

§§ 258.30–258.39 [Reserved]

**Subpart D—Design Criteria**

**§ 258.40 Design criteria.**

(a) New MSWLF units and lateral expansions shall be constructed:

(1) In accordance with a design approved by the Director of an approved State or as specified in §258.40(e) for unapproved States. The design must ensure that the concentration values listed in Table 1 of this section will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by the Director of an approved State under paragraph (d) of this section, or

(2) With a composite liner, as defined in paragraph (b) of this section and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner.

(b) For purposes of this section, *composite liner* means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec. FML components consisting of high density polyethylene (HDPE) shall be at least 60-mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component.

(c) When approving a design that complies with paragraph (a)(1) of this section, the Director of an approved State shall consider at least the following factors:

- (1) The hydrogeologic characteristics of the facility and surrounding land;
- (2) The climatic factors of the area; and
- (3) The volume and physical and chemical characteristics of the leachate.

(d) The relevant point of compliance specified by the Director of an approved State shall be no more than 150 meters from the waste management unit boundary and shall be located on land owned by the owner of the MSWLF unit. In determining the relevant point of compliance State Direc-

tor shall consider at least the following factors:

- (1) The hydrogeologic characteristics of the facility and surrounding land;
- (2) The volume and physical and chemical characteristics of the leachate;
- (3) The quantity, quality, and direction, of flow of ground water;
- (4) The proximity and withdrawal rate of the ground-water users;
- (5) The availability of alternative drinking water supplies;
- (6) The existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking water;
- (7) Public health, safety, and welfare effects; and
- (8) Practicable capability of the owner or operator.

(e) If EPA does not promulgate a rule establishing the procedures and requirements for State compliance with RCRA section 4005(c)(1)(B) by October 9, 1993, owners and operators in unapproved States may utilize a design meeting the performance standard in §258.40(a)(1) if the following conditions are met:

- (1) The State determines the design meets the performance standard in §258.40(a)(1);
- (2) The State petitions EPA to review its determination; and
- (3) EPA approves the State determination or does not disapprove the determination within 30 days.

NOTE TO SUBPART D: 40 CFR part 239 is reserved to establish the procedures and requirements for State compliance with RCRA section 4005(c)(1)(B).

TABLE 1

Chemical	MCL (mg/l)
Arsenic .....	0.05
Barium .....	1.0
Benzene .....	0.005
Cadmium .....	0.01
Carbon tetrachloride .....	0.005
Chromium (hexavalent) .....	0.05
2,4-Dichlorophenoxy acetic acid .....	0.1
1,4-Dichlorobenzene .....	0.075
1,2-Dichloroethane .....	0.005
1,1-Dichloroethylene .....	0.007
Endrin .....	0.0002
Fluoride .....	4