EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment or otherwise manage. The purpose of this requirement is to inform the public and government officials about chemical management practices of specified toxic chemicals.

The current reporting requirements apply to facilities in the manufacturing sector (Standard Industrial Classification codes 20–39), that have 10 or more full-time employees, and that manufacture, process, or otherwise use one or more chemicals on the section 313 list of toxic chemicals above certain reporting thresholds.

EPA has been in the process of evaluating several industries for potential addition under EPCRA section 313. EPA has developed an issues paper that presents background information on this effort, EPA's analytical approach, preliminary findings that indicate which industries may be potential candidates for addition, and several issues that will affect how these facilities might be affected if they were to be covered under EPCRA section 313. Copies of this issues paper will be available on or before May 1, 1995, from the address or telephone number cited under FOR FURTHER INFORMATION CONTACT. Oral statements will be scheduled on a first-come first-serve basis by calling the Emergency Planning and Community Right-to-Know Hotline at the number listed under FOR FURTHER INFORMATION CONTACT. All statements will be made part of the public record and will be considered in the development of any proposed rule amendment.

Dated: April 21, 1995.

Susan B. Hazen,

Acting Director, Office of Pollution Prevention and Toxics.

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[FRL-5198-9]

Campo Band of Mission Indians; Final Determination of Adequacy of Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination of Full Program Adequacy for the Campo Band of Mission Indians Application.

SUMMARY: Section 4005(c)(1)(B) of 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 Municipal Solid Waste Landfill Criteria (40 CFR part 258 or Federal Criteria). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for municipal solid waste landfills (MSWLFs). EPA believes that adequate authority exists under RCRA to allow tribes to seek an adequacy determination for purposes of sections 4005 and 4010.

The Campo Band of Mission Indians (Campo Band) applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed the Campo Band's application and proposed a determination that the Campo Band's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all comments received, EPA is today issuing a final determination that the Campo Band's program is adequate.

EFFECTIVE DATE: The determination of adequacy for the Campo Band shall be effective on May 1, 1995.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, Attn: Ms. Christiane M. Camp, Mail Code H–W–3, telephone (415) 744–2097.

SUPPLEMENTARY INFORMATION:

I. Background

On October 9, 1991, EPA promulgated revised criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984, requires states (and, as discussed below, allows Indian tribes) to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under 40 CFR part 258. Section 4005 of RCRA also requires that EPA determine the adequacy of state MSWLF permit programs to ensure that facilities comply with the revised Federal Criteria. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, state/ tribal landfill permit programs. As explained below, the Agency intends to approve adequate state/tribal MSWLF permit programs as applications are submitted. These approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR,

adequacy determinations will be made based on the statutory authorities and requirements. In addition, states/tribes may use the draft STIR as an aid in interpreting these requirements.

EPA is extending to tribes the same opportunity to apply for permit program approval as is available to states. Providing tribes with the opportunity to apply for adequacy for purposes of adopting and implementing permit programs is consistent with the EPA Policy for the Administration of Environmental Programs on Indian Reservations (November 8, 1984) (EPA's Indian Policy). This Policy, formally adopted in 1984, recognizes tribes as the primary sovereign entities for regulating the reservation environment and commits the Agency to working with tribes on a "government-to-government" basis to effectuate that recognition. A major goal of EPA's Indian Policy is to eliminate all statutory and regulatory barriers to tribal assumption of federal environmental programs. Today's determination to approve a tribal MSWLF permit program represents another facet of the Agency's continuing commitment to the implementation of this long-standing policy

EPA's interpretation of RCRA is governed by the principles of Chevron, *USA* v. *NRDC*, 467 U.S. 837 (1984). Where Congress has not directly addressed the precise question at issue or otherwise explicitly stated its intent in the statute or in legislative history, the Agency charged with implementing that statute may adopt any interpretation which, in the Agency's expert judgment, is reasonable in light of the goals and purposes of the statute as a whole. Id. at 844. Interpreting RCRA to allow tribes to apply for an adequacy determination satisfies the Chevron test.

States generally are precluded from enforcing their civil regulatory programs in Indian country, absent an explicit Congressional authorization. California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987). Yet, under the current statutory scheme, EPA generally is precluded from enforcing the federal Criteria as well. Furthermore, Congress has not yet created an explicit role for tribes to implement the RCRA Subtitle D program, as it has done under most other major environmental statutes amended since 1986 (Safe Drinking Water Act; Comprehensive Environmental Response, Compensation and Liability Act; Clean Water Act; Clean Air Act).

To have its permit program deemed adequate by EPA, a tribe must have adequate authority over the regulated activities. Indian reservations may