BACKGROUND DOCUMENT

RESOURCE CONSERVATION AND RECOVERY ACT
SUBTITLE C - HAZARDOUS WASTE MANAGEMENT

SECTION 3004 - STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR PART 265

GENERAL ISSUES CONCERNING INTERIM STATUS STANDARDS

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE

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GENERAL ISSUES CONCERNING

INTERIM STATUS STANDARDS

I. INTRODUCTION

Section 3005(e) of the Resource Conservation and Recovery Act (RCRA or "the Act") states that any owner or operator of an existing hazardous waste management facility who has complied with the notification requirements specified in Section 3010(a) and has applied for a permit shall be treated as having been issued a permit. Facility owners or operators who meet the above conditions are considered to have interim status until final administrative disposition of the permit application is made. Accordingly, the interim status period is defined as the period between the date the initial Section 3001-3005 regulations go into effect and the date final administrative action on the permit application is taken.

At the time the RCRA Section 3004 standards were proposed on December 18, 1978 (43 FR 58982), it was the Agency's intent that interim status standards would consist of a selected set of the general Section 3004 standards. Accordingly, the proposed interim status standards were specified in §250.40(c)(2) for the most part as references to certain provisions of the proposed Section 3004 standards.

It is now clear that promulgation of the general Section 3004 standards will be phased over time. Consequently, the Agency is

specifying the interim status standards in 40 CFR Part 265 independently of the general Section 3004 standards in 40 CFR Part 264. This procedure will allow implementation of the initial phase of the RCRA hazardous waste control program without further delay, and will avoid the ambiguity and confusion which may arise when standards are referenced and cross-referenced (which was the case in the December 1978 proposal).

This document addresses general issues regarding interim status standards. The reader is directed to other background documents for discussion of the substantive requirements applicable during the interim status period.

II. RATIONALE FOR NEED TO REGULATE

The Agency estimates that approximately 48 million metric tons per year of hazardous waste--mainly from industrial sources--was generated in the United States in 1975.(1) This amount grows every year. Based on documented damage cases (see other background documents for particulars) and EPA reports,(2) EPA estimates that treatment, storage, and disposal of as much as 90 percent of hazardous waste is not currently in accord with the proposed Section 3004 regulations. In RCRA, Congress mandated regulatory controls

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(1) EPA Draft Environmental Impact Statement, Subtitle C, Resource Conservation and Recovery Act, January 1979.

(2) EPA Open File Report, "The National Potential for Damage from Industrial Waste Disposal," 1977, p. 12.

over hazardous waste management activities to protect human health and the environment. However, the requirements to be imposed on prospective permittees who have interim status pursuant to Section 3005(e) of RCRA presents a special problem.

EPA anticipates approximately 30,000 prospective permittees. They will have notified EPA of their hazardous waste activities, will have applied for a permit, and will be waiting for EPA issuance or denial of a permit. Based on the potential administrative complexity of issuing hazardous waste permits, the limited staff that EPA expects to have available to review and negotiate permit applications, and based on EPA's experience with the NPDES permit program under the Clean Water Act, the Agency estimates that it will take several years to issue all permits. Therefore, many prospective permittees will have interim status for an extended period of time. In keeping with the intent of Congress that hazardous waste management be regulated by national standards as quickly as possible, EPA believes that these prospective permittees should at least comply with selected minimal requirements of the general Section 3004 standards during interim status.

The Agency does not believe that permit applicants with interim status should be expected to meet all of the general Section 3004 standards because many of the specific requirements of these standards may be inappropriate for certain facilities and alternate

requirements may be substituted when a permit is issued. Some permittees also may be allowed a reasonable period of time to comply with certain of the general Section 3004 standards because Section 3005(c) of RCRA provides that EPA (or a State when it is issuing the permit under a program authorized by EPA pursuant to Section 3006) may incorporate compliance schedules in the permits it issues. Because most variance and all compliance schedule determinations are meant to be made in the permit issuance process, where there is full opportunity for public participation, the Agency does not believe it is appropriate or possible to impose all of the general Section 3004 requirements prior to permit issuance.

On the other hand, given Congress' intent that hazardous waste management be regulated as quickly as possible, and the independent enforceability of Section 3004 standards, EPA believes that the prospective permittees should begin to meet certain requirements of the general Section 3004 standards which apply generally to all permittees and which will definitely be included in the permit. This will help achieve RCRA's goal of protection of human health and the environment. For the same reasons, the prospective permittee in interim status also should meet the financial requirements for facility closure and post-closure monitoring and maintenance; some funds then will be available even if the facility is closed prior to issuance of a permit or as a consequence of failure to obtain a permit.

Further, EPA believes it would be inequitable to most facility owners and operators to allow some of them to enjoy the benefits of operation during the interim status period without assuming the financial responsibility for proper closure and post-closure care, should they elect to close their facility prior to obtaining a permit.

III. SYNOPSIS OF PROPOSED REGULATION

The proposed regulation required interim status facilities to comply with a small, slightly modified portion of the proposed Section 3004 standards. More specifically, the proposed interim status regulation included:

- all security and contingency plan requirements
- all training requirements
- all manifest, recordkeeping, and reporting requirements
- all visual inspection requirements
- most closure and post-closure care requirements
- groundwater monitoring where equipment was already installed
- most financial requirements where compliance would not render the facility insolvent
- limited storage requirements
- very limited technical treatment and disposal requirements

IV. COMMENT ANALYSIS AND RATIONALE FOR CHOSEN ACTION

The Agency received numerous comments from a wide cross-section of commenters concerning general issues raised by the proposed

interim status standards. These comments fall into the following issue areas which are discussed in turn below:

- authority for interim status standards
- additional requirements during interim status
- financial requirements
- compliance period
- notes and variances
- equity
- general comments

A. Authority

A number of commenters expressed support for the interim status standard concept. Some of these stated that legal authority for such requirements exists in Section 3004 of the Act. They argued as follows:

> Compliance with the permit requirements of Section 3005 is only one of seven requirements Congress set forth for inclusion in Section 3004 regulations. The interim status provision of Section 3005(e) applies only in lieu of the specific requirements of Section 3005(a) and 3010(b) that operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) must have a permit issued pursuant to the RCRA regulations within six months of their promulgation. The remaining Section 30C requirements for TSDFs are not affected by the interim status provisions. If Congress had intended to exclude all interim status TSDFs from Section 3004 requirements then there would be no Section 3004 regulations to take effect on the date specified in Section 3010(b).

In opposition, a number of commenters stated that EPA has no legal authority to impose facility requirements during the interim status period, and recommended deletion of the interim status

standards since EPA has the power to deal with imminent hazards under Section 7003 and the remaining facilities can continue under existing local control until new permits are issued.

One commenter argued that neither Section 3005 nor Section 3010 of RCRA authorizes EPA to require compliance with interim status standards. The commenter stated:

> Moreover, Section 3005(e) requires that interim status applies if the facility owner or operator complies with its three prerequisites. Under these circumstances, established principles of statutory construction mandate that no additional prerequisite be imposed by regulation.

Another commenter stated:

> The requirements of Section 3004 need to be considered only at the final disposition of the permit application, where the application is approved, approved with a compliance schedule, or denied. Therefore, while the requirements of Section 3004 must be complied with in order to receive a permit, they need not be complied with during the period of interim status.

Along the same lines, another commenter stated:

> The requirements listed here are requirements for a permit, not an interim permit. An interim permit, according to Section 3005(e) is granted automatically upon meeting the requirements of 3010(a) and has applied for a permit under Section 3005 until such time as the appropriate agency (State or Federal) has reviewed and processed the application. If such requirements were presently being met, there would be no need for a law such as P.L. 94-580. These requirements, if left in, would completely close down any operations commenced prior to October 21, 1976, thereby causing complete chaos of disposal, treatment, and/or storage activities. Any replies made to Section 3010 (notification) and 3005(e) (permit application) would make the notifier or applicant subject to suit in Federal court immediately and no protection could be given.

Upon review of these comments, it is apparent that there is some misunderstanding about the relationship of Section 3004 to Sections

3005, 3008, and 3010 of RCRA. Section 3004 regulations are independent national standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. These standards are independently enforceable. Section 3008 authorizes enforcement actions against persons violating <u>any requirement</u> of Subtitle C, which includes Section 3004 requirements.

Section 3005(a) mandates EPA to promulgate regulations requiring owners or operators of hazardous waste facilities to have a permit, and prohibits treatment, storage, and disposal of hazardous waste without a permit after the effective date of these regulations. Section 3005(c) requires that EPA determine that a facility complies with Section 3004 requirements before issuing a permit. Section 3010(b) states that all the Subtitle C regulations, including Section 3004 and 3005 regulations, take effect six months after they are promulgated. Section 3001 regulations are keyed to the entire Subtitle C system, however, because only persons handling waste identified or listed in 3001 regulations must comply with Subtitle C requirements.

Thus, on the effective date of the Section 3001, Section 3004, and Section 3005 regulations, facility owners and operators are required to comply with all the Section 3004 standards and have a permit under Section 3005 in order to operate legally. Clearly, it is beyond the capability of facility owners or operators to comply with all Section 3004 requirements, and the Agency (or authorized

States) to issue all permits, within the six months between regulation promulgation and effective date.

Section 3005(e) resolves part of the problem by authorizing facility owners or operators, under certain conditions, to obtain interim status wherein they are to be treated as having been issued a permit until such time as final administrative disposition of their permit application is made. This satisfies the mandates of Section 3005(a) and of Section 3004(7) which prohibit operations without a permit. However, Section 3005(e) does not address the independent requirement of compliance with Section 3004 standards upon their effective date.

As discussed above, Section 3004 standards are independently enforceable requirements which apply to all treatment, storage, and disposal of hazardous waste. In addition to the automatic applicability of Section 3004 standards, however, EPA interprets the language of Section 3005(e)(3), that a person shall be treated as having been issued a permit, to mean that a person who operates with interim status must accept the responsibilities and liabilities associated with being a permittee. Thus the conditions of Section 3004 which are imposed on permit holders by operation of Section 3005(c) and (d) are also applicable to owners or operators of facilities with interim status because they "shall be treated as having been issued such permit."

For the reasons noted in Section II. above, the Agency does not believe that permit applicants with interim status should be expected to meet all of the general Section 3004 standards immediately. Hence, the Agency derived the concept of interim status standards which the Agency believes can be met: (1) without substantial interpretation by or negotiation with EPA, (2) without substantial capital expenditures which are properly the result of the certainty of permit conditions, and (3) within the six-month period between regulation promulgation and effective date.

The Section 3004 interim status standards are expressly intended to avoid the "complete chaos" and "closure of operations begun prior to October 21, 1976," mentioned by a commenter above, which could otherwise result if the full force of all the Section 3004 standards were applied immediately.

The general rulemaking authority of Section 2002(a)(1) of RCRA provides additional authority to establish interim status standards. This section states:

> In carrying out this Act, the Administrator is authorized to:
> (1) Prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this Act;

The Agency believes, for the technical and policy reasons given above, that it is appropriate to use this general authority to establish interim status standards.

B. Additional Requirements During Interim Status

Several commenters felt that the scope of the proposed interim status standards should be expanded to include all requirements of the general Section 3004 regulations which could be implemented immediately and that would be unlikely to require modification when a permit is issued. Specifically, one or more commenters suggested adding the following requirements to those proposed:

1. Ground-water and leachate monitoring for all facilities, whether or not such systems are already in place.

2. All closure and post-closure requirements including submission of a closure plan.

3. Limits on the types of waste that can be handled at facilities.

4. Landfill diversion structures, gas collection systems, and cover materials.

5. Sampling and analysis of wastes by facility owners or operators under proposed §250.43(f), (g), and (h).

6. General human health and environmental standards outlined in proposed §250.42.

7. General site selection standards in proposed §250.43-1.

8. Prohibition on the growth of food chain crops on land treatment facilities (landfarms).

9. Soil monitoring at land treatment facilities (landfarms).

10. Inspections at basins.

11. Incinerator trial burns and exhaust gas monitoring.

Each of these suggested additions to the interim status standards is discussed below. In some cases, the reader is referred to other documents which contain more detailed discussions of the Agency's rationale for resolving these comments.

1. Ground-water and Leachate Monitoring. The proposed interim status standards required the owners or operators of landfills and surface impoundments where ground-water or leachate monitoring systems were in place to conduct sampling and analyze samples from these systems, and to keep records and report results of the sampling and analysis. Several commenters suggested requiring ground-water and leachate monitoring at all facilities, whether or not such systems were already in place. They felt that exempting some sites from conducting this monitoring would mean that local and State implementing authorities would be deprived of the warning needed to determine if sites are endangering ground water and local water supplies. Further, some of the commenters stated that ground-water monitoring must be installed eventually at all final permitted facilities. They felt that EPA should not postpone monitoring until the final permit is issued because facility permits may not be issued for five years or longer. Other commenters felt that monitoring data were essential to identify sites violating the human health and environmental standards and to trigger appropriate action against those sites. (However, the human health and environmental standards were not proposed as interim status standards.)

The Agency has considered these comments carefully. First of all, it should be noted that leachate monitoring in the unsaturated zone beneath landfills and surface impoundments has been deleted from the Phase I Section 3004 standards for technical reasons (see

ground-water monitoring background document for details). However, the Agency has determined that leachate monitoring is technically feasible and appropriate for land treatment facilities (landfarms), and has added this requirement to the interim status standards for these facilities (see land treatment background document for details).

The proposed ground-water monitoring requirements in the interim status standards applied to landfills and surface impoundments but not to other types of hazardous waste management facilities, such as storage tanks and incinerators. This was done because the Agency believed it was not necessary to monitor ground water beneath facilities where hazardous waste is not held or handled for long periods and where containment structures can be inspected visually for leakage. However, some of the commenters suggested requiring ground-water monitoring for all facilities.

The Agency has reviewed its position on this point and has concluded that ground-water monitoring is generally applicable to land treatment facilities, as well as landfills and surface impoundments, since hazardous waste is held or handled for long periods and seepage to ground water cannot be detected visually. Ground-water monitoring may also be appropriate in certain cases for other types of facilities, such as underground storage tanks. However, the Agency has decided that these situations are better handled on a case-by-case basis than by a general rule. (See ground-water monitoring background document for further discussion.)

Consequently, the Agency believes that landfills, surface impoundments, and land treatment facilities are the only classes of hazardous waste management facilities to which ground-water monitoring is generally applicable. For purposes of this discussion, the Agency will assume that the basic issue is whether or not all landfills, surface impoundments, and land treatment facilities should have ground-water monitoring systems during the interim status period.

There are a number of factors upon which this issue turns. On the one hand, it is true that nearly all landfills, surface impoundments, and land treatment facilities will eventually be required to install ground-water monitoring systems as a condition of issued permits. Installation of these systems during interim status would supply several years of data and early warning of potential ground-water contamination problems which would not otherwise be available. Given the recent spate of ground-water problems identified at hazardous waste facilities operated in the past (see ground-water monitoring background document), this is a significant factor.

On the other hand, the planning and construction of ground-water monitoring systems takes time and should be overseen by qualified hydrogeologists. Also, ground-water monitoring systems may not be needed in some circumstances. Further, the proposed ground-water sapling and analysis requirements were extensive and contained provisions for variances in some cases.

On balance, the Agency has decided that the advantages--in terms of increased human health and environmental protection--obtained by requiring all landfills, surface impoundments, and land treatment facilities to have ground-water monitoring systems during the interim status period outweigh the drawbacks outlined above. However, the Agency is concerned about the short time (six months after regulation promulgation) available for compliance by such facilities currently operating without ground-water monitoring systems and the other negative factors mentioned earlier. Consequently, the Agency has written the final interim status standards to require all hazardous waste landfills, surface impoundments, and land treatment facilities to have ground-water monitoring systems unless the owner or operator conducts hydrogeological studies overseen by a geologist which demonstrates such systems are unnecessary. This demonstration must be available on demand by the Regional Administrator. The requirement, however, has been delayed for one year after the effective date of the regulations to allow enough time for proper planning and installation of such systems. Finally, the sampling and analysis requirements have been simplified so that variances are no longer necessary.

2. Closure and Post-Closure. A number of commenters suggested adding the requirement for submitting a closure plan to EPA, as outlined in proposed §250.43-7(c), to the interim status standards.

Another commenter felt that all general closure and post-closure requirements in proposed §250.43-7 should be included, as well as the technical closure requirements for landfills in proposed §250.45-2(c), for surface impoundments in proposed §250.45-3(e), for basins in proposed §250.45-4(h), and for landfarms in proposed §250.45-5(g). The commenter felt inclusion of these sections in the interim status standards would diminish the abandonment of dangerous hazardous waste facilities during the years it takes EPA to develop permits.

The technical closure requirements cited above were already included in the proposed rule as interim status standards and thus are not at issue. Further, all sections of §250.43-7, except paragraphs (c), (i), and (o), were also included in the proposed rule as interim status standards. Thus, the following discussion concentrates on the excepted paragraphs of §250.43-7, which dealt with submission of a closure plan, securing the site at closure, and transfer of ownership during the post-closure period.

Upon review of the comments, it is clear that some members of the public did not understand the Agency's intention regarding closure plans during the interim status period. The Agency intended that each facility owner or operator with interim status would prepare a closure plan for his facility to include estimates of closure costs, and post-closure costs, if applicable. The owner or

operator would then use this information as the basis for complying with financial requirements (a closure trust fund, and post-closure trust fund, if applicable). However, the Agency did not and does not believe it is necessary for owners or operators routinely to submit these closure plans to the Agency for review during the interim status period. In EPA's opinion the Agency staff should focus on issuing permits and enforcement matters, rather than reviewing closure plans. The Agency can ensure that closure plans are prepared via facility inspections. Further, a closure plan is to be submitted with Part B of the facility permit application. At the time the permit is considered, the Agency will review the plan and require it to be revised, if necessary.

Should an owner or operator wish to close his facility during the interim status period (prior to permit issuance or denial), he must contact the Regional Administrator 180 days before he expects to begin closure. At that time, the Agency will review the closure plan and require it to be adjusted, if necessary.

These procedures have been clarified in the final rules. (See closure and post-closure background document for details.)

The Agency has reviewed the closure security and post-closure transfer of ownership provisions which were excluded from the proposed rule. The Agency concurs with the comment that the post-closure security and transfer of ownership provisions should be included in the interim status standards, since a significant number

of facilities may close during the interim status period. These facilities should be subject to the same requirements for closure as those which close after a permit is issued to them, in order to assure that human health and the environment are protected.

3. Ignitable, Reactive, or Incompatible Wastes. A commenter suggested that restrictions on the handling of ignitable, reactive, incompatible, or volatile wastes at landfills, surface impoundments, basins, and landfarms should be included in the interim status standards. No rationale for this suggestion was given.

Most references to volatile waste have been deleted from the final standards for the reasons provided in the preamble to the Section 3004 regulations. The other restrictions were not included in the proposed interim status standards because they involved variances which were to be resolved during the permitting process.

As a result of a number of comments about variances (see IV. E. below), the Agency has decided that certain variances can apply during the interim status period by rewording the proposed rules and relying upon a self-implementing system wherein an owner or operator can use the variances to suit particular circumstances at his facility, provided he can demonstrate upon request by EPA that the variances in fact apply.

Consequently, in the final interim status rules, the Agency has included restrictions on the handling of ignitable, reactive, and incompatible waste at certain facilities, subject to variances which

may apply. Application of these variances will be up to the owner or operator during interim status, and will be reviewed during the permit issuance process. The Agency believes this procedure provides a greater degree of human health and environmental protection than would be the case if the rules were simply excluded from the interim status standards.

4. Landfill Rules. Several commenters felt that requirements for landfill diversion structures, gas collection systems, and cover material should be included in the interim status standards. No rationale for this suggestion was given.

The requirement for landfill gas collection systems has been deleted from the final standards for the reasons given in the landfill background document.

The need for landfill diversion structures arises from the potential for precipitation from outside the active portion of the facility to run onto the active portion and become contaminated. This contaminated water may then run off into surface waters or seep into the ground. A related problem involves precipitation which falls directly on the active portion of a facility. It may also become contaminated run-off, and thereby cause similar problems.

The Agency shares what was apparently the commenter's concern regarding contaminated surface water run-off, and agrees that provisions for its control should be included in the final interim status regulations. Accordingly, during the interim status period,

the final rules require that run-on must be diverted away from the active portions of a landfill, and the run-off from the active portions of a facility must be collected. The collected run-off must be managed in accordance with these Subtitle C regulations if it is found to be hazardous waste. As suggested by the commenters, one means to reduce the amount of run-off which must be dealt with is to divert non-contaminated run-off (from non-active areas) away from the active part of the facility. However, because surface water run-off can be controlled by means other than construction of diversion structures, the Agency has left the choice of measures to control contaminated surface water run-off up to the owner or operator.

The Agency realizes that constructing run-off containment structures and treatment facilities, where necessary, may require a modest capital expenditure and may take longer to implement than the period between the promulgation and effective dates of these regulations. Also, obtaining an NPDES permit, when necessary, may take longer than six months. Therefore, the Agency has decided that the requirements to divert run-on and to contain run-off will not become effective until one year after promulgation of these regulations.

Landfill cover material requirements were not proposed as interim status standards because daily cover is not always needed, and the requirement was subject to a variance. The Agency has decided not to include a landfill cover requirement in the final interim status standards, except for final cover during closure (see landfill background document).

5. Waste Analysis. Some commenters felt that sampling and analysis of hazardous waste by facility owners or operators (proposed §250.43(f), (g) and (h)) should be included as an interim status standard. No rationale for this suggestion was given.

These provisions were not specifically proposed as interim status standards. However, waste analysis was required in order to comply with other interim status standards. As a result of a number of comments about these provisions (see waste analysis background document), the Agency has modified the requirements for waste sampling and analysis. The facility owner or operator is now required to prepare and follow a waste analysis plan appropriate to the waste handled and type of facility. Waste analysis requirements specific to different types of facilities (e.g., incinerators, tanks) are given in the technical sections.

The Agency believes this approach will account for the widely varying circumstances encountered at facilities across the nation. Further, the Agency believes that facility owners or operators should know enough about the wastes they handle to comply with the reporting and technical requirements of the regulations. Consequently, both general and specific waste analysis requirements have been added to the interim status standards.

6. Human Health and Environmental Standards. One commenter suggested adding the general human health and environmental standards (proposed §250.42) to the interim status standards. However, the

human health and environmental standards have been deleted from the final rules for the reasons given in the preamble to the Section 3004 regulations. Thus, the comment is not discussed further here.

7. Site Selection Standards. Some commenters felt that the general site selection standards (proposed §250.43-1) should be made a part of the interim requirements, because omission of these standards is "contrary to the intent of the law and completely unacceptable."

While it is true that Section 3004(4) of the Act specifies that regulations must include requirements respecting the location of hazardous waste facilities, and the Agency proposed such standards in §250.43-1, the Agency excluded them from the interim status requirements for the simple reason that there are few options, other than closure, for existing facilities already located in areas restricted by the new rules.

The Agency feels that immediate closure of such facilities during the interim status period is too severe a sanction, and may be contrary to Section 3005 of RCRA which provides for compliance schedules as part of the permitting process. Also, there may be circumstances where variances or waivers to allow continued operation of such facilities is in the best overall interests of human health and environmental protection. Thus, the Agency disagrees with the comment and has continued to exclude site selection standards from

the interim status requirements. EPA believes that those standards should be applied on a case-by-case basis during the permitting process.

8. Food Chain Crops on Land Treatment Facilities (Landfarms). Commenters suggested that growth of food chain crops on landfarms should be prohibited during the interim status period. No rationale was given for this suggestion.

This issue is discussed at length in the land treatment facilities background document. Based on the reasons discussed in that document, the Agency has decided that growth of food chain crops on land treatment facilities should be prohibited during the interim status period unless the owner or operator develops substantial data on plant uptake, soil conditions, waste application rates, etc., and retains this data subject to EPA review on request.

9. Soil Monitoring at Land Treatment Facilities (Landfarms). Commenters suggested that soil monitoring at landfarms (proposed §250.45-5(d)) should be an interim status standard. No rationale was given for this suggestion.

Again, this issue is discussed in the land treatment facilities background document, and that discussion will not be repeated here. For the reasons given in that document, the Agency has decided that the soil monitoring requirement at land treatment facilities should be made part of the interim status standards. It should be noted that soil monitoring also is indicated after closure of a land

treatment facility whether closure occurs during interim or permitted status.

10. Inspections at Basins. Commenters felt the requirement for inspections at basins (proposed §250.45-4(f)) should be an interim status standard. No rationale for this suggestion was given.

In response to numerous comments on the proposed rule for inspections, the Agency has adopted an approach in the final rule which calls for a facility owner or operator to prepare and implement an inspection plan specific to the circumstances at his facility. (See inspections background document for details.) This approach applies to basins, (which are considered as tanks in the final rules), among other types of facilities, during both the interim and permitted status periods. Thus, the Agency has adopted the commenter's suggestion, but in a different manner than specified in the proposed rule.

11. Incinerator Trial Burns and Monitoring. Commenters felt that requirements for incinerator trial burns and emissions, feed, and temperature monitoring (proposed §250.45-1 (b) and (c)) should be included in the interim status standards. No specific reason for this suggestion was given.

The Agency recognizes that incinerator trial burns and monitoring are important factors for incineration facilities. However, these requirements were not included in the proposed interim status standards because trial burn parameters and methods can be complex,

and continuous emission monitoring equipment is relatively sophisticated and expensive, and must be installed properly to give meaningful readings. The Agency continues to believe these requirements should be specific permit conditions based on case-by-case evaluation of each facility owner's or operator's permit application. Thus, these requirements are not appropriate for interim status standards.

C. Financial Requirements

Proposed §250.40(c)(2)(vi) regarding closure and post-closure requirements during the interim status period made reference to, among others, proposed §250.43-7(a) which required facility owners or operators to "comply with the applicable Financial Requirements in §250.43-9." Commenters pointed out that proposed §250.43-7(a) is inappropriate since financial requirements for the interim status period were spelled out in proposed §250.40(c)(2) (viii).

The Agency acknowledges that the comment is correct. Proposed §250.43-7(a) was included inadvertently and inappropriately in the interim status standards.

Proposed §250.40(c)(2)(viii)(D) provided discretion to the Regional Administrator to allow partial compliance with the closure and post-closure trust fund requirements if the facility owner or operator could demonstrate that full compliance with these requirements would render the facility owner or operator insolvent. Commenters objected to this provision on the grounds that it allowed excessive discretion to the Regional Administrator. Others felt that

the insolvency waiver during the interim status period should apply only if the owner or operator can demonstrate that he will ultimately be able to fully comply with the closure and post-closure trust fund requirements upon permit issuance.

The Agency has carefully reviewed these comments and the others directed at the main financial requirement provisions in proposed §250.43-9. Based on these comments, the Agency has decided to change and repropose the approach to closure financial requirements during both interim and general status. In the reproposed rules, a surety bond, a trust fund built up over the facility life, a letter-of-credit, or a combination of these financial instruments, or a financial strength test, may be used to satisfy the closure financial requirements. These new provisions should allow facility owners or operators to meet the requirements with substantially less "upfront" money than was required by the trust fund approach in the original proposed rule.

The reproposed post-closure financial requirements can be satisfied with the same financial instruments required for closure, or a combination of them. The post-closure requirement applies only to disposal facilities, rather than to all facilities. Nonetheless, to avoid undue financial hardship, the post-closure financial requirement effective date is proposed to be delayed for one year after the effective date of the regulations. This should allow owners or operators to satisfy their post-closure financial

requirements, if applicable, from operating revenues rather than from current assets.

Consequently, the Agency believes the insolvency waiver proposed for the interim status period is no longer appropriate, and it has been deleted from the reproposed standards. (See the financial requirements background document for further details.)

D. Compliance Period

Many commenters suggested alternate compliance schedules for the interim status requirements as follows:

1. Should the effective date of the regulations coincide with the date of promulgation, compliance with the interim status standards would not be feasible. Some could be effective immediately, such as manifests or visual inspections. Other items will take some period of time to evaluate and implement, such as the financial requirements. We therefore recommend that the Agency develop a reasonable timetable for the implementation of the interim status standards, with the allowed compliance time ranging from 30 to 180 days, depending upon the complexity of the particular standard.

2. Most facilities will not be able to develop a contingency plan and closure plan and meet the security, training, and financial requirements in one day (the effective date). We would suggest that the interim status requirements be limited to the manifest system, recordkeeping, and reporting requirements at least for the first 180 days.

3. All interim status requirements should take effect six months after promulgation of the regulations as supported by Section 3010(b) of RCRA.

4. Recommend that 180 days additional time be given for an existing facility to comply with the interim status requirements after the rules become effective. [No rationale given.]

5. Allow a reasonable compliance period for each interim requirement. ["Reasonable" not defined.]

6. EPA should phase in the interim standards over a period of years and thus avoid problems that would arise from failure to comply with these standards on the effective date of the RCRA regulations. Those companies that have difficulty meeting the interim standards should be allowed time in which to achieve compliance.

7. Three commenters presented specific recommendations for interim status standard compliance periods using essentially the same rationale, but with different suggested schedules, as follows:

Many of the interim status requirements will be difficult, if not impossible, for existing facilities to comply with in the time proposed. It is recognized that Subtitle C regulations are not effective until 180 days following promulgation (90 days for Section 3010), but this time period will be utilized for examining and testing waste streams, and preparing the necessary permit applications which will be required as well as implementing these interim requirements. Additional time must be provided for achieving compliance with the substantive requirements such as building a fence (250.43-2), and developing a contingency plan (250.43-3), and so on. Accordingly, ----- requests that 250.40(c) be revised to allow for a reasonable compliance period for each specific interim requirement. In particular, we recommend that this be accomplished by adding a new section 250.40(c)(7) as follows:

> Compliance with the interim requirements specified in 250.40(c)(2) shall be achieved on the following time periods, following the effective date of interim status for each facility:

Requirement	Commenter A	Commenter B	Commenter C
Security	90 days	270 days	180 days
Contingency Plan	90 days	90 days	180 days
Training	180 days	180 days	NC
Manifest, Records, Reports	Immediately	Immediately	NC
Inspection	Immediately	NC	NC
Closure and Post-Closure	180 days	360 days	180 days
Ground-water Monitoring	30 days	30 days	NC

Financial Requirements	180 days	180 days	NC
Storage	Immediately	180 days	NC
Containers	30 days	180 days	NC
Treatment/Disposal	90 days	180 days	NC
Landfills	30 days	180 days	NC
Surface Impoundments	Immediately	180 days	NC
Basins	Immediately	180 days	NC
Landfarms	Immediately	180 days	NC
Chem./Phys./Biol. Treatment	30 days	180 days	NC

[NC means no comment was made. No rationale for the specific schedule suggested for each requirement was provided.]

The Agency's response to the above comments is as follows. Comments No. 1 and No. 2 were clearly predicated on the incorrect assumption that the interim status requirements become effective on the date of promulgation. Those making Comment No. 3 correctly noted that Section 3010(b) of RCRA specifies that the interim status requirements take effect six months after promulgation of the regulations. EPA did not require a particular compliance schedule in the proposed rule, because to do so would be redundant to Section 3010(b) and because EPA believed that six months was a reasonable compliance period for all of the interim status standards. Nonetheless, the concerns expressed in Comments No. 1 and No. 2 are automatically accounted for by the compliance schedule specified in RCRA.

Comment No. 4 is similar in some ways to Comment No. 7 in that both recognize the schedule specified in RCRA, and yet make an appeal for specific additional time for compliance with the requirements. Since no rationale was provided for Comment No. 4, however, the Agency will respond to it under the umbrella of Comment No. 7.

Comment No. 5 was submitted by a number of sources but is too general in that it lacks definition of what a "reasonable" compliance period may be. Therefore, the Agency will not respond to this comment specifically except to say that the statute provides that the regulations are to become effective six months after their promulgation and EPA believes that's reasonable compliance time for all those requirements for which we haven't given an extended compliance date.

Comment No. 6 argues for phasing in the interim standards over a period of years "to avoid problems that would arise from failure to comply with these standards on the effective date." Presumably, the "problems" referred to are EPA enforcement actions against those not in compliance. The Agency considers six months to be a reasonable compliance period, and, therefore, disagrees with this comment.

Comment No. 7 provides a general rationale for specific suggestions for compliance periods for each interim requirement, but the three commenters proposed different schedules for each item. Further, no specific rationale for each proposed schedule was provided by any of the three commenters.

The general rationale argues that additional time beyond the six months between regulation promulgation and effective date is needed to achieve compliance with the substantive requirements, such as building a fence and developing a contingency plan, because facility owners or operators will use the six-month period for examining and testing waste streams, and preparing the necessary permit applications.

The Agency does not believe these are valid arguments. Examination and testing of wastes listed in the Section 3001 regulations is not required. For nonlisted wastes, it takes a maximum of 24 hours to perform the test protocols for determining whether or not a waste stream meets the hazardous waste characteristics specified in the Section 3001 regulations. In any event, these tests must be completed within 90 days (not six months) in order to comply with the notification requirements of Section 3010 of RCRA.

The comments were written before the permit application regulations under Section 3005 of RCRA were proposed, and, therefore, the commenters may have assumed that applying for a permit would be a difficult and time consuming task. However, the permit rules provide for a two-step permit application process. A facility owner or operator may satisfy Section 3005(e) of RCRA and thereby qualify for interim status (provided Sections 3005(e)(1) and (2) are also complied with) by submitting Part A of the permit application within six months after the Section 3005 regulations are promulgated. Part A of the permit application requires the following:

(1) Name, address, and telephone number of the owner and operator, and, if different, of the facility.

(2) Type of facility ownership (e.g., State, private).

(3) A brief description of the nature of the business and applicable SIC codes.

(4) A listing of all permits or construction approvals under certain Federal and State permit programs.

(5) A topographic map depicting the facility and nearby wells, springs, and other surface water.

(6) The latitude and longitude of the facility.

(7) The relationship between the operator and owner of the facility.

(8) The physical status of the facility (whether existing, undergoing modifications, or planned).

(9) A schematic drawing of the facility.

(10) Photographs of the facility.

(11) Cost estimates for closure and post-closure activities.

(12) A description of the techniques used for storing, treating, or disposing of hazardous waste, and an estimate of the capacity of the components used.

(13) A description of the hazardous wastes that will be handled while the facility is under interim status.

(14) A description of the hazardous wastes that the owner or operator wishes to handle when the facility is issued a RCRA permit.

Part B of the permit application, to be submitted later when requested by EPA, contains the more substantive information requirements, such as detailed operation and maintenance plans, detailed descriptions of site geology and hydrology, climatic information, etc. The Agency believes it is neither difficult nor time consuming to assemble the Part A information. Consequently, the burden of preparing Part A of the permit application should be substantially less than the commenters anticipated.

As to building fences, the security requirement has been modified in the final rule such that a fence is no longer explicitly required. Where a facility must have a fence but does not already have one (which is unlikely), the Agency believes a suitable fence can be constructed around a facility within the six-month period following regulation promulgation.

The contingency plan must include:

(1) A description of the response to emergencies at the facility;

(2) Where appropriate, a description of arrangements agreed to by local agencies to provide emergency response services;

(3) A list of facility emergency coordinators;

(4) A list of emergency equipment at the facility; and

(5) Where appropriate, an evacuation plan.

The Agency believes a facility owner or operator should be able to prepare a contingency plan meeting the above requirements within the six-month period between regulation promulgation and effective date.

For all of the reasons given above, the Agency does not agree with the points made in the general rationale of Comment No. 7 and sees no reason to delay compliance of the security and contingency plan requirements mentioned therein.

Of the 14 remaining specific compliance schedule recommendations (for which no rationale was given) in Comment No. 7, at least one of the three commenters felt that six of these could be met without

additional time delays. The Agency concurs with those comments. Four other requirements were proposed to take effect 30 days after the effective date of the regulations, or 210 days after promulgation instead of 180 days. It is not clear to the Agency that an additional 30 days would provide any significant advantage to facility owners or operators, nor does the Agency agree that such delays are justified, except as noted earlier that the installation of new ground-water monitoring and run-off control systems may require up to an additional year beyond the normal compliance period.

The four remaining requirements for which compliance delays were proposed are:

Training	180 days
Closure and Post-Closure	180/360 days
Financial Requirements	180 days
Treatment/Disposal	90/180 days

The training requirement has a six-month delay built into it already, that is, operating personnel at existing facilities must complete a training course six months after the effective date, or one year after promulgation of the regulations. The Agency believes a one-year period is more than adequate time for facility owners or operators to develop a training program and administer it to their employees. Hence, the Agency is convinced that further delays are not justified.

The closure and post-closure requirements apply upon or after closure of a facility. The key to compliance is the facility closure date, not the effective date of the regulations. Thus, the Agency sees no reason to delay the effective date of the regulations. However, the Agency intends to add the requirement that a closure plan, and for disposal facilities, a post-closure plan, be prepared for interim status, as discussed earlier. The closure plan must be completed within the six-month period following regulation promulgation, and must include:

(1) A description of how and when the facility will be closed and a schedule for closure;

(2) A description of the steps necessary to decontaminate equipment during closure; and

(3) The maximum inventory of wastes that is expected during the life of the facility.

The post-closure plan, where applicable, must include a description of post-closure monitoring and maintenance planned for the facility.

The Agency believes these requirements can easily be met within the six months following regulation promulgation and thus is not persuaded that a compliance period delay is justified.

As mentioned earlier, the closure and post-closure care financial requirements have been modified by allowing a variety of financial instruments, and will be reproposed. Consequently, the proposed delay in the compliance period is moot.

The proposed treatment/disposal requirements for interim status (proposed §250.45(a) and (b)) have been deleted from the final rule. Thus, there is no need to discuss compliance periods for them.

Commenters recommended not only that the interim requirements should take effect six months after promulgation, but also that compliance with them should be a prerequisite to the granting of a permit.

EPA considered making these interim status standards part of the permit application process under Section 3005(b) of RCRA, i.e., having the permit application require an owner or operator to submit information about how he is implementing the interim status standards. EPA would then review the application and assess the owner's or operator's explanation before notifying a prospective permittee that he has fulfilled the requirements for interim status. The Agency, however, considers that requiring this additional information would impose too great a burden on the regulated community and evaluating the information would impose too great a burden on EPA. EPA believes that the mandate of RCRA will be better served by having its staff work on issuing or denying permits rather than on making complicated assessments relating to interim status.

E. Notes and Variances

Many commenters suggested that the status of "Notes" in the proposed rules should be clarified regarding their applicability during the interim status period. Some commenters felt the regulations should allow facility owners or operators with interim status to make

good faith judgments as to their compliance with the applicable regulations including the "Note" requirements. Also it was recommended that EPA revise the interim security requirement to clarify that facilities that do not need to construct fences, for any of the reasons in the accompanying "Note," are not required to do so.

The Agency agrees that it was not clear whether "Notes" in the proposed rules (which were intended to allow variances from the rules in certain circumstances) applied during the interim status period, nor was it clear who was to determine compliance with the "Notes" if they did apply.

In response to numerous comments concerning the "Note" system in general, the Agency has incorporated the substance of these "Notes" directly into the final rules. Thus, there are no "Notes" allowing variances anymore. Where appropriate, allowable variances are included directly in the final interim status standards. Consequently, there should be no confusion as to whether or not certain variances are allowable during the interim status period.

The Agency agrees that, to a certain degree, facility owners or operators should be allowed to make good faith judgments as to whether or not allowable variances apply to them during interim status. The final rules specify that a facility owner or operator may elect to follow alternative requirements allowed by a variance, provided he can demonstrate the facts and rationale supporting that judgment when requested by the Regional Administrator. Thus, a

self-implementing system applies to variances during the interim status period, but that system is subject to oversight by EPA, which can request evidence supporting the variance at any time.

In any event, variances will be reviewed by EPA during the permit issuance process, and will be reflected in the permit conditions if a facility owner or operator can demonstrate eligibility for the variance as required in the regulations.

F. Equity

1. Common Permit Effective Date. Many commenters expressed concern that inequities are likely to develop in permitting facilities during the interim status period. EPA estimated in the preamble to the proposed regulations that it could take up to five years to issue all of the permits. Several commenters pointed out that, for example, one facility's permit application may be reviewed early in the period and a compliance schedule imposed to meet the full set of Section 3004 standards, while a similar competing facility might be subject only to the interim status standards for several years thereafter until its permit application is reviewed.

To minimize potential inequities, several commenters urged EPA to establish a definite period in which only the interim status standards apply, regardless of when a permit is issued. In other words, all permits and permit requirements would become effective at the same time. The interim status period, according to some commenters, should be sufficiently long to ensure that essentially all of

the permits would be issued. Others suggested a five-year period. Also, it was suggested that the permitting procedure could be similar to that followed in achieving compliance with the BPT requirements under the Clean Water Act, and that this procedure would ensure equitable treatment.

It should be noted that there is no language in RCRA which suggests that EPA should or could specify a future date by which all facilities are to be in compliance with the Subtitle C regulations. Thus, RCRA differs from the Clean Water Act which mandated a specific date by which all wastewater treatment systems were to be in compliance with the BPT requirements, as mentioned by one of the commenters. There is no statutory mandate in RCRA to follow the suggested approach. Further, the Clean Water Act approach did not provide complete equity since all permits were not issued in time for the compliance date to be met. Thus, the Agency does not agree that setting a future date on which all RCRA permits would become effective would necessarily preclude inequitable situations. Further, EPA believes this approach is inconsistant with the clear Congressional mandate to provide safer hazardous waste management practices as quickly as possible.

The above comments are really directed at the Agency's permitting priority policies, rather than at the substance of the interim status standards. Further, RCRA provides that the Administrator may include compliance schedules in permits when necessary to bring a

facility into compliance with Section 3004 requirements. This is done at the time of permit issuance, and thus after the interim status period ends. Consequently, the equity issue is more properly addressed by the manner in which EPA sets permitting priorities, and implements Section 3005(c) of the Act.

2. Case-by-Case Interim Status Standards. Some commenters assumed that final permits would be delayed the longest for existing facilities, and that these facilities would thus have to carry a disproportionate share of the compliance burden. These commenters suggested that interim requirements should be imposed on existing facilities on a case-by-case basis, using past operating experience of these facilities which is known by State environmental agencies. These commenters felt that case-by-case evaluations would be more equitable than the "blanket" approach proposed.

First of all, the Agency is at a loss to understand why the commenters believe that delay of permit issuance will cause a facility to carry an increased share of the compliance burden over those permitted at an earlier time. This is the opposite stance from the comments reviewed at F.1. above. Since the interim status standards are less extensive than the general Section 3004 standards which apply under permitted status, one assumes that those facilities permitted first would carry the greater burden.

Setting this anomaly aside, the Agency does not agree that interim status standards should be applied on a case-by-case basis. This approach would be a "de facto" permit program. It would require

substantial commitment of Agency resources which are better spent in developing final permits, rather than "de facto" permits. Lastly, it is difficult to see how this approach would be considered more equitable than uniform national standards applicable to everyone, as proposed. Consequently, the Agency has not adopted a case-by-case approach for the interim status standards.

3. Discrimination Against Off-site Facilities. In the preamble to the proposed rules, it was mentioned that the Agency had developed implementation plans which would give first priority for permitting to off-site disposal facilities and new facilities. Several commenters felt it would be discriminatory to regulate (permit) off-site facility owners or operators while others (on-site) are subject only to the more limited interim status standards.

Again, these comments are aimed at EPA's implementation plans for RCRA rather than the interim status standards themselves. The Agency is developing final implementation strategies which may be different from those proposed. Consequently, the Agency believes no further discussion of these comments is appropriate in this document.

4. No Intention To Obtain Permits. Commenters suggested that many facility owners or operators who never intend to actually obtain a permit will take advantage of the interim status period by applying for a permit, using unrealistically low estimates for establishing closure and post-closure funds, competing in the marketplace with legitimate owners or operators for the several years it will take to

fully review permit applications, and then closing their facility prior to permit issuance or denial. To counter this, commenters suggested that EPA should: (a) prior to issuing an identification number, inspect each facility to determine the facility owner's or operator's financial capability and his potential to comply ultimately with the requirements of RCRA, or (b) issue identification numbers only to those facility owners or operators who presently hold valid State or Federal NPDES permits to receive and dispose of specific hazardous waste compounds. [Note: In the proposed rule, EPA announced its intention to issue an identification number to each facility owner or operator who qualifies for interim status.]

The Agency shares the concern expressed by these commenters, but disagrees with their suggested solutions. Interim status is achieved automatically by a facility owner or operator who complies with Section 3005(e) of RCRA. EPA cannot initially withhold interim status from facility owners or operators, who otherwise qualify, based on the Agency's subjective judgments of financial capability, intent to ultimately comply with RCRA's requirements, or on the basis of State or Federal permits issued under other statutes. If EPA becomes aware of facilities which are not meeting the interim status standards (including financial requirements) the Agency can bring an enforcement action against them under Section 3008 of RCRA or can act quickly on the facility's permit application (i.e., request Part B and begin processing it).

The Agency has made it clear in the final rules for interim status (as it was in the proposal) that facility owners or operators who elect to close their facilities while in interim status (before permit issuance or denial) must do so in accordance with closure requirements and post-closure requirements, if applicable, that are equivalent to those required for closure and post-closure for permitted facilities. Thus, these owners or operators will not escape the responsibilities (and costs) of complying with these requirements. Consequently, the potential inequities feared by the commenters should be greatly reduced, if not totally eliminated.

5. The "In Existence" Problem. Several commenters pointed out what they perceived as a serious fault in the structure of RCRA.

> As currently written, Section 3005(e) limits interim status to owners or operators of facilities "in existence on the date of enactment of this Act," or October 21, 1976. Facilities built after that date are not eligible for interim status and must obtain final permits within 180 days after regulation promulgation in order to operate legally. It is unlikely that final permits can be obtained in this time by all facility owners or operators in this group. This would be grossly unfair to this group.

Some commenters felt that the owners or operators of facilities in operation or in an advanced state of construction before the effective date of the RCRA regulations should be eligible for interim status as a matter of practicality and fairness. Others suggested that the Section 3005 regulations provide for a temporary, short-term permit for facility owners or operators in this group.

The Agency agrees that the "in existence" problem identified by the commenters is serious and has important equity and capacity availability aspects. In the proposed rule, the Agency defined "in existence" as broadly as possible to minimize the number of facilities affected by the problem. Nonetheless, some facilities will still be affected. Consequently, the Agency proposed, and the Congress is now considering an amendment to RCRA which would change the wording of Section 3005(e)(1) of RCRA to solve the problem and eliminate the need for temporary permits as suggested by commenters above.

G. General Comments

1. Hazardous Waste Definition. Commenters felt that the question of what truly constitutes a "hazardous" waste should be resolved prior to the imposition of the additional costs which will be associated with the interim status standards.

The Agency agrees, certainly, since this is implicit in the structure of Subtitle C of RCRA. The Section 3001 regulations provide the definition of hazardous wastes which are subject to interim status standards.

2. Exemptions. A few commenters were alarmed to discover there may be many instances where existing boilers, incinerators, kilns, clarifiers, or lagoons may suddenly be defined as hazardous waste treatment plants under the RCRA regulations. The commenters' argument goes on to state:

> It does not seem that the Agency has yet recognized the full import of this issue. The rules applying to "interim status" may be quite appropriate for an existing hazardous waste site, but very lacking if they are to apply, say, to an industrial power boiler or to a wastewater lagoon.
>
> The Agency is urged to consider this problem more carefully and to make adequate provision for exclusions and exemptions of certain such facilities which we believe were not intended to be covered.

The Agency is well aware of the "import of this issue," to paraphrase the commenter. Many other comments on the main Section 3004 proposed regulations (as opposed to the interim status standards) raised the same issue and challenged the applicability of the RCRA rules to certain types of facilities. This led to recently proposed Congressional amendments to RCRA to clarify its applicability to surface impoundments which are part of NPDES permitted wastewater treatment systems, and to exemptions or deferral of applicability of RCRA regulations to certain other types of facilities, such as drilling mud and brine pits associated with oil and gas exploration and production.

In addition to pending Congressional actions, the Agency has deferred or excluded from regulatory coverage other facilities, such as industrial power boilers. (See Section 3001 background documents for further details.) All of these actions apply to the interim status standards as well as the general regulations. Thus, there has been substantial response to the comments in the final rules.

3. Closure of "Active Portions." Commenters inferred that the interim status standards do not apply to portions of a landfill site closed in accordance with the facility closure plan and closure standards, and then raised the question:

> During interim status, are those portions of the site not meeting the definition of "active portion" (i.e., not closed according to the closure plan) included in [the interim status standards]? Will site owners or operators be forced to reclose all parts of their site if they want to remain in operation under these regulations? There is a need for clarification of the definition of "active portion" in relation to what closure plans apply during interim status.

Part of the commenters' confusion arises from the original inference, which is incorrect. The interim status standards apply to those portions of a landfill which are either actively receiving hazardous waste (active portion) or are closed after the effective date of the regulations. The interim status standards contain landfill closure and post-closure standards which must be complied with after the rules take effect. Portions of landfills closed prior to the effective date of the regulations are not subject to the interim status standards, whether or not they were closed in accordance with the new rules. Thus, landfill owners or operators will not be forced to reclose all parts of their site in order to remain in operation under the interim status standards.