Environmental Protection Agency

§ 258.13 Fault areas.

(a) New MSWLF units and lateral expansions shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the Director of an approved State that:

(1) Cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the MSWLF unit 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 MSWLF unit;
   (ii) Erosion, stability, and migration potential of dredged and fill materials used to support the MSWLF unit;
   (iii) The volume and chemical nature of the waste managed in the MSWLF unit;
   (iv) Impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid 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.

(2) To the extent required under section 404 of the Clean Water Act or applicable State wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by paragraph (a)(1) of this section, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

(3) Sufficient information is available to make a reasonable determination with respect to these demonstrations.

(b) For purposes of this section, wetlands means those areas that are defined in 40 CFR 232.2(r).