**Federal Regulations Adopted by Reference**

In accordance with Rule 62-204.800, F.A.C., the following federal regulation in Title 40 of the Code of Federal Regulations (CFR) was adopted by reference. The original federal rule numbering has been retained.

*Federal Revision Date: April 20, 2006*

*Rule Effective Date: January 8, 2007*

*Standardized Conditions Revision Date: August 6, 2009*

**40 CFR Part 63, Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills**

**Source:** 68 FR 2238, Jan. 16, 2003, unless otherwise noted.

**WHAT THIS SUBPART COVERS**

**§ 63.1930 What is the purpose of this subpart?**

This subpart establishes national emission standards for hazardous air pollutants for existing and new municipal solid waste (MSW) landfills. This subpart requires all landfills described in §63.1935 to meet the requirements of 40 CFR part 60, subpart Cc or WWW and requires timely control of bioreactors. This subpart also requires such landfills to meet the startup, shutdown, and malfunction (SSM) requirements of the general provisions of this part and provides that compliance with the operating conditions shall be demonstrated by parameter monitoring results that are within the specified ranges. It also includes additional reporting requirements.

**§ 63.1935 Am I subject to this subpart?**

You are subject to this subpart if you meet the criteria in paragraph (a) or (b) of this section.

(a) You are subject to this subpart if you own or operate a MSW landfill that has accepted waste since November 8, 1987 or has additional capacity for waste deposition and meets any one of the three criteria in paragraphs (a)(1) through (3) of this section:

(1) Your MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A.

(2) Your MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A.

(3) Your MSW landfill is an area source landfill that has a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters ($m^3$ ) and has estimated uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) NMOC as calculated according to §60.754(a) of the MSW landfills new source performance standards in 40 CFR part 60, subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan that applies to your landfill.

(b) You are subject to this subpart if you own or operate a MSW landfill that has accepted waste since November 8, 1987 or has additional capacity for waste deposition, that includes a bioreactor, as defined in §63.1990, and that meets any one of the criteria in paragraphs (b)(1) through (3) of this section:

(1) Your MSW landfill is a major source as defined in 40 CFR 63.2 of subpart A.

(2) Your MSW landfill is collocated with a major source as defined in 40 CFR 63.2 of subpart A.

(3) Your MSW landfill is an area source landfill that has a design capacity equal to our greater than 2.5 million Mg and 2.5 million $m^3$ and that is not permanently closed as of January 16, 2003.

**§ 63.1940 What is the affected source of this subpart?**

(a) An affected source of this subpart is a MSW landfill, as defined in §63.1990, that meets the criteria in §63.1935(a) or (b). The affected source includes the entire disposal facility in a contiguous geographic space where household waste is placed in or on land, including any portion of the MSW landfill operated as a bioreactor.

(b) A new affected source of this subpart is an affected source that commenced construction or reconstruction after November 7, 2000. An affected source is reconstructed if it meets the definition of reconstruction in 40 CFR 63.2 of subpart A.

(c) An affected source of this subpart is existing if it is not new.

**§ 63.1945 When do I have to comply with this subpart?**

(a) If your landfill is a new affected source, you must comply with this subpart by January 16, 2003 or at the time you begin operating, whichever is last.

(b) If your landfill is an existing affected source, you must comply with this subpart by January 16, 2004.

(c) If your landfill is a new affected source and is a major source or is collocated with a major source, you must comply with the requirements in §§63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW.

(d) If your landfill is an existing affected source and is a major source or is collocated with a major source, you must comply with the requirements in §§63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or EPA approved and effective State or tribal plan that applies to your landfill or by January 13, 2004, whichever occurs later.

(e) If your landfill is a new affected source and is an area source meeting the criteria in §63.1935(a)(3), you must comply with the requirements of §§63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW.

(f) If your landfill is an existing affected source and is an area source meeting the criteria in §63.1935(a)(3), you must comply with the requirements in §§63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or EPA approved and effective State or tribal plan that applies to your landfill or by January 16, 2004, whichever occurs later.

**§ 63.1947 When do I have to comply with this subpart if I own or operate a bioreactor?**

You must comply with this subpart by the dates specified in §63.1945(a) or (b) of this subpart. If you own or operate a bioreactor located at a landfill that is not permanently closed as of January 16, 2003 and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million $m^3$ , then you must install and operate a collection and control system that meets the criteria in 40 CFR 60.752(b)(2)(v) of part 60, subpart WWW, the Federal plan, or EPA approved and effective State plan according to the schedule specified in paragraph (a), (b), or (c) of this section.

(a) If your bioreactor is at a new affected source, then you must meet the requirements in paragraphs (a)(1) and (2) of this section:

  (1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

  (2) Begin operating the gas collection and control system within 180 days after initiating liquids addition or within 180 days after achieving a moisture content of 40 percent by weight, whichever is later. If you choose to begin gas collection and control system operation 180 days after achieving a 40 percent moisture content instead of 180 days after liquids addition, use the procedures in §63.1980(g) and (h) to determine when the bioreactor moisture content reaches 40 percent.

(b) If your bioreactor is at an existing affected source, then you must install and begin operating the gas collection and control system for the bioreactor by January 17, 2006 or by the date your bioreactor is required to install a gas collection and control system under 40 CFR part 60, subpart WWW, the Federal plan, or EPA approved and effective State plan or tribal plan that applies to your landfill, whichever is earlier.

(c) If your bioreactor is at an existing affected source and you do not initiate liquids addition to your bioreactor until later than January 17, 2006, then you must meet the requirements in paragraphs (c)(1) and (2) of this section:

  (1) Install the gas collection and control system for the bioreactor before initiating liquids addition.

  (2) Begin operating the gas collection and control system within 180 days after initiating liquids addition or within 180 days after achieving a moisture content of 40 percent by weight, whichever is later. If you choose to begin gas collection and control system operation 180 days after achieving a 40 percent moisture content instead of 180 days after liquids addition, use the procedures in §63.1980(g) and (h) to determine when the bioreactor moisture content reaches 40 percent.

**§ 63.1950 When am I no longer required to comply with this subpart?**

You are no longer required to comply with the requirements of this subpart when you are no longer required to apply controls as specified in 40 CFR 60.752(b)(2)(v) of subpart WWW, or the Federal plan or EPA approved and effective State plan or tribal plan that implements 40 CFR part 60, subpart Cc, whichever applies to your landfill.

**§ 63.1952 When am I no longer required to comply with the requirements of this subpart if I own or operate a bioreactor?**

If you own or operate a landfill that includes a bioreactor, you are no longer required to comply with the requirements of this subpart for the bioreactor provided you meet the conditions of either paragraphs (a) or (b).

(a) Your affected source meets the control system removal criteria in 40 CFR 60.752(b)(2)(v) of part 60, subpart WWW or the bioreactor meets the criteria for a nonproductive area of the landfill in 40 CFR 60.759(a)(3)(ii) of part 60, subpart WWW.

(b) The bioreactor portion of the landfill is a closed landfill as defined in 40 CFR 60.751, subpart WWW, you have permanently ceased adding liquids to the bioreactor, and you have not added liquids to the bioreactor for at least 1 year. A closure report for the bioreactor must be submitted to the Administrator as provided in 40 CFR 60.757(d) of subpart WWW.

(c) Compliance with the bioreactor control removal provisions in this section constitutes compliance with 40 CFR part 60, subpart WWW or the Federal plan, whichever applies to your bioreactor.

**STANDARDS**

**§ 63.1955 What requirements must I meet?**

(a) You must fulfill one of the requirements in paragraph (a)(1) or (2) of this section, whichever is applicable:

(1) Comply with the requirements of 40 CFR part 60, subpart WWW.

(2) Comply with the requirements of the Federal plan or EPA approved and effective State plan or tribal plan that implements 40 CFR part 60, subpart Cc.

(b) If you are required by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan to install a collection and control system, you must comply with the requirements in §§63.1960 through 63.1985 and with the general provisions of this part specified in table 1 of this subpart.

(c) For approval of collection and control systems that include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions, you must follow the procedures in 40 CFR 60.752(b)(2). If alternatives have already been approved under 40 CFR part 60 subpart WWW or the Federal plan, or EPA approved and effective State or tribal plan, these alternatives can be used to comply with this subpart, except that all affected sources must comply with the SSM requirements in Subpart A of this part as specified in Table 1 of this subpart and all affected sources must submit compliance reports every 6 months as specified in §63.1980(a) and (b), including information on all deviations that occurred during the 6-month reporting period. Deviations for continuous emission monitors or numerical continuous parameter monitors must be determined using a 3 hour monitoring block average.

(d) If you own or operate a bioreactor that is located at a MSW landfill that is not permanently closed and has a design capacity equal to or greater than 2.5 million Mg and 2.5 million $m^3$ , then you must meet the requirements of paragraph (a) and the additional requirements in paragraphs (d)(1) and (2) of this section.

(1) You must comply with the general provisions specified in Table 1 of this subpart and §§63.1960 through 63.1985 starting on the date you are required to install the gas collection and control system.

(2) You must extend the collection and control system into each new cell or area of the bioreactor prior to initiating liquids addition in that area, instead of the schedule in 40 CFR 60.752(b)(2)(ii)(A)( *2* ).

**GENERAL AND CONTINUING COMPLIANCE REQUIREMENTS**

**§ 63.1960 How is compliance determined?**

Compliance is determined in the same way it is determined for 40 CFR part 60, subpart WWW, including performance testing, monitoring of the collection system, continuous parameter monitoring, and other credible evidence. In addition, continuous parameter monitoring data, collected under 40 CFR 60.756(b)(1), (c)(1), and (d) of subpart WWW, are used to demonstrate compliance with the operating conditions for control systems. If a deviation occurs, you have failed to meet the control device operating conditions described in this subpart and have deviated from the requirements of this subpart. Finally, you must develop a written SSM plan according to the provisions in 40 CFR 63.6(e)(3). A copy of the SSM plan must be maintained on site. Failure to write or maintain a copy of the SSM plan is a deviation from the requirements of this subpart.

[68 FR 2238, Jan. 16, 2003, as amended at 71 FR 20462, Apr. 20, 2006]

**§ 63.1965 What is a deviation?**

A deviation is defined in §63.1990. For the purposes of the landfill monitoring and SSM plan requirements, deviations include the items in paragraphs (a) through (c) of this section.

(a) A deviation occurs when the control device operating parameter boundaries described in 40 CFR 60.758(c)(1) of subpart WWW are exceeded.

(b) A deviation occurs when 1 hour or more of the hours during the 3-hour block averaging period does not constitute a valid hour of data. A valid hour of data must have measured values for at least three 15-minute monitoring periods within the hour.

(c) A deviation occurs when a SSM plan is not developed or maintained on site.

[68 FR 2238, Jan. 16, 2003, as amended at 71 FR 20462, Apr. 20, 2006]

**§ 63.1975 How do I calculate the 3-hour block average used to demonstrate compliance?**

Averages are calculated in the same way as they are calculated in 40 CFR part 60, subpart WWW, except that the data collected during the events listed in paragraphs (a), (b), (c), and (d) of this section are not to be included in any average computed under this subpart:

(a) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments.

(b) Startups.

(c) Shutdowns.

(d) Malfunctions.

**NOTIFICATIONS, RECORDS, AND REPORTS**

**§ 63.1980 What records and reports must I keep and submit?**

(a) Keep records and reports as specified in 40 CFR part 60, subpart WWW, or in the Federal plan, EPA approved State plan or tribal plan that implements 40 CFR part 60, subpart Cc, whichever applies to your landfill, with one exception: You must submit the annual report described in 40 CFR 60.757(f) every 6 months.

(b) You must also keep records and reports as specified in the general provisions of 40 CFR part 60 and this part as shown in Table 1 of this subpart. Applicable records in the general provisions include items such as SSM plans and the SSM plan reports.

(c) For bioreactors at new affected sources you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) within 180 days after the date you are required to begin operating the gas collection and control system by §63.1947(a)(2) of this subpart.

(d) For bioreactors at existing affected sources, you must submit the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) within 180 days after the compliance date specified in §63.1947(b) of this subpart, unless you have previously submitted a compliance report for the bioreactor required by 40 CFR part 60, subpart WWW, the Federal plan, or an EPA approved and effective State plan or tribal plan.

(e) For bioreactors that are located at existing affected sources, but do not initiate liquids addition until later than the compliance date in §63.1947(b) of this subpart, you must submit the initial semiannual compliance report and performance tests results described in 40 CFR 60.757(f) within 180 days after the date you are required to begin operating the gas collection and control system by §63.1947(c) of this subpart.

(f) If you must submit a semiannual compliance report for a bioreactor as well as a semiannual compliance report for a conventional portion of the same landfill, you may delay submittal of a subsequent semiannual compliance report for the bioreactor according to paragraphs (f)(1) through (3) of this section so that the reports may be submitted on the same schedule.

  (1) After submittal of your initial semiannual compliance report and performance test results for the bioreactor, you may delay submittal of the subsequent semiannual compliance report for the bioreactor until the date the initial or subsequent semiannual compliance report is due for the conventional portion of your landfill.

  (2) You may delay submittal of your subsequent semiannual compliance report by no more than 12 months after the due date for submitting the initial semiannual compliance report and performance test results described in 40 CFR 60.757(f) for the bioreactor. The report shall cover the time period since the previous semiannual report for the bioreactor, which would be a period of at least 6 months and no more than 12 months.

(3) After the delayed semiannual report, all subsequent semiannual reports for the bioreactor must be submitted every 6 months on the same date the semiannual report for the conventional portion of the landfill is due.

(g) If you add any liquids other than leachate in a controlled fashion to the waste mass and do not comply with the bioreactor requirements in §§63.1947, 63.1955(c) and 63.1980(c) through (f) of this subpart, you must keep a record of calculations showing that the percent moisture by weight expected in the waste mass to which liquid is added is less than 40 percent. The calculation must consider the waste mass, moisture content of the incoming waste, mass of water added to the waste including leachate recirculation and other liquids addition and precipitation, and the mass of water removed through leachate or other water losses. Moisture level sampling or mass balances calculations can be used. You must document the calculations and the basis of any assumptions. Keep the record of the calculations until you cease liquids addition.

(h) If you calculate moisture content to establish the date your bioreactor is required to begin operating the collection and control system under §63.1947(a)(2) or (c)(2), keep a record of the calculations including the information specified in paragraph (g) of this section for 5 years. Within 90 days after the bioreactor achieves 40 percent moisture content, report the results of the calculation, the date the bioreactor achieved 40 percent moisture content by weight, and the date you plan to begin collection and control system operation.

## OTHER REQUIREMENTS AND INFORMATION

### § 63.1985 Who enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable State, local, or tribal agency. If the EPA Administrator has delegated authority to a State, local, or tribal agency, then that agency as well as the U.S. EPA has the authority to implement and enforce this subpart. Contact the applicable EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as follows. Approval of alternatives to the standards in §63.1955. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

### § 63.1990 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, 40 CFR part 60, subparts A, Cc, and WWW; 40 CFR part 62, subpart GGG, and subpart A of this part, and this section that follows:

*Bioreactor* means a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste.

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emissions limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation, (including any operating limit), or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart.

*Emissions limitation* means any emission limit, opacity limit, operating limit, or visible emissions limit.

*EPA approved State plan* means a State plan that EPA has approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cc. An approved State plan becomes effective on the date specified in the notice published in the Federal Register announcing EPA's approval.

*Federal plan* means the EPA plan to implement 40 CFR part 60, subpart Cc for existing MSW landfills located in States and Indian country where State plans or tribal plans are not currently in effect. On the effective date of an EPA approved State or tribal plan, the Federal plan no longer applies. The Federal plan is found at 40 CFR part 62, subpart GGG.

*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 municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes (see §257.2 of this chapter) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads. A municipal solid waste landfill may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion.

*Tribal plan* means a plan submitted by a tribal authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 to implement and enforce 40 CFR part 60, subpart Cc.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination there of, that is promulgated pursuant to section 112(h) of the Clean Air Act.

As stated in §§63.1955 and 63.1980, you must meet each requirement in the following table that applies to you.

**Table 1 to Subpart AAAA of Part 63—Applicability of NESHAP General Provisions to Subpart AAAA**

| Part 63 Citation | Description | Explanation |
|---|---|---|
| 63.1(a) | Applicability: general applicability of NESHAP in this part | Affected sources are already subject to the provisions of paragraphs (a)(10)–(12) through the same provisions under 40 CFR, part 60 subpart A. |
| 63.1(b) | Applicability determination for stationary sources | |
| 63.1(e) | Title V permitting | |
| 63.2 | Definitions | |
| 63.4 | Prohibited activities and circumvention | Affected sources are already subject to the provisions of paragraph (b) through the same provisions under 40 CFR, part 60 subpart A. |
| 63.5(b) | Requirements for existing, newly constructed, and reconstructed sources | |
| 63.6(e) | Operation and maintenance requirements, startup, shutdown and malfunction plan provisions | |
| 63.6(f) | Compliance with nonopacity emission standards | Affected sources are already subject to the provisions of paragraphs (f)(1) and (2)(i) through the same provisions under 40 CFR, part 60 subpart A. |
| 63.10(b)(2)(i)–(b)(2)(v) | General recordkeeping requirements | |
| 63.10(d)(5) | If actions taken during a startup, shutdown and malfunction plan are consistent with the procedures in the startup, shutdown and malfunction plan, this information shall be included in a semi-annual startup, shutdown and malfunction plan report. Any time an action taken during a startup, shutdown and malfunction plan is not consistent with the startup, shutdown and malfunction plan, the source shall report actions taken within 2 working days after commencing such actions, followed by a letter 7 days after the event | |
| 63.12(a) | These provisions do not preclude the State from adopting and enforcing any standard, limitation, etc., requiring permits, or requiring emissions reductions in excess of those specified | |
| 63.15 | Availability of information and confidentiality | |