

This is an amendment to 20.11.71 NMAC, Sections 2, 3, 6, 7, 8, 13, and 14, effective 5/13/2017.

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:** ~~[Each owner or operator of an existing municipal solid waste (MSW) landfill is subject to all provisions required by 40 CFR 60.30c through 60.36c Subpart Ce, *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*] as promulgated by the US EPA on March 12, 1996, except as provided for in Subsection B of 20.11.71.14 NMAC. Physical or operational changes made to an existing MSW landfill solely to comply with an emission guideline (40 CFR 60 Subpart Ce) are not considered a modification or reconstruction and do not subject an existing MSW landfill to the requirements of 40 CFR 60 Subpart WWW.] 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 ~~[MSW]~~ municipal solid waste landfills are subject to 40 CFR Part 60, Subpart ~~[WWW]~~ 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, ~~[Sections 74-2-4, 74-2-5C]~~ Section 74-2-5 NMSA 1978; the Joint Air Quality Control Board Ordinance, Bernalillo County ~~[Ordinance 94-5 Sections 3 & 4]~~ Ordinances Section 30-33; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 ~~[Sections 9-5-1-3 &]~~ Section 9-5-1-4.

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

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: ~~[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.]~~

A. **“Commercial solid waste”** means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

B. **“Design capacity”** means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site specific density, which must be recalculated annually.

C. **“Division”** means the air quality division of the city of Albuquerque environmental health department or its successor agency.

D. **“Existing municipal solid waste landfill”** or means a MSW landfill meeting all of the following conditions:

(1) has commenced construction, modification, or reconstruction ~~before May 30, 1991;~~

(2) has not been modified or reconstructed since May 30, 1991;
(3) has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition; and
(4) is active, or has additional capacity, or is closed.

E. **"Household waste"** means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas).

F. **"Industrial solid waste"** means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, 40 CFR Parts 264 and 265. Industrial solid waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. Industrial solid waste does not include mining waste or oil and gas waste.

G. **"Megagram"** means 1,000,000 grams, or the equivalent of 1,102311 tons.

H. **"Modification"** means an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion.

I. **"Municipal solid waste landfill"** or **"MSW landfill"** means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A MSW landfill may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D wastes such as commercial solid waste, non-hazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a MSW landfill may be separated by access roads. A MSW landfill may be publicly or privately owned. A MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

J. **"New municipal solid waste landfill"** means a MSW landfill that commenced construction, reconstruction, modification, or began accepting waste on or after May 30, 1991.

K. **"NMOC"** means non-methane organic compounds, as measured according to the provisions of 40 CFR 60.754. NMOC may include many compounds commonly referred to as VOCs (volatile organic compounds) and HAPs (hazardous air pollutants).

L. **"Reconstruction"** shall have the same meaning as specified by 40 CFR 60.15.] 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 [Ordinance 94-5 Section 4] 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]

20.11.71.13 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. [Authority to Construct] 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 *[Authority to Construct] 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. [Reporting and Compliance: Except as provided below, reporting and compliance requirements for existing MSW landfills shall be as required by 40 CFR 60 Subpart Ce.

(1) Within 90 days of final US EPA approval of 20.11.71 NMAC, each owner or operator of an existing MSW landfill, shall submit to the division an initial design capacity report as required by 40 CFR 60.757(a)(2) of Subpart WWW.

(2) Within 90 days of final US EPA approval of 20.11.71 NMAC, each owner or operator of an existing MSW landfill, with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters, shall submit to the division an NMOC emission rate report in accordance with 40 CFR 60.757(b)(1) and (2) of Subpart WWW.

(3) Within 30 months of first reporting NMOC emissions of 50 megagrams per year or more, the owner or operator of an existing MSW landfill, with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters, and with an NMOC emission rate greater than or equal to 50 megagrams per year, shall install a gas collection and control system and operate the system as required by 40 CFR 60.752(b) of Subpart WWW.] 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. [Exceptions: None.] 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]