



State/Tribal Implementation Rule (STIR)

EPA Proposes Procedures for Approving Tribal Municipal Solid Waste Landfill Permit Programs

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Currently, EPA has approved one Tribal MSWLF permit program and proposed approval for a second Tribal program, using the draft STIR as guidance.

For More Information

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Contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 5:30 p.m., EST. ... The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired). In Washington, D.C., the number is (703) 412-9810, TDD (703) 412-3323. Further details on this rule and the MSWLF criteria also are available in the "Municipal Solid Waste Landfill Permit Programs: A Primer For Tribes" (EPA530-K-94-001)

On October 9, 1991, EPA issued the "Solid Waste Disposal Facility Criteria," which established minimum standards for the construction and operation of municipal solid waste landfills (MSWLFs). EPA recently proposed regulations for the review of State/Tribal MSWLF permit programs. Tribes may seek approval of Tribal MSWLF permit programs which will ensure that landfill comply with the federal criteria. An approved program allows a Tribe more flexibility to tailor landfill permit requirements to site-specific conditions.

Under the proposed rule, EPA describes the procedures for evaluating Tribal permit programs for solid waste landfills. A Tribe must submit an application for permit program approval to the appropriate EPA Regional Administrator for review. (A more detailed description of the application components and approval process can be found on the back.) For a permit program to be approved, a Tribe must:

- Be recognized by the Secretary of the Interior or Congress;
- Exercise substantial governmental functions, such as levying taxes or asserting police power;
- Submit legal certification that the Tribe has adequate authority to implement the MSWLF permit program; and
- Demonstrate that the program will ensure that landfills comply with the standards for MSWLFs.

Some Tribal permit programs may meet the procedural and legal requirements but not all of the technical requirements of the comprehensive standards for MSWLF. In such cases, EPA may approve partial programs. To receive partial program approval, a Tribal program must meet all of the procedural and legal requirements and include a schedule for completing all necessary changes to meet full-approval requirements within a two-year time period. A Tribal program with partial approval may take advantage of additional flexibility for those portions of the program that have been approved.

Under the proposed rule, Tribes have the following options for regulating MSWLFs on Tribal lands:

- Develop a permit program and apply for program approval;
- Develop an agreement with an approved state for joint regulation of MSWLFs on Tribal lands; and
- Decide not to develop a program.

If a Tribe does not wish to develop a permit program for EPA approval, owners and operators of MSWLFs on Tribal lands must comply with the federal standards. Tribes may still develop and enforce their own environmental codes to regulate MSWLFs. The decision of whether or not to seek permit program approval is an individual Tribal determination based upon a number of factors, such as whether the flexibility available to approved programs offers the Tribe any advantage and whether the Tribe has the infrastructure and resources to apply for and administer such a program.



Approval Process for Tribal Applications

Program Application Components

- **Transmittal Letter to EPA Regional Administrator**

- Tribal program approval request
- Tribal director signature
- lead Tribal agency designation

- **Narrative Description of the Tribal Program**

- explain jurisdiction and responsibilities of all implementing agencies
- describe the lead Tribal agency
- demonstrate that the permit program includes the technical requirements of Part 258, compliance monitoring, enforcement, and public participation
- provide number of MSW landfills
- describe staff resources

- **Legal Certification**

- signature of Tribal Attorney General or equivalent official, or independent legal counsel
- certification that laws, regulations and guidance provide adequate authority to implement the program
- analysis of the authority to implement permitting and enforcement provisions
- map or legal description of the Indian Lands over which the Tribe asserts jurisdiction

- **Copies of Applicable Statutes, Regulations, and Guidance**

- **Copies of any relevant State/Tribal Agreements**

Timeframe

Within
30
days

Within
180
days

