Agency 992 F.2d 337 (D.C.Cir. 1993) that under RCRA section 4010(c), the only factor EPA could consider in determining whether facilities must monitor ground-water was whether such monitoring was "necessary to detect contamination," not whether such monitoring is "practicable." Thus, the Court vacated the small landfill exemption as it pertained to ground-water monitoring, and remanded that portion of the final rule to the Agency for further consideration.

Consequently, as part of the Agency's October 1, 1993 final rule delaying the effective date of the MSWLF criteria (58 FR 51536; October 1, 1993), EPA rescinded the exemption from groundwater monitoring for qualifying small MSWLFs. Also at that time, EPA delayed the effective date of the MSWLF criteria for qualifying small MSWLFs for two years (until October 9, 1995) to allow owners and operators of such small MSWLFs adequate time to decide whether to continue to operate in light of the Court's ruling, and to prepare financially for the added costs if they decided to continue to operate. This additional two-year period also was intended to provide time for EPA to determine if there are practical and affordable alternative ground-water monitoring systems or approaches that are adequate to detect contamination.

B. Summary of Proposed Rule on Alternative Ground-Water Monitoring and Delay of General Compliance Date

Since October 1993, the Agency has been collecting information and soliciting comment on cost-effective ground-water monitoring alternatives for small MSWLFs located in dry or remote locations. On August 10, 1995, EPA published a proposed rule (60 FR 40799) to provide to approved States and Tribes the flexibility to determine alternative ground-water monitoring requirements, on a site-specific basis, for qualifying small MSWLFs. Under this proposal, approved States and Tribes may consider site-specific alternatives to conventional groundwater monitoring that are relatively low in cost and will ensure ground-water contamination is detected in a timely manner. The August 10, 1995 proposed rule also requested comment on an extension of the general compliance date for qualifying small MSWLFs to allow time for the Agency to act on the proposed alternative standards.

The Agency established separate dockets and comment periods for the two aspects of this proposed rule. The docket number for the alternative ground-water monitoring requirements is F-95-AGAP-FFFFF and the comment

period for this aspect of the August 10 proposal ends on November 8, 1995. The docket number for the extension is F-95-AGDP-FFFFF and the comment period for this aspect of the proposal ended on September 8, 1995. As noted in the August 10, 1995 proposed rule, the Agency established a shorter comment period for the extension to facilitate finalization of an extension by the time the current compliance date expires on October 9, 1995. Therefore, today's final rule pertains only to the extension of the compliance date; the Agency plans to publish a separate final rule pertaining to ground-water monitoring alternatives by October 1996.

C. Details of Proposal To Delay the General Compliance Date

In the August 10, 1995 proposed rule, the Agency requested comment on two approaches for extending the compliance date of the Part 258 criteria for qualifying small MSWLFs. The following discussion provides an overview of these two approaches.

1. Two-year Extension of the General Compliance Date

The first approach would provide a two-year extension of the general compliance date for qualifying small MSWLFs, from October 9, 1995 to October 9, 1997. Thus, qualifying small MSWLF units would not become subject to compliance with any of the Part 258 requirements until October 9, 1997 (one year after the alternative ground-water monitoring standards are expected to be finalized). At that time, these MSWLF units would be required to be in compliance with all applicable requirements of Part 258, including the ground-water monitoring (or alternative ground-water monitoring) requirements and financial assurance requirements. Should a qualifying small MSWLF unit cease receipt of waste prior to October 9, 1997, the owner/operator of that unit need only comply with the final cover requirements as specified in § 258.60(a). The final cover would have to be installed by October 9, 1998.

2. Limited Extension for Only Groundwater Monitoring and Financial Assurance

The second approach proposed in the August 10 proposed rule would maintain a general compliance date for qualifying small landfills of October 9, 1995, but would extend the effective date of ground-water monitoring and financial assurance until October 9, 1997. Under this alternative approach, an owner/operator that accepted waste after October 9, 1995 would have to

comply with the location restrictions and operating requirements. Should that owner/operator cease receipt of waste by October 9, 1997 and place final cover on the landfill by October 9, 1998, that facility would be exempt from the ground-water monitoring requirements during the post-closure care period and from the financial assurance requirements for closure and post-closure care.

III. Response to Comments and Analysis of Issues Related to the Extension of the General Compliance Date for Qualifying Small MSWLFs

By the close of the public comment period, the Agency received 77 comments addressing the August 10 proposed extension of the compliance date. All of the comments received in response to this proposed rule were supportive of some type of an extension; i.e., either in favor of the general compliance date extension or the limited extension. None of the commenters suggested that qualifying small MSWLFs become subject to all of the requirements of 40 CFR Part 258 on October 9, 1995. Overall, 72 of the 77 comments were supportive of the twoyear general compliance date extension, four commenters were supportive of the two-year limited extension, and one commenter did not take a position. The Agency also received and considered a number of comments after the close of the comment period; all of these comments were supportive of the twoyear general compliance date delay. The following section summarizes and addresses the major public comments. A discussion of, and response to, the comments can be found in the docket for this rulemaking (95–AGDP–FFFFF).

A. Comments Regarding the Two-Year General Compliance Date Extension

Commenters expressing support for the general compliance date extension cited a number of reasons for their position. Many of the commenters in favor of the two-year general compliance date extension believed a full extension was necessary so that owners/operators of qualifying small MSWLFs could make economically and environmentally sound decisions regarding closure versus continued operation of their landfill after EPA has issued its final requirements for groundwater monitoring.

These commenters reaffirm, in part, the Agency's reasoning for an extension of the compliance date. As stated in the August 10 proposed rule, the Agency believes that qualifying small MSWLFs should be able to consider all sitespecific flexibilities allowed under a