with State and local governments and members of the regulated community, the Agency believes that it has complied with the requirements of Executive Order 12875, and that this proposed rule will not lead to an unfunded Federal mandate. In fact, this proposal is expressly designed to increase the flexibility available to approved States and Tribes.

#### E. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be \$100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

## List of Subjects in 40 CFR Part 258

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

Dated: August 3, 1995.

# Carol M. Browner,

Administrator.

For reasons set out in the preamble, part 258 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: 42 U.S.C. 6907(a)(3), 6912(a), 6944(a) and 6949a(c); 33 U.S.C. 1345 (d) and

2. Section 258.1 is amended by revising paragraphs (d)(3) and (e)(4) to read as follows:

### § 258.1 Purpose, scope, and applicability.

\* \* \* (d) \* \* \*

(3) MSWLF units that meet the conditions of paragraph (f)(1) of this section and receive waste after October 9, 1991 but stop receiving waste before October 9, 1997, are exempt from all the

requirements of this part 258, except the final cover requirement specified in § 258.60(a). The final cover must be installed by October 9, 1998. Owners or operators of MSWLF units described in this paragraph that fail to complete cover installation by October 9, 1998 will be subject to all the requirements of this part 258, unless otherwise specified.

(e) \* \* \*

(4) For a MSWLF unit that meets the conditions for the exemption in paragraph (f)(1) of this section, the compliance date for all applicable requirements of part 258, unless otherwise specified, is October 9, 1997.

3. Section 258.2 is amended by revising the definition of a "new MSWLF unit" to read as follows:

#### § 258.2 Definitions.

\* \*

New MSWLF unit means any municipal solid waste landfill unit that has not received waste prior to October 9, 1993, or prior to October 9, 1997 if the MSWLF unit meets the conditions of § 258.1(f)(1).

4. Section 258.50 is amended by revising paragraphs (a) and (e) and by adding paragraph (i) to read as follows:

### § 258.50 Applicability.

(a) The requirements in this subpart apply to MSWLF units, except as provided in paragraphs (b) and (i) of this section.

(e) Owners and operators of all MSWLF units that meet the conditions of § 258.1(f)(1) must comply with all applicable ground-water monitoring requirements of this part by October 9, 1997.

(i) Directors of approved States and Tribes may allow any MSWLF unit meeting the criteria established by § 258.1(f)(1) to use alternatives to the ground-water monitoring system prescribed in §§ 258.51 through 258.55 so long as the alternatives will detect and, if necessary, assess the nature or extent of contamination from the MSWLF unit on a site-specific basis; or establish and use, on a site-specific basis, an alternative list of indicator parameters for some or all of the constituents listed in Appendix I to part 258. Alternative indicator parameters approved by the Director of an approved State or Tribe under this section must ensure detection of contamination from the MSWLF unit.

- (1) If contamination is detected through the use of any alternative to the ground-water monitoring system prescribed in §§ 258.51 through 258.55, the MSWLF unit owner or operator must perform expanded monitoring to determine whether the detected contamination is an actual release from the MSWLF unit and, if so, to determine the nature and extent of the contamination. The Director of the approved State or Tribe shall establish a schedule for the MSWLF unit owner or operator to submit results from expanded monitoring in a manner that ensures protection of human health and the environment.
- (i) If expanded monitoring indicates that contamination from the MSWLF unit has reached the saturated zone, the owner or operator must install groundwater monitoring wells and sample these wells in accordance with §§ 258.51 through 258.55.
- (ii) If expanded monitoring indicates that contamination from the MSWLF unit is present in the unsaturated zone or on the surface, the Director of an approved State or Tribe shall establish a schedule for the owner or operator to submit a description of any necessary corrective measures. The schedule shall ensure corrective measures, where necessary, are undertaken in a timely manner that protects human health and the environment. The proposed corrective measures are subject to revision and approval by the Director of the approved State or Tribe. The owner or operator must implement the corrective measures according to a schedule established by the Director of the approved State or Tribe.

(2) When considering whether to allow alternatives to a ground-water monitoring system prescribed in §§ 258.51 through 258.55, including alternative indicator parameters, the Director of an approved State or Tribe shall consider at least the following factors:

(i) The geological and hydrogeological characteristics of the site;

(ii) The impact of manmade and natural features on the effectiveness of an alternative technology;

(iii) Climatic factors that may influence the selection, use, and reliability of alternative ground-water monitoring procedures; and

(iv) The effectiveness of indicator parameters in detecting a release.

(3) The Director of an approved State or Tribe can require an owner or operator to comply with the requirements of §§ 258.51 through 258.55, where it is determined by the Director that using alternatives to ground-water monitoring approved