

recognizes that small governments may own or operate solid waste disposal facilities that receive CESQG waste. However, EPA currently estimates that the majority of construction and demolition landfills, which are the primary facilities likely to be subject to any final rule, are owned by the private sector. Moreover, EPA is aware that a number of states already require owners/operators of C&D landfills to meet regulatory standards that are similar to those being proposed today. Thus, EPA believes that the proposed rule contains no regulatory requirements that significantly or uniquely affect small governments.

EPA has, however, sought meaningful and timely input from the private sector, states, and small governments on the development of this notice. Prior to issuing this proposed rule, EPA met with members of the private sector as discussed earlier in the preamble. In addition, EPA met twice with an "Industrial D" Steering Committee of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) to discuss the contents of today's proposal. The Agency provided a draft of the proposed rule to the ASTSWMO Steering Committee and incorporated comments that were received.

Finally, included in this proposal is a provision that would allow certain small CESQG landfills which are located in either arid or remote locations and which service small communities to utilize alternative methods of ground water monitoring. Prior to developing this provision, which is also being proposed in a separate notice applicable to small MSWLF facilities that are in arid or remote locations, EPA held a series of public meetings. These meetings were held in June 1994 in Texas, Utah, Alaska, and Washington, DC. EPA received comment from a variety of parties, including States and small governments. Through these meetings and publication of this notice, EPA expects that any applicable requirements of section 203 of the Act will have been satisfied prior to promulgating a final rule.

## XII. References

1. Background Document for the CESQG Rule, U.S. EPA, 1995
2. Generation and Management of CESQG Waste, U.S. EPA, Office of Solid Waste, Prepared by ICF, July 1994.
3. Screening Survey of Industrial Subtitle D Establishments, Draft Final Report, U.S. EPA, Office of Solid Waste, Prepared by Westat, December 29, 1987.

4. Construction Waste and Demolition Debris Recycling . . . A Primer, The Solid Waste Association of North America (SWANA), October 1993, Publication #: GR-REC 300

5. List of Industrial Waste Landfills and Construction and Demolition Waste Landfills, U.S. EPA, Office of Solid Waste, Prepared by Eastern Research Group, September 30, 1994.

6. Construction and Demolition Waste Landfills, U.S. EPA, Office of Solid Waste, Prepared by ICF, May, 1995.

7. National Small Quantity Hazardous Waste Generator Survey, U.S. EPA, Office of Solid Waste, Prepared by Abt Associates, Inc., February 1985.

8. Damage Cases: Construction and Demolition Waste Landfills, U.S. EPA, Office of Solid Waste, Prepared by ICF, May, 1995.

9. Solid Waste Disposal Facility Criteria, 56 FR 50977, October 9, 1991

10. Cost and Economic Impact Analysis of the CESQG Rule, Prepared by ICF, 1995.

## List of Subjects

### 40 CFR Part 257

Environmental protection, Reporting and recordkeeping requirements, Waste disposal.

### 40 CFR Part 261

Hazardous materials, Recycling, Waste treatment and disposal.

### 40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Indian-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: May 15, 1995.

**Carol M. Browner,**  
*Administrator.*

For reasons set out in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

## PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

1. The authority citation for part 257 is revised to read as follows:

**Authority:** 42 U.S.C. 6907(a)(3), 6912(a)(1), 6944(a) and 6949(c), 33 U.S.C. 1345 (d) and (e).

2. Sections 257.1 through 257.4 are designated as Subpart A—Classification of Solid Waste Disposal Facilities and Practices.

3. Section 257.1, paragraph (a) is revised to read as follows:

## § 257.1 Scope and purpose.

(a) Unless otherwise provided, the criteria in §§ 257.1–257.4 are adopted for determining which solid waste disposal facilities and practices pose a reasonable probability of adverse effects on health or the environment under sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act (The Act). Unless otherwise provided, the criteria in §§ 257.5–257.30 are adopted for purposes of ensuring that non-municipal solid waste disposal facilities that receive conditionally exempt small quantity generator (CESQG) waste do not present risks to human health and the environment taking into account the practicable capability of such facilities in accordance with section 4010(c) of the Act.

(1) Facilities failing to satisfy either the criteria in §§ 257.1–257.4 or §§ 257.5–257.30 are considered open dumps, which are prohibited under section 4005 of the Act.

(2) Practices failing to satisfy either the criteria in §§ 257.1–257.4 or §§ 257.5–257.30 constitute open dumping, which is prohibited under section 4005 of the Act.

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4. Part 257 is amended by adding a new subpart B to read as follows:

## Subpart B—Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Solid Waste Disposal Facilities

### Sec.

257.5 Facility standards for owners/operators of non-municipal solid waste disposal facilities that receive Conditionally Exempt Small Quantity Generator (CESQG) waste.

### Location Restrictions

- 257.7 Airport safety.
- 257.8 Floodplains.
- 257.9 Wetlands
- 257.10 Fault areas.
- 257.11 Seismic impact zones.
- 257.12 Unstable areas.
- 257.13 Deadline for making demonstrations.

### Ground-water Monitoring and Corrective Action

- 257.21 Applicability.
- 257.22 Ground-water monitoring systems.
- 257.23 Ground-water sampling and analysis requirements.
- 257.24 Detection monitoring program.
- 257.25 Assessment monitoring program.
- 257.26 Assessment of corrective measures.
- 257.27 Selection of remedy.
- 257.28 Implementation of the corrective action program.

### Recordkeeping Requirement

- 257.30 Recordkeeping requirements.