supported by the brief statement in Unit II. of this preamble. 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 is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Correction

In FR Doc. 98–25984, in the September 29, 1998 issue of the **Federal Register**, on page 51848, in the first column, under part 186, correct amendatory instruction ''b.'' to read as follows:

''b. In § 186.2275 by transferring the entry for 'cottonseed meal' from the table and adding it alphabetically to the table in newly designated paragraph (a) of § 180.384, and by removing the remainder of § 186.2275.''

List of Subjects 40 CFR Parts 180 and 186

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

Dated: April 2, 1999.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–10005 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[SW–FRL–6319–5]

Texas; Final Full Program Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination of full program adequacy for the State of Texas.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive household hazardous waste or conditionally exempt small quantity generator waste, comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the EPA to determine whether States have ''adequate'' permit programs for MSWLFs, but does not mandate issuance of a rule for such determinations.

Texas applied for a determination of adequacy under section 4005 of RCRA. The EPA reviewed Texas' application and made a tentative determination that Texas' MSWLF permit program is adequate to ensure compliance with the revised MSWLF criteria. After allowing for public comment, EPA today is granting final approval to Texas' full solid waste program.

EFFECTIVE DATE: The determination of the adequacy of the Texas program shall be effective on April 21, 1999.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, UST/Solid Waste Section (6PD–U), EPA Region 6, 1445 Ross Ave, Dallas, Texas 75202–2733, phone 214/665–6454.

SUPPLEMENTARY INFORMATON:

A. Background

On October 9, 1991, EPA promulgated revised criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the HSWA of 1984, requires States to develop permitting programs to ensure that facilities comply with the Federal criteria in 40 CFR part 258. Subtitle D also requires, in section 4005, that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal criteria at 40 CFR part 258. As the first step to fulfill this requirement, the Agency drafted a State/Tribal Implementation Rule (STIR), in 1991, and published in 1996 (61 FR 2584, Jan. 26, 1996), which States used to apply for a determination of program adequacy and which EPA would use to approve, partially approve, or disapprove State landfill permit programs. Since 1992, the Agency has approved adequate State MSWLF permit programs as applications are submitted. Approved State permit programs provide interaction between the State and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State permit program allows such flexibility. The EPA notes that regardless of the approval status of a State and the permit status of any facility, the Federal criteria will apply to all permitted and unpermitted MSWLFs. Due to a recent decision by the U.S. Court of Appeals for the District of Columbia Circuit (*Backcountry Against Dumps* versus *EPA*, 100 F.3d 147 (DC Cir. 1996)), tribes are viewed as municipalities rather than as states under RCRA and therefore, the Agency cannot approve tribal landfill permitting programs. To reflect the court decision, references to tribes have been deleted from the final rule. Thus, although the proposed rule was titled STIR we refer to the final rule as the State Implementation Rule (SIR). On October 23, 1998, EPA published SIR (63 FR 57025) that provides procedures by which EPA will approve, partially approve, or disapprove State landfill permit programs.

Part 40 CFR 239 (63 *FR* 57040) outlines several minimum requirements for ''adequate'' permit programs. These requirements include that states must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Additionally, the State must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, the State must show it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

The EPA Regions will determine whether a State has submitted an ''adequate'' program based on the interpretation outlined above. The EPA has provided specific criteria for this evaluation in the SIR. The EPA expects States to meet all of these requirements for all elements of an MSWLF program before it gives full approval to an MSWLF program.

On September 27, 1993, the EPA Administrator signed the final rule extending the effective date of the landfill criteria for certain classifications of landfills (proposed rule 58 *FR* 40568, July 28, 1993). Thus, for certain small landfills that fit the small landfill exemption as defined in 40 CFR part 258.1(f), the Federal criteria were effective on October 9, 1995, rather than on October 9, 1993. The final rule on the effective date extension was published in the **Federal Register** October 1, 1993 (58 *FR* 51536).

On August 10, 1995, the EPA published a proposed rule to solicit comments on a two-year delay, until October 9, 1997, of the general compliance date of the MSWLF criteria for qualifying small MSWLFs (60 *FR* 40799). This allowed EPA time to finalize the proposed alternatives. The final rule granting the delay of the

compliance date was published in the **Federal Register** on October 6, 1995 (60 *FR* 52337).

B. State of Texas

On August 4, 1993, Texas submitted an application for a full adequacy determination for the State's MSWLF permit program. On December 17, 1993, EPA published a final determination of partial program adequacy for Texas' program. Further background on the final determination of partial program adequacy appears in 58 *FR* 65986 (December 17, 1993) and in 58 *FR* 44821 (August 25, 1993). In those actions, EPA approved all portions of the State's MSWLF permit program except Texas' regulations exempting certain small landfills in arid regions from ground water monitoring requirements. On May 7, 1993 the U.S. Court of Appeals for the District of Columbia Circuit Court (*Sierra Club* v. *EPA*, 992F.2d 337 (D.C.Cir. 1993)) directed EPA to eliminate an exemption from ground water monitoring for small landfills in arid and remote locations (40 CFR 258.1 (f)(1)).

The court held that ''* * * the Agency must revise its final rule to require groundwater monitoring, as necessary to detect contamination, at all landfills. While such factors as size, location and climate may affect the extent or kind of monitoring necessary to detect contamination at a specific facility, they cannot justify exemption from the statutory monitoring requirement.'' Thus, the Court vacated the small landfill exemption as it pertains to ground water monitoring, directing the Agency to ''* * * revise its rule to require groundwater monitoring at all landfills.'' For that reason, EPA directed Texas to remove the exemption for certain small landfills in arid regions from ground water monitoring. However, with EPA's concurrence, Texas deferred repealing the exemption until EPA adopted a new standard.

On March 26, 1996, the Land Disposal Program Flexibility Act of 1996 was passed (P.L. 104–119, March 26, 1996) providing explicit authority for the ground water monitoring exemption, whereupon EPA reestablished the ground water monitoring exemption (61 *FR* 50410 September 25, 1996) that had been vacated by the Court. Therefore, on September 23, 1997, Texas applied for a determination of full program adequacy, since it had retained the ground water monitoring exemption in its rules and was now in conformity with the revised Federal criteria.

The EPA has reviewed Texas' application and has determined that all portions of the State's application are consistent with the revised Federal criteria. In its application, Texas demonstrated that the State's permit program adequately meets the location restrictions, operating criteria, design criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised Federal criteria. In addition, the State of Texas also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

C. Public Comments

The public comment period on EPA's tentative determination began on September 16, 1998, and closed on October 16, 1998. No public comments were received.

Texas does not claim jurisdiction over Indian lands.

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

D. Decision

After allowing for the public comment, EPA concludes that Texas' application for a full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted a determination of full program adequacy for all areas of its municipal solid waste permit program.

This action takes effect on the date of publication. The EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. The EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to delay the effective date.

Children's Health Protection

Under Executive Order (E.O.) 13045, for all significant regulatory actions as defined by E.O.13045, EPA must provide an evaluation of the environmental health or safety effect of a proposed rule on children and an explanation of why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This is not a significant regulatory action and is exempt from E.O. 13045.

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 6 of E.O. 12866.

Enhancing Intergovernmental Partnerships

Under E.O. 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. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of the affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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 E.O. 12875 do not apply to today's action.

Compliance With Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, 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. If the mandate is unfunded, EPA must provide to the 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, E.O. 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 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 3(b) of E.O. 13084 do not apply to today's action.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization will not have a significant adverse economic impact on a substantial number of small entities. By approving State municipal solid waste permitting programs, owners and operators of municipal solid waste landfills who are also small entities will be eligible to use the site-specific flexibility provided by part 258 to the extent the State permit program allows such flexibility. However, since such small entities which own and/or operate municipal solid waste landfills are already subject to the requirements in 40 CFR part 258 or are exempted from certain of these requirements, such as the groundwater monitoring and design provisions, this approval does not impose any additional burdens on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant adverse economic impact on a substantial number of small entities. It does not impose any new burdens on small entities; rather this approval creates flexibility for small entities in complying with the 40 CFR part 258 requirements. Today's action, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing today's document and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of today's action in the **Federal Register**. Today's action is not a ''major rule'' as defined by section 804(2) of the APA as amended.

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, the EPA 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.

Today's action contains no Federal mandates (under the regulatory provisions of Title of the UMRA) for State, local, or tribal governments or the private sector. Today's action would merely acknowledge the adequacy of a portion of an existing State program. The EPA has determined that this action would not contain any Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate or the private sector in any one year. Therefore, today's action is not subject to the requirements of section 202 of the UMRA.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This action is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: March 10, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–8337 Filed 4–20–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC72

Disaster Assistance; Cost-share Adjustment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule accomplishes three objectives. First, it establishes the financial criteria under which we, FEMA, recommend to the President a cost-share adjustment for permanent restorative work and for emergency work under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). Second, the rule states that we recommend capping the Federal share of assistance at ninety percent (90%.) Third, we raise the $64 statewide per capita threshold that we have used since 1985 for recommending cost-share adjustments to current dollars, and will adjust that threshold annually in future years. The new threshold is phased in over a gradual period. The rule in no way affects the current process under which the President sometimes grants one hundred percent (100%) Federal funding for emergency work, including direct Federal assistance, for limited periods following disaster declarations when the emergency needs warrant it.

EFFECTIVE DATE: This rule is effective May 21, 1999.

FOR FURTHER INFORMATION CONTACT: Patricia Stahlschmidt, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–4066, (facsimile) 202–646–4060, or (email) patricia.stahlschmidt@fema.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 1998, we published a proposed rule on cost-share adjustment under the Stafford Act, 42 U.S.C. 5121 *et seq.* in the **Federal Register** at 63 FR 10816. We invited comments for 60 days ending on May 4, 1998. We received nine sets of comments: two from State and local government organizations; six from States; and one from a local government. Three commenters generally supported placing the criteria in regulation and annually adjusting the threshold for inflation, and one commenter agreed with the ninety percent (90%) cap on the Federal share of assistance. Most commenters objected to various aspects