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 does not significantly or uniquely affect the communities of Indian tribal governments because it applies only to State and local permitting programs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (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 one or more voluntary consensus standard 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 rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and Procedure, Air pollution control, Integovernmental relations.

Dated: February 4, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Appendix A to Part 70 [Amended]

2. Appendix A of part 70 is amended by the following:

a. Revising the date at the end of the third sentence in paragraph (a) under Texas to read ''June 1, 2002''; and

b. Revising the date at the end of the following paragraph's to read ''June 1, 2002'': Paragraph (a) under Alaska, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Vermont, Virgin Islands, Virginia, West Virginia, and Wisconsin; paragraphs (a), (b), and (c) under Alabama and Nevada; paragraphs (a), (b), (c)(1), (c)(2), (d)(1), and (d)(2) under Arizona; paragraphs (a) through (hh) under California; paragraphs (a) and (e) under Tennessee; and paragraphs (a) through (i) under Washington.

[FR Doc. 00–3205 Filed 2–11–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRL–6535–8]

Rhode Island: Determination of Adequacy for the State's Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Under the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments, States may develop and implement permit programs for municipal solid waste landfills (MSWLFs) for review and an adequacy determination by the Environmental Protection Agency (EPA). This final rule documents EPA's determination that Rhode Island's MSWLF permit program is adequate to ensure compliance with Federal MSWLF requirements.

EFFECTIVE DATE: The determination of adequacy for the State of Rhode Island shall be effective on February 14, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Hill, United States Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Mail Code CHW, Boston, MA 02114; telephone number: (617) 918–1398.

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, Oct. 9, 1991). That rule established part 258 of Title 40 of the Code of Federal Regulations (CFR) (40 CFR part 258). 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 municipal solid waste landfills (MSWLFs). The 40 CFR part 258 criteria establish minimum Federal standards that take into account the practical capability of owners and operators of MSWLFs while ensuring that these 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 of 1984, requires States to develop and implement permit programs to ensure that MSWLFs will comply with the 40 CFR part 258 criteria. RCRA section 4005(c)(1)(C) requires EPA to determine whether the permit programs that States develop and implement for these facilities are adequate.

To fulfill this requirement to determine whether State permit programs that implement the 40 CFR part 258 criteria are adequate, EPA promulgated the State Implementation Rule (SIR) (63 FR 57025, Oct. 23, 1998). 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; (3) it provides the procedures for withdrawal of such approvals; and (4) it establishes a flexible framework for modifications of approved programs.

Only those owners and operators located in States with approved permit programs for MSWLFs can use the site-specific flexibility provided by 40 CFR part 258, to the extent the State permit program allows such flexibility. Every standard in the 40 CFR part 258 criteria is designed to be implemented by the owner or operator with or without oversight or participation by EPA or the State regulatory agency. States with approved programs may choose to require facilities to comply with the 40 CFR part 258 criteria exactly, or they may choose to allow owners and operators to use site-specific alternative approaches to meet the Federal criteria. The flexibility that an owner or operator may be allowed under an approved State program can provide a significant reduction in the burden associated with complying with the 40 CFR part 258 criteria. Regardless of the approval

status of a State and the permit status of any facility, the 40 CFR part 258 criteria shall apply to all permitted and unpermitted MSWLFs.

To receive a determination of adequacy for a MSWLF permit program under the SIR, a State must have enforceable standards for new and existing MSWLFs. These State standards must be technically comparable to the 40 CFR part 258 criteria. In addition, the State must have the authority to issue a permit or other notice of prior approval and conditions 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 RCRA section 7004(b). Finally, the State must demonstrate that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved permit 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 Rhode Island

On March 18, 1994, Rhode Island submitted a complete application for a determination of adequacy of its MSWLF permit program to EPA. EPA reviewed the application and requested additional information about program implementation. Rhode Island provided this information. As a result of the review process, Rhode Island identified certain deficiencies in its MSWLF permit program regulations, and it proposed revisions to make the program consistent with the Federal minimum criteria under 40 CFR part 258. On March 23, 1995, EPA provided Rhode Island with its comments regarding the application and acknowledged that Rhode Island had proposed to revise the MSWLF permit program regulations. Rhode Island provided EPA with these proposed revisions, subject to public comment, on August 28, 1995. On September 25, 1995, EPA informed Rhode Island that it had: (1) Completed its review of the proposed revisions: and (2) determined that upon their adoption as written, EPA would publish a tentative full determination of adequacy for the State's MSWLF permit program in the **Federal Register**. Before publication of this notice, however, Rhode Island further amended its MSWLF permit program regulations. It made these amendments in order to satisfy certain State law requirements and conform the regulations to certain Rhode Island Department of Environmental Management (RIDEM) recycling requirements, and because of a RIDEM reorganization. The revised MSWLF permit program regulations became effective on January 30, 1997. EPA reviewed these regulations and requested additional information about program implementation, which Rhode Island provided.

Based on its review, EPA tentatively determined that all portions of Rhode Island's MSWLF permit program meet all the requirements necessary to qualify for full program approval and ensure compliance with the 40 CFR part 258 criteria. EPA published the tentative determination as a proposed rule in the **Federal Register** on October 5, 1999 (64 FR 53976).

By finding that Rhode Island's MSWLF permit program is adequate, EPA does not intend to affect the rights of Federally recognized Indian Tribes in Rhode Island, nor does it intend to limit the existing rights of the State of Rhode Island. In addition, nothing in this action should be construed as making any determinations or expressing any position with regard to Rhode Island's audit law (R.I. Gen. Laws sections 42–17.8–1 to 8–8). The action taken here does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Federally authorized, delegated, or approved program resulting from the effect of Rhode Island's audit law.

RCRA section 4005(a) provides that citizens may use the citizen suit provisions of RCRA section 7002 to enforce the 40 CFR part 258 criteria independent of any State enforcement program. EPA expects that any owner or operator complying with provisions in a State program approved by EPA should be considered to be in compliance with the 40 CFR part 258 criteria.

III. Public Comment

During the public comment period on EPA's tentative determination of adequacy for Rhode Island's MSWLF permit program, EPA received nine letters and no requests for a public hearing. All nine of the letters involved concerns about the Central Landfill in Johnston, Rhode Island. EPA is aware of these concerns and is participating on a committee with RIDEM, citizens, state legislators, state representatives, town counselors, the mayor of Johnston, and the landfill operator to address these issues. EPA is satisfied that progress is underway to address these issues. None of the commentors questioned the adequacy of Rhode Island's MSWLF permit program in regard to meeting all of the statutory and regulatory requirements established by RCRA.

IV. Decision

After evaluating Rhode Island's MSWLF permit program, EPA, Region I concludes that the program meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the State of Rhode Island is granted a determination of adequacy of all portions of its MSWLF permit program.

V. Regulatory Assessments

A. Compliance With Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), EPA must determine whether any proposed or final regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has exempted today's action from Executive Order 12866 review.

B. Compliance With Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition,

Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's action implements requirements specifically set forth by the Congress in sections 4005 (c)(1)(B) and (c)(1)(C) of subtitle D of RCRA, as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to today's action.

C. Compliance With Executive Order 13045: Children's Health Protection

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be ''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, EPA 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 EPA. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. Today's action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

D. 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 by consulting, Executive Order 12875 requires EPA to provide to OMB, in a separately identified section of the preamble to today's action, 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 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.''

Today's action implements requirements specifically set forth by Congress in sections 4005 (c)(1)(B) and (c)(1)(C) of subtitle D of RCRA, as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's action.

E. 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'' are 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 final rule 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 determines that the State of Rhode Island's MSWLF permit program is adequate. Thus, the requirements of section 6 of the Executive Order do not apply.

F. Compliance With the Regulatory Flexibility Act

EPA has determined that this determination of adequacy will not have a significant adverse economic impact on a substantial number of small entities. The MSWLF revised criteria in 40 CFR part 258 provide directors of States with approved programs the authority to exercise discretion and to modify various Federal requirements. Directors of approved States may modify certain of these Federal requirements to make them more flexible on either a site-specific or State-wide basis. In many cases, exercise of this flexibility results in a decrease in burden or economic impact upon owners or operators of MSWLFs. Thus, with EPA's determination that the Rhode Island MSWLF permitting program is adequate, the burden on MSWLF owners and operators in that State that are also small entities should be reduced. Moreover, because small entities that own or operate MSWLFs are already subject to the requirements in 40 CFR part 258 (although some small entities may already be exempted from certain of these requirements, such as the groundwater monitoring and design provisions (40 CFR 258.1(f)(1)), today's action does not impose any additional burdens on them.

G. 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 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 the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. 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 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 UMRA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA 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 of 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 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.

Today's action contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. It implements mandates specifically and explicitly set forth by the Congress in sections 4005(c)(1)(B) and (c)(1)(C) of subtitle D of RCRA, as amended, without the exercise of any policy discretion by EPA. In any event, EPA does not believe that this determination of the State program's adequacy will result in estimated costs of $100 million or more to State, local, and tribal governments in the aggregate, or to the private sector, in any one year. This is due to the additional flexibility that the State can generally exercise (which will reduce, not increase, compliance costs). Moreover, this determination will not significantly or uniquely affect small governments including Tribal small governments. As to the applicant, the State has received notice of the requirements of an approved program, has had meaningful and timely input into the development of the program requirements, and is fully informed as to compliance with the approved program. Thus, any applicable requirements of section 203 of the Act have been satisfied.

I. 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 final rule 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.

J. 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 proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 258

Environmental protection, Adequacy, Administrative practice and procedure, Municipal solid waste landfills, Non-hazardous solid waste, State permit program approval.

Authority: 42 U.S.C. 6912, 6945, 6949(a).

Dated: January 20, 2000.

Mindy Lubber,

Acting Regional Administrator, Region I.

[FR Doc. 00–3363 Filed 2–11–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. RSPA–99–5137 (HM–208C)]

RIN 2137–AD17

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the statutorily mandated registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. In this final rule, RSPA is: (1) Expanding the criteria for those persons required to register to include all persons who offer for transportation or transport hazardous materials that require placarding (except for those activities of farmers directly in support of farming operations); (2) Adopting a two-tiered fee schedule—$300 for those registrants meeting the U.S. Small Business Administration criteria for defining a small business and $2,000 for all other registrants; and (3) Permitting registration for one, two, or three years on a single registration statement. This final rule is intended to increase funding for the national Hazardous Materials Emergency Preparedness grants program.

EFFECTIVE DATE: May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Ms. Deborah Boothe, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

List of Topics

I. Background
A. Current Registration Program
B. Hazardous Materials Emergency Preparedness (HMEP) Grants Program
II. Summary of Proposal to Increase HMEP Funding