

is the only change to the existing part 257 language and is being proposed due to the self-implementing nature of today's proposal and to document compliance on the part of the owner/operator.

#### c. Wetlands

##### *Today's Proposed Language Regarding Wetlands (§ 257.9)*

Today's proposal establishes requirements applicable for new and lateral expansions of non-municipal solid waste disposal facilities regarding the siting in wetland locations. These requirements are identical to the requirements established for MSWLFs. The Agency has determined that new and lateral expansions of non-municipal solid waste disposal facilities, similar to MSWLFs, may be sited in wetlands only under very certain conditions. Therefore, the demonstration requirements that are in the MSWLF Criteria are being proposed today. These demonstration requirements will ensure that if a non-municipal solid waste disposal facility needs to be located in a wetland, protection of State water quality standards and protection of the wetland will be achieved. Furthermore, today's proposal is consistent with the Agency's goal of achieving no net loss of the nation's wetlands.

#### d. Fault Areas

##### *Today's Proposed Language Regarding Fault Areas (§ 257.10)*

Today's proposal for non-municipal solid waste disposal facilities that receive CESQG hazardous waste contains a location restriction regarding fault areas. These requirements are identical to the requirements established for MSWLFs. Today's proposal bans the siting of new non-municipal solid waste disposal facilities or lateral expansions of these facilities in areas that are susceptible to faulting (i.e., areas located within 200 feet of a fault that has had displacement in recent times) based on the fault area provision established in part 258. The Agency believes that locating a new facility or lateral expansion in a location that has experienced faulting has inherent dangers. If a facility is located near a fault and displacement occurs, release of solid waste and hazardous constituents will occur. The Agency, however, believes that some flexibility should be incorporated into the proposal for approved States and, as such, today's proposal allows approved States to site a new non-municipal solid waste disposal facility or lateral expansion within 200 feet of an active fault if the owner/operator demonstrates

that such an action will be protective of human health and the environment. Existing non-municipal solid waste disposal facilities that receive CESQG hazardous wastes would not be subject to today's proposed fault area restriction.

The Agency requests comments on the necessity of requiring a fault area restriction for new non-municipal solid waste disposal facilities or lateral expansions of these types of facilities that receive CESQG hazardous waste.

#### e. Seismic Impact Zones

##### *Today's Proposed Language Regarding Seismic Impact Zones (§ 257.11)*

Today's proposal for non-municipal solid waste disposal facilities that receive CESQG hazardous waste contains a location restriction regarding seismic impact zones. These requirements are identical to the requirements established for MSWLFs. Today's proposal bans the siting of new non-municipal solid waste disposal facilities or lateral expansions of these facilities in seismic impact zones based on the seismic impact zone provision in part 258. Existing non-municipal solid waste disposal facilities that receive CESQG hazardous wastes would not be subject to today's proposed seismic zone restriction. Seismic activity manifests itself in the form of ground shaking and fracturing. These activities can, like faulting, result in the release of solid waste and hazardous constituents. The Agency has incorporated the flexibility found in the MSWLF Criteria in today's proposal. As such, if owners/operators of new non-municipal solid waste disposal facilities that receive CESQG hazardous waste or lateral expansions of such facilities can demonstrate to the Director of an approved State that the facility and any containment devices used in the construction of the facility are designed to withstand the effects of seismic activity, then such a facility may be located in a seismic impact zone.

#### f. Unstable Areas

##### *Today's Proposed Language Regarding Unstable Areas (§ 257.12)*

Today's proposal for non-municipal solid waste disposal facilities that receive CESQG hazardous waste contains a location restriction regarding unstable areas. These requirements are identical to the requirements established for MSWLFs. Today's proposal applies to existing non-municipal solid waste facilities, new non-municipal solid waste facilities, and lateral expansions of these types of facilities and is based on the unstable

area provision in part 258. These facilities that receive CESQG waste must demonstrate that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components will not be disrupted. The rationale for requiring this location restriction is the same as that provided for fault areas and seismic activity zones: Waste placed in locations susceptible to mass movement or placed in areas with poor foundation conditions can result in the release of solid waste and hazardous constituents. The Agency, therefore, believes that these unstable areas should be avoided and locating in an unstable area should only be allowed after a successful demonstration by the owner/operator that the structural integrity of the facility will not be disrupted.

In summary, six location restrictions are being proposed: airport safety, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas. Existing non-municipal solid waste disposal facilities that receive CESQG hazardous wastes are only required to comply with the airport safety, floodplain, and unstable area location restrictions. New or lateral expansions of non-municipal solid waste disposal facilities that receive CESQG hazardous wastes must comply with all six location restrictions prior to accepting waste for disposal.

EPA is proposing that existing non-municipal solid waste disposal facilities that cannot make the required demonstrations pertaining to airports, floodplains, or unstable areas by 18 months after publication of the final rule must stop receiving CESQG hazardous wastes. This 18-month period is much shorter than the 5-year period that was given to MSWLFs under 40 CFR 258.16. EPA provided five years to MSWLFs because there was concern about capacity shortages if existing owners/operators of MSWLFs had to close in the short term. For this proposal, existing non-municipal solid waste disposal facilities only have to comply with three location restrictions: airport safety, floodplains, and unstable areas. Two of these three restrictions being proposed are technically identical to the existing Part 257 standards that existing non-municipal solid waste disposal facilities have been subject to since 1979 (i.e., airport safety and floodplains). The new requirements for these two location restrictions are the demonstrations documenting compliance with these provisions and a notification to the FAA if a new or lateral expansion of an existing non-municipal solid waste disposal facility wants to site within a five-mile radius