

of part 258) where the Director believes that the constituent is not expected to be in or derived from the waste in the unit. Furthermore, the Director of an approved State can establish an alternative list of inorganic indicator parameters for the metals in appendix I of part 258. Also, today's proposal allows the Director of an approved State to allow for annual ground-water monitoring vs. semiannual based on a series of factors spelled-out in the proposal.

e. Assessment Monitoring Program

Today's Proposed Language Regarding Assessment Monitoring Requirements (§ 257.25)

Today's proposal establishes the same assessment monitoring program as in the MSWLF Criteria. The assessment monitoring program is essential in that an owner/operator must determine what constituents have entered the ground water and understand the extent of the contaminated plume to develop an efficient and effective corrective action program. The purpose of assessment monitoring is to evaluate, rather than detect, contamination. The Agency believes that a second phase of monitoring is essential for evaluating the nature and extent of contamination. The Agency also believes that the flexibility that exists in the MSWLF Criteria is sufficient to deal with the types of non-municipal facilities that receive CESQG hazardous waste and has, therefore, retained all of the flexibility in today's proposal.

f. Corrective Action Program

Today's Proposed Language Regarding Corrective Action Program §§ 257.26–257.28)

Today's proposal establishes the same corrective action steps as in the MSWLF Criteria. The steps that have been proposed today are those that are necessary for a successful corrective action program. Today's proposal allows the owner/operator to successfully remediate a ground-water contamination problem in a swift manner yet provides flexibility for selecting and implementing the corrective remedy. The proposed language contains performance objectives that must be considered in the evaluation, selection, and implementation of a remedy. The Agency also believes that the flexibility that exists in the MSWLF Criteria is sufficient to deal with the types of non-municipal facilities that receive CESQG hazardous waste and has, therefore, retained all of the flexibility in today's proposal.

4. Recordkeeping requirements (§ 257.30)

Similar to the recordkeeping requirement contained in the MSWLF Criteria, today's proposal requires that owners/operators of non-municipal solid waste disposal facilities that receive CESQG waste maintain a historical record of the facility. EPA is proposing this requirement to ensure the availability of basic information that will demonstrate compliance with the remainder of today's proposed requirements. Owners/operators would be required to maintain location restriction demonstrations and ground-water monitoring demonstrations, certifications, findings, reports, test results and analytical data in today's proposed operating record.

The goal of today's proposal is to have the owner/operator maintain such demonstrations in a single location that is easily accessible. The Director of an approved State has the flexibility to establish alternative locations for recordkeeping and alternative schedules for recordkeeping and notification requirements.

F. Other Issues Relating to Today's Proposal

1. Owner/Operator Responsibility and Flexibility in Approved States

The regulatory structure of the part 258 MSWLF Criteria is based on an owner/operator achieving compliance through self-implementation with the various requirements while allowing approved States the flexibility to consider local conditions in setting appropriate alternative standards that still achieve compliance with the basic goal of the part 258 Criteria. This flexibility that exists for approved States under part 258 has been retained in today's proposal and can be used by approved States in determining facility specific requirements. Individual areas of flexibility have been discussed in the previous sections detailing today's location restrictions, ground-water monitoring and corrective action requirements.

Owners/operators, due to the self-implementing nature of this proposal, would be required to comply with the promulgated standards, as of the appropriate effective date, regardless of the status of the States approval determination. If an owner/operator is located in a State that has not been approved under Subtitle D, then the owner/operator would have to comply with the promulgated standards, without the benefit of the flexibility allowed to be granted by the Director of an approved State. Owners/operators of

non-municipal solid waste disposal facilities located in approved States, that become subject to today's proposed requirements when finalized, may be subject to alternate requirements based on the approved State standards.

2. CESQG's Responsibilities Relating to the Revisions in § 261.5, Paragraphs (f) and (g)

Today's proposal would allow that CESQG waste go to either a hazardous waste facility, a reuse or recycling facility, a municipal solid waste landfill subject to part 258, a non-municipal solid waste disposal facility that is subject to the requirements being proposed in §§ 257.5 through 257.30 or a solid waste management facility that is permitted, licensed, or registered by a State to manage municipal or non-municipal waste. The Agency believes that it is appropriate to establish facility standards for non-municipal solid waste disposal facilities that receive CESQG waste while at the same time specifying acceptable disposal options that are available to CESQGs in order to ensure that their waste is properly managed. The Agency believes that proposing both regulatory changes together clarifies the obligations of both CESQGs and owners/operators of disposal facilities to ensure proper management of CESQG hazardous waste and will lead to better management of these wastes. By regulating the generators, as well as the receiving facilities, today's proposal also helps to fulfill the statutory mandate that only facilities meeting the location, ground-water monitoring, and corrective action requirements (i.e., §§ 257.5 through 257.30) "may receive" CESQG waste. See RCRA Section 4010(c).

The Agency does not believe that today's proposed change to § 261.5 will result in a larger obligation for any CESQG. The Agency knows that the majority of CESQG waste is managed off-site. For the CESQG waste managed off-site, recycling is the predominant form of management. The Agency assumes that for the small amount of CESQG waste that is currently being sent off-site to a MSWLF, no additional obligation would be imposed on a CESQG by today's proposal because the MSWLF where the CESQG waste is being sent is subject to part 258. For construction and demolition waste generators who wish to send their CESQG waste to a non-municipal solid waste disposal facility subject to the proposed requirements in §§ 257.5 through 257.30, the only additional obligation would be that associated with a phone call to the appropriate State Agency to determine if the non-