CESQG wastes. This schedule requires that the EPA Administrator sign a proposal by May 15, 1995 and a final rule by July 1, 1996. Today's proposed amendments to 40 CFR parts 257 and 261 respond directly to the Sierra Club challenge to EPA's revised Criteria for MSWLFs.

III. Summary of Today's Proposed Regulatory Approach

Today's proposal would add the statutory minimum requirements for non-municipal solid waste disposal facilities that receive CESQG hazardous waste. Any non-municipal solid waste disposal facility that does not meet the proposed requirements may not receive CESQG hazardous waste. Sections 257.5 through 257.30 are being proposed to address the facility standards for owners/operators of non-municipal solid waste disposal facilities that receive CESQG hazardous wastes. The requirements being proposed in §§ 257.5 through 257.30 are substantially the same as the statutory minimum requirements developed for 40 CFR part 258. The location restrictions are proposed to be effective 18 months after publication of the final rule while the ground-water monitoring and corrective action requirements are proposed to be effective 24 months after publication of the final rule.

The Agency decided to use the previously promulgated MSWLF Criteria in part 258 as the basis for today's proposal for a number of reasons. The Agency believes that the part 258 Criteria are being used as mandatory standards by some States for non-municipal solid waste disposal facilities. Furthermore, additional States are incorporating as mandatory requirements standards that are substantially similar to the part 258 Criteria. The Agency also believes that the part 258 Criteria, particularly the ground-water monitoring and corrective action requirements, are an appropriate set of performance standards and minimum requirements that can be applied at non-municipal solid waste disposal facilities that receive CESQG hazardous waste to protect human health and the environment. In addition, EPA is requesting comment on an alternative approach which is solely a performance standard without the national minimum requirements in part

Today's proposal also amends the existing language of § 261.5 clarifying acceptable Subtitle D management options for CESQGs. The existing language in § 261.5, paragraphs (f)(3) and (g)(3) allows for a CESQG hazardous waste to be managed at a hazardous

waste facility (either in interim status or permitted), a reuse or recycling facility, or a non-hazardous solid waste facility that is permitted, licensed, or registered by a State to manage municipal or industrial waste. Today's proposal would continue to allow CESQG waste to be managed at a hazardous waste facility or at a reuse or recycling facility. Today's proposal, however, will require that if CESQG waste is managed in a Subtitle D disposal facility, it must be managed in a MSWLF that is subject to part 258 or a non-municipal solid waste disposal facility that is subject to the facility standards being proposed in §§ 257.5 through 257.30.

A complete discussion of the rationale of today's proposed approach, specifics of the proposed changes, and related issues is presented in Reference #1.

As previously discussed, today's proposal responds to both the statutory language in RCRA section 4010(c) and to the Sierra Club lawsuit. In responding initially to the statutory language of section 4010(c), EPA elected to regulate municipal solid waste landfills first, due to the comparatively higher risks presented by these types of facilities. As will be discussed later in today's preamble, the subject of today's proposal-non-municipal solid waste disposal facilities that receive CESQG waste—presents a small risk relative to risks presented by other environmental conditions or situations. Given this lower risk, the Agency would have elected not to issue this proposal at this time. In a time of limited resources, common sense dictates that we deal with higher priorities first, a principle on which EPA, members of the regulated community, and the public can agree. The Agency requests comment from members of the public and regulated community on whether they agree with the Agency's position that this rulemaking is a low priority.

However, given the D.C. Circuit's reading of RCRA section 4010(c), Sierra Club v. EPA, 992 F.2d 3337, 347 (D.C. Cir. 1993), and the schedule established as a result of the litigation initiated by Sierra Club in district court, the Agency believes it must issue this proposal now (although there are higher priorities within the Agency). Faced with having to issue this proposal for a class of facilities that do not generally pose risks as high as municipal solid waste landfills, the Agency is proposing alternatives that address only the statutory minimum requirements in an attempt to reduce the economic burden on the regulated community.

IV. Characterization of CESQG Waste, Industrial D Facilities That May Receive CESQG Wastes, and Existing State Programs Related to CESQG Disposal

A. CESQG Waste Volumes, Generators, and Management

In preparation for this rulemaking, EPA sought to characterize the CESQG universe. EPA examined several national, state, and local studies that contained information on CESQGs, and summarized this information into five categories: (1) Number of establishments, (2) waste volumes, (3) major waste generating industries, (4) major waste types, and (5) waste management practices. All of this information is contained in Reference #2. Reference #7 also presents an earlier comprehensive overview of the CESQG universe. The Agency is interested in receiving data on the current management practices for CESQG wastes likely to be covered by this rulemaking.

B. Facilities That May Receive CESQG Waste

1. Manufacturing Industries With On-Site CESQG Disposal

The first type of facility that may receive CESQG waste is a manufacturing facility that co-disposes its industrial non-hazardous process waste on-site with its CESQG hazardous wastes.

The Agency's 1987 "Screening Survey of Industrial Subtitle D Establishments" was used as the starting point in the Agency's evaluation of the number of potential establishments that operated land-based units for their industrial non-hazardous waste (Reference#3). The Screening Survey projected that only 605 establishments managed their CESQG waste on-site in a land-based unit (605 establishments represents approximately 5% of the total 12,000 establishments that managed industrial waste on-site in land-based units).

The Agency has conducted meetings and conference calls with some industries to ascertain the current status of CESQG hazardous waste generation and management. The results of those meetings and conference calls are summarized in Reference #1.

In regard to industrial waste facilities, the Agency believes that on-site co-disposal of industrial wastes with some amount of CESQG waste is a very limited practice. The Agency believes that industrial waste disposal facilities that may still be disposing of CESQG waste on-site, will elect to send their CESQG waste off-site to a municipal landfill, a hazardous waste landfill or