§ 257.3–1 Floodplains.
(a) Facilities or practices in floodplains shall not restrict the flow of the base 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 life, wildlife, or land or water resources.
(b) As used in this section:
(1) *Base flood* means a flood that has a 1 percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.
(2) *Floodplain* means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, which are inundated by the base flood.
(3) *Washout* means the carrying away of solid waste by waters of the base flood.

§ 257.3–2 Endangered species.
(a) Facilities or practices shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife.
(b) The facility or practice shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR part 17.
(c) As used in this section:
(1) *Endangered or threatened species* means any species listed as such pursuant to section 4 of the Endangered Species Act.
(2) *Destruction or adverse modification* means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.
(3) *Taking* means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting or attempting to engage in such conduct.

§ 257.3–3 Surface water.
(a) For purposes of section 4004(a) of the Act, a facility shall not cause a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under section 402 of the Clean Water Act, as amended.
(b) For purposes of section 4004(a) of the Act, a facility shall not cause a discharge of dredged material or fill material to waters of the United States that is in violation of the requirements under section 404 of the Clean Water Act, as amended.
(c) *Destruction or adverse modification* means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.
(3) *Taking* means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting or attempting to engage in such conduct.

§ 257.3–4 Ground water.
(a) A facility or practice shall not contaminate an underground drinking water source beyond the solid waste boundary or beyond an alternative boundary specified in accordance with paragraph (b) of this section.
(b) (1) For purposes of section 1008(a)(3) of the Act or section 405(d) of the CWA, a party charged with open dumping or a violation of section 405(e) with respect to sewage sludge that is not used or disposed through a practice regulated in 40 CFR part 503 may demonstrate that compliance should be determined at an alternative boundary in lieu of the solid waste boundary. The court shall establish an alternative boundary only if it finds that such a
§ 257.3–5 Application to land used for the production of food-chain crops (interim final).

(a) Cadmium. A facility or practice concerning application of solid waste to within one meter (three feet) of the surface of land used for the production of food-chain crops shall not exist or occur, unless in compliance with all requirements of paragraphs (a)(1)(i) through (iii) of this section or all requirements of paragraphs (a)(2)(i) through (iv) of this section.

(i) The pH of the solid waste and soil mixture is 6.5 or greater at the time of each solid waste application, except for solid waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less.

(ii) The annual application of cadmium from solid waste does not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate does not exceed:

<table>
<thead>
<tr>
<th>Time period</th>
<th>Annual Cd application rate (kg/ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present to June 30, 1984</td>
<td>2.0</td>
</tr>
<tr>
<td>July 1, 1984 to December 31, 1986</td>
<td>1.25</td>
</tr>
<tr>
<td>Beginning January 1, 1987</td>
<td>0.5</td>
</tr>
</tbody>
</table>

(iii) The cumulative application of cadmium from solid waste does not exceed the levels in either paragraph (a)(1)(iii)(A) or (B) of this section.

(A)