Supart B—Disposal Standards for the Receipt of Confidentiality Exempt Small Generator (CESQG) Wastes at Non-Municpal Solid Waste Disposal Facilities

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

- (a) Applicability. (1) The requirements in this section apply to owners/operators of any non-municipal solid waste disposal facility that receives CESQG hazardous waste, as defined in 40 CFR 261.5. Any owner/operator of a non-municipal solid waste disposal facility that receives CESQG hazardous waste continues to be subject to the requirements in §§ 257.3–2, 257.3–3, 257.3–5, 257.3–6, 257.3–7, and 257.3–8 (a), (b), and (d).
- (2) Any non-municipal solid waste disposal facility that does not meet the requirements in §§ 257.7 through 257.12 by [Insert date 18 months after date of publication of the final rule in the **Federal Register**] and the requirements in §§ 257.21 through 257.28 by [Insert date 24 months after date of publication of the final rule in the **Federal Register**] may not receive CESQG hazardous waste. Such a non-municipal solid waste disposal facility continues to be subject to the requirements in §§ 257.1–257.4.
- (b) Definitions. Active life means the period of operation beginning with the initial receipt of solid waste and ending at the final receipt of solid waste.

Existing facility means any nonmunicipal solid waste disposal facility that is receiving CESQG hazardous waste as of the appropriate dates specified in § 257.5(a)(1).

Lateral expansion means a horizontal expansion of the waste boundaries of an existing non-municipal solid waste disposal facility.

New facility means any nonmunicipal solid waste disposal facility that has not received CESQG hazardous waste prior to [Insert date 18 months after date of publication of the final rule in the **Federal Register**].

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and Indian Tribes.

State/Tribal Director means the chief administrative officer of the State/Tribal agency responsible for implementing the State/Tribal permit program for Subtitle D regulated facilities.

Uppermost aquifer means the geologic formation nearest the natural ground

surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

Waste management unit boundary means a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

Location Restrictions

§ 257.7 Airport Safety

- (a) Owners or operators of new facilities, existing facilities, and lateral expansions that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by only pistontype aircraft must demonstrate that the units are designed and operated so that the unit does not pose a bird hazard to aircraft.
- (b) Owners or operators proposing to site new facilities and lateral expansions located within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the Federal Aviation Administration (FAA).
- (c) The owner or operator must place the demonstration in paragraph (a) of this section in the operating record and notify the State Director that it has been placed in the operating record.
 - (d) For purposes of this section:
- (1) Airport means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.
- (2) Bird hazard means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

§ 257.8 Floodplains.

- (a) Owners or operators of new facilities, existing facilities, and lateral expansions located in 100-year floodplains must demonstrate that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator must place the demonstration in the operating record and notify the State Director that it has been placed in the operating record.
 - (b) For purposes of this section:
- (1) Floodplain means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.
- (2) 100-year flood means a flood that has a 1-percent or greater chance of

recurring in any given year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(3) Washout means the carrying away of solid waste by waters of the base flood.

§ 257.9 Wetlands.

- (a) Owners or operators of new facilities and lateral expansions shall not locate such facilities in wetlands, unless the owner or operator can make the following demonstrations to the Director of an approved State:
- (1) Where applicable under section 404 of the Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed landfill is available which does not involved wetlands is clearly rebutted:
- (2) The construction and operation of the MSWLF unit will not:
- (i) Cause or contribute to violations of any applicable State water quality standard.
- (ii) Violate any applicable toxic effluent standard or prohibition under section 307 of the Clean Water Act,
- (iii) Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973, and
- (iv) Violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;
- (3) The facility will not cause or contribute to significant degradation of wetlands. The owner/operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:
- (i) Erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the facility:
- (ii) Erosion, stability, and migration potential of dredged and fill materials used to support the facility;
- (iii) The volume and chemical nature of the waste managed in the facility:
- (iv) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the waste;
- (v) The potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and
- (vi) Any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected.
- (4) To the extent required under section 404 of the Clean Water Act or