

authorities of the different agencies involved in regulating and permitting the proposed landfill. EPA will keep the appropriate Mexican officials fully informed on EPA's actions concerning the Campo Band's program and the proposed landfill.

In addition, CEPA has maintained open communications with the Government of Mexico with regard to the proposed landfill. EPA has encouraged CEPA to continue to respond to the Mexican government's concerns directly in the spirit of open communication.

In sum, EPA believes that the appropriate forums for raising concerns regarding the siting of the proposed landfill are the Binational Hazardous Waste Work Group, the National Environmental Policy Act (NEPA) process and CEPA's permitting process. With respect to potential environmental and economic impacts to Mexico and the U.S., comments have been responded to in Category K below.

F. Capability of the Campo Band

A number of commenters suggested that the Campo Band and the Campo Environmental Protection Agency lack regulatory and enforcement history and ability and, in some cases, selectively enforce regulations. Commenters suggested that CEPA does not have the ability or willingness to enforce its regulations. Some commenters suggested that EPA should deny the Campo Band's program, reconsider the Campo Band's application for approval of its regulatory program after a track record has been established, and supervise the Campo Band. One commenter stated that the Campo Band has no education or experience in the solid waste arena. One commenter stated that it would be wrong to approve the program of such a small organization. EPA also received comments stating that CEPA and the Campo people are independent, capable, and concerned about protecting their environment and water. Commenters stated that the Campo Band's regulatory program is second to none.

EPA believes that the Campo Band's program meets or exceeds federal standards and that the Campo Band is capable of managing its regulatory program. The Campo Band has shown that it has jurisdiction and its staff resources are adequate to manage its solid waste permitting program. The Campo Band's application shows that CEPA devotes over three full-time positions to landfill permitting, monitoring and enforcement. The Campo Band also has contracts with

firms providing personnel with legal and technical expertise.

In addition to demonstrating that its staff resources are adequate, the Campo Band's application demonstrates that it has management and technical skills. CEPA employs individuals with years of environmental regulatory experience and degrees in engineering and geology. The Campo Band application also demonstrates that the Campo Band has entities that exercise executive (Executive Committee), legislative (General Council) and judicial (Campo Environmental Court) functions. The Campo Band has also demonstrated experience in implementing public health and environmental programs. The Campo Band has adopted codes, ordinances or regulations governing land use planning, housing, gaming and solid waste. CEPA has monitored development of the proposed landfill on the Reservation and has worked closely with the State of California to ensure that solid waste activities on the Reservation will comply with California law. Finally, the Campo Band has demonstrated independence between tribal regulatory entities and regulated entities.

EPA notes that prior solid waste regulatory history is not a requirement for EPA approval of a solid waste permitting program. The fact that Congress gave states 180 days after adoption of federal landfill standards to adopt and implement programs ensuring compliance with those standards indicates that Congress anticipated that states (and tribes) may not have had such programs in place before the federal standards were promulgated. EPA believes that tribes are fundamentally able to regulate the environment in the same manner as states, and notes that states have a variety of levels of experience in environmental regulation. The ability to adopt and implement environmental laws varies widely from state to state and tribe to tribe. EPA evaluates each state and tribe individually to determine whether it has adopted, and is capable of enforcing, a solid waste program that is adequate to assure compliance with the federal regulations. Some states have not demonstrated a history of adopting or enforcing solid waste requirements prior to applying to EPA for program approval under RCRA Subtitle D. EPA is taking today's action because the Agency has determined that the Campo Band's program is adequate to assure compliance with the federal regulations. The Tribe not only has permitting authority, technical standards, public participation procedures and enforcement authority that meet or

exceed the federal standards, but also the staff, resources and technical expertise available to implement and enforce the program.

Some commenters specifically stated that CEPA has not enforced its regulations in cases of auto crushing, septic systems, tire burial and litter control. EPA wishes to clarify that review and approval of the Campo Band's program is related solely to the Campo Band's landfill permitting and enforcement program. Regulation of car crushing, septic systems, tire burial and litter are not covered by this action and are not legal grounds for denial of a solid waste regulatory program. EPA suggests that commenters concerned about these activities raise their concerns with CEPA and/or other appropriate tribal or federal agencies. Further information regarding hazardous waste concerns involving car crushing is provided below.

One commenter expressed concern that no matter how good regulations are, they can't prevent pollution, it is difficult to enforce them—that most people don't have the time, energy and money to bring citizen suits—and that it is difficult to clean up contaminated groundwater.

EPA understands that regulations are only as good as the ability to enforce them. EPA's regulations are designed to minimize environmental and health impacts from landfills. Congress did not give EPA authority to oversee directly the operations of landfills. Therefore, approving adequate state and tribal programs to regulate landfills is the best way to ensure that the regulations are enforced. EPA believes that the Campo Band's program meets or exceeds federal standards and that the Tribe has demonstrated interest in appropriately regulating facilities under its jurisdiction.

Finally, if CEPA is unable, for whatever reason, to enforce the program requirements, and the proposed landfill fails to comply with the Federal Criteria, RCRA section 7002 allows any person to sue the owner or operator of the landfill. In addition, withdrawal of program approval may be initiated where it appears that a state or tribal permit program may no longer be adequate to ensure compliance with the RCRA Subtitle D Federal Criteria. Section 239.13 of the draft STIR specifies conditions and procedures which would be used by EPA as guidance for withdrawal of adequacy determinations.

G. Conflicts of Interest

Several commenters raised concerns that the Campo Band may have potential conflicts of interest in