

standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Second, the State/Tribe must have the authority to issue a permit or other notice of prior approval and conditions 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, 42 USC § 6974(b). Finally, 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 STIR. 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.

B. State of New Hampshire

On July 7, 1993, EPA Region I received New Hampshire's final MSWLF permit program application for adequacy determination. EPA published in the **Federal Register** a tentative determination of adequacy for all portions of New Hampshire's program. Further background on the tentative determination of adequacy appears at 59 FR 52299 (October 17, 1994).

Along with the tentative determination, EPA announced the availability of the application for public comment. In addition, a public hearing was tentatively scheduled. However, there were no requests for such, and as a result the hearing was not held.

C. Public Comment

EPA Region I received the following written comments on the tentative determination of adequacy for New Hampshire's MSWLF permitting program, all of which have been made a part of the administrative record and are available to the public for review.

Several commenters were generally supportive of EPA's tentative determination to provide full program approval to New Hampshire's MSWLF permitting program. These commenters encouraged EPA Region I to work quickly towards the final determination of adequacy of the State's program.

A response was required by only one comment, in which the commenter questioned the effectiveness of the State's Guidance Document for ensuring compliance with both state and federal

requirements for MSWLFs. Specifically, the commenter felt there were instances in which the Guidance may prove confusing to the regulated community (due in part to typographical errors and cross-references to part 258). EPA Region I forwarded a summary of the comments to the New Hampshire Department of Environmental Services (NH DES), which agreed that clarifying changes to its Guidance might be beneficial. Without creating any substantive changes, the Guidance was revised after review and approval by EPA Region I. The clarifying revisions ensure consistency with 40 CFR part 258, while maintaining the integrity of the State's original Guidance. To further prevent any chance of confusion, the State of New Hampshire will append the part 258 regulations to its Guidance document for direct reference.

D. Decision

After evaluating the New Hampshire program, EPA Region I concludes that the State of New Hampshire's MSWLF Permitting Program meets all of the statutory and regulatory requirements established by RCRA. The New Hampshire MSWLF Permitting Program is technically comparable to, no less stringent than, and equally as effective as the revised Federal Criteria. Accordingly, the State of New Hampshire is granted a determination of adequacy for all portions of its municipal solid waste permit program.

To ensure full compliance with the Federal Criteria, New Hampshire has revised its current MSWLF permitting requirements by development of the *Guidance Document for the State Permitting of Municipal Solid Waste Landfills Regulated Under Federal Rules (40 CFR Part 258) in New Hampshire*. This guidance document has incorporated those requirements from the Federal Criteria not found in the State's existing MSWLF program which are applicable to all existing MSWLFs and to all MSWLF permit applications. New Hampshire will implement its MSWLF permit program through enforceable permit conditions. These new requirements occur in the following areas:

1. The adoption of the following definitions as required by the revised Federal Criteria, 40 CFR 258.2: Active life, active portion, director, household waste, industrial solid waste, owner, saturated zone, sludge, solid waste, state, state director, and waste management unit boundary.

2. Compliance with the location restrictions of 40 CFR 258.10, 258.11, 258.12, 258.13, 258.14, 258.15, and 258.16, which pertain to airport safety,

floodplains, wetlands, fault areas, seismic impact zones, unstable areas and closure of existing MSWLF units.

3. Compliance with the operating criteria of 40 CFR 288.20, 258.21, 258.23, 258.24, 258.28, 258.29, which pertain to excluding the receipt of hazardous waste, cover material requirements, explosive gases control, air criteria, liquid restrictions, and record keeping requirements.

4. Compliance with the design criteria of 40 CFR 258.40.

5. Compliance with the ground-water monitoring and corrective action requirements of 40 CFR 258.53, 258.54, 258.55, 258.56, 258.57, and 258.58, which pertain to groundwater sampling and analysis requirements, detection monitoring, assessment monitoring, assessment of corrective measures, selection of remedy, and implementation of the corrective action program.

6. Compliance with the closure and post-closure criteria of §§ 258.60 and 258.61.

7. Compliance with the financial assurance criteria of 40 CFR 258.70, 258.71, 258.72, 258.73, and 258.74, which pertain to applicability and effective date, financial assurance for closure, financial assurance for post-closure care, financial assurance for corrective action, and allowable mechanisms.

New Hampshire's Department of Environmental Services requires all existing MSWLFs to have either an existing permit or a temporary permit, both of which require compliance with the Federal Criteria in 40 CFR part 258 pursuant to state laws and regulations, found at New Hampshire Revised Statutes Annotated Chapter 149-M:11 and New Hampshire Code of Administrative Rules Env-Wm 308.03. The State of New Hampshire is not asserting jurisdiction over Indian land recognized by the United States government for the purpose of this notice. Tribes recognized by the United States government are also required to comply with the terms and conditions found at 40 CFR Part 258.

Region I notes that New Hampshire's receipt of Federal financial assistance subjects the State to the statutory obligations of Title VI of the Civil Rights Act of 1964. EPA Region I is committed to working with the State to support and ensure compliance with all Title VI requirements. Furthermore, the narrative portion of the State's application expresses New Hampshire's voluntary support of environmental justice principles in the management of the Subtitle D program. Although this is not a criterion for program approval,