has different resource requirements and strategies for ensuring compliance. EPA asks that states and tribes list the total number of regulated facilities within the state or tribe's jurisdiction in its application. This information is useful in assessing whether available resources are adequate to ensure compliance. The Campo Band's ratio of resources to the number of regulated facilities is higher than some state regulatory programs.

In determining whether a state or tribe's program will ensure compliance with the federal landfill regulations, EPA does not require that states and tribes provide financial information on where funding for programs is generated or on how secure that funding is. As discussed above, the Campo Band and other approved states and tribes are expected to sustain the regulatory program presented in their applications. Withdrawal of program approval may be initiated where it appears that the state or tribal permit program may no longer be adequate to ensure compliance with the RCRA Subtitle D Federal Criteria.

I. CEPA's Authority to Stop Harm to Off-Reservation

One commenter requested that section 205 of the Tribal Environmental Policy Act of 1990 (Act), which provides authority to issue restraining orders and injunctions, be amended to include protection of off-Reservation residents and environments.

Section 205(a)(2)(C) of the Act, as it read on the date EPA published its tentative determination, provided that emergency restraining orders could not be issued without notice to the adverse party unless immediate and irreparable injury, loss or damage would result to the Reservation residents or environment before notice could be served. Section 205(b)(2)(C) did not clearly provide for preliminary or permanent injunctions against acts that threatened the public health or safety or the environment off-Reservation. EPA discussed the concern raised by this comment with the Campo Band. In response, on December 11, 1994, the Campo Band General Council amended section 205 of the Act. That section now clearly provides for issuance of emergency restraining orders and injunctions against acts that threaten human health, safety or welfare or the environment, without distinguishing between on-Reservation and off-Reservation threats. A copy of the amended Act is available at EPA's office in San Francisco, at the Campo Environmental Protection Agency's office and at the public library in the town of Campo.

J. Campo Band Leadership and Membership

A number of commenters expressed concern regarding alleged corruption in the Campo Band. One commenter asserted that tribal officials are on their best behavior to obtain approval from regulatory agencies, but have not always acted responsibly. Commenters also asserted that tribal members intimidate off-reservation opponents to the landfill and that the Chairman of the Campo Band had illegally received payments from landfill project proponents. One commenter also stated that non-tribal members had voted on tribal issues at tribal meetings.

EPA does not believe these allegations should be considerations in EPA's final determination regarding the adequacy of the Campo Band's regulatory program. For the reasons described above, EPA believes that the Campo Band's solid waste regulatory program will ensure compliance with the federal regulatory requirements. The Campo Band created CEPA to regulate solid waste on the Reservation. CEPA has regulatory authorities that are separate from the authority of the Chairman of the Campo Band and from the authorities of the tribal council. EPA has been informed that appropriate federal agencies have been apprised of these allegations.

K. Landfill-Specific Issues

Many commenters expressed concern regarding the potential environmental impacts of the proposed landfill and the ability of the landfill owner/operator to comply with applicable regulations. These landfill-specific concerns included potential for contamination to groundwater which flows across the United States-Mexico border, ability to monitor and clean up or mitigate groundwater in a fractured bedrock setting, location of a landfill in a seismic impact zone, compliance with financial assurance requirements, strong winds, traffic problems; and general risks to the ecosystem, economy and property values of off-reservation residents, and to Mexican communities and citizens. A number of commenters noted that groundwater monitoring in the fractured bedrock setting has not been adequately addressed. One commenter expressed concern that the landfill site should be characterized before construction of the landfill, not during or after. Commenters expressed concern regarding importation of waste to a groundwater dependent area and asked about sources and types of waste to be sent to the landfill, life expectancy of the landfill, and recycling efforts. Commenters requested that EPA oppose the proposed

facility and deny program approval because of landfill-specific concerns. Other commenters suggested that the landfill will be one of the safest landfills in the country, will provide economic support and jobs for the Tribe and will benefit other communities. Another commenter stated that the plan for the Muht-Hei facility is very detailed and well thought out.

EPA understands that there is tremendous controversy surrounding the proposed landfill. However, EPA does not make solid waste permitting decisions about individual landfills under the RCRA program. EPA's action today approves the Campo Band's solid waste regulatory program. This program approval means that EPA has reviewed the Campo Band's regulatory program, and has determined that it will ensure compliance with the Federal Criteria.

Concerns regarding the proposed landfill or the ability of the landfill to comply with applicable regulations should be raised with the agency responsible for ensuring compliance with those regulations. CEPA, the U.S. EPA, the Bureau of Indian Affairs (BIA) and the California Environmental Protection Agency (Cal EPA) all have roles with respect to the proposed landfill. It should be noted, however, that the U.S. EPA's permitting role is limited to permitting under the Clean Air Act.

One commenter stated that it will be adversely impacted by flaring, dust generation, truck haul activities, training, and water and light pollution from the landfill. Potential air pollution from flaring, dust generation and truck haul activities are issues that are being addressed through U.S. EPA's permitting under the Clean Air Act. With respect to the remaining concerns, EPA's action today is a determination that the Campo Band's solid waste permitting program is adequate to assure compliance with the federal regulations at 40 CFR part 258. A landfill may be constructed and operated without EPA approval of the state or tribal program in which the landfill is located, as long as it meets these federal requirements. EPA's regulations were designed to minimize negative environmental impacts from the management of municipal solid waste. However, Congress gave EPA no authority to enforce these requirements unless it finds that the landfill is in a state or within the jurisdiction of a tribe without an adequate permitting program. Because EPA has determined that the Campo Band's program is adequate, the appropriate agency to which concerns about the actual construction and operation of the