

samples to be taken, only that the number is appropriate to the statistical method of analysis chosen. MDE responded in the June 26, 1995 letter to EPA that they agree, and have revised their permit review checklists to more specifically reference the federal criteria.

As a State's 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 as for the initial application. This adequacy determination will be published in the **Federal Register** and will summarize the Agency's decision and the portion(s) of the State MSWLF permit program affected. It will also provide a 30-day public comment period. The adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

To ensure compliance with all of the revised Federal Criteria and to obtain full EPA approval, MDE must revise the following aspects of its permit program. Consequently, these portions of the Maryland program are not being proposed for approval:

(1) Post-Closure Care Requirements (§ 258.61)—MDE must amend its existing regulations extending the post-closure care period of closed landfills from a minimum of 5 years to 30 years, with the flexibility to increase or decrease that period as necessary or demonstrated. The extension of the period required for financial assurance will require legislative action. The State must also specifically require leachate collection and treatment, as well as gas and groundwater monitoring, as post-closure care requirements. MDE has committed to make these changes.

(2) Subpart G—Financial Assurance Criteria (§§ 258.70—258.74)—Maryland's only existing financial assurance requirements are limited to the posting of a \$5000 per acre closure bond, and even this requirement exempts, by statute, local governments, who currently operate most MSW landfills in Maryland. To comply with Federal requirements, MDE has committed to prepare a major revision to its regulations, adopting the financial assurance requirements in 40 CFR part

258 for closure, post-closure care, and corrective action. It is believed that these revisions will require an act by the Maryland legislature to revise the statute exempting local governments from financial assurance requirements. MDE has committed to submit the required legislation for consideration at the next General Assembly session.

Maryland has submitted a revised schedule, in a letter to EPA dated June 26, 1995, for completing the necessary changes to the laws, regulations, and/or guidance to comply with the remaining 40 CFR part 258 requirements. This schedule commits to revising the remaining portions of the MDE program not currently proposed for approval and have them in effect by December 20, 1996. Maryland will submit an application for full program approval to EPA when these revisions are effective.

D. Decision

Taking into consideration the public comments received as a result of our tentative determination, and several revisions made to the MDE program as a result thereof, we conclude that the State of Maryland's application for adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Maryland is granted a determination of adequacy for partial approval of its municipal solid waste permit program, for those portions of their program as described above.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of Section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR Part 258 independent of any State/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/tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in Maryland's program are currently in effect as a matter of State law. EPA's action today does not impose any new requirements with which the regulated community must begin to comply, nor do these requirements become enforceable by EPA as federal law. Consequently, EPA does not find it

necessary to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

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

Dated: July 25, 1995.

W. Michael McCabe,

Regional Administrator.

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[OPP-180977; FRL 4968-6]

Cymoxanil; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use the pesticide cymoxanil (CAS 57966-95-7) to treat up to 6,500 acres of tomatoes to control metalaxyl-resistant late blight. The Applicant proposes the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before August 7, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180977," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.