

Requests for allowances for desulfurization during 1995 are due no later than April 1, 1996. Allowances allocated in 1996 will have a compliance year of 1996.

Dated: July 27, 1995.

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Director, Office of Atmospheric Programs.

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Maryland: Final Determination of Adequacy of the State's Municipal Solid Waste Landfill Permitting Program

AGENCY: Environmental Protection Agency (Region III).

ACTION: Notice of Final Determination of Partial Program Adequacy for the State of Maryland's Application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. 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. The Agency intends to approve adequate state/tribal MSWLF permit programs as applications are submitted. Thus, 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. The Agency believes that early approvals have an important benefit. Approved state/tribal permit programs provide interaction between the state/tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in state/tribal areas with approved permit programs can use the site-specific flexibility

provided by 40 CFR part 258 to the extent the state/tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a state/tribe and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities.

The State of Maryland, through the Maryland Department of the Environment (MDE), applied for a determination of adequacy under section 4005 of RCRA. EPA has reviewed Maryland's MSWLF permit program application and proposed a determination on March 21, 1995, that Maryland's MSWLF permit program is adequate to ensure compliance with a major portion of the revised MSWLF Criteria, as described below. EPA is today issuing a final determination that the State of Maryland's program is adequate for partial approval.

EFFECTIVE DATE: The determination of adequacy for the State of Maryland shall be effective immediately.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Mr. Andrew Uriceck, mailcode (3HW50), telephone (215) 597-7936.

SUPPLEMENTARY INFORMATION:

A. 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 (HSWA), requires states to develop permitting programs that incorporate the Federal Criteria under 40 CFR part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of state municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which state/tribal programs must satisfy to be determined adequate.

EPA intends to approve state/tribal MSWLF permit programs prior to the promulgation of STIR. EPA interprets the requirements for states or tribes to develop "adequate" programs for permits or other forms of prior approval, as imposing several minimum requirements. First, each state/tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the state/tribe 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/tribe 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/tribe 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.

EPA Regions will determine whether state/tribal programs are "adequate" based on the criteria outlined above.

B. State of Maryland

On August 26, 1993, MDE submitted an application for adequacy determination for its MSWLF permit program. On March 21, 1995, EPA published a tentative determination of adequacy for most of the Maryland program, as described in detail below. Further background on the tentative determination of adequacy appears at Vol. 60, No. 54 **Federal Register** 14938-14941, March 21, 1995.

A public comment period began on March 21, 1995, and ended on May 19, 1995. As announced in the notice of tentative determination, a public hearing was held on May 17, 1995, in Baltimore, MD. Few people requested the opportunity to speak or offered public comments at the public hearing.

In the State's application for an adequacy determination, Maryland documented non-regulatory revisions to many portions of their existing program which had not fully met the Federal requirements in EPA's 40 CFR Part 258. EPA tentatively determined in the March 21, 1995 **Federal Register** that these changes, as described below, allowed Maryland's MSW landfill permitting program to be eligible for EPA approval as ensuring compliance with 40 CFR Part 258. Those portions of the Maryland municipal solid waste landfill permitting program proposed to be eligible for partial approval are as follows:

Subpart A—General

The existing Maryland requirements fully comply with 40 CFR Section 258.1, Purpose, Scope, and Applicability. MDE permit application checklists and internal guidance have been revised to fully incorporate the requirements of § 258.2, Definitions and § 258.3, Consideration of other Federal laws.

Subpart B—Location Restrictions

1. The existing Maryland requirements fully comply with § 258.11, Floodplains.