

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 71 MUNICIPAL SOLID WASTE LANDFILLS

20.11.71.1 ISSUING AGENCY: Albuquerque-Bernalillo County Air Quality Control Board.
[20.11.71.1 NMAC - N, 1/1/06]

20.11.71.2 SCOPE:

A. Applicability: 20.11.71 NMAC is applicable to the city of Albuquerque and Bernalillo county.
(1) Existing municipal solid waste landfills: Except as provided in 20.11.71.14 NMAC, each owner or operator of an existing (active or closed) municipal solid waste landfill is subject to all provisions specified in 40 CFR Part 60, Subpart Cf, *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*, as promulgated by the US EPA on August 29, 2016. Physical or operational changes made to an existing municipal solid waste landfill solely to comply with an emission guideline are not considered a modification or reconstruction and do not subject an existing municipal solid waste landfill to the requirements of 40 CFR Part 60 Subpart XXX.

(2) New municipal solid waste landfills: In addition to being subject to 20.11.71.13 NMAC new municipal solid waste landfills are subject to 40 CFR Part 60, Subpart XXX, *Standards of Performance for Municipal Solid Waste Landfills* as incorporated by reference in 20.11.63 NMAC, *New Source Performance Standards for Stationary Sources*.

B. Exempt: 20.11.71 NMAC does not apply to sources within Bernalillo county, that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.
[20.11.71.2 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.3 STATUTORY AUTHORITY: 20.11.71 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, Section 74-2-5 NMSA 1978; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinances Section 30-33; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.
[20.11.71.3 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.4 DURATION: Permanent.
[20.11.71.4 NMAC - N, 1/1/06]

20.11.71.5 EFFECTIVE DATE: January 1, 2006, unless a later date is cited at the end of a section.
[20.11.71.5 NMAC - N, 1/1/06]

20.11.71.6 OBJECTIVE: To establish requirements for municipal solid waste landfills (MSWLs) in order to control emissions of methane and non-methane organic compounds (NMOC); to create a legally enforceable mechanism to require owners and operators of existing MSWLs to comply with the provisions of 40 CFR Part 60, Subpart Cf.
[20.11.71.6 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.7 DEFINITIONS: All definitions found in 40 CFR Part 60, Subpart A apply. All definitions found in 40 CFR Part 60, Subpart XXX apply to new municipal solid waste landfills and all definitions found in 40 CFR Part 60, Subpart Cf apply to existing MSWLs. In addition to the definitions in 20.11.71.7 NMAC, the definitions in 20.11.1 NMAC *General Provisions* apply unless there is a conflict between definitions, in which case the definition in 20.11.71 NMAC shall govern. As used in this part:

A. "Active municipal solid waste landfill" or "active MSWL" means an MSWL in which solid waste is being placed or an MSWL that is planned to accept waste in the future.

B. "Closed municipal solid waste landfill" or "closed MSWL" means an MSWL in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed in 40 CFR 60.7(a)(4). Once a notification of modification has been filed and additional solid waste is placed in the MSWL, the MSWL is no longer closed.

C. "Existing municipal solid waste landfill" or "existing MSWL" means an active or closed MSWL meeting the following conditions:

(1) has commenced construction, modification, or reconstruction on or *before* July 17, 2014;
and;

(2) has accepted household waste at any time *since* November 8, 1987, or has additional design capacity available for future waste deposition.

D. "New municipal solid waste landfill" or "new MSWL" means an MSWL that commenced construction, reconstruction, or modification after July 17, 2014.
[20.11.71.7 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.8 VARIANCES: The variance provisions of 20.11.7 NMAC, Variance Procedure, Revised Ordinances of Albuquerque 1994 Section 9-5-1-8, Bernalillo County Ordinances Section 30-37 and Section 74-2-8 NMSA 1978 shall *not* apply to 20.11.71 NMAC or the incorporated federal standards.
[20.11.71.8 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.9 SAVINGS CLAUSE: Any amendment to 20.11.71 NMAC that is filed with the state records center shall not affect actions pending for violation of a city or county ordinance, the air quality regulations for Albuquerque and Bernalillo county or a permit issued by the department. Prosecution for a violation under a prior statute, ordinance, regulation or permit shall be governed and prosecuted under the statute, ordinance or regulation in effect at the time the violation was committed.
[20.11.71.9 NMAC - N, 1/1/06]

20.11.71.10 SEVERABILITY: If any section, paragraph, sentence, clause or word of 20.11.71 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.71 NMAC.
[20.11.71.10 NMAC - N, 1/1/06]

20.11.71.11 DOCUMENTS: Documents incorporated and cited in 20.11.71 NMAC may be viewed at the Albuquerque environmental health department, one civic plaza, suite 3023, 400 Marquette NW, Albuquerque, NM 87102.
[20.11.71.11 NMAC - N, 1/1/06]

20.11.71.12 [Reserved]
[20.11.71.12 NMAC - N, 1/1/06]

20.11.71.13 PERMITTING REQUIREMENTS:

A. Operating permits: New and existing MSW landfills with design capacities greater than or equal to 2.5 million megagrams or 2.5 million cubic meters are subject to the permitting requirements of 20.11.42 NMAC *Operating Permits*. New and existing MSW landfills with design capacities less than 2.5 million megagrams or 2.5 million cubic meters are not subject to permitting requirements under 20.11.42 NMAC *Operating Permits* unless they are a major source as defined in 20.11.42 NMAC *Operating Permits*.

B. Construction Permits: Emissions of NMOC from MSW landfills subject to 20.11.71 NMAC shall not be included in applicability determinations that would otherwise be required by 20.11.41 NMAC *Construction Permits* and shall not be subject to the permit requirements of 20.11.41 NMAC.
[20.11.71.13 NMAC - N, 1/1/06; A, 5/13/17]

20.11.71.14 REQUIREMENTS FOR EXISTING MUNICIPAL SOLID WASTE LANDFILLS:

A. Except as provided below, requirements for existing (active and closed) MSWLs will be in accordance with 40 CFR Part 60 Subpart Cf.

(1) Existing active and closed MSWLs will continue to comply with 40CFR Subpart Cc or WWW, as applicable, until the effective date of final EPA approval, as published in the federal register, of a state plan for Albuquerque – Bernalillo County implementing 40 CFR Part 60 Subpart Cf. Upon such EPA approval, existing (active and closed) MSWLs will comply with 40 CFR Part 60 Subpart Cf.

(2) Each owner or operator of an existing (active or closed) MSWL must comply with all provisions in 40 CFR Part 60 Subpart Cf notwithstanding any language therein characterizing provisions of 40 CFR Part 60 Subpart Cf as "guidelines."

B. All reports required in 40 CFR Part 60, Subpart Cf shall be submitted to the department according to the schedules outlined in that subpart and to the administrator of the EPA as required by that subpart. Additional

notifications regarding progress toward meeting the final compliance schedule for control system installation and startup shall be submitted to the department as follows:

- (1) Contracts for construction of collection and control systems shall be awarded or orders for purchase of components shall be completed no later than six months following submission of the final control plan as required by 40 CFR 60.38f(d);
- (2) On-site construction or installation of the collection and control system shall be initiated no later than nine months following submission of the final control plan;
- (3) On-site construction or installation of the collection and control system shall be completed no later than 29 months following the submission of an annual NMOC emission rate report showing NMOC emissions equal to or exceeding the emissions threshold in 40 CFR Part 60, Subpart Cf; and
- (4) Initial performance testing shall occur no later than 150 days following the final compliance date in 40 CFR Part 60, Subpart Cf.

C. Exceptions: Unless otherwise specified in the applicable federal subpart, on a case by case basis and consistent with 40 CFR Part 60.24(f), an existing active or closed MSWL may apply for a less stringent emission standard or longer compliance schedule than those otherwise required by this part, provided that the owner or operator demonstrates to the department:

- (1) Unreasonable cost of control, including, but not limited to, MSWL age, location, or basic design;
- (2) Physical impossibility or impracticability of installing necessary control equipment; or
- (3) Other environmental factors specific to the MSWL that make application of a less stringent standard or final compliance time significantly more reasonable.

[20.11.71.14 NMAC - N, 1/1/06; A, 5/13/17]

HISTORY OF 20.11.71 NMAC:

Pre-NMAC History: None.

History of Repealed Material: [Reserved]

Other History: [Reserved]