

new permits or new portions of permits for provisions for which Idaho is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not yet authorized.

#### **H. What Is Codification and Is EPA Codifying Idaho's Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Through three codification actions dated December 6, 1990 (55 FR 50327), June 11, 1992 (57 FR 24757), and June 25, 1999 (64 FR 34180) the EPA codified at 40 CFR part 272, subpart N all authorization actions for the State of Idaho RCRA program, except the most recent authorization revision published on July 1, 2001.

We reserve the amendment of 40 CFR part 272, subpart N for this authorization of Idaho's program changes until a later date.

#### **I. How Would Authorizing Idaho for These Revisions Affect Indian Country (18 U.S.C. 1151) in Idaho?**

Idaho is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. Indian country includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains the authority to implement and administer the RCRA program in Indian country.

#### **J. Statutory and Executive Order Reviews**

##### **1. Executive Order 12866**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant," and therefore subject to 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. It has been determined that this proposed Rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

##### **2. Paperwork Reduction Act**

The Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OPM. Since the proposed Rule does not establish or modify any information or recordkeeping requirements for the regulated community, it is not subject to the provisions of the Paperwork Reduction Act.

##### **3. Regulatory Flexibility**

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not

have a significant impact on small entities because the proposed Rule will only have the effect of authorizing pre-existing requirements under State law. After considering the economic impacts of today's proposed rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

##### **4. Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 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 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the 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 section 205 do not apply when they are inconsistent with applicable law. Moreover, 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 why the 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 the 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.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. The proposed rule authorizes pre-existing requirements