

the self-implementing federal requirements.

Several commenters stated that the Campo Band would be able to set up defensive barriers to citizen enforcement actions to correct problems at the landfill. EPA does not agree. The owners and operators of *all* landfills will be subject to citizen suits under section 7002 of RCRA. That section allows any "person" to sue any "person" who is violating any permit, standard, regulation, condition, requirement, prohibition, or order under RCRA, or who has contributed to the handling of solid waste which may present an imminent and substantial endangerment to health or the environment. Under this provision, citizens may sue landfill owners or operators for any violation of RCRA or the federal regulations. The citizen suit provision will remain in effect—and be equally available to citizens—whether EPA approves the Campo Band's solid waste permitting program or not. In addition, the Campo Band has expressly waived its sovereign immunity to allow any affected person to challenge CEPA actions in the Campo Environmental Court. See III Campo Environmental Policy Act 302. EPA's approval will not enable the Campo Band, CEPA or Mid-American Waste Systems, Inc. to establish any defensive barriers to citizen enforcement actions.

One commenter stated that program approval is a dangerous precedent-setting move because the proposed landfill is the largest proposed solid waste facility in the nation on an Indian reservation. EPA does not believe that approval of regulatory programs will necessarily set a landfill siting precedent for Indian country. Landfills may be sited in states or in Indian country without EPA approval of the state or tribe's regulatory program. All such landfills must meet the Federal Criteria in 40 CFR part 258. In addition, EPA encourages states and tribes to establish local regulatory structures to ensure that municipal solid waste is managed in an environmentally protective manner. The Campo Band has set standards which are more stringent than federal standards, making the proposed landfill more protective of human health and the environment—and making compliance potentially more costly—than if there were no tribal regulatory program in place. EPA recognizes that some of the 40 CFR part 258 flexibility which may be provided to municipal solid waste landfills by approved states and tribes may be important to the proposed landfill. However, EPA believes that tribes should have the same opportunities as

states to establish systems of landfill permitting and enforcement. As discussed above, states generally may not regulate solid waste management in Indian country, and EPA does not generally have permitting or enforcement authority under RCRA Subtitle D. Therefore, allowing tribes to establish solid waste regulatory programs ensures oversight of solid waste practices in Indian country.

One commenter suggested that EPA should deny approval of the Campo Band program because landfills deprive present and future generations of valuable resources and encourage waste production instead of pollution prevention and waste reduction. EPA agrees that waste reduction and pollution prevention are preferable methods of managing municipal solid waste to landfilling, to the extent possible. In response to the growing national concern about solid waste management, EPA developed a national strategy for addressing municipal solid waste management problems. This strategy is set out in a document entitled, "The Solid Waste Dilemma: An Agenda for Action," which EPA issued in February 1989. The cornerstone of the strategy is "integrated waste management," in which the following solid waste reduction and management options work together to form an effective system: source reduction, recycling, and combustion and landfilling. EPA encourages waste reduction and recycling of municipal solid waste. However, EPA also recognizes the need for landfills. Congress required EPA to adopt federal regulations establishing minimum national standards for landfills. However, Congress emphasized, and EPA believes that it is preferable, for local, state and tribal governments to adopt their own solid waste permitting and enforcement programs so that landfills are regulated in a manner that is as environmentally responsible as possible. Therefore, EPA supports pollution prevention as the preferred waste management alternative while continuing to approve state and tribal regulatory programs.

One commenter suggested that the need to site a landfill on an Indian reservation is a problem that has been caused by the government of the United States. Other commenters expressed concern that they are paying the price for what happened to Indians years ago. One commenter noted that no one is protesting other problematic landfills in San Diego County that are not on Indian land. This commenter also noted that "Mexico is a disaster, but I have the

Mexican people come and complaining here."

EPA acknowledges that there is a great deal of controversy surrounding the proposed landfill. The proposal to site the landfill on the Campo Reservation for the purpose of economic development has raised a great deal of interest and concern among various parties. EPA encourages open communication among these groups and will work to facilitate communication where possible.

However, EPA strongly believes that Indian tribes should have the same opportunities to regulate the environment available to them as are available to states. This is consistent with EPA's Indian Policy and with federal Indian law and environmental law, including RCRA. EPA does not believe that a state or tribal application should be evaluated in a different manner because of controversy surrounding a proposed landfill. Neighbors of proposed landfills in California, for example, have raised concerns about such landfills. These concerns do not diminish the adequacy of the state's program. Likewise, concerns regarding the proposed landfill are most appropriately handled by CEPA.

A number of commenters were concerned that the proposed landfill is being sited on an Indian reservation because the landfill and its operator, Mid-American Waste Systems, Inc., will not have to comply with Federal, State and municipal laws and cannot be monitored by the Government. As stated above, landfills in Indian country must comply with Federal regulations, including EPA's 40 CFR part 258 landfill requirements. Generally, State and local civil regulatory laws do not apply in Indian country. *Cabazon, supra*. However, the Campo Band has established a regulatory system which is as stringent as State and Federal regulatory systems. The Campo Band is not required to establish a landfill permitting and enforcement system, but has elected to do so. Therefore, the proposed landfill will have to comply with the Campo Band's standards. In addition, CEPA and the California Environmental Protection Agency (Cal EPA) have established a cooperative agreement concerning permitting and enforcement at the proposed landfill.

One commenter expressed concern that landfill proponents rather than the Campo Band launched a signature campaign in support of the proposed landfill. Although EPA recognizes that the proposed landfill itself is highly controversial, EPA's decision regarding the Campo Band's regulatory program is