EFFECTIVE DATE: The partial program determination of adequacy for New Jersey shall be effective on December 6, 1995.

FOR FURTHER INFORMATION CONTACT: Lorraine Graves, U.S. EPA Region II, Mail code 2AWM, 22nd Floor, 290 Broadway, New York, New York, 10007–1866, telephone: (212) 637–4099. 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 to ensure that facilities comply with the Federal Criteria under 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 the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

 $\ensuremath{E\bar{P}A}$ intends to propose in STIR to allow partial approval if: 1) the Regional Administrator determines that the State/ Tribal permit program largely meets the requirements for ensuring compliance with Part 258; 2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and, 3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of Part 258. As provided in the October 9, 1991, municipal landfill rule, EPA's national Subtitle D standards took effect in October, 1993. Consequently, any portions of the Federal Criteria which are not included in an approved State/ Tribal program by October, 1993, would apply directly to the owner/operator. The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR rule. Consequently, EPA reviewed the program approved today and concluded that the New Jersey permit program and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval will allow the

Agency to approve those provisions of the New Jersey 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 New Jersey permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

EPA has reviewed New Jersey's requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose 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 a State/Tribe has submitted an 'adequate' program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes 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/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submissions of a schedule mandatory in STIR.

On March 3, 1994, the State of New Jersey submitted an application to obtain a partial program adequacy determination for its municipal solid waste landfill permit program. Additional material was submitted on July 21, 1994 and September 6, 1994. On October 28, 1994, EPA published a tentative partial determination of adequacy for New Jersey's program. Further background on the tentative partial program determination of

adequacy appears at 59 FR 54190, October 28, 1994.

Along with the tentative determination, EPA announced the availability of the application for public comment. The New Jersey application for partial program adequacy determination was available for public review and comment at the New Jersey Department of Environmental Protection in Trenton, New Jersey and at the EPA Region II Library in New York, New York. The public comment period commenced on October 28, 1994 and ended on December 14, 1994.

Although RCRA does not require EPA to hold a hearing on any determination to approve a State/Tribe's MSWLF program, the Region scheduled a public hearing on this tentative partial determination. A public hearing was held in Trenton, New Jersey on December 14, 1994. A summary of the comments received, and EPA's responses thereto is contained in the public comment section of this notice.

On March 3, 1994, the State of New Jersey submitted an application for partial determination of adequacy of its solid waste landfill permit program. Certain revisions and amendments were submitted on July 21, 1994 and September 6, 1994. The application addressed all components of 40 CFR Part 258 and discussed New Jersey's enforcement authority, provisions for citizen participation, and the current status of solid waste landfills within the State. EPA reviewed New Jersey's application and tentatively determined that the State's program met the requirements necessary to qualify for a determination of partial program approval of adequacy to ensure compliance with the Federal Criteria with the exception of Subpart E-Ground-Water Monitoring and Corrective Action. Upon appropriate adoption of revisions to its existing ground-water regulations, it is expected that New Jersey will become eligible for full approval, which will include Subpart E—Ground-Water Monitoring and Corrective Action. New Jersey has provided a revised schedule for adoption of proposed regulatory revisions. The revised regulations are expected to be fully effective by late 1996, rather than by the end of 1995 as set forth in the original schedule. EPA has reviewed the revised schedule and concluded that it is reasonable. In addition, all of the New Jersey solid waste regulations are scheduled to be readopted during the 1995-1996 period to comply with the Governor's Executive Order #66 requiring periodic readoption of administrative rules.