regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modification is approved. Although revisions to 40 CFR parts 257 and 261 are being proposed, for the purpose of authorization under Subtitle C, only the proposed changes to § 261.5 would be assessed against the Federal program. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law. In implementing the Federal program EPA will work with States under cooperative agreements to minimize duplication of efforts. In many cases EPA will be able to defer to the States in their efforts to implement their programs, rather than take separate actions under Federal authority.

States that submit their official applications for final authorization less than 12 months after the effective date of these standards are not required to include standards equivalent to these standards in their application. However, the State must modify its program by the deadlines set forth in § 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these standards must include standards equivalent to these standards in their applications. 40 CFR 271.3 sets forth the requirements a State must meet when submitting its final authorization application.

B. State Activities Under Subtitle D

States are the lead Agencies in implementing Subtitle D rules. The Agency intends to maintain the State's lead in implementing the Subtitle D program. RCRA requires States to adopt and implement, within 18 months of the publication of a final rule, a permit program or other system of prior approval and conditions to ensure that non-municipal solid waste disposal facilities comply with today's standards. EPA is required to determine whether States have developed adequate programs. States will need to review their existing programs to determine where their programs need to be upgraded and to complete program changes, if changes are necessary. The process that the Agency will use in evaluating the adequacy of State programs will be set forth in a separate rulemaking, the State/Tribal Permit Program Determination of Adequacy. For the purpose of determining adequacy and granting approval under Subtitle D, only the proposed technical changes in §§ 257.5 through 257.30 will

be evaluated by the Agency. The State will need to meet other procedural and administrative requirements identified in the State/Tribal Permit Program Determination of Adequacy. The approval process to be used for non-municipal solid waste disposal facilities is the same process that the Agency used for determining the adequacy of State programs for the Municipal Solid Waste Landfill criteria. In States already approved for the part 258 MSWLF Criteria, changes required by this rulemaking will constitute a program revision.

The Agency believes that for many approved States, changes required by this rulemaking will affect the technical criteria only and should warrant limited changes to the approved application. For example, if non-municipal solid waste disposal facilities subject to this rule are already subject to an approved State MSWLF program (i.e., the nonmunicipal solid waste disposal facilities are currently subject to the part 258 location restrictions, ground-water monitoring, and corrective action), the State may only be required to submit documentation that the non-municipal solid waste disposal facilities are subject to their approved program. States are encouraged to contact their appropriate EPA Regional office to determine the specifics of the approval process.

In States that have not been approved for the MSWLF Criteria, these revisions can be incorporated into an application for overall program approval of part 258 and §§ 257.5 through 257.30. States that currently restrict CESQG disposal to Subtitle C facilities (and States that may choose to adopt that restriction) or approved States which currently restrict CESQG disposal to part 258 municipal solid waste landfills will not need to seek further EPA approval of their Subtitle D program. RCRA section 4005(c)(1)(B) requires States to adopt and implement permit programs to ensure that facilities which receive CESQG waste will comply with the revised Criteria promulgated under section 4010(c). However, the Agency sees no need for approved States that already require CESQG waste to be disposed of in either Subtitle C facilities or facilities subject to the part 258 MSWLF Criteria to adopt and implement a permit program based upon the standards being proposed today.

RČRA section 7004(b)(1) requires the Administrator and the States to encourage and provide for public participation in the development, revision, implementation, and enforcement of this regulation, and once it is promulgated, the State programs

implemented to enforce it. EPA provides for public participation by seeking public comment on this proposal and its decisions on whether State programs are adequate under RCRA section 4005(c)(1)(c). In developing and implementing permit programs, States must provide for public participation in accordance with the provisions of 40 CFR part 256, subpart G.

C. Relationship Between Subtitle C and D

Today's proposal has an effective date of 18 months after publication of the final rule for the location restrictions with the ground-water monitoring and corrective action requirements becoming effective 2 years after the date of publication of the final rule. The Agency is proposing that the revisions to § 261.5(f)(3) and (g)(3) have the same effective date as the proposed changes in §§ 257.5 through 257.30 (i.e., 18 months after the date of publication of the final rule). Owners/operators of facilities that receive CESQG hazardous waste will be subject to the requirements in §§ 257.5 through 257.30. CESQGs will be subject to the proposed requirements in § 261.5. Today's proposed 18-month effective date coincides with the period of time that States have, under Subtitle D, to adopt and implement a program to ensure that owners/operators are in compliance with the proposed changes to §§ 257.5 through 257.30.

D. Enforcement

1. Hazardous Waste Enforcement

Today's proposal amends § 261.5, paragraphs (f)(3) and (g)(3), and as such any CESQG who mismanages their CESQG hazardous waste on-site or delivers the CESQG hazardous waste to an inappropriate Subtitle D facility becomes subject to the full set of Subtitle C hazardous waste regulations.

2. Subtitle D Enforcement

States that adopt programs meeting the standards in §§ 257.5 through 257.30 may enforce them in accordance with State authorities. Under RCRA section 7002, citizens may seek enforcement of the standards in §§ 257.5 through 257.30 independent of any State enforcement program. Section 7002 provides that any person may commence a civil action on his own behalf against any person who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order that has become effective pursuant to RCRA. Once the self-implementing provisions in §§ 257.5 through 257.30 become