

regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.” Today’s proposal does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, nor on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. EPA is currently unaware of any Indian tribes located in the vicinity of the facility. Thus, Executive Order 13175 does not apply to this proposed rule.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

“Protection of Children From Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) “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, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potential effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This proposed rule is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It will not result in increased energy prices, increased cost of energy distribution, or an increased dependence on foreign supplies of energy.

*I. National Technology Transfer and Advancement Act of 1995*

Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (“NTTAA,” Pub. L. 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. Today’s proposal does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (February 11, 1994) is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency’s goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA’s policies, programs, and activities. In response to Executive Order 12898, EPA’s Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). Potential environmental justice impacts are identified consistent with the EPA’s Environmental Justice Strategy and the OSWER Environmental Justice Action Agenda.

Today’s proposal applies to one facility in Maryland. Overall, no disproportional impacts to minority or low income communities are expected.

**List of Subjects in 40 CFR Part 258**

Environmental protection, Landfill, Solid waste.

Dated: May 7, 2003.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons set forth, part 258 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

**PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS**

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

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

**Subpart D—Design Criteria**

3. Amend § 258.41 to add a new paragraph (d) to read as follows:

**§ 258.41 Project XL Bioreactor Landfill Projects.**

\* \* \* \* \*

(d) *Anne Arundel County, Millersville Landfill Requirements.* Paragraph (d) of this section applies solely to the Anne Arundel County, Millersville Landfill, owned and operated by the Anne Arundel County Department of Public Works, or its successors, located in Severn, Anne Arundel County, Maryland (“Landfill”). The Landfill is allowed to Landfill leachate and onsite storm water, hereinafter, “liquid or liquids”, to a test area contained in portion of Subcell 8.4 of the Landfill under the following conditions:

(1) The operator of the Landfill shall maintain the liner underlying Subcell 8.4, which was designed and constructed with an alternative liner in accordance with § 258.40(a)(1), and a leachate collection system, in order to maintain the integrity of the liner system and keep it and the leachate collection system in good operating order. From top to bottom the base liner underlying the waste in Cell 8 consists of: 2-feet of sand cover, a geotextile filter, a leachate collection layer, a 60-mil high density polyethylene (HDPE) top liner, a leakage detection layer; a 60-mil HDPE bottom liner and 1.5-feet of a low permeability soil subbase. The operator of the Landfill shall ensure that the addition of any liquids does not result in an increased leakage rate, and does not result in liner or waste slippage, or otherwise compromise the integrity of the Landfill and its liner system, as determined by the Director of the Maryland Department of the Environment (State Director). In addition, the leachate collection system shall be operated, monitored and maintained to ensure that less than 30 cm depth of leachate is maintained over the liner.