

government officials and the organizations which represent them.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the Designated Federal Officer (DFO). Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first served basis.

This meeting will be conducted at the Sunset Beach Inn on U.S. Route 13 in Cape Charles, Virginia. Those individuals wishing to make a statement before the subcommittee are encouraged to submit a written statement. From 8:30–9:15 a.m. on November 6, the Committee will hear comments from the public. Each individual or organization wishing to address the Committee will be allowed at least five minutes. Please contact the DFO at the number listed below to schedule agenda time. Time will be allotted on a first come, first served basis.

DATES: The meeting will begin at 8:30 a.m. on Wednesday, November 4 and conclude at 4:30 p.m. on Friday, November 6, 1998.

ADDRESSES: The meeting will be held at the Sunset Beach Inn, 32246 Lankford Highway, U.S. Route 13, Cape Charles, Virginia 23310.

Requests for Minutes and other information can be obtained by writing to 401 M Street, SW (1305), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this subcommittee is Steven R. Wilson. He is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–2294.

Dated: October 13, 1998.

Michelle A. Hiller,

Acting Designated Federal Officer, Small Community Advisory Subcommittee of the Local Government Advisory Committee.

[FR Doc. 98–27923 Filed 10–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6177–7]

National Drinking Water Advisory Council Small Systems Implementation Working Group; Notice of Open Meeting

Under section 10(a)(2) of Pub. L. 92–423, “The Federal Advisory Committee

Act,” notice is hereby given that a meeting of the Small Systems Implementation Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on November 4 and 5, 1998 from 8:30 am to 5:30 pm, at the Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to identify and discuss challenges faced by small water systems in complying with the Safe Drinking Water Act, as amended in 1996. The meeting is open to the public to observe. The working group members are meeting to gather information, analyze relevant issues and facts and discuss options. Statements will be taken from the public at this meeting, as time allows.

For more information, please contact, Peter E. Shanaghan, Designated Federal Officer, Small Systems Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street SW, Washington, DC 20460. The telephone number is 202–260–5813 and the email address is shanaghan.peter@epamail.epa.gov.

Dated: October 1, 1998.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 98–27922 Filed 10–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6177–6]

Alaska: Partial Program Adequacy Final Determination of State Class I and II Municipal Solid Waste Landfill Permit Program—and Partial Program Adequacy Tentative Determination of State Class III Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal landfill criteria. RCRA also requires the Environmental

Protection Agency (EPA) to determine whether States have adequate “permit” programs for municipal landfills.

The Alaska Department of Environmental Conservation (ADEC) and its Division of Environmental Health (DEH) applied on February 12, 1996 for a partial determination of adequacy under RCRA. EPA reviewed Alaska’s application and subsequent supplemental information provided during March through October 1996. In the **Federal Register** on November 25, 1996, EPA published its tentative determination of adequacy for those portions of ADEC’s Municipal Solid Waste landfill (MSWLF) permit program that were adequate to assure compliance with the federal MSWLF criteria. Alaska’s application for partial program adequacy determination was made available for public review during EPA’s public comment period which ended on January 23, 1997.

During the period that EPA was evaluating the public comments, proposals were initiated by the Alaska Legislature that included eliminating the solid waste program or reducing ADEC’s Solid Waste staff to less than half. The final budget reductions established in late May 1997, for the 1998 fiscal year (FY–98), were significant but not as severe as originally proposed. (Alaska’s Fiscal years begin on July 1.) In its letter of May 30, 1997, ADEC states that the final dollar budget for FY–98 was set at 13% lower than for the FY–97 solid waste program. In particular, the State’s program for its Class III municipal landfills has been significantly changed. Details on the budget reductions are discussed in Section B (State of Alaska) of this document. EPA believes that an additional EPA public comment period on the Class III program should be provided. Consequently, the agency is not including in today’s final-partial approval the elements of its tentative determination of November 25, 1996, that applied to the State’s Class III landfill program.

On August 9, 1997, the State of Alaska enacted its Environmental Audit Privilege and Immunity Law. Based on the information provided by the State on this law, and the State’s application for program approval, EPA believes that Alaska has the authority necessary to administer a partially approved RCRA subtitle D permit program for municipal solid waste landfills. Today’s partial approval does not reflect a position by the agency regarding the state’s authority to administer any other federally authorized, delegated, or approved environmental program.

Today's document promulgates EPA's Final Partial approval of Alaska's program for the State's Class I and Class II municipal landfills—plus Alaska's criteria for disposal of hazardous wastes from Conditionally Exempt Small Quantity Generators (CESQG) at these two categories of municipal landfills exclusively. Second, this document withdraws the portions of the Tentative Partial approval published in **Federal Register** of November 25, 1996, that addressed the Class III elements of Alaska's program. Third, today's document introduces a new Tentative Partial approval of Alaska's Class III landfill program. It is based on Alaska's retaining the existing 2010 "sunset" date for upgrading Class III landfills to Class II status, and on Alaska's revised solid waste budgets and program revisions. This third component also acknowledges Alaska's announced intention to eliminate the 2010 deadline, provided this is done in accordance with the procedures and exemption authority established by the federal Land Disposal Program Flexibility Act of 1996. EPA's written comment on the procedural aspects of implementing Class III exemptions under ADEC's proposed changes (of August 1, 1997) to its municipal landfill regulation is discussed in Section B.

On and after the effective date of today's Final-Partial approval, the State Director will be able to allow Class I and Class II landfills to benefit from the site-specific flexibility elements that are contained in the 40 CFR Part 258 municipal landfill criteria. Alaska's sub-categories of permafrost landfills and MSW-ash monofills are being included in today's approval. EPA is also approving the State's regulatory requirement that Conditionally Exempt Small Quantity Generator (CESQG) hazardous-waste disposal must be placed solely in a Class I or Class II municipal landfill. Alaska's 18 AAC 60 rule is in accordance with EPA's recent regulatory changes that apply to CESQG wastes.

Financial assurance requirements, and one or more narrow inconsistencies versus Part 258 as listed in the Decision Section of this document, are not included in today's partial approval. Alaska has included the addition of financial assurance in its August 1997 proposed regulatory changes. (EPA finalized its own financial assurance for local governments on November 27, 1996.) ADEC plans to revise the remainder of its permit program and apply to EPA for full program approval.

The portions of the Alaska program in today's Final Partial approval for Class I and Class II municipal landfills, and

the portions in today's Tentative Partial approval for Class III municipal landfills, are described in Section D (Decision) of this document.

DATES: The determination of partial adequacy for Alaska's Class I and Class II landfill program shall be effective October 19, 1998.

All Comments on today's new tentative partial determination of adequacy, of Alaska's application for a partial approval with respect to the State's Class III municipal landfill program, must be received by EPA Region 10 by the close of business on January 26, 1999, Tuesday. (There is no comment period on the Class I and Class II landfill portions of today's actions. That period was provided under EPA's Tentative Determination of November 25, 1996.)

If, and only if, sufficient interest in having a public hearing is requested on or before December 4, 1998, Friday, a public hearing to receive oral and written testimony on EPA's tentative determination will be held on January 26, 1999, Tuesday, from 1:30 p.m. until 3:30 p.m. If more time for receiving testimony is needed, EPA may extend the closing time up to 5:00 p.m. on this date. The hearing, if held, will be at the Federal Building, 222 West 7th Avenue, Anchorage, Alaska, 99513. Members of ADEC will attend EPA's public hearing.

Requests for a public hearing must be in writing and must be received by the EPA contact shown in this document before the close of business on December 4, 1998, Friday, and should include a statement on the writer's reason for wanting a public hearing. EPA will determine, within twelve calendar days of the date by which requests must be received, whether a public hearing is warranted. After the twelve days, anyone may contact the EPA person listed in the **CONTACTS** section to find out if a public hearing will be held.

ADDRESSES: Copies of Alaska's application for partial adequacy determination are available during normal working days at the following addresses for inspection and copying: three offices of the Alaska Department of Environmental Conservation from 8:00 a.m. to 4:30 p.m. at 410 Willoughby Avenue, Juneau, AK 99801, Attn: Ms. Susan Super, (907)-465-5350; at 555 Cordova Street, Anchorage, AK 99501, Attn: Ms. Laura Ogar (907)-269-7653; and at 610 University Avenue, Fairbanks, AK 99709, Attn: Ms. Kris McCumby, (907)-451-2108; and at the office of the Environmental Protection Agency from 9 a.m. to 4 p.m. at: U.S. EPA, Region 10 Library, 1200 Sixth

Avenue, Seattle, WA 98101; library telephone 206-553-1259. All written comments on this tentative determination must be sent to U.S. EPA Region 10, 1200 Sixth Avenue, mail code (WCM-128), Seattle, WA 98101, Attn: Mr. Steven B. Sharp.

FOR FURTHER INFORMATION AND TO REQUEST A PUBLIC HEARING, CONTACT: Mr. Steven B. Sharp, mail code (WCM-128), U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101; fax (206)-553-8509, telephone (206)-553-6517.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria (40 CFR Part 258) for municipal solid waste landfills (MSWLFs). Section 4005(c)(1)(B) of Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop and implement permit programs to ensure that MSWLFs comply with the Federal Criteria under Part 258. Section 4005(c)(1)(C) requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria (40 CFR Part 258)—but does not mandate issuance of a rule for such determinations. EPA is currently developing an approval rule and published a proposed version in the 1/26/96 **Federal Register**. The relationship to Tribal programs is discussed later in this section.

Although not mandated by RCRA, EPA proposed in the **Federal Register** (61 FR 2584) on January 26, 1996, a rule that specifies the requirements which State (and Tribal) programs must satisfy to be determined adequate. The name of this rule was the State/Tribal Implementation Rule (STIR). The basis for EPA's inclusion of Tribal approvals in the STIR was discussed in the preamble to the proposal.

Subsequent to EPA's publishing the proposed STIR rule, the United States Court of Appeals for the District of Columbia Circuit issued its opinion on a petition from plaintiffs concerning EPA's approval of the solid waste program of the Campo Band of Mission Indians. In its opinion filed on October 29, 1996, the Court determined that EPA lacks authority under RCRA to approve the solid waste management plan [program] of an Indian Tribe. Consequently, EPA is currently limiting its solid waste program approvals to State programs. EPA expects to finalize the STIR rule in the near future with removal of the elements relating to

approval of Tribal programs. In the interim, EPA is now using the name "State Implementation Rule" (SIR) for reference to the proposed STIR rule of January 26, 1996, (Federal Register, 61 FR 2584) and for reference to the existing STIR guidance of 1993 that EPA has used in connection with State approvals. The Federal Court observed, in the Campo Band decision, that the Band could seek EPA approval/ruling for a site-specific regulation as a way of obtaining access to the flexibility that is available to approved States. EPA has developed a petition-procedure guidance for handling Tribal flexibility requests.

Since RCRA does not mandate that a rule must be in place, EPA has approved and will continue to approve adequate State MSWLF permit programs as applications are submitted. These approvals are not dependent on final promulgation of the SIR. Prior to the final promulgation of SIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States may use the proposed rule of January 26, 1996, as an aid in interpreting these requirements. EPA believes that early approvals have an important benefit. 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.

EPA notes that regardless of the approval status of a state program and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities. The exemption authority in the Land Disposal Program Flexibility Act of 1996, that pertains only to certain-village landfills in Alaska, is discussed in Section B (State of Alaska) of this document.

EPA has allowed, and has also proposed in the SIR to allow, partial approvals if: (1) The Regional Administrator determines that the State permit program largely meets the requirements for ensuring compliance with Part 258; (2) changes to a limited part(s) of the State permit program are needed to meet these requirements; and, (3) provisions not included in the partially approved portions of the State permit program are a clearly identifiable and separable subset of Part 258. These requirements will address the potential problems posed by the dual State and Federal regulatory controls following the October 9, 1993, effective date, and

amended dates thereof, of the Federal regulations. On each effective date, Federal rules covering any portion of a State's program that has not received EPA approval continues to be enforceable through the citizen suit provisions of RCRA 7002. Owners and operators of MSWLFs subject to such dual programs must understand the applicable requirements and comply with them. In addition, those portions of the Federal program that are in effect must mesh well enough with the approved portions of the State program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the EPA to approve those provisions of the State permit program that meet the requirements and provide the State time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

EPA has approved portions of over 46 State MSWLF permit programs prior to the promulgation of the final SIR. EPA interprets the requirements for States to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, 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, EPA believes that the State must show that 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.

All municipal solid waste in Alaska must be disposed in a landfill which meets these criteria. This includes ash from municipal solid waste incinerators that is determined to be non-hazardous. As provided in the October 9, 1991, municipal landfill rule, EPA's Subtitle D standards were set to take effect nationwide in October 1993. The effective dates for certain portions of the criteria were subsequently postponed, with most all of the EPA standards becoming effective as of, or before, October 9, 1997. On April 7, 1995, EPA issued a **Federal Register** Rule extending the effective date of the 40 CFR Part 258, Subpart G requirements

relating to Financial Assurance until April 9, 1997, and for small MSWLFs that meet the conditions of § 258.1(f)(1) until October 9, 1997. Consequently, any portions of the Federal Criteria which are not included in an approved State program, by the applicable effective dates, would apply directly to the owner/operator without any approved State flexibility.

On November 27, 1996, EPA promulgated its rule for Financial Assurance Mechanisms for Local Government Owners and Operators of MSWLFs. This rule adds paragraph (c), as an amendment to § 258.70 of Subpart G. It allowed the director of an approved State to waive the financial assurance requirements of Subpart G up to April 9, 1998, for good cause if an owner or operator makes a satisfactory demonstration, per new paragraph (c), to the State Director.

EPA Regions will determine whether a State has submitted an "adequate" program based on the interpretation outlined above. EPA expects States to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program. EPA also is requesting States seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA cites in the proposed SIR rule that submission of a schedule is mandatory.

B. State of Alaska

Over the past several years and earlier, Alaska has developed an extensive and practicable approach to management of many types of non-hazardous solid waste including municipal waste—and to increased protection of human health and the environment. During 1993 through 1995 the state revised a broad range of its disposal regulations. Concurrently, ADEC reorganized in a manner that by the summer of 1996 had already begun showing results in terms of greater communication with small landfills. The Alaska Department of Environmental Conservation (ADEC) has assigned solid waste management to its Division of Environmental Health (DEH), which oversees the entire program. Solid Waste receives assistance from other programs within DEH, and to a small extent from other Divisions of ADEC, for improving waste management in small and remote communities. An element of the regulatory upgrades was extensive revision of the criteria for municipal solid waste disposal facilities. Alaska went public with its proposed regulations in September 1993 and, after

the public comment period, issued a revised proposal in September 1994 with a second comment period. ADEC's new rule became effective on January 28, 1996. It was revised, primarily for addition of a new fee structure, on June 28, 1996. In autumn 1997, DEH filled the two vacancies that had been open for over a year, thus bringing its solid waste staff up to the level budgeted by the legislature in 1997 and 1998 and further assuring effective implementation of its program. Alaska's 18 AAC 60 also includes a requirement that all conditionally exempt small quantity generator (CESQG) waste must be disposed of in a Class I or Class II municipal landfill. In this respect (which is discussed in more detail below), Alaska is one of about twenty States that already have achieved this level of regulatory protection. Today's action on the portions being approved is an endorsement by EPA of the proficiency of Alaska's program for Class I and Class II municipal landfills in particular. It is also confirmation that EPA believes that the State, with its existing program for Class III landfills, is in the best position to administer solid waste disposal oversight and assistance for very small landfills in Alaska.

On February 12, 1996, Region 10 received Alaska's application for a partial program adequacy determination. EPA responded within the required 30 days that Alaska's application for approval of its municipal solid waste landfill permit program was administratively complete. Alaska provided clarifying written information, as additions to its application, during the period that EPA conducted its review. The agency published on November 25, 1996, in the **Federal Register** (61 FR 60000) its tentative determination that most portions (as noted in the discussions therein) of the State's municipal solid waste landfill (MSWLF) program would ensure compliance with the revised Federal Criteria. The MSWLF program is a component of the Solid Waste Management Program of ADEC that covers a wide range of non-hazardous solid wastes. Portions of the Alaska MSWLF program that do not currently meet the Federal requirements and can only be revised through their regulation revision process, which may require action by the State legislature, are not being requested by Alaska for EPA approval at this time.

In the Notice of tentative determination, EPA announced the availability of the application for public comment. Although not required by RCRA, EPA offered to hold a public

hearing on January 23, 1997. EPA determined on January 6, 1997, that there was not sufficient interest to hold a public meeting. The public comment period ended on the January 23, 1997.

During the period that EPA was reviewing and evaluating the public comments, proposals were initiated by the Alaska Legislature in early 1997 either to eliminate the Solid Waste program or to reduce ADEC's Solid Waste staff to less than half. Region 10 of EPA officially suspended its review on March 14 pending the outcome of the deliberations. The final action, near the end of May, was not as severe. (EPA's review was recommenced on June 10.) However, the Legislature significantly reduced the budgeted dollar amounts and number of personnel for the 1998 Fiscal year (FY-98) that began on July 1, 1997. As a result, new planning was initiated by ADEC in May and changes were made to its solid waste program activities—some of which are significantly different from the program described in the application of 1996. In particular, the State's program for its Class III landfills has been changed, as described in the following paragraph. Consequently, EPA is withdrawing the elements of its tentative approval of November 25, 1996, that applied to the Class III landfill component of the application—and today is introducing a new tentative partial approval for the Class III program.

In its letters of May 30, 1997, and August 8, 1997, ADEC wrote EPA that, after reviewing the impact of the budget cuts, it is confident it can adequately administer the solid waste permit program in Alaska. The May 30 letter cites that the final budget reduced the solid waste program by 13% for FY-98, versus FY-97, and that the cuts will necessitate the loss of two positions. The August 8 letter clarified that the reduction of the two positions was split between two Divisions of ADEC—which resulted in the loss of only one position by the Solid Waste program. The two letters inform EPA that certain program elements, mostly with regard to very small landfills, will be postponed or converted to lower-cost methods in FY-98, such as limiting technical assistance to fact sheets or brochures and reducing its field activities. The Class III outreach program will now be centered in Fairbanks instead of Juneau. It will rely on phone calls and fact sheets to supplement field travel to small communities. The letters also cite that ADEC is not using the staff of the division of State Public Service (SPS) exactly the way it foresaw in the Memorandum of Agreement (MOA) between SPS and the Division of

Environmental Health (DEH). However, ADEC does work with SPS to identify issues of local concern which can help make the permitting process smoother. ADEC points out that, in addition to SPS support, it has been successful in using Environmental Health Officers for doing inspections at Class III MSW landfills in remote locations. Solid waste also coordinates with staff of other ADEC programs that travel to remote villages. ADEC expects to eventually reduce the number of Class III landfills.

The May 30, 1997, letter also states that the total number of known Class II landfills is thirty two. This is twelve more than shown in the February 1996 application. However, the letter highlights that the new FY-98 program now specifically assigns eight full time employees to the Class I and Class II municipal solid waste component of its program. The letter also says that the positions to be eliminated are those that provide mostly technical assistance rather than permitting activities. The MSW landfill has been made a separate element in ADEC's solid waste budget, which will be funded by a mix of user fees and state general funds. In addition, the Legislature directed that the industrial and commercial solid waste landfill permit program shall be a separate, self supporting element funded almost entirely by user fees. In its proposed regulatory changes of August 1, 1997, ADEC included significant increases in user fees for industrial/commercial waste landfills.

Based on a compromise by EPA and ADEC in 1993 and 1994, Alaska's current regulation, 18 AAC 60, requires that all Class III landfills must, by October 9, 2010, upgrade to meet the requirements for Class II landfills. (Without this compromise, all active Class III landfills would have had to upgrade to the 40 CFR Part 258 standards by October 9, 1997, or stop receiving waste by that date.) On August 1, 1997, ADEC published its proposal to make changes to Alaska's 18 AAC 60 rule, which include elimination of the 2010 deadline. EPA submitted a letter of comment on September 30, 1997, which focused on the need to follow the procedures that the LDPF Act specifies for implementing exemptions—including, for example, removal of the 2010 sunset date. This was the only element of the proposed changes that EPA's letter commented upon. ADEC's other proposed changes that relate to the municipal solid waste program will maintain an equal or better level of adequacy, and environmental protection, with respect to review and approval of the State's solid waste

program. Elimination of the 2010 deadline, can be done at any time after the Governor of Alaska has issued certifications and ADEC has made State-wide exemptions from all 40 CFR Part 258 criteria which are more stringent than the 18 AAC 60 requirements for Class III village landfills—and still be in keeping with today's approval. The certification procedure and exemption authority was established by Congress as an amendment to the Solid Waste Disposal Act (SWDA), entitled the Land Disposal Program Flexibility Act of 1996 (LDPF ACT). The details of the act itself are described in the Small Landfills subsection below.

EPA has evaluated the public comments, as discussed in Section C, on its Tentative Partial determination of November 25, 1996, with respect to the program for Class I and Class II municipal landfills. (Comments that were received on the Class III component of that Notice will be evaluated, where applicable, together with comments that are received during the new comment period of today's action.) Region 10 has also reviewed ADEC's mid-1997 revisions to its program to accommodate the reduced budget. EPA believes that environmental protection in relation to needs and practicable capabilities will be achieved by promulgating final-partial approval of ADEC's program for Alaska's Class I and Class II categories of municipal landfills, and simultaneously proposing a new tentative approval of the Class III program. On and after the effective date of today's Final-Partial approval, the State Director will be able to allow Class I and Class II municipal landfills to benefit from the flexibility elements that are contained in the Part 258 federal criteria.

As cited in the Notice of Tentative Partial approval, EPA and ADEC concluded that a small number of additional portions (which are discussed below) of the ADEC program requirements do not mirror the federal solid waste program criteria of 40 CFR Part 258 or the guidance in the SIR manual and proposed rule. However, the state's practices or policies on these portions adequately meet the goals and standards of the SIR guidance and Part 258 on a performance basis.

Today's document contains three separate elements in the Decision section. It promulgates EPA's Final Partial approval of Alaska's program for the State's Class I and Class II municipal solid waste landfills—plus Alaska's criteria that all disposal of hazardous wastes from Conditionally Exempt Small Quantity Generators (CESQG)

must go to these two Classes of municipal landfills exclusively. Second, this document withdraws the portions of the Tentative Partial approval published in the **Federal Register** of November 25, 1996, that addressed the Class III elements of Alaska's program. Third, today's document proposes a new Tentative Partial approval of Alaska's Class III landfill program based on the 1996 application with its subsequent modifying documents that relate to ADEC's revised budget and program changes to date. The third component of today's document also acknowledges Alaska's intention to eliminate the 2010 "sunset" date for Class III landfills, and to grant certain exemptions for Class II landfills, provided these changes are done in accordance with the procedures and exemption authority granted to the Governor by the LDPF Act.

The portions of the Alaska program that are included in today's final partial approval, and those portions not being approved, for Class I and Class II municipal landfills are listed in the Decision Section of this document. With respect to today's new tentative partial approval for Class III landfills, Alaska's application of February 1996 as updated through early November 1996, together with the 1997 changes and letters from ADEC to EPA, is available for public review and comment during the period announced in today's document. The locations where the State's application may be reviewed are listed above in the **ADDRESSES** section.

Alaska's schedule is to achieve final-full approval of its solid waste program within two years of EPA's promulgation of final-partial approval. In the cover letter of its application, ADEC cited that it will revise its regulations soon after EPA has promulgated the final version of its Local Government Financial Assurance rule and will then apply for full approval. EPA's final version of this rule was promulgated in the **Federal Register** on November 27, 1996. Therefore, Alaska expects it will finalize changes to its 18 AAC 60 criteria, that will include financial assurance mechanisms as a requirement for MSW landfills, in time to meet this schedule. In addition, the planned minor regulatory changes that are discussed in this document should also have been completed by ADEC before the state applies for full approval. EPA believes that the state's schedule is reasonable.

Sewage and Biosolids

In today's final partial approval of Alaska's Solid Waste Program, EPA is not proposing approval under the Clean Water Act, with respect to the treatment,

storage, landspreading, or disposal of sewer solids, biosolids, sludge, and other wastes that are addressed in EPA's regulations under 40 CFR Part 503 and related parts. The SIR process for State approvals focuses on the municipal solid waste permit program—without expressing any opinion on the other programs that are addressed in Alaska's solid waste management rule (18 AAC 60) of June 28, 1996. With respect to sewage and biosolids wastes, the only criteria in Alaska's rule that are being approved today are those that correspond to EPA's 40 CFR Part 258 municipal landfill criteria.

Indian Country

In preparing and reviewing the Alaska application, ADEC and Region 10 have taken into consideration the needs and status of recognized Indian Tribes and Alaska Native Villages. Today's final partial approval of the State of Alaska's solid waste program does not extend to "Indian Country" located in Alaska, as defined in 18 U.S.C. 1151. Because the extent of Indian Country is currently unknown and in litigation, the exact boundaries of Indian Country have not been established. Lands acknowledged to be Indian Country include the Annette Island Reserve, and trust lands identified as Indian Country by the United States in Klawock, Kake, and Angoon. By approving Alaska's solid waste program, EPA does not intend to affect the rights of Federally recognized Indian Tribes in Alaska, nor does it intend to limit the existing rights of the State of Alaska, nor does it intend to modify the State's new exemption authority with respect to certain small villages in Alaska.

Small Landfills

Alaska defines Class II municipal landfills as those that receive twenty tons per day or less on an annual average and meet specifications that include the federal § 258.1(f)(1) arid or remote small-landfill qualifying criteria. Alaska defines its Class III landfills as those that receive five tons per day or less and meet the specifications in Alaska's 18 AAC 60.300(c)(3), which do not include all of the § 258.1(f)(1) qualifying criteria for small landfills. Alaska's 18 AAC 60 contains flexibility for Class III landfills that includes less stringent requirements than the Part 258 allows for small MSWLFs.

Over the recent past, two methods of addressing small landfills in Alaska have been developed. The first was a compromise between Region 10 and ADEC in 1993 and 1994, that agreed upon regulatory language in 18 AAC 60 that now says: "After October 9, 2010,

all MSWLFs must meet the standards applicable to either a Class I or Class II MSWLF or close in accordance with this chapter." The delay to 2010 for Class III landfills, versus the effective dates in 40 CFR Part 258, was based on the practicable capabilities of the small communities affected and on conditions that are unique in Alaska versus the rest of the nation. The State of Alaska, and also EPA via limited support directly to certain communities, has been working toward successive improvements at Class III landfills to the extent such compliance is economically and practicably achievable.

The second method was established when Congress passed a new statute after Alaska had finalized its solid waste rule and had submitted its application for program approval to EPA Region 10. Several elements of the new act address small landfills in Alaska. This federal statute, Public Law 104-119, entitled the "Land Disposal Program Flexibility Act of 1996" (LDPF Act), became effective on March 26, 1996, as an amendment to the Solid Waste Disposal Act (SWDA).

Note: This act is different than the "Regulatory Flexibility Act of 1996" that addresses economic impacts of a wide range of federal programs, and which is referred to near the end of this document.

Subsection (5) of Section 3(a) of the LDPF Act reads, verbatim, as follows: "ALASKA NATIVE VILLAGES—Upon certification by the Governor of the State of Alaska that application of the requirements described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This paragraph shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily on an annual average."

Note: The reference to "paragraph (1)" in the above text is to paragraph (1) of section 4010^o of SWDA. The exemption authority in subsection (5) of the LDPF Act is granted to Alaska only.

Therefore, Class II and Class III landfills for which such certification is made by the Governor of Alaska and which are exempted by the State, under authority of this new amendment, from some or all portions of the Part 258 criteria will not be subject to the citizens suit provision of Section 7002

of RCRA as to those exemptions. Under this new Act, certain small village landfills could be exempted from the need to upgrade to the federal Part 258 standards until a time as established by the State of Alaska.

ADEC cited in the narrative summary of its application for program approval, and made reference in its letter of May 30, 1997, that the State's intention is to remove the 2010 deadline from its existing regulation. The May 30 letter pointed out that ADEC plans, with action by the Governor's office, to waive some requirements on a statewide basis—but only as needed to implement those provisions already included in the State's regulations. Any additional exemptions would be on a case-by-case basis and closely reviewed for appropriate justification. In follow-up to this plan, ADEC's newly proposed change to its solid-waste regulations, published on August 1, 1997, is deleting the existing 2010 sunset date requirement from the 18 AAC 60 rule of 1996.

At the time when all Class III landfills have either upgraded to Class II standards, or have been permanently exempted by the State under the LDPF Act from the elements of 40 CFR Part 258 that are more stringent than the Class III criteria in 18 AAC 60, the 2010 sunset date in Alaska's rule would become redundant and could be removed unilaterally by ADEC without affecting today's approval. Alaska's existing Class II landfill regulations meet, or exceed, the federal criteria in Part 258.

The exemption authority in subsection (5) of the LDPF Act is granted to the State of Alaska only. The State may be considering a broad short-term exemption to provide a bridge until a final plan is developed for ensuring environmental protection that is consistent with community resources and capabilities. EPA supports the State's approach to achieve continued improvement at village landfills that require more time. Standard factors such as climate, hydrogeological conditions, and risk are important considerations in determining improvement plans.

In addition, subsection (6) of the LDPF Act mandate that the EPA shall, within two years, promulgate revisions to Part 258 to provide additional flexibility to approved States with respect to qualifying landfills that receive an average of 20 tons per day or less. The areas of increased flexibility are limited to alternative frequencies of daily cover application, frequencies of methane gas monitoring, infiltration layers for final cover, and means for

demonstrating financial assurance. This subsection includes a provision that such alternative requirements must take into account climatic and hydrogeologic conditions and be protective of human health and the environment. The Act intends that the additional flexibility mandated by this subsection (6) will become available in all approved States. EPA promulgated its rule that implements this mandate in the **Federal Register** of October 2, 1997, with an effective date of October 27, 1997.

On a nationwide basis, another section of the LDPF Act reinstates the exemption on ground-water monitoring for all facilities that receive an average of 20 tons per day or less and meet the qualifying criteria in the LDPF Act for small arid or remote municipal solid waste landfills. The act does not modify the existing Part 258 exemption on liner requirements for qualifying small MSWLFs. The liner exemption, promulgated in October 1991, is still in effect.

Unique Landfills and Special Criteria

Two special categories of landfills are included in ADEC's regulations: ash monofills that accept MSW ash and permafrost MSW landfills. EPA finds that Alaska's regulatory flexibility with respect to methane monitoring and daily cover at MSW ash monofills is in keeping with the new flexibility that EPA promulgated on October 2, 1997. Alaska's MSW ash monofills are handled under 18 AAC 60 Article 3 that sets ADEC's standards for landfill disposal of municipal solid wastes. EPA believes that Alaska's program meets EPA standards for monofills that receive only MSW-ash provided that the ash is non-toxic based on RCRA requirements.

The Alaska solid waste regulations also include flexibility provisions for permafrost landfills that is different and less stringent than the federal Part 258 requirements. Almost all permafrost landfills in Alaska are small and receive less than an average of 20 tons per day of municipal solid waste. EPA believes use of flexibility that is specific to permafrost landfills exclusively is in keeping with practicable capability considerations of RCRA.

With respect to the disposal of hazardous wastes from conditionally exempt small quantity generators (CESQG), EPA promulgated its final rule on disposal criteria for this category of solid waste after Alaska had submitted its application to EPA Region 10 for approval of its solid waste program. The final CESQG rule was published in the **Federal Register** on July 1, 1996. The rule modifies 40 CFR Part 261 of the hazardous waste regulations, and Part

257 of the solid waste regulations, to establish an additional category of landfills—by adding Sections 257.5 through 257.30 that allows certain non-municipal, non-hazardous waste landfills to receive CESQG wastes. In addition Section 261.5 is amended, per the same **Federal Register** of July 1996, such that CESQG wastes may be disposed of in a facility that is: permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to Part 258 of Title 40. In anticipation of EPA's final CESQG rule, Alaska's 18 AAC 60 already requires that all CESQG wastes must go to Class I or Class II municipal landfills exclusively. Alaska's existing 18 AAC 60 Article 3 requires, with respect to CESQG wastes, that: A conditionally exempt hazardous waste from a small quantity hazardous waste generator may be disposed of only at a facility that meets the requirements for a Class I or a Class II municipal solid waste landfill. Since both classes meet or exceed the Part 258 municipal landfill criteria, Alaska is already meeting EPA's new CESQG disposal standards. Therefore, EPA is including Alaska's 18 AAC 60 criteria for disposal of CESQG solid wastes in today's final approval of Alaska's program.

An important corollary of the requirements of this amendment to 40 CFR 261, is that landfills which the State Governor has exempted from some or all of the Part 258 MSWLF criteria would not be eligible to accept CESQG wastes—based on Region 10's interpretation that the meaning of the text in the July 1996 **Federal Register** is that the landfill must be subject to the entire Part 258.

In the wetlands section of Alaska's landfill rule, Alaska has a stability requirement that applies only for "undisturbed" native wetland soils and deposits used to support the MSW landfill. Part 258 applies this stability requirement to all types, not only undisturbed, wetlands support. ADEC has assured EPA Region 10 that it will remove the word "undisturbed" from its section 18 AAC 60.315(3) during its next revision of the rule, even though this may not be finalized before a final-partial approval is promulgated by EPA. (This change has been included in the proposed regulatory revisions of August 1, 1997.) During the interim, ADEC expects to achieve equivalent stringency via its permitting activities and authority.

Administrative Elements and Criteria

Part 258 requires notification of the State Director under numerous specified

circumstances, including under § 258.1(f)(3) with respect to small landfills. This subsection requires that if the owner/operator of a small, arid or remote, landfill has knowledge of ground-water contamination resulting from the unit, the owner/operator must notify the State Director. Alaska's regulation does not include the exact wording of this sub-section. However, ADEC believes that via ADEC's existing permitting and compliance-monitoring practices, and via the activities of other support agencies, ADEC will become aware of any ground-water contamination from a Class II landfill as rapidly as ADEC would by relying on the owner/operator to fulfill the notification requirement. In addition, Alaska's regulation requires that Class II landfills must perform groundwater monitoring unless a landfill demonstrates to the State Director that there is no practical potential for migration to an aquifer of resource value. However, even with these practices in effect, EPA concurs with the public comment (discussed in the next section) on the need for this ground-water notification requirement. (Therefore, the notification requirement either needs to be finalized in Alaska's rule before EPA implements a final-full approval, or it can be waived if an appropriate exemption is done under LDPF Act.) ADEC has added in its proposed changes of August 1, 1997, the requirement that a Class II or Class III must make the notification upon knowledge of groundwater contamination. Alaska's rule, like Part 258, does require compliance with Part 258's Subpart E ground-water monitoring and corrective action if contamination from the landfill becomes known.

With respect to public participation, Alaska cites in the narrative summary of its application that it has been and is ADEC's policy to provide additional public participation opportunities after a permit is issued, including for permit renewals and major modifications or variances, particularly if public interest was expressed at the time of the original permit or if there is any controversy surrounding the permit. The summary states that Alaska's current version of its 18 AAC 15.100(d) regulation does not require public notice or a public hearing on applications for renewal of a permit or amendment. As a means of formalizing ADEC's existing and on-going practices in this area, the Commissioner of ADEC issued a policy paper on October 9, 1996, entitled "Policy Regarding Public Notice Requirements for Solid Waste Renewals

and Modifications". A copy has been placed in Alaska's application, and this policy is included in today's final partial approval, and also as a component of today's tentative partial approval.

Alaska has adequately described its staffing and implementation capabilities in its application to Region 10 for approval including the modifications of mid 1996—and the letters of May 30 and August 8, 1997. ADEC reorganized during 1995, established new fee structures in 1996, and after the budget cuts of May 1997 made additional changes to improve the administration of its solid waste program.

With respect to effective dates, a gap of one-quarter year existed between the dates contained in the regulations of Alaska versus EPA's Part 258 criteria with respect to closure of those existing landfills that do not meet the location restrictions regarding airports, floodplains, and unstable areas. This discrepancy was described in detail in the November 25, 1995, **Federal Register**. Today's final-partial approval is becoming effective after January 1998, by which time the gaps will already have occurred and ended.

Environmental Audit Privilege and Immunity Law

On August 9, 1997, the State of Alaska enacted its Environmental Audit Privilege and Immunity Law. EPA and ADEC worked together on analyzing this law, solely with respect to the solid waste program, and to the Agency's nationwide policies. Based on the information provided by the State on this law, and the State's application for program approval, EPA believes that Alaska has the authority necessary to administer a partially approved RCRA subtitle D permit program for municipal solid waste landfills. Today's partial approval does not reflect a position by the agency regarding the state's authority to administer any other federally authorized, delegated, or approved environmental program. The impact of the state's audit law on the requirements of other federal environmental programs (many of which have more comprehensive requirements than Subtitle D of RCRA) will require a separate review and analysis by EPA.

C. Public Comments

The EPA received comments from two parties on EPA's tentative determination of partial adequacy for Alaska's MSWLF permit program, that was published in the November 25, 1996, **Federal Register**. Both were in writing.

One commentor, a Borough with a population of over forty thousand and having several landfills, sent a letter that supports and endorses EPA's Tentative Partial determination of adequacy of Alaska's program as published. The Borough's letter states that Approval of Alaska's permit program will provide regulatory flexibility needed for rural landfills with limited development options and [approval] will eliminate some conflicts between the State and Federal programs.

The other commentor, an individual, had several comments which are summarized herein—together with EPA's conclusions on each element in the commentor's letter. One comment was that the Solid Waste Program of ADEC does not have full regulatory control over municipal waste management. This statement in itself is correct in that the Solid Waste program in DEH does rely on other offices within ADEC to provide services that are important for adequate solid waste management statewide. However, in its application for approval of adequacy, Alaska cited that it is the Department of Environmental Conservation (ADEC), i.e. its Commissioner, not the Solid Waste Program, that has the lead role in solid waste management. Alaska's regulation requires that requests for permission to utilize one or more elements of flexibility, of the types allowed in 40 CFR Part 258, must be approved by the Department. DEH, and its solid waste section that implements this program, now plans to rely primarily upon support from other programs within DEH. DEH is on the same level as the other ADEC Divisions upon which it may receive limited amounts of supplemental assistance.

Information that also relates to this comment is that ADEC has pointed out that it encourages, in numerous instances, certain activities and field improvements at small landfills "as an immediate step in the right direction" even though the state regulations make it necessary for DEH to deny, or not issue, a full permit. This practice enables incremental upgrading of village landfills while taking into consideration the practicable capabilities that exist in each community or area. As a corollary, the commentor states that the Memorandum of Agreement between DEH and the Statewide Public Services office has not yet been fully implemented; while, the commentor expects that whatever deficiencies existed in early 1997 can be corrected. While progress was made in 1996 with some support from Statewide Public Service, ADEC has now shifted to the

use of Environmental Health Officers to achieve greater field assistance.

One comment questioned whether EPA has the legal authority to approve Class III landfills. EPA believes it does have the authority to establish a deadline for all small landfills to upgrade to Alaska's Class II standards by the year 2010—per the discussion in the Alaska section of this document.

One comment questioned whether EPA's approval would result in allowing practices with respect to sewage sludge that are not in compliance with the 40 CFR Part 503 promulgated under the Clean Water Act (CWA). In today's action, EPA is only approving practices with respect to sewage and biosolids that are regulated specifically by 40 CFR Part 258. The Part 503 regulation and EPA's subsequent interpretive documents establish and discuss the dividing lines between when a sewage sludge falls under CWA and Part 503 versus under RCRA and Part 257 or Part 258. For example, at present, if commercial or industrial septage sludge is mixed with domestic septage sludge, the combined sludges fall under RCRA and 40 CFR Part 257, or Part 258, instead of under CWA and 40 CFR Part 503.

One comment recommended that the Alaska regulation should be changed to require that if an owner/operator of a small MSW landfill unit has knowledge of ground-water contamination resulting from the unit, the owner/operator must notify the State Director of such contamination. EPA also had concerns about the omission of this requirement. Protection of groundwater is a major component of RCRA. EPA agrees with the commentor. Today's document is not approving the less-stringent criteria that is now in 18 AAC 60 on this subject. Therefore small landfills will need to comply with the notification requirement that is in Part § 258.1(f)(3).

One comment challenges the inclusion of barges and any other form of water craft in ADEC's definition of surface transportation. EPA believes the definition is a State decision, not one that should be made by EPA. The commentor addressed the gap of one-quarter year and an element on public participation. Region 10 believes no EPA action is currently warranted, with respect to these two comments, for the following reasons. The gap of one quarter year in certain effective dates of the Alaska rule versus the federal rule, that was described in the November 25, 1997 **Federal Register**, has already taken place—before publication of today's document. On permit renewals and modifications, EPA believes that ADEC's written policy for public notice

and public participation is already in practice and adequately meets the intent of the federal requirements. In addition, Alaska's application cites that the State is currently in the process of adding the policy to its Administrative Code.

D. Decision

This section of today's document contains three separate actions, which are (1) an EPA final partial approval, (2) withdrawal of an EPA tentative partial approval, and (3) publication of a new tentative partial approval. Today's final partial approval includes the State's sub-categories of MSW-ash monofills, permafrost landfills, and its criteria for disposal of CESQG wastes. A public comment period is provided with respect to the new tentative partial approval of the State's Class III program.

Class I and II and CESQG Final Partial

After reviewing the public comments, I conclude that the State's Class I and Class II municipal solid waste (MSW) landfill portions of Alaska's application for partial program adequacy determination, and Alaska's criteria for disposal of solid wastes from Conditionally Exempt Small Quantity Generators (CESQG), meet all of the statutory and regulatory requirements established by RCRA. Accordingly, Alaska is granted a partial program determination of adequacy for the Class I and Class II MSW landfill portions, including ash mono-fills and permafrost landfills in these two classes, of its municipal solid waste landfill permit program that are listed below. Alaska is also granted a determination of adequacy, under 40 CFR 261.5 as amended per the **Federal Register** of July 1, 1996, of Alaska's program for hazardous wastes from Conditionally Exempt Small Quantity Generators that requires these wastes to be disposed of either in Class I municipal landfills—or Class II municipal landfills that are subject to (and not exempted by the State from any portion of) the entire 40 CFR Part 258.

The portions of 40 CFR Part 258 that are included in today's final partial determination of adequacy of the State's Class I and Class II municipal landfill program are:

Subpart A—General, but excluding 40 CFR Part 258.1(f)(3)—which contains notification and compliance criteria that apply when the owner or operator of a qualifying small landfill has knowledge of ground-water contamination resulting from the unit.

Subpart B—Location Restrictions;
Subpart C—Operating Criteria;
Subpart D—Design Criteria;
Subpart E—Ground-Water Monitoring and Corrective Action; and
Subpart F—Closure and Post-Closure Care.

Section 4005(a) of RCRA provides that citizens may use the citizens suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR Part 258 independent of any State, or Tribal, enforcement program. As explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State program approved by EPA should be considered to be in compliance with the relevant portions of the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991). Today's determination of adequacy action takes effect on October 19, 1998.

Class III, Withdrawal of Tentative Partial Approval

Today's document withdraws the portions of the Tentative Partial approval published in **Federal Register** of November 25, 1996, which addressed the Class III municipal landfill components of Alaska's program. This is being done because of the major changes that were made by the State to its Class III MSW landfill program after EPA's public comment period had ended on January 23, 1997.

Class III, New Tentative Partial Approval

Today's document publishes a new EPA tentative determination of partial program adequacy for Alaska's Class III municipal solid waste landfill permit program. Like the prior proposal, today's tentative partial approval is based on Alaska's retaining the existing "sunset" date of October 9, 2010, for Class III landfills. A public comment period is being provided. In addition, today's document acknowledges that Alaska can remove the 2010 Class III upgrade date requirement, provided the removal is done via certification and exemption under the authority granted by the Land Disposal Program Flexibility Act of 1996.

The portions of 40 CFR Part 258 that are included in today's tentative partial determination of adequacy of the State's Class III municipal landfill program are:

Subpart A—General, including Alaska's 18 AAC Section 60.300(c) with respect to the October 9, 2010, criteria for upgrade of Class III landfills to Class II standards; but excluding 40 CFR Part 258.1(f)(3)—which contains notification and compliance criteria that apply when the owner or operator of a qualifying small landfill has knowledge of ground-water contamination resulting from the unit.

Subpart B—Location Restrictions;
Subpart C—Operating Criteria;
Subpart D—Design Criteria;
Subpart E—Ground-Water Monitoring and Corrective Action; and
Subpart F—Closure and Post-Closure Care.

Benefits of Partial Approvals

The flexibility elements in Part 258 are an important factor that becomes available to a State upon approval by EPA of its solid waste program. Not all existing State permit programs ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State from submitting its

application until it could ensure compliance with the entirety of 40 CFR Part 258, many States would need to postpone obtaining approval of their permit programs for a significant period of time. This delay in determining the adequacy of the State permit program, while the State revises its statutes or regulations, could impose a substantial burden on owners and operators of landfills because the State would be unable to exercise the flexibility available to States with approved permit programs.

As State regulations and statutes are amended to comply with the Federal MSWLF landfill regulations, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The State may submit an amended application to EPA for review, and an adequacy determination will be made using the same criteria used for the initial application. This adequacy determination will be published in the **Federal Register** which will summarize the Agency's decision and the portion(s) of the State MSWLF permit program affected. It will also provide for a public comment period. This future adequacy determination will become effective 60 days following publication if no significant adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** document will be published either affirming or reversing the initial decision while responding to the public comments. EPA plans to keep ADEC posted on the timing, and progress, on these activities.

Requirements for Final Full Approval

To ensure compliance with all of the current Federal Criteria and to obtain final full approval of Alaska's entire permit program for the State's three Classes of municipal solid waste landfills, the Alaska Department of Environmental Conservation must:

1. Add financial assurance requirements for all types of Class I and Class II landfills, which meet one or more of the criteria in Subpart G of Part 258.
2. Add a requirement for Class II and Class III landfills, equivalent to the federal criteria, that an owner/operator of a small landfill that qualifies under § 258.1(f)(3) must notify the State Director upon knowledge of ground-water contamination resulting from the unit.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted today's action from the

requirements of Section 6 of Executive Order 12866.

Compliance With Executive Order 12875

Under Executive Order 12875, Enhancing Intergovernmental Partnerships, 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 Office of Management and Budget 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, Executive Order 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 the Resource Conservation and Recovery Act (RCRA), as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to today's action.

Compliance With Executive Order 13045

Today's action is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

Compliance With Executive Order 13084

Under Executive Order 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 Office of Management and Budget, 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, Executive Order 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 the Resource Conservation and Recovery Act (RCRA), as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's action.

Certification Under the Regulatory Flexibility Act

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

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Public Law 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The Agency does not believe that approval of the State's program would result in estimated costs of \$100 million or more to State, local, and tribal governments in the aggregate, or to the private sector, in any one year. This is due to the additional flexibility that the State can generally exercise (which will reduce, not increase, compliance costs). Thus, today's document is not subject to the written statement requirements in sections 202 and 205 of the Act.

As to section 203 of the Act, the approval of the State program will not significantly or uniquely affect small governments including Tribal small governments. As to the applicant, the State has received notice of the requirements of an approved program, has had meaningful and timely input

into the development of the program requirements, and is fully informed as to compliance with the approved program. Thus, any applicable requirements of section 203 of the Act have been satisfied.

Authority: This document is issued under the authority of sections 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended; 42 U.S.C. 6912, 6945 and 6949(a)(c).

Dated: October 8, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 98-27970 Filed 10-16-98; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Flood Insurance."

DATES: Comments must be submitted on or before December 18, 1998.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to "Flood Insurance." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (FAX number (202) 898-3838; Internet address: comments@fdic.gov).

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.