El Paso CO redesignation request and the maintenance plan with its associated MVEBs as satisfying the requirements of the Federal Clean Air Act (CAA) as amended in 1990.

DATES: Written comments must be received by September 3, 2008.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–8542; fax number 214–665–7263; e-mail address *riley.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to take action on SIP revisions pertaining to the El Paso area. We have published a direct final rule approving the State's SIP revisions 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 relevant adverse comment, we will not take further action on this proposed rule. If we receive relevant 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 rule 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.

Dated: July 18, 2008.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. E8–17701 Filed 8–1–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[EPA–R09–RCRA–2008–0354; FRL–8700–3]

Tentative Determination to Approve Research, Development, and Demonstration Request for the Salt River Landfill, and Proposed Finding of No Adverse Effect Under the National Historic Preservation Act; Opportunity for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency Region IX is making a tentative determination to approve a research, development, and demonstration (RD&D) project at the Salt River Landfill, a commercial municipal solid waste landfill (MSWLF) owned and operated by the Salt River Pima-Maricopa County Indian Community (SRPMIC) on the SRPMIC reservation in Arizona. EPA is seeking public comment on EPA's tentative determination to approve SRPMIC's RD&D project. Pursuant to the National Historic Preservation Act (NHPA), EPA is also seeking public comment on EPA's proposed Area of Potential Effects (APE), the proposed finding that the Arizona Canal is the sole historic property within the APE, and the proposed finding that the RD&D project will not adversely affect the Arizona Canal.

DATES: Comments must be received on or before September 30, 2008. If sufficient public interest is expressed, EPA will hold a public hearing at 11 a.m. on September 30, 2008. If by September 18, 2008, EPA does not receive information indicating sufficient public interest for a public hearing, EPA may cancel the public hearing with no further notice. If you are interested in attending the public hearing, contact Karen Ueno at (415) 972–3317 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–RCRA–2008–0354 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ueno.karen@epa.gov.*
- *Fax:* (415) 947–3530
- *Mail:* Karen Ueno, Environmental Protection Agency Region IX, Mailcode: WST–7, 75 Hawthorne Street, San Francisco, CA 94105–3901.
- *Hand Delivery:* Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA. Such deliveries are only accepted during the Docket Facility's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–RCRA–2008–0354. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Docket Facility located at the Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, California. A complete public portion of the administrative record for this rulemaking is also available for review at the Docket Facility upon request. The Docket Facility is open from 9 a.m. to 4 p.m., Monday through

Thursday, excluding legal holidays, and is located in a secured building. To review docket materials at the Docket facility, it is recommended that the public make an appointment by calling the Docket Facility at (415) 947–4406 during normal business hours.

Submitting Comments to EPA:

1. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

2. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

3. Docket Copying Costs. Copying arrangements will be made through the Docket Facility and billed directly to the recipient. Copying costs may be waived depending on the total number of pages copied.

If sufficient public interest is expressed, EPA will hold a public hearing at 11 a.m. on September 30, 2008 in Conference Room A of the offices of the U.S. Bureau of Indian Affairs, 400 North 5th Street, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Karen Ueno, Waste Management Division, WST–7, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105–3901; telephone number: (415) 972–3317; fax number: (415) 947–3530; e-mail address: *ueno.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Background

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 MSWLFs, including landfill location restrictions, operating standards, design standards and requirements for ground water monitoring, corrective action, closure and post-closure care, and financial assurance. Under RCRA section 4005, states are to develop permit programs for facilities that may receive household hazardous waste or waste from conditionally exempt small quantity generators, and EPA determines whether the program is adequate to ensure that facilities will comply with the revised criteria.

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. The flexible standard is not self-implementing, and use of the alternative standard 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).

On March 22, 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). This rule allows for variances from specified criteria for a limited period of 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-cm 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 cm. 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. 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 current total term for an RD&D permit including renewals cannot exceed twelve years. In adopting the RD&D rule, EPA stated that RD&D facilities in Indian country could be approved in a site-specific rule.

B. SRPMIC's Site-Specific Flexibility Request

The Salt River Landfill is a municipal solid waste landfill owned and operated by the SPRMIC on the SRPMIC's reservation in Arizona. The landfill site is approximately 200 acres. The Salt River Landfill has been in operation since October 1993 and serves as a solid waste collection and disposal point for Maricopa County, Arizona. The landfill consists of 8 disposal cells within 6 waste disposal areas. The latter are identified as Phases I—VI. Phase VI is divided into three cells: VIA, VIB, and

VIC. Construction of Phase VI, which is the last below-grade excavation planned for the landfill, is complete. The landfill accepts approximately 2,200 tons of solid waste per day and has composting and material recovery facilities on-site. The Phases/cells relevant to this site-specific flexibility request are Phases IIIB, IVA, VIA, VIB, and VIC.

In January 2005, the SRPMIC submitted a site-specific flexibility application request to EPA for the Salt River Landfill. The request is twofold. It seeks EPA approval to use innovative and new methods which vary from the liquids restrictions at 40 CFR 258.28(a), as allowed by EPA's RD&D regulations at 40 CFR 258.4. It also seeks approval to install an alternative bottom liner, as allowed by EPA's regulations at 40 CFR 258.40. Specifically, SRPMIC is seeking to install an alternative bottom liner system in and to operate Phase VI as a below grade anaerobic bioreactor. SRPMIC is also seeking to add certain liquids to two existing waste disposal cells within the landfill, Phase IIIB and Phase IVA, which were constructed with an alternative bottom liner system previously approved by EPA (63 FR 68453, Dec. 11, 1998).

Between January 2005 and April 2008, the SRPMIC made revisions to its application request in response to concerns raised by EPA. EPA is basing its tentative determination and this proposed rule on the application, dated September 24, 2007, and the April 2008 amendments to that application. The specific requests for EPA approval in SRPMIC's application are discussed below. As set forth in more detail below, EPA is proposing to approve the request and allow SRPMIC to install an alternative bottom liner system in Phase VI, and to operate Phases VI, IIIB, and IVA using innovative and new methods which vary from the liquids restrictions at 40 CFR 258.28(a). This tentative determination is based on 40 CFR 258.40 and 40 CFR 258.4, respectively.

1. Phase VI: Approval to Install an Alternative Bottom Liner System in and to Add Certain Liquids to Phase VI

The SRPMIC is seeking EPA approval to use an alternative bottom liner system in each of the Phase VI cells (Phase VIA, B, and C). SRPMIC proposes to replace the 24-inch compacted clay liner of the composite liner system with a geosynthetic clay liner. As provided in 40 CFR 258.40(a)(1), SRPMIC must ensure that the alternative liner system does not allow the concentration of the chemicals listed in Table 1 of 40 CFR 258.40 to be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by EPA.

To create bioreactor conditions in Phase VI, SRMPIC is also seeking EPA approval to recirculate leachate and landfill gas condensate, and to add storm water and groundwater. A bioreactor uses large amounts of liquids to accelerate the biodegradation of waste by increasing the moisture content of the waste. In turn, enhanced biodegradation is expected to increase the capacity of the cell and extend its operating life. Without approval as provided in the RD&D rule, MSWLFs are restricted from adding bulk or noncontanerized liquids to cells, and from recirculating leachate and landfill gas in cells designed with alternative liner systems.

SRPMIC proposes to recirculate leachate and landfill gas condensate, and to add storm water and groundwater to the Phase VI cells. Only these types of liquids will be added to Phase VI, and only to the below grade portions of this Phase. SRPMIC will introduce these liquids into Phase VI using two methods: Moisture addition at the working face of the cells, and moisture addition through a series of below-grade horizontal pipe galleries. The horizontal pipe galleries will be constructed below-grade as landfilling progresses in Phase VI. Each horizontal pipe gallery will first be used to collect landfill gas before being converted to a liquids addition pipe gallery. The conversion to liquids addition will not occur until the pipe gallery above it is installed and collecting landfill gas. SRPMIC will install at least two layers of horizontal pipe galleries in the above-grade portion of Phase VI. These above-ground horizontal pipe galleries will be for the sole purpose of collecting gas.

SRPMIC will monitor for fugitive gas emissions at least annually using ground-based optical remote sensing in accordance with EPA's approved method (EPA OTM–10). Increases to fugitive gas emission are a concern with bioreactor operations due to the enhanced biological degradation of the solid waste and the associated rise in the amount of gas generated. SRPMIC will monitor for fugitive emission and use this and other monitoring and operating information collected to better project the amount of landfill gas generated and the performance of the landfill gas collection system.

In addition to increasing the amount of gas generated, bioreactors increase the amount of leachate produced. SRPMIC's design for Phase VI includes a separate leachate collection and recovery system in each of the three cells to support the increase in leachate production associated with bioreactor operation. SRPMIC performed modeling to estimate peak leachate depth on the liner to help ensure that the federal regulatory limit of less than 30-cm would be maintained. The leachate collection system is equipped with an alarm that is triggered in response to any depth of leachate on the liner outside of the sump (for example, if the sump is not fully draining).

SRPMIC will collect data and results related to the operation of Phase VI, including the quality and quantity of gas and leachate generated, and the efficiency of the landfill gas and leachate capture systems. As stated in SRPMIC's application of September 24, 2007, and the April 2008 amendments to that application, an overarching goal is to demonstrate that the proposed operation of Phase VI does not increase risk to human health and the environment over a standard MSWLF permit.

2. Phase IIIB and IVA: Approval to Add Certain Liquids to Below Grade Portions of Cells With Previously EPA-Approved Alternative Bottom Liner Systems

SRPMIC is seeking EPA approval to add certain liquids to below-grade portions of two existing cells, Phases IIIB and IVA, each of which were constructed using an alternative bottom liner system previously approved by EPA (63 FR 68453, December 11, 1998). As noted, above, without approval as provided in the RD&D rule, MSWLFs are restricted from adding bulk or noncontanerized liquids to cells, and from recirculating leachate and landfill gas condensate in cells designed with alternative liner systems.

SRPMIC proposes to add liquids to Phases IIIB and IVA, but does not intend to increase the moisture content of the solid waste mass to a bioreactor level (40 CFR 63.1990 defines ''bioreactor'' as reaching a minimum average moisture content of at least 40% by weight). SRPMIC is seeking to add only 25% of the liquids volume that would be needed to increase moisture content to 40%. SRPMIC proposes to increase the moisture content of the waste mass by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater. Only these types of liquids will be added to Phases IIIB and IVA, and only to the below grade portions of these Phases.

SRPMIC will add the liquids using the existing gas collection pipes in these cells. Field practice and research have shown that using the same pipe galleries to both collect gas and distribute liquids can negatively affect the gas collection efficiency of the pipes. SRPMIC will monitor the gas flow. If the gas flow rate drops below 50% of the pre-liquids

injection rate, SRPMIC will suspend liquids injection until gas flow rebounds to 75% of the pre-liquids injection rate.

As proposed for Phase VI, SRPMIC will monitor for fugitive gas emission and use this and other monitoring and operating information to better project the amount of landfill gas generated and the performance of the landfill gas collection system. SRPMIC will collect data and results related to the operation of Phases IIIB and IVA, including the quality and quantity of gas and leachate generated, and the efficiency of the landfill gas and leachate capture systems.

SRPMIC has performed modeling to determine how much liquid can be added annually to Phases IIIB and IVA to, among other things, keep the depth of leachate on the liner to less than 30 cm as required by the federal regulations. SRPMIC is required to suspend adding liquids to Phases IIIB and IVA if operating parameters are not being met, including depth of leachate on the liner at or over 30 cm, ponding, gas collection difficulty, and seeps. As stated in SRPMIC's application of September 24, 2007, and the April 2008 amendments to that application, an overarching goal is to demonstrate that the proposed operation of Phase IIIB and IVA does not increase risk to human health and the environment over a standard MSWLF permit.

To further reduce the potential risk posed by increased liquids addition and leachate generation from Phases VI, IIIB, and IVA, SRPMIC will install a new groundwater monitoring network of 7 wells. The network will be used to monitor the uppermost portion of the aquifer for changes to groundwater elevation and quality. SRPMIC shall maintain at least a 25-foot separation zone between the bottom of the landfill and groundwater. SRPMIC will also monitor liquids balance (how much liquid is being deposited into the landfill compared to how much is being collected), mass balance (the mass of the materials deposited into the landfill, compared to the mass of what is being collected), and waste volume and settlement.

II. EPA's Action

A. Tentative Determination To Approve SRPMIC's Site-Specific Flexibility Request

After completing a review of SRPMIC's final site-specific flexibility application request, dated September 27, 2007, and the amendments to that application, dated April 2008, EPA is proposing to approve SRPMIC's site-specific flexibility request to: (1) Install an alternative bottom liner system in Phase VI and to operate Phase VI as an anaerobic bioreactor by recirclating 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 Phases IIIB and IVA to increase the moisture content of the waste mass in these phases, both of which have previously EPA-approved alternative bottom liner systems.

EPA is basing its tentative determination on a number of factors, including SRPMIC's overarching goal to demonstrate protection of human health and the environment, and the requirement of today's rule to maintain less than 30-cm depth of leachate on the liner.

EPA considered certain issues pertaining to the proposed RD&D project, including the potential for increased leachate production and increased landfill gas generation and fugitive emissions from operation of the bioreactor. With respect to the potential for increased leachate production, SRPMIC performed modeling to project the impact of liquids addition on the liner and peak leachate production rates, and to assess the adequacy of the leachate collection system design capacity. This modeling demonstrated that the leachate collection system is designed to appropriately handle the amount of anticipated leachate and that the increase in liquids should not adversely affect the performance of the liner system in protecting groundwater. SRPMIC will also maintain a 25-foot or greater separation zone between the bottom of the landfill and the top of the groundwater aquifer. SRPMIC will routinely monitor leachate quantity and quality, liquids balance, volume and settlement of the waste, and groundwater quality and levels. By monitoring, SRPMIC will be able to ensure effective and protective ongoing operations of these Phases of the landfill and provide data for EPA to use in its ongoing RD&D study.

With respect to the potential for increased landfill gas generation and fugitive gas emissions, SRPMIC will ensure that each horizontal pipe gallery in Phase VI will be used to collect landfill gas before being converted for liquids addition to reduce the risk of negatively affecting the gas collection efficiency of the pipe gallery. No pipe gallery will be converted to liquids addition until the pipe gallery above it is installed and collecting landfill gas. SRPMIC also will install at least two layers of horizontal pipe galleries in the above-grade portion of Phase VI for the sole purpose of collecting gas. To further reduce the risk of increased landfill gas generation and fugitive emissions, SRPMIC will only add liquids to the below-grade portions of Phases VI, IIIB, and IVA. SRPMIC will monitor fugitive gas emissions annually or more frequently, as appropriate, using ground-based optical remote sensing (EPA OTM–10), and will routinely monitor landfill gas quantity and quality. Using information gained from the monitoring program, SRPMIC will propose site-specific input parameters to EPA that improve modeling calculations for the amount of landfill gas generated and the performance of landfill gas collection systems.

In the event that EPA determines that the project goals are not being attained, including protecting human health and the environment, EPA may terminate SRPMIC's authority to operate the RD&D project.

As part of this tentative determination, and in accordance with 40 CFR 258.4, EPA is proposing to require SRPMIC to maintain less than 30 cm depth of leachate on the liner in Phases VI, IIIB, and IVA, and to ensure that the approved operation of these Phases is protective of human health and the environment. For purposes of the alternative liner system in Phase VI, the relevant point(s) of compliance pursuant to 40 CFR 258.40 will be determined by EPA and shall be no more than 150 meters from the waste management cell boundaries and located on land owned by the owner of the cells.

In accordance with its application, SRPMIC will submit annual reports to EPA that summarize and show whether and to what extent RD&D project goals are being achieved. The annual report will include a summary of all monitoring and testing results. Any deviations from the September 27, 2007 application, and the April 2008 amendments to that application, must continue to conform to the standards set forth in 40 CFR 258.4 and require the prior approval of EPA.

Also in accordance with its application, SRPMIC will arrange for independent, third party inspections of the RD&D operations on a quarterly basis throughout the term of the RD&D approval. Copies of the report will be submitted to EPA.

The tentative determination would allow operation of the subject Phases of the landfill consistent with the RD&D rule for a total of 12 years. However, the owner or operator of the landfill must seek a renewal of this authority every

three years. EPA is proposing to allow operation of the landfill cells in accordance with the RD&D rule for three years, but the operator may request a renewal of the authorization by submitting a request to the Director of the Waste Management Division. Each renewal request would be subject to public notice and comment. No renewal may be for greater than three years and the overall period of operation may not exceed twelve years.

B. Proposed Finding of No Adverse Effect Under NHPA

As part of the NHPA process, EPA is proposing a ½-mile radius around the Salt River Landfill as the area of potential effects (APE). An APE is the geographic area within which a project may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. In proposing a ½-mile APE, EPA considered that SRPMIC's request is of a limited nature at a landfill that already exists and has been operating since 1993. EPA's proposed APE is consistent with the policy of the Archaeology Department of SRPMIC's Environmental Protection and Natural Resources Division. SRPMIC does not have a Tribal Historic Preservation Officer (THPO).

In accordance with the NHPA, EPA consulted with SRPMIC's Archaeology Department, the Arizona State Historic Preservation Officer, the U.S. Bureau of Reclamation, the Salt River Project, the U.S. Bureau of Indian Affairs and nearby certified local governments on SRPMIC's RD&D request and reviewed the NHPA requirements. EPA provided the following tribes, who may have a cultural or historic interest within the proposed APE, with an opportunity to identify such cultural or historic properties: Ak-Chin Indian Community; Fort McDowell Yavapai Nation; Gila River Indian Community; Hopi Tribe; Pascua Yaqui Tribe; Tohono O'odham Nation; Yavapai-Apache Nation; Yavapai-Prescott Indian Tribe. No cultural or historic property was identified by these tribes, nor was any interest expressed to further consult with EPA.

Only one historic property, the Arizona Canal, has been identified within the proposed APE. The Arizona Canal and associated access roads and banks are the property of the U.S. Bureau of Reclamation. Construction of the Arizona Canal began in 1883. It is a concrete-lined structure that continues to distribute water for domestic and irrigation uses in Maricopa County. The canal banks support a variety of non-motorized recreation activities, such as hiking, bicycling, walking, and jogging.

The northern border of the Salt River Landfill is adjacent to the Arizona Canal. An eight-foot fence separates the landfill and the canal, and at its closest proximity, the fence is approximately 50 feet away from the canal. An additional 10–30 feet separates the fence from the proposed locations of the new groundwater wells nearest to the canal. Recreational use of the canal is restricted and minimized in the vicinity of the SRPMIC border.

The proposed SRPMIC RD&D project could potentially impact the Arizona Canal in three ways: (1) Off-site migration of leachate, (2) disturbance from the installation of the 7 new groundwater monitoring network wells, and (3) fugitive gas emissions.

It is not likely that there would be off-site migration of leachate via the groundwater or surface water pathways. With respect to the groundwater pathway, SRPMIC will maintain a 25-foot or greater zone of separation between the bottom of the landfill and the top of the aquifer to prevent leachate from coming into contact with groundwater. Each waste cell is or will be equipped with a bottom liner and leachate collection system to further reduce the risk of off-site leachate migration. With respect to the surface water pathway, the leachate retention pond has the estimated capacity to accommodate the additional leachate projected to be generated from Phases VI, IIIA, and IVB, even when leachate is not being recirculated back into the landfill. Stormwater is retained on-site and stormwater retention capacity will continue to be increased by SRPMIC throughout the life of the landfill. The canal, itself, is protected by berms and is at a higher elevation than the landfill. Surface water from the landfill does not flow towards the canal.

The installation of 7 new groundwater monitoring wells should not have an adverse impact on the canal. The noise, equipment, vehicles, and possible dust associated with installing wells should not affect recreation use of the canal because the installation process is short-term, and recreation use is restricted and minimized along the SRPMIC border. In addition, the proposed well locations and the canal are separated by an eight-foot fence and a distance of 60 feet or more. Because surface water does not move from the landfill towards the canal, and because storm water is retained on-site, it is not likely that loosened sediment from ground disturbance would find a ready pathway to the canal.

Increased gas generation and emissions should not negatively impact the canal, as the canal is made of concrete, an inert building material. As required by EPA approval of the proposed RD&D project, each of the waste cells have or will have a gas collection and control system, and SRPMIC will routinely monitor the quality and quantity of landfill gas and fugitive emissions, and assess collection efficiency. The gas that is collected will be destroyed at the landfill's flare station or converted into energy. To the extent there are increased fugitive emissions, recreational use of the canal should not be adversely affected since there are few, if any, such uses along the SRPMIC border of the canal.

Pursuant to section 106 of the NHPA, EPA has reviewed SRPMIC's site-specific flexibility request to take into account the effect of the proposed RD&D project on historic properties. EPA requests public comment on its proposed ½-mile area of potential effects, its proposed finding that the Arizona Canal is the sole historic property within the APE, and its proposed finding of no adverse effect.

III. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (*58 FR 51735*, October 4, 1993), this 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 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.*) because it applies to a particular facility only.

Because this 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 rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It 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, ''Federalism,'' (*64 FR 43255*, August 10,

1999). Thus, Executive Order 13132 does not apply to this rule.

This 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 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 proposal and the controls and standards set forth in the application.

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.

As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (*61 FR 4729*, February 7, 1996), in issuing this 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 action may have tribal implications because it is directly applicable to the owner and/or operator of the landfill, which is currently the Tribe. However, this tentative determination, if made final, will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law. This tentative determination to approve the SRPMIC's application will affect only the SRPMIC's operation of their landfill on their own land.

EPA consulted with the SRPMIC early in the process of making this tentative determination to approve the Tribe's RD&D project so as to give them meaningful and timely input into the determination. In 2005, SRPMIC submitted its site-specific RD&D flexibility request. Between 2005 and 2008, many technical issues were raised and addressed concerning SRPMIC's proposal. EPA's consultation with the Tribe culminated in the SRPMIC submitting an RD&D application amendment in April of 2008.

With respect to the type of flexibility being afforded to SRPMIC under this proposed rule, Executive Order 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 tentative determination and proposed rule, the Region has been guided by the fundamental principles set forth in Executive Order 13175 and has granted the SRPMIC the ''maximum administrative discretion possible'' within the standards set forth under the RD&D rule in accordance with Executive Order 13175.

EPA specifically solicits any additional comment on this tentative determination from tribal officials of the SRPMIC.

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 NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The technical standards included in the application were proposed by SRPMIC. Given EPA's obligations under Executive Order 13175 (see above), the Agency has, to the extent appropriate, 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.''

Authority: Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6907, 6912, 6944, and 6949a. Temporary Delegation of Authority to Promulgate Site-Specific Rules to Respond to Requests for Flexibility from Owners/Operators of Municipal Solid Waste Landfill Facilities in Indian Country, February 26, 2008, Incorporation by Reference.

List of Subjects in 40 CFR Part 258

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

Dated: July 23, 2008.

Wayne Nastri,

Regional Administrator, Region IX.

For the reasons stated in the preamble, 40 CFR part 258 is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

Subpart D—[Amended]

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).

2. Amend subpart D by adding § 258.42 to read as follows:

§ 258.42 Approval of Site-specific Flexibility Requests in Indian Country.

(a) Salt River Pima-Maricopa Indian Community (SRPMIC), Salt River Landfill Research, Development, and Demonstration Project Requirements. Paragraph (a) of this section applies to the Salt River Landfill, a municipal solid waste landfill owned and operated by the SPRMIC on the SRPMIC's reservation in Arizona, which includes waste disposal areas identified as ''Phases I–VI.'' The Research, Development, and Demonstration Permit Application Salt River Landfill, submitted by SRPMIC and dated September 24, 2007 and amended in April 2008 is hereby incorporated into this provision by this reference. The facility owner and/or operator may operate the facility in accordance with this application, including the following activities more generally described as follows:

(1) The owner and/or operator may install a geosynthetic clay liner as an alternative bottom liner system in Phase VI.

(2) The owner and/or operator may operate Phase VI as a bioreactor by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phase VI.

(3) The owner and/or operator may increase the moisture content of the waste mass in Phases IIIB and IVA by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phases IIIB and IVA.

(4) The owner and/or operator shall maintain less than a 30-cm depth of leachate on the liner.

(5) The owner and/or operator shall submit reports to the Director of the

Waste Management Division at EPA Region 9 as specified in the September 24, 2007 application, as amended in April of 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 of this chapter and the owner and/or operator has obtained the prior written approval of the Director of the Waste Management Division at EPA Region 9 or his or her designee to implement corrective measures or otherwise operate the facility subject to such deviation. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any significant deviation prior to providing his or her written approval of the deviation.

(7) Paragraphs (a)(2), (3), (5), (6) and (9) of this section will terminate August 4, 2011 unless the Director of the Waste Management Division at EPA Region 9 or his or her 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 12 years) may be provided. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any renewal request prior to providing his or her 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 August 4, 2020. 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 this site-specific rule.

(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 Waste Management Division at EPA Region 9 or his or her 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 Waste Management Division at EPA Region 9 or his or her 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.

(b) [Reserved]

[FR Doc. E8–17828 Filed 8–1–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2007–1185; FRL–8699–8]

Mississippi: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Mississippi has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Mississippi. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment.

DATES: Comments must be received on or before September 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2007–1185 by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: johnson.otis@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery:* Otis Johnson, Permits and State Programs, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R04–RCRA–2007–1185. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact