

Dated: December 30, 1999.

Robert Dreher,

Acting General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6518-8]

Local Government Advisory Committee: Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

SUMMARY: The Charter for the Environmental Protection Agency's Local Government Advisory Committee (LGAC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. section 9(c). The purpose of LGAC is to provide advice and recommendations to the Administrator of EPA on ways to improve its partnership with Local Governments and provide more efficient and effective environmental protection.

It is determined that LGAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Denise Ney, Designated Federal Officer, LGAC, U.S. EPA, (mail code 1306), 401 M Street, SW, Washington, DC 20460.

Dated: December 14, 1999.

Diane E. Thompson,

Associate Administrator, Congressional and Intergovernmental Relations.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6518-1]

Alaska: Tentative Determination and Final Determination of Full Program Adequacy of the State of Alaska's Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, requires States to develop and implement permit

programs to ensure that municipal solid waste landfills which may receive hazardous household waste or small quantity generator hazardous waste will comply with the revised Federal landfill criteria. RCRA also requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for municipal landfills.

EPA's notice of Final Partial approval of Alaska's Class I and Class II municipal landfill permit landfill program, and Tentative Partial approval of the State's Class III landfill program was published in the **Federal Register** on October 19, 1998. The public comment period on the Class III component ended on January 26, 1999. There was no request for a public hearing. One letter of comment was received. Today's document contains EPA's Tentative Full and Final Full Determination of Adequacy (approval) of Alaska's municipal solid waste landfill permit program.

Alaska's most recent solid waste management regulatory changes (proposed on August 1, 1997) were finalized by the state in its October 29, 1998, rule revision of 18 AAC 60. The changes that relate to the municipal landfill program were: addition of financial assurance requirements for Class I and II landfills which adopt EPA's 40 CFR part 258, subpart G municipal landfill criteria by reference; addition of the notification requirement for an owner or operator who learns that a municipal landfill has polluted, or may have polluted an aquifer; and removal of the 2010 sunset date (upgrade deadline) for Class III landfills. The removal of the sunset date was implemented under the exemption authority granted to Alaska by the federal Land Disposal Program Flexibility Act of 1996. Alaska's announced intent to remove the sunset date was discussed in EPA's tentative partial Class III approval in the **Federal Register** notice of 10/19/98. The Governor's certification of August 6, 1999, cites that the State has exempted Class III municipal landfills from those requirements of 40 CFR part 258 that are more stringent than the requirements imposed on Class III landfills under 18 AAC 60, as may be amended. The 10/29/98 regulatory revision by Alaska of its solid waste regulations, and the Governor's certification, establishes full adequacy with respect to EPA's part 258 municipal landfill criteria.

On August 30, 1999, EPA received Alaska's request for full program approval. EPA believes there will be no significant adverse comments on today's notice. Nevertheless, a sixty day public

comment period is included in today's Tentative full approval by EPA of the state municipal landfill program. If no significant adverse comments are received, the Final full approval will become effective on the tenth day after the end of the comment period. (If there are significant adverse comments, EPA will need to respond to them and possibly publish a withdrawal of full approval.) Today's notice contains both the Tentative and Final actions to streamline the approval process and as a convenience to the public.

With respect to Alaska's Audit Privilege and Immunity Law, today's approval does not reflect a position by EPA regarding the state's authority to administer any other federally authorized, delegated, or approved environmental program. Alaska's program that is in today's Full determination of adequacy is described in the Decision section of this document.

Alaska's application is available for public review at EPA's office in Seattle, and at the EPA operations offices in Juneau and Anchorage. If desired, EPA will deliver a copy immediately (for public viewing) to the Solid Waste office of the Alaska Department of Environmental Conservation in Fairbanks—upon telephone, fax, or written request to the Contact person listed below.

EFFECTIVE DATE AND COMMENT PERIOD: All comments on today's tentative determination of full program adequacy, must be received in writing by the office of the EPA person named in the CONTACTS section of this notice on or before 5:00 PM, Pacific Time, on March 6, 2000. Copies may be sent by fax to Steven B. Sharp, (206) 553-8509, on or before this date provided the original document is also sent by regular mail. EPA is not required to hold a public hearing and is not offering one in today's notice. (In the unlikely event that a need for a public hearing arises, EPA will make an announcement of same in a future **Federal Register**.)

The final determination of full program adequacy of Alaska's municipal solid waste landfill permit program shall become effective on March 15, 2000, if there are not significant adverse written comments on today's document. Alternatively, if EPA receives sufficient adverse comments, a subsequent notice will be published in the **Federal Register** that either withdraws today's final full approval or affirms today's final full program approval. If published, it will discuss the comments received and include

EPA's basis for its withdrawal or affirmation.

FOR FURTHER INFORMATION CONTACT: Mr. Steven B. Sharp, mail code (WCM-128), U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101; fax (206) 553-8509, telephone (206) 553-6517. All public comments must in writing and sent to Mr. Sharp at this address by the date specified above.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria (40 CFR part 258) for municipal solid waste landfills (MSWLFs). Section 4005(c)(1)(B) of Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop and implement permit programs to ensure that municipal solid waste landfills comply with the Federal Criteria under part 258. Section 4005(c)(1)(C) requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria (40 CFR part 258).

EPA has approved portions of about forty State MSWLF permit programs based on its March 3, 1993 Draft Guidance specifying the requirements a State must meet to qualify for approval. (EPA allows partial approvals if the state program largely meets EPA's requirements, and the provisions not included are clearly identifiable.) About six additional state programs have been approved after EPA's proposed State Implementation Rule (SIR) was published in the January 26, 1996, **Federal Register** (61 FR 2584). EPA promulgated the final version of the SIR rule on October 23, 1998, (63 FR 57206). It contains no element which requires revision of, or another public comment period on, any of the tentative and final approvals of state programs that EPA published prior to finalization of the SIR rule.

With respect to Tribes, EPA has been and is currently limiting its solid waste program approvals to State programs. In the opinion filed on October 29, 1996, (on the Campo Band of Mission Indians case) the U.S. Court of Appeals for the District of Columbia Circuit determined that EPA lacks authority under RCRA to approve the solid waste management plan [program] of an Indian Tribe. The Federal Court observed that the Campo Band could seek EPA approval/ruling for a site-specific regulation as a way of obtaining access to the flexibility that is available to approved States. This

opinion was discussed in EPA's notice (about Alaska's solid waste program) in the 10/19/98 **Federal Register** and in the **Federal Register** (63 FR 57206) of 10/23/98 which promulgated EPA's final SIR rule. EPA has published a guidance document (Site-Specific Flexibility Requests, EPA530-R-97-016) that discusses the petition-procedure for Tribes.

Approved State permit programs [partial or full determinations] provide interaction between the State and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State permit program allows such flexibility. EPA notes that regardless of the approval status of a state program and the permit status of any facility, the federal landfill criteria will apply to all permitted and unpermitted MSWLF facilities. The applicability as to Alaska's Class III landfill category and the exemption authority in the Land Disposal Program Flexibility (LDPF) Act of 1996 is discussed in Section B of this document.

EPA interprets the requirements for States to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State 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 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 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.

All municipal solid waste must be disposed in a landfill which meets these criteria. This includes ash from municipal solid waste incinerators that is determined to be non-hazardous. Any portions of the Federal Criteria which are not included in an approved State program by the applicable effective dates would apply directly to the owner/operator without any approved State flexibility, except as to small landfill criteria exempted by the State (Alaska only) under the LDPF Act.

EPA Regions will determine whether a State has submitted an "adequate" program based on the interpretation

outlined above. EPA expects States 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 Alaska

Today's document promulgates Tentative Full approval and Final Full approval by EPA for all three classes of Alaska's municipal solid waste landfill permit program. Over the recent several years and earlier, Alaska has developed an extensive and practicable approach to management and disposal of many types of non-hazardous solid waste including municipal waste, and to increased protection of human health and the environment. The Alaska Department of Environmental Conservation (ADEC) completed a major revision to its solid waste management rule on January 28, 1996. (It was amended on June 28, 1996, primarily for addition of a new fee structure.) The next revisions (of which only a limited number pertained to municipal landfills) were proposed on August 1, 1997. They were finalized by Alaska on October 29, 1998. This revision included the changes that EPA identified in its notice (of October 19, 1998) as being necessary for the state to obtain full approval. The elements that relate to today's approvals of Alaska's municipal solid waste program are discussed below.

Region 10 received Alaska's application for a partial program adequacy determination on February 12, 1996. The MSWLF program is a component of the Solid Waste Management Program of ADEC that covers a wide range of wastes. EPA published on November 25, 1996, in the **Federal Register** (61 FR 60000) its first tentative determination that most portions (as noted in the discussions therein) of the State's municipal solid waste landfill (MSWLF) program would ensure compliance with the revised Federal Criteria. The public comment ended on January 26, 1997. In early 1997, during the period that EPA was reviewing and evaluating the public comments, proposals were initiated by the Alaska Legislature for reductions and changes to ADEC's Solid Waste program. The outcome resulted in significant differences from the Class III program described in the application of February 1996. In addition, ADEC proposed during this period a removal of the 2010 sunset date (upgrade deadline) via the new authority granted to Alaska by the LDPF Act. Also, the State passed its Environmental Audit Privilege and Immunity act in August 1997. Alaska provided clarifying written

information on the above events, as amendments to its application. These changes and EPA's review of them were described in EPA's next **Federal Register** notice, of October 19, 1998. That notice contained the Agency's final partial approval of Alaska's Class I and Class II municipal landfill program; withdrew the elements of EPA's prior tentative approval of 11/25/96 that applied to the Class III landfill component of Alaska's program; and contained EPA's new tentative partial approval of the State's Class III municipal landfill program. A new comment period was included in EPA's 10/19/98 notice on the tentative Class III approval, which ended on January 26, 1999. The optional public hearing was not held because EPA received no requests for it. One letter of comment was received, which is discussed in Section C of this document.

On August 25, 1999, the Department of Environmental Conservation submitted its request for a full-program approval by EPA as an amendment to its application, which included two certifications. The Governor's Certification, dated August 6, 1999, certifies (with respect to the LDPF Act exemption authority) that full application of the requirements of 40 CFR part 258 to Class III MSWLFs would be infeasible, or would not be cost effective, or is otherwise inappropriate because of remote locations of the units. The Attorney General's letter of August 25, 1999, certifies that the regulations cited in the State of Alaska's request to EPA for final full approval of its solid waste program have been adopted, and are fully effective, and are in the published version of the Alaska Administrative Code.

Class I and Class II Landfills

Today's notice includes final full determination of adequacy (approval) of the State's Class I and Class II municipal solid waste permit program. Alaska defines Class II municipal landfills as those that receive less than twenty tons per day on an annual average and meet specifications that include the federal section 258.1(f)(1) arid or remote small-landfill qualifying criteria. (Approval of the Class III program is discussed separately, below.) EPA published its Final Partial approval of Alaska's Class I and Class II municipal landfill program on October 19, 1998, (63 FR 55863). That notice listed the two additional regulatory criteria needed for the State to obtain full EPA approval.

One criterion was to add financial assurance requirements for Class I and Class II landfills which meet one or

more of the mechanisms in subpart G of 40 CFR part 258. The State met this requirement by addition of Sub-Section 18 AAC 60.398 which states: "The owner or operator of a Class I or Class II MSWLF shall meet the financial assurance requirements of 40 CFR part 258, subpart G, revised as of July 1, 1998, adopted by reference" in ADEC's amended regulation of October 29, 1998, which became effective on that date. This sub-section meets (and mirrors) the corresponding criteria in subpart G of part 258.

The second criterion was to add a requirement that the owner/operator of a small landfill must notify the State Director upon knowledge of groundwater contamination resulting from the unit. The State met this requirement by addition of Sub-section 18 AAC 60.305(f) which states: "the owner or operator must provide written notification to the department within seven days after the owner or operator learns that a MSWLF has polluted, or may have polluted, an aquifer" in its amended regulation of October 29, 1998. Alaska's new Sub-section (f) applies to all three of the State's classes of municipal landfills.

The federal Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment. 5 U.S.C. 553(b). The Act allows exemption from this requirement if the issuing agency finds good cause that notice and comment are unnecessary. 5 U.S.C. 553(b)(3)(B). The State included a public comment period as part of its process in making the two regulatory amendments described above—as well as on all of ADEC's changes to 18 AAC 60 to present. All of EPA's notices prior to today, on Alaska's solid waste program, also have provided for a public comment period, with provision for optional public hearings if there was sufficient need. The two new portions for the Class I and Class II program in today's determination, which have not yet been subject to a federal comment period, mirror the federal criteria. Therefore, EPA believes that providing prior notice and opportunity for comment on the promulgation of today's final full approval is unnecessary. However, to ensure opportunity for public input, the Agency is providing in today's notice a period for written public comments. EPA is combining its tentative and final full approval actions into one (today's) notice with the final approval becoming effective on the tenth day after the end of the comment period if there are no significant adverse comments.

Conditionally Exempt Hazardous Waste

In the Decision section of EPA's **Federal Register** notice (63 FR 55870) of October 19, 1998, the Agency promulgated its determination of adequacy of Alaska's program for hazardous waste disposal from Conditionally Exempt Small Quantity Generators (CESQG) under 40 CFR 261.5 (as in the July 1, 1998 Code of Federal Regulations). Alaska's criteria requires (per 18 AAC Section 60.020) that CESQG wastes may be disposed of only at a facility that meets the requirements for a Class I or a Class II municipal solid waste landfill. Since both classes currently meet or exceed the Part 258 municipal landfill criteria, Alaska is meeting EPA's CESQG disposal standards under subpart B of part 257, the non-hazardous industrial and commercial wastes landfill rule, and Part 258. Alaska was the first state to receive program approval as to these new EPA criteria for landfilling of CESQG wastes.

Class III Landfills

Today's notice also includes final full determination of adequacy (approval) of the State's Class III municipal solid waste permit program. Alaska's definition in 18 AAC 60.300 for its Class III landfills includes a limitation on the maximum amount waste received to less than five tons per day, or under one ton per day of MSW ash, and also includes other limiting criteria. Based on a compromise by EPA and ADEC in 1993 and 1994, Alaska's regulations (of January 28, 1996, and June 28, 1996) required in 18 AAC Section 60.300(c) that all Class III landfills must, by October 9, 2010, upgrade to meet the standards applicable to either a Class I or Class II MSWLF, or close accordingly by that date. Alaska's October 29, 1998, revision of its regulation removed this 2010 sunset (upgrade) date, which in effect placed its own criteria for Class III landfills in a permanent status. The Governor's certification of August 6, 1999, cites that the State has exempted Class III municipal landfills from those requirements of 40 CFR part 258 that are more stringent than the requirements imposed on Class III landfills under 18 AAC 60, as may be amended. The certification procedure and exemption authority (for the state of Alaska only) in the LDPF Act of 1996 was established by Congress as an amendment to the Solid Waste Disposal Act (SWDA). Therefore, the 10/29/98 revision by Alaska of its solid waste regulations and the Governor's certification establishes full adequacy with respect to EPA's Part 258 municipal landfill criteria.

EPA's notice of 10/19/98 withdrew the elements of EPA's prior tentative approval of November 25, 1996, that applied to the Class III landfill component of Alaska's application. (Alaska's removal of the 2010 requirement was not finalized by the State until after EPA's 10/19/98 notice.) A new comment period was included in EPA's 10/19/98 notice on tentative Class III approval, which ended on January 26, 1999. The optional public hearing was not held because EPA received no requests for it. One letter of comment was received, which is discussed in C of this document.

Sewage and Biosolids

In today's final full approval of Alaska's Solid Waste Program, EPA is not proposing approval under the Clean Water Act with respect to the treatment, storage, landspreading, or disposal of sewage solids, biosolids, sludge, and other wastes that are addressed in EPA's regulations under 40 CFR part 503 and related parts. The SIR process for State approvals focuses on the municipal solid waste permit program, without expressing any opinion on the other programs that are addressed in Alaska's 18 AAC 60 solid waste management rule. With respect to sewage and biosolids wastes, the only criteria in Alaska's rule that are being approved today are those that correspond to EPA's 40 CFR part 258 municipal landfill criteria.

Indian Country

In preparing and reviewing the Alaska application, ADEC and Region 10 have taken into consideration the needs and status of recognized Indian Tribes and Alaska Native Villages. Today's final full approval of the State of Alaska's solid waste permit program does not extend to "Indian Country" located in Alaska, as defined in 18 U.S.C. 1151. Because the extent of Indian Country is not certain, the exact boundaries of Indian Country have not been defined. Lands acknowledged by the United States to be Indian Country include the Annette Island Reserve, and trust lands in Klawock, Kake, and Angoon and Alaska Native allotments still in restricted status. By approving Alaska's solid waste program, EPA does not intend to affect the rights of Federally recognized Indian Tribes in Alaska, nor does it intend to limit the existing rights of the State of Alaska, nor does it intend to modify the State's new exemption authority with respect to certain small villages in Alaska.

Land Disposal Program Flexibility Act of 1996

Sub-section (5) of 3(a) of the Land Disposal Program Flexibility Act of 1996 reads, verbatim, as follows: "ALASKA NATIVE VILLAGES—Upon certification by the Governor of the State of Alaska that application of the requirements described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in Section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This paragraph shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily on an annual average."

Note: The reference to "paragraph (1)" in the above text is to paragraph (1) of section 4010(c) of SWDA. The exemption authority in 3(a)(5) of the LDPF Act is granted to Alaska only. This act is different than the "Regulatory Flexibility Act of 1996" that addresses economic impacts of a wide range of federal programs, and which is referred to near the end of this document.

Small landfills which are exempted by the State of Alaska, under authority of the LDPF Act, from some or all portions of the part 258 criteria will not be subject to the citizens suit provision of section 7002 of RCRA as to those exemptions. An important corollary of the requirements of EPA's amendment to 40 CFR 261.5 is that landfills which the State has exempted from some or all of the part 258 MSWLF criteria would not be eligible to accept CESQG wastes—based on Region 10's interpretation that the meaning of the text in the July 1, 1996, **Federal Register** is that the landfill must be subject to the entire part 258.

On a nationwide basis, another section of the LDPF Act reinstates the exemption on ground-water monitoring for all facilities that receive an average of 20 tons per day or less and meet the qualifying criteria in the LDPF Act for small arid or remote municipal solid waste landfills. The act does not modify the existing Part 258 exemption on liner requirements for qualifying small MSWLFs. The liner exemption, promulgated in October 1991, is still in effect.

Unique Landfills and Special Criteria

Two special categories of landfills are included in ADEC's regulations: ash monofills that accept municipal solid waste (MSW) ash and permafrost MSW

landfills. EPA finds that Alaska's regulatory flexibility with respect to methane monitoring and daily cover at MSW ash monofills is in keeping with the new flexibility that EPA promulgated (62 FR 51606) on October 2, 1997. Alaska's MSW ash monofills are handled under 18 AAC 60 Article 3 that sets ADEC's standards for landfill disposal of municipal solid wastes. EPA believes that Alaska's program meets EPA standards for monofills that receive only MSW-ash provided that the ash is non-hazardous based on RCRA requirements.

The Alaska solid waste regulations also include flexibility provisions for permafrost landfills that is different and less stringent than the federal part 258 requirements. Almost all permafrost landfills in Alaska are small and receive less than an average of 20 tons per day of municipal solid waste. EPA believes use of flexibility that is specific to permafrost landfills exclusively is in keeping with practicable capability considerations of RCRA.

Alaska's definition of surface transportation in its October 29, 1998, rule revision remains the same as in the January 1996 and June 1996 editions. It continues to include the same status for barges as before, namely that they are not surface transportation. The definition says (verbatim) that surface transportation means "pioneer roads and community roads as described in 17 AAC 05.030, or a rail system that routinely handles freight; surface transportation does not include barges or any other form of water craft." A comment on EPA's earlier (November 25, 1996) tentative approval challenged the defining of barges and water craft as not being forms surface transportation. As cited in the earlier **Federal Registers**, EPA believes the definition is a State decision, not one that should be made by EPA.

In the wetlands section of the 1996 versions of Alaska's landfill rule, Alaska had a stability requirement that applied only for "undisturbed" native wetland soils and deposits used to support the MSW landfill. Part 258 applies this stability requirement to all types, not only undisturbed, wetlands support. ADEC was achieving equivalent stringency with part 258 via its permitting activities and authority. Regardless, this difference (versus part 258) was eliminated in ADEC's 10/29/98 rule revision.

Administrative Elements and Criteria

Part 258.1(f)(3) requires that if the owner/operator of a small, arid or remote, landfill has knowledge of ground-water contamination resulting

from the unit, the owner/operator must notify the State Director. Alaska's 1996 versions of its regulation did not include the equivalent wording as to this sub-section. However, ADEC informed EPA that it believed it was achieving the equivalent via its permitting and compliance monitoring practices, and with support from other agencies. This was discussed in the Agency's tentative determinations. Implementation by Alaska of its regulatory change to 18 AAC 60.300(f) that added an equivalent requirement was made on October 29, 1998. Thus the State regulation now fully meets the Part 258.1(f)(3) notification criteria.

With respect to public participation, Alaska cites in the narrative summary of its application that it has been and is ADEC's policy to provide additional public participation opportunities after a permit is issued, including at the time of permit renewals and major modifications or variances, particularly if public interest was expressed at the time of the original permit or if there is any controversy surrounding the permit. The summary states that Alaska's current version of its 18 AAC 15.100(d) regulation does not require public notice or a public hearing on applications for renewal of a permit or amendment. As a means of formalizing ADEC's existing and on-going practices in this area, the Commissioner of ADEC issued a policy paper on October 9, 1996, entitled "Policy Regarding Public Notice Requirements for Solid Waste Renewals and Modifications." A copy was placed in Alaska's application, and this policy serves as a basis of today's final full program determination of adequacy.

Environmental Audit Privilege and Immunity Law

On August 9, 1997, the State of Alaska enacted its Environmental Audit Privilege and Immunity Law. EPA and ADEC worked together on analyzing this law, solely with respect to the solid waste program, and to the Agency's nationwide policies. Based on the information provided by the State on this law, and the State's application for program approval, EPA believes that Alaska has the authority necessary to administer a fully approved RCRA subtitle D permit program for municipal solid waste landfills. Today's full approval does not reflect a position by the Agency regarding the state's authority to administer any other federally authorized, delegated, or approved environmental program. The impact of the state's audit law on the requirements of other federal environmental programs (many of

which have more comprehensive requirements than Subtitle D of RCRA) will require a separate review and analysis by EPA.

C. Public Comments

EPA received one letter of public comment, from an individual, on EPA's tentative determination of partial adequacy for Alaska's Class III MSWLF permit program, that was published in the October 19, 1998, **Federal Register**. The commentor questioned the legality of Class III as to RCRA. Alaska informed EPA in mid 1997 of its intent to establish permanently, or until an indefinite time in the future, its Class III landfill category that contains criteria which are less stringent than the federal part 258 municipal landfill criteria. In addition, this was set forth in Alaska's August 1, 1997, proposed 18 AAC 60 rule revision, to remove the 2010 sunset (upgrade) date. In the past, as discussed in the 11/25/96 and 10/19/98 **Federal Registers**, EPA clearly wanted this "sunset date" to be in the State's regulation. The State's summary document for the public, that accompanied the August 1997 proposed regulatory changes, specifically highlighted that the State intended to make Class III a permanent category.

The SIR rule, in 40 CFR 239.4 says (verbatim) that "the state will ensure that existing and new facilities are permitted or otherwise approved and in compliance with the relevant Subtitle D federal revised criteria." The exemption authority in section 3(a)(5) of the LDPF act (as to 40 CFR part 258 criteria) is granted by Congress to the State of Alaska only. The choice on what exemptions are established is assigned to Alaska and not to EPA. The combination of the certification made by the Governor and the removal by the State of the 2010 sunset date requirement from Alaska's regulation is in compliance with the LDPF Act and therefore adequate under RCRA. Consequently, EPA is today approving in full the State's Class III municipal landfill permit program.

Environmental Justice: As the commentor points out, EPA places high importance on achieving environmental justice, and on implementing the related provisions of Executive Order 12898. However, the LDPF act does not authorize EPA to become a direct participant in the decisions, or actions, that the State of Alaska implements when making exemptions from part 258 under the LDPF act. With respect to small landfills in general throughout the United States, EPA described in the **Federal Register** (62 FR 40714 of July 29, 1997) its commitment to addressing

environmental justice concerns for all residents of the nation. This description was published in conjunction with EPA's regulatory revision (finalized 10/2/97 per 62 FR 51606) to allow the Director of an Approved State the flexibility to establish certain additional alternative criteria for small MSWLFs throughout the United States. EPA cites therein that the Agency's goals are to ensure that no segment of the population bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

Information that also relates to this comment is that ADEC has pointed out that it encourages, in numerous instances, certain activities and field improvements at small landfills "as an immediate step in the right direction" even though the state regulations make it necessary for ADEC to deny, or not issue, a full permit. This practice enables incremental upgrading of village landfills while taking into consideration the practicable capabilities that exist in each community or area.

D. Decision

After reviewing the public comments, I conclude that the State's solid waste program for all three of the State's classes of municipal landfills meets all of the statutory and regulatory requirements established by RCRA, and SWDA, including the amendments of the Land Disposal Flexibility (LDPF) Act of 1996. Accordingly, Alaska is granted a full program determination of adequacy, including MSW ash mono-fills and permafrost landfills, for its municipal solid waste landfill permit program that are listed below. The Subparts of 40 CFR part 258 that are included in today's determination are:

Part 258 Subpart A—General, including the establishment of a permanent status for the State's Class III category of municipal landfills, which has been implemented by Alaska under the exemption authority granted by the federal Land Disposal Program Flexibility Act of 1996.

Part 258 Subpart B—Location Restrictions;

Part 258 Subpart C—Operating Criteria;

Part 258 Subpart D—Design Criteria;

Part 258 Subpart E—Ground-Water Monitoring and Corrective Action;

Part 258 Subpart F—Closure and Post-Closure Care; and

Part 258 Subpart G—Financial Assurance Criteria.

The Agency has already approved (63 FR 55870 of October 19, 1998) Alaska's program for landfill disposal of hazardous wastes from conditionally

exempt small quantity generators (CESQG)—under 40 CFR 261.5; part 257 subpart B; and part 258. Alaska's 18 AAC 60 rule requires that CESQG wastes may be disposed of only in a facility that meets the requirements for the State's Class I or Class II municipal landfills.

Section 4005(a) of RCRA provides that citizens may use the citizens suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State, or Tribal, enforcement program. Criteria of 40 CFR part 258 from which a landfill has been exempted by the State of Alaska, under authority of the LDPF Act, are not useable with respect to the citizens suit provision of section 7002. As explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State program approved by EPA should be considered to be in compliance with the relevant portions of the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

E. Regulatory Assessments

The following executive Orders, and assessments required by Federal Statutes, were included in the EPA's approval notice of Partial Determinations in the **Federal Register** (63 FR 55863) of October 19, 1998. No public comments were received on these elements of the notice.

Compliance With Executive Order 12866, Significant Annual Effect on the Economy

The Office of Management and Budget (OMB) has exempted today's action from the requirements of Section 6 of Executive Order 12866.

Compliance With Executive Order 13045, Children's Health Protection

Today's action is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

Compliance With Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal

governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to today's action, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action implements requirements specifically set forth by the Congress in sections 4005(c)(1)(B) and (c)(1)(C) of Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended, without the exercise of any discretion by EPA. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's action.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant adverse economic impact on a substantial number of small entities. By approving State municipal solid waste permitting programs, owners and operators of municipal solid waste landfills who are also small entities will be eligible to use the site-specific flexibility provided by part 258 to the extent the State permit program allows such flexibility. However, since such small entities which own and/or operate municipal solid waste landfills are already subject to the requirements in 40 CFR part 258 or are exempted from certain of these requirements, such as the groundwater monitoring and design provisions. Today's approval does not impose any additional burdens on small entities. Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act Pursuant to the provision at 5 U.S.C. 605(b). I hereby certify that this approval will not have a significant adverse economic impact on a substantial number of small entities. It does not impose any new burdens on small entities; rather this approval creates flexibility for small entities in complying with the 40 CFR part 258 requirements. Today's action, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing today's document and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of today's action in the **Federal Register**. Today's action is not a "major rule" as defined by section 804(2) of the APA as amended.

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Public Law 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The Agency does not believe that approval of the State's program would result in estimated costs of \$100 million or more to State, local, and tribal governments in the aggregate, or to the private sector, in any one year. This is due to the additional flexibility that the State can generally exercise (which will reduce, not increase, compliance costs). Thus, today's document is not subject to the written statement requirements in sections 202 and 205 of the Act.

As to section 203 of the Act, the approval of the State program will not significantly or uniquely affect small

governments including Tribal small governments. As to the applicant, the State has received notice of the requirements of an approved program, has had meaningful and timely input into the development of the program requirements, and is fully informed as to compliance with the approved program. Thus, any applicable requirements of section 203 of the Act have been satisfied.

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

Dated: December 21, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 00-186 Filed 1-4-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00625A; FRL-6486-6]

Pesticides: Science Policy Issues Related to the Food Quality Protection Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: On November 10, 1999, EPA issued a notice of availability for the draft science policy paper entitled "Guidance for Performing Aggregate Exposure and Risk Assessments." The comment period would have ended January 10, 2000. Due to the holidays, EPA has decided to extend the comment period to February 9, 2000.

DATES: Comments, identified by docket control number OPP-00625, must be received by EPA on or before February 9, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00625 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Carol Christensen, Environmental Protection Agency (7505C), 1300 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6230; fax number: (703) 305-7147; e-mail address: christensen.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS | Examples of potentially affected entities |
|---------------------|-------|--|
| Pesticide Producers | 32532 | Pesticide manufacturers Pesticide formulators |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action affects certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, the draft science policy paper, and certain other related documents that might be available from the Office of Pesticide Programs' Home Page at <http://www.epa.gov/pesticides/>. On the Office of Pesticide Programs' Home Page select "FQPA" and then look up the entry for this document under "Science Policies." You can also go directly to the listings at the EPA Home Page at <http://www.epa.gov>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under "Federal Register--Environmental Documents." You can go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>.

2. *Fax on demand.* You may request a faxed copy of the draft science policy paper, as well as supporting information, by using a faxphone to call (202) 401-0527. Select item 6043 for the paper entitled "Guidance for Performing Aggregate Exposure and Risk

Assessments." You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this proposed guideline under docket control number OPP-00625. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-00625 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be