

of an airport runway end. The last location restriction applicable to existing facilities is the unstable area restriction. The Agency believes that 18 months is sufficient time for a owner/operator to demonstrate that the integrity of the facility will not be disrupted. Furthermore, the Agency does not believe that capacity concerns apply to the types of facilities that may potentially become subject to today's proposal.

With the effective date 18 months after the date of publication of the final rule, existing non-municipal solid waste disposal facilities that receive CESQG hazardous waste will need to make the necessary demonstrations during this 18-month period. In the event that an existing non-municipal solid waste facility can not make the demonstrations, the existing facility may not receive CESQG hazardous wastes after this 18-month period. If the existing non-municipal solid waste disposal facility fails to make the necessary demonstrations within 18 months and thereafter stops receiving CESQG hazardous waste, it can continue to stay open and operate; however, it must comply with the existing standards in §§ 257.1–257.4 vs. the requirements being proposed today in §§ 257.5 through 257.30.

### 3. Specific Ground-Water Monitoring and Corrective Action Requirements

The requirements in §§ 257.21–257.28 will establish ground water monitoring and corrective action requirements for any non-municipal solid waste disposal facility that receives CESQG hazardous wastes. Sections 257.21 through 257.28 establish the criteria for determining an acceptable ground-water monitoring system, the procedures for sampling and analyzing ground-water samples, the steps and factors to be used in proceeding from an initial detection monitoring phase, up to, and including corrective action for clean-up of contaminated ground water.

As stated earlier, the ground-water monitoring and corrective action requirements being proposed today for non-municipal solid waste disposal facilities that receive CESQG hazardous wastes are based on the ground-water monitoring and corrective action requirements that were promulgated under part 258 for municipal solid waste landfills. As such the areas of flexibility that exist within the MSWLF Criteria will also apply to non-municipal solid waste disposal facilities that receive CESQG hazardous waste. A detailed discussion of the MSWLF Criteria regarding ground-water monitoring and corrective action

requirements can be found at 56 *FR* 51061–51093 and in reference #1.

Today's proposal is substantively identical to the Part 258 MSWLF Criteria. The two areas of difference concern when the ground-water and corrective action requirements become effective and the time period during which ground-water monitoring must be conducted after the active life of the facility. A summary of the applicability of the ground-water monitoring and corrective action requirements and each provision is presented below.

#### **a. Applicability of Ground-water and Corrective Action Requirements**

##### *Today's Proposed Language Regarding Applicability of the Ground-Water Monitoring and Corrective Action Requirements (§ 257.21)*

Today's proposal establishes ground-water monitoring and corrective action requirements (discussed separately below) for non-municipal solid waste disposal facilities that receive CESQG hazardous wastes. Existing non-municipal solid waste disposal facilities subject to this rule must be in compliance with the ground-water monitoring requirements within 2 years after the date of publication of the final rule. The Agency is proposing a shorter effective date for today's proposal than for the MSWLF Criteria because these ground-water requirements can be phased-in over a much shorter time frame.

The MSWLF Criteria were phased in over a three to five year period based on a lack of qualified well drillers. The Agency has decided on a two year effective date for a variety of reasons. First, 24 States prohibit hazardous waste from being managed in a construction/demolition waste facility (see Chapter 4 Reference #6). Construction and demolition waste disposal facilities in these 24 States will not be impacted because they, under State law, cannot receive hazardous waste. These 24 States account for 1060 of the approximate total of 1900 construction and demolition waste landfills. Further, 8 States require ground-water monitoring and corrective action that is similar to Part 258. These 8 States account for an additional 111 construction and demolition facilities. Therefore, a total of 1,171 construction and demolition waste facilities in 32 States will not be affected by this proposal. A total of 718 construction and demolition waste landfills in 17 States (New Hampshire has no construction and demolition landfills) will be affected after this proposal is finalized. Some States from the

remaining 17 States have existing State regulations that allow them to impose ground-water monitoring requirements on a case-by-case basis. There are a total of 5 States that may impose ground-water monitoring requirements at their construction and demolition waste landfills (a total of 84 construction and demolition landfills exist in these 5 States). If only 718 construction and demolition waste owners/operators may have to have ground-water monitoring wells installed, the Agency believes that there are a sufficient number of firms that are qualified to install wells within 2 years.

The Agency is concerned that some States (3 States have a total of 491 construction and demolition waste landfills out of the 718 total that may be affected) may have difficulty in ensuring that all existing non-municipal solid waste disposal facilities that may receive CESQG waste have ground-water monitoring in place within 2 years and has allowed a one-year extension for an approved State. In an approved State, the Director can establish an alternative schedule that allows 50% of existing non-municipal solid waste disposal facilities to be in compliance within 2 years of the final rule and all non-municipal solid waste facilities that receive CESQG waste to be in compliance with the ground-water monitoring requirements within 3 years of the final rule. Similar to the MSWLF Criteria, today's proposal list a series of factors that the Director of an approved State should consider in establishing an alternative schedule.

Today's proposal establishes that the ground-water monitoring program must be conducted through the active life of the facility plus 30 years. Today's proposal does not contain provisions beyond the statutory minimum components and, therefore, no closure or post-closure care standards are being proposed. The Agency believes, however, that ground-water contamination resulting from the operation of a facility may not appear until after the active life of the facility. The Agency is therefore concerned that ground-water monitoring be conducted for some period of time after the active life of the facility. As such, today's proposal establishes the requirement that ground-water monitoring be conducted for 30 years after the active life. The term active life has also been changed from the definition in the MSWLF Criteria. Today's proposal defines active life to be the period of operation beginning with the initial receipt of solid waste and ending at the final receipt of solid waste. In the MSWLF Criteria the term active life was