 et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this proposed rule would affect only a particular facility, it would not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this proposed rule will affect only a particular facility, it does not have federalism implications. Nor will this proposed rule have any 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, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this proposed rule.

This proposed rule also is not subject to Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks,'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed action present a disproportionate risk to children. The basis for this belief is EPA's conservative analysis of the potential risks posed by SRPMIC's RD&D Program and the controls and standards set forth in the application and incorporated by reference into the original site-specific rule at 40 CFR 258.42(a).

This proposed 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.

As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (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.

Executive Order 13175, entitled ''Consultation and Coordination With Indian Tribal Governments,'' (65 FR 67249, November 9, 2000), calls for EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' EPA has concluded that this proposed action may have tribal implications because it is directly applicable to the owner and/or operator of the landfill, which is currently the SRPMIC. However, this proposed rule will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law. This proposed rule to revise the maximum total term from up to 12 years to up to 21 years will affect only the SRPMIC's operation of their landfill on their own land.

On March 10, 2021, EPA offered consultation to the SRPMIC so as to give the Tribe a meaningful and timely opportunity to provide input into the extension of the total term of the rule from 12 years to 21 years. To the extent that SRPMIC accepts EPA's offer to consult on this action, the Agency will endeavor to undertake such consultation during the 30-day public comment period for this direct final rule.

With respect to the type of flexibility being afforded to SRPMIC under this proposed rule, E.O. 13175 does provide for agencies to review applications for flexibility ''with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.'' In formulating this proposed rule, the Region has been guided by the fundamental principles set forth in E.O. 13175 and has granted the SRPMIC the ''maximum administrative discretion possible'' within the standards set forth under the RD&D rule in accordance with E.O. 13175.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (*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 technical standards included in the original site-specific flexibility request were proposed by SRPMIC. Given EPA's obligations under

E.O. 13175 (see above), the Agency applied the standards established by the Tribe. In addition, the Agency considered the Interstate Technology and Regulatory Council's February 2006 technical and regulatory guideline, ''Characterization, Design, Construction, and Monitoring of Bioreactor Landfills.'' Nothing about this analysis has changed since the 2009 site-specific rule was promulgated nor does the proposed extension of the total possible term of the RD&D unit's operations in accordance with the site-specific rule from 12 years to 21 years affect this analysis.

Congressional Review Act (CRA). This action is not subject to the CRA because the term ''rule'' as it is used in the CRA does not include ''any rule of particular applicability,'' such as a site-specific rule. See, 5 U.S.C. Section 804(3)(A).

Environmental Justice—Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and the accompanying presidential memorandum advising Federal agencies to identify and address, whenever feasible, disproportionately high and adverse human health or environmental effects on minority communities or low-income communities. The action will not adversely impact minorities or low-income communities.

Authority: Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act, as amended, 42 U.S.C. Sections 6907, 6912, 6944, and 6949a. Delegation 8–54, Site-Specific Rules for Flexibility from Owners/Operators of Municipal Solid Waste Landfills (MSWLFs) in Indian Country, November 24, 2010. Regional Delegation R9–8–54, October 10, 2014.

List of Subjects in 40 CFR Part 258

Environmental protection, Municipal landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: March 26, 2021.

Steven Barhite,

Acting Director, Land, Chemicals and Redevelopment Division, Region IX.

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR part 258 as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

■ 1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c), 6981(a).

Subpart D—Design Criteria

■ 2. Revise § 258.42 paragraphs (a)(5) through (10) to read as follows:

§ 258.42 Approval of site-specific flexibility requests in Indian country.

(a) * * *

(5) The owner and/or operator shall submit reports to the Director of the Land, Chemicals and Redevelopment Division at EPA Region 9 as specified in ''Research, Development, and Demonstration Permit Application Salt River Landfill,'' dated September 24, 2007 and amended on April 8, 2008, including an annual report showing whether and to what extent the site is progressing in attaining project goals. The annual report will also include a summary of all monitoring and testing results, as specified in the application.

(6) The owner and/or operator may not operate the facility pursuant to the authority granted by this section if there is any deviation from the terms, conditions, and requirements of this section unless the operation of the facility will continue to conform to the standards set forth in § 258.4 and the owner and/or operator has obtained the prior written approval of the Director of the Land, Chemicals and Redevelopment Division at EPA Region 9 or the Director's designee to implement corrective measures or otherwise operate the facility subject to such deviation. The Director of the Land, Chemicals and Redevelopment Division or designee shall provide an opportunity for the public to comment on any significant deviation prior to providing written approval of the deviation.

(7) Paragraphs (a)(2), (3), (5), (6) and (9) of this section will terminate on March 19, 2024, unless the Director of the Land, Chemicals and Redevelopment Division at EPA Region 9 or the Director's designee renews this authority in writing. Any such renewal may extend the authority granted under paragraphs (a)(2), (3), (5), (6) and (9) of this section for up to an additional three years, and multiple renewals (up to a total of 21 years from March 19, 2009) may be provided. The Director of the Land, Chemicals and Redevelopment Division or designee shall provide an opportunity for the public to comment on any renewal request prior to providing written approval or disapproval of such request.

(8) In no event will the provisions of paragraphs (a)(2), (3), (5), (6) or (9) of this section remain in effect after March 19, 2030, 21 years after the March 19, 2009 date of publication of the site-specific rule in this section. Upon termination of paragraphs (a)(2), (3), (5), (6) and (9) of this section, and except with respect to paragraphs (a)(1) and (4) of this section, the owner and/or operator shall return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through the site-specific rule in this section.

(9) In seeking any renewal of the authority granted under or other requirements of paragraphs (a)(2), (3), (5) and (6) of this section, the owner and/or operator shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Director of the Land, Chemicals and Redevelopment Division at EPA Region 9 or the Director's designee has determined are necessary for the approval of any renewal and has communicated in writing to the owner and operator.

(10) The owner and/or operator's authority to operate the landfill in accordance with paragraphs (a)(2), (3), (5), (6) and (9) of this section shall terminate if the Director of the Land, Chemicals and Redevelopment Division at EPA Region 9 or the Director's designee determines that the overall goals of the project are not being attained, including protection of human health or the environment. Any such determination shall be communicated in writing to the owner and operator.

[FR Doc. 2021–06902 Filed 4–7–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 21–03]

RIN 3072–AC86

Carrier Automated Tariffs

AGENCY: Federal Maritime Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission (Commission) has identified inconsistencies in the manner in which different carriers are interpreting and applying certain aspects of the Commission's rules. This Advance Notice of Proposed Rulemaking (ANPRM) will facilitate a fuller understanding of these issues prior to the Commission potentially proposing regulatory changes to its tariff regulations. The Commission observes that carriers are charging widely varying