

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 64 MUNICIPAL SOLID WASTE LANDFILLS

20.2.64.1 ISSUING AGENCY: Environmental Improvement Board.
[12/20/96; 20.2.64.1 NMAC - Rn, 20 NMAC 2.64.100 10/31/02]

20.2.64.2 SCOPE: All geographic areas within the jurisdiction of the Environmental Improvement Board.
[12/20/96; 20.2.64.2 NMAC - Rn, 20 NMAC 2.64.101 10/31/02]

20.2.64.3 STATUTORY AUTHORITY: Environmental Improvement Act, Paragraphs (4) and (7) of Subsection (A) of Section 74-1-8 NMSA 1978 and Air Quality Control Act, Section 74-2-1 et seq. NMSA 1978, including specifically, Subsections (A), (B) and (C) of Section 74-2-5 NMSA 1978.
[12/20/96; 20.2.64.3 NMAC - Rn, 20 NMAC 2.64.102 10/31/02]

20.2.64.4 DURATION: Permanent.
[12/20/96; 20.2.64.4 NMAC - Rn, 20 NMAC 2.64.103 10/31/02]

20.2.64.5 EFFECTIVE DATE: December 20, 1996.
[12/20/96; 20.2.64.5 NMAC - Rn, 20 NMAC 2.64.104 10/31/02]
[The latest effective date of any section in this Part is ~~[40/31/02]~~ XX/XX/17.]

20.2.64.6 OBJECTIVE: The objective of this Part is to establish requirements for municipal solid waste landfills in order to control emissions of nonmethane organic compounds (NMOC).
[12/20/96; 20.2.64.6 NMAC - Rn, 20 NMAC 2.64.105 10/31/02]

20.2.64.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC (Definitions), and those defined in 40 CFR 60 Subpart A, ~~[as used in this Part:]~~ all definitions found in 40 CFR Part 60 Subpart XXX apply to new municipal solid waste landfills (MSWLs) and all definitions found in 40 CFR Part 60 Subpart Cf apply to existing MSWLs. 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.

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

(1) Construction, reconstruction, or modification was commenced ~~[before May 30, 1994]~~ on or before July 17, 2014; and

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

D. "Modification" means an increase in the permitted volume design capacity of an MSWL by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

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

[C.]F. "New municipal solid waste landfill" or "new MSWL" ~~[is]~~ means an MSWL that commenced construction, reconstruction, or modification~~[- or began accepting waste on or after May 30, 1994]~~ after July 17, 2014.

[D.]G. "NMOC" means nonmethane organic compounds as measured according to the provisions of [40 CFR 60.754] either 40 CFR 60 Subpart Cf or 40 CFR 60 Subpart XXX. [This] NMOC may include many compounds commonly referred to as VOC (volatile organic compounds) and HAP (hazardous air pollutants). [12/20/96; 20.2.64.7 NMAC - Rn, 20 NMAC 2.64.107 10/31/02; A, XX/XX/17]

20.2.64.8 [RESERVED]

20.2.64.9 DOCUMENTS: Documents cited in this Part may be viewed at the New Mexico [Environment Department, Air Quality Bureau, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505]] environment department, air quality bureau. [12/20/96; 20.2.64.9 NMAC - Rn, 20 NMAC 2.64.108 10/31/02; A, XX/XX/17] [As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505.]

20.2.64.10 to 20.2.64.108 [RESERVED]

20.2.64.109 APPLICABILITY:

A. Existing Municipal Solid Waste Landfills: An owner or operator of an existing (active or closed) MSWL is subject to all provisions specified in [40 CFR 60.751 through 60.759 as promulgated by US EPA on March 12, 1996] 40 CFR 60 Subpart Cf as promulgated by the United States environmental protection agency on July 14, 2016, except as provided for in [20.2.64.111 NMAC] Section 111 of this part. [Physical or operational changes made to an existing MSWL solely to comply with this Part are not considered a modification or reconstruction and would not subject an existing MSWL to the requirements of 40 CFR 60 Subpart WWW.] Physical or operational changes made to an existing MSWL solely to comply with an emission guideline are not considered a modification or a reconstruction and would not subject an existing MSWL to the requirements of a standard of performance for new MSWLs.

B. New Municipal Solid Waste Landfills: In addition to being subject to 20.2.64.110 NMAC new MSWLs are subject to 40 CFR Part 60, Subpart [WWW] XXX as incorporated by reference in 20.2.77 NMAC (New Source Performance Standards). [12/20/96; 20.2.64.109 NMAC - Rn, 20 NMAC 2.64.109 10/31/02; A, XX/XX/17]

20.2.64.110 PERMITTING REQUIREMENTS:

A. Operating Permits: New and existing active MSWLs with design capacities greater than or equal to 2.5 million megagrams [ø] and 2.5 million cubic meters are subject to permitting requirements under 20.2.70 NMAC (Operating Permits). Closed MSWLs and new and existing MSWLs with design capacities less than 2.5 million megagrams or 2.5 million cubic meters are not subject to permitting requirements under 20.2.70 NMAC unless they are major sources as defined in 20.2.70 NMAC.

B. Construction Permits: Emissions of NMOC from MSWLs subject to this Part (20.2.64 NMAC) shall not be included in applicability determinations under 20.2.72 NMAC or be subject to permit requirements under that part solely on the basis of NMOC emissions. [12/20/96; 20.2.64.110 NMAC - Rn, 20 NMAC 2.64.110 10/31/02; A, XX/XX/17]

20.2.64.111 REQUIREMENTS FOR EXISTING MUNICIPAL SOLID WASTE LANDFILLS:

A. ~~[Reporting and Compliance: Except as provided for below, reporting and compliance requirements for existing MSWLs shall be in accordance with 40 CFR 60.757 and 60.758.~~

~~(1) Within 90 days of final US EPA approval of this Part, an owner or operator of an existing MSWL shall submit an initial design capacity report in accordance with 40 CFR 60.757(a)(2) to the Department.~~

~~(2) Within 90 days of final US EPA approval of this Part, an owner or operator of an existing MSWL, with a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters, shall submit an NMOC emission rate report in accordance with 40 CFR 60.757(b)(1) and (2) to the Department.~~

~~(3) Within 30 months after final US EPA approval of this Part, an existing MSWL 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 as specified in 40 CFR 60.752(b.) Requirements for existing (active and closed) MSWLs shall be in accordance with 40 CFR 60 Subpart Cf, except as provided in Subsections B and C below.~~

B. All reports required in 40 CFR 60 Subpart Cf shall be submitted to the department according to the schedules outlined in 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 6 months following submission of the final control plan;

(2) On-site construction or installation of the collection and control system shall be initiated no later than 9 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 Subpart Cf; and

(4) Initial performance testing shall be scheduled for no later than 150 days following the final compliance date in Subpart Cf.

[B.]C. Exceptions: On a case by case basis, 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.

[12/20/96; 20.2.64.111 NMAC - Rn, 20 NMAC 2.64.111 10/31/02; A, XX/XX/17]

HISTORY OF 20.2.64 NMAC:

Pre-NMAC History: None.

History of Repealed Material: [RESERVED]

Other History:

20 NMAC 2.64, Municipal Solid Waste Landfills, filed 11/14/96 was renumbered, reformatted and replaced by 20.2.64 NMAC, Municipal Solid Waste Landfills, effective 10/31/02.

At its meeting on April 28, 2017, the Environmental Improvement Board voted to repeal 20.2.64 NMAC, *Municipal Solid Waste Landfills*, effective 12/20/96, and replace it with 20.2.64 NMAC, *Municipal Solid Waste Landfills*, effective XX/XX/17.

NMED Exhibit 9

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 2 AIR QUALITY (STATEWIDE)**
3 **PART 64 MUNICIPAL SOLID WASTE LANDFILLS**
4

5 **20.2.64.1 ISSUING AGENCY:** Environmental Improvement Board.
6 [20.2.64.1 NMAC - Rp, 20.2.64.1 NMAC, XX/XX/17]
7

8 **20.2.64.2 SCOPE:** All geographic areas within the jurisdiction of the Environmental Improvement Board.
9 [20.2.64.2 NMAC - Rp, 20.2.64.2 NMAC, XX/XX/17]
10

11 **20.2.64.3 STATUTORY AUTHORITY:** Environmental Improvement Act, Paragraphs (4) and (7) of
12 Subsection (A) of Section 74-1-8 NMSA 1978 and Air Quality Control Act, Section 74-2-1 et seq. NMSA 1978,
13 including specifically, Subsections (A), (B) and (C) of Section 74-2-5 NMSA 1978.
14 [20.2.64.3 NMAC - Rp, 20.2.64.3 NMAC, XX/XX/17]
15

16 **20.2.64.4 DURATION:** Permanent.
17 [20.2.64.4 NMAC - Rp, 20.2.64.4 NMAC, XX/XX/17]
18

19 **20.2.64.5 EFFECTIVE DATE:** ~~[December 20, 1996.]~~ May XX, 2017, unless a later date is cited at the end
20 of a section.
21 [20.2.64.5 NMAC - Rp, 20.2.64.5 NMAC, XX/XX/17]
22 [The latest effective date of any section in this part is XX/XX/17.]
23

24 **20.2.64.6 OBJECTIVE:** The objective of this ~~[Part]~~ part is to establish requirements for municipal solid
25 waste landfills in order to control emissions of nonmethane organic compounds (NMOC).
26 [20.2.64.6 NMAC - Rp, 20.2.64.6 NMAC, XX/XX/17]
27

28 **20.2.64.7 DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC (Definitions), and those
29 defined in 40 CFR 60 Subpart A, all definitions found in 40 CFR Part 60 Subpart XXX apply to new municipal solid
30 waste landfills (MSWLs) and all definitions found in 40 CFR Part 60 Subpart Cf apply to existing MSWLs. As used
31 in this part:

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

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

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

40 (1) Construction, reconstruction, or modification was commenced on or before July 17,
41 2014; and

42 (2) The MSWL has accepted waste at any time since November 8, 1987, or has additional
43 design capacity available for future waste deposition.

44 **D. "Modification"** means an increase in the permitted volume design capacity of an MSWL by either
45 lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur
46 until the owner or operator commences construction on the lateral or vertical expansion.

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

53 **F. "New municipal solid waste landfill" or "new MSWL"** means an MSWL that commenced
54 construction, reconstruction, or modification after July 17, 2014.

55 **G.** "NMOC" means nonmethane organic compounds as measured according to the provisions of
56 either 40 CFR 60 Subpart Cf or 40 CFR 60 Subpart XXX. NMOC may include many compounds commonly
57 referred to as VOC (volatile organic compounds) and HAP (hazardous air pollutants).
58 [20.2.64.7 NMAC - Rp, 20.2.64.7 NMAC, XX/XX/17]
59

60 **20.2.64.8 [RESERVED]**

61
62 **20.2.64.9 DOCUMENTS:** Documents cited in this ~~[Part]~~ part may be viewed at the New Mexico
63 environment department, air quality bureau.
64 [20.2.64.9 NMAC - Rp, 20.2.64.9 NMAC, XX/XX/17]
65 [As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505.]
66

67 **20.2.64.10 to 20.2.64.108 [RESERVED]**

68
69 **20.2.64.109 APPLICABILITY:**

70 **A. Existing Municipal Solid Waste Landfills:** An owner or operator of an existing (active or
71 closed) MSWL is subject to all provisions specified in 40 CFR 60 Subpart Cf as promulgated by the United States
72 environmental protection agency on August 29, 2016, except as provided for in Section 111 of this part. Physical or
73 operational changes made to an existing MSWL solely to comply with an emission guideline are not considered a
74 modification or a reconstruction and would not subject an existing MSWL to the requirements of a standard of
75 performance for new MSWLs.

76 **B. New Municipal Solid Waste Landfills:** In addition to being subject to 20.2.64.110 NMAC new
77 MSWLs are subject to 40 CFR Part 60, Subpart XXX as incorporated by reference in 20.2.77 NMAC (New Source
78 Performance Standards).
79 [20.2.64.109 NMAC - Rp, 20.2.64.109 NMAC, XX/XX/17]
80

81 **20.2.64.110 PERMITTING REQUIREMENTS:**

82 **A. Operating Permits:** New and existing active MSWLs with design capacities greater than or
83 equal to 2.5 million megagrams and 2.5 million cubic meters are subject to permitting requirements under 20.2.70
84 NMAC (Operating Permits). Closed MSWLs and new and existing MSWLs with design capacities less than 2.5
85 million megagrams or 2.5 million cubic meters are not subject to permitting requirements under 20.2.70 NMAC
86 unless they are major sources as defined in 20.2.70 NMAC.

87 **B. Construction Permits:** Emissions of NMOC from MSWLs subject to ~~[this Part (20.2.64~~
88 ~~NMAC)] 20.2.64 NMAC shall not be included in applicability determinations under 20.2.72 NMAC or be subject to~~
89 ~~permit requirements under that part solely on the basis of NMOC emissions.~~
90 [20.2.64.110 NMAC - Rp, 20.2.64.110 NMAC, XX/XX/17]
91

92 **20.2.64.111 REQUIREMENTS FOR EXISTING MUNICIPAL SOLID WASTE LANDFILLS:**

93 **A.** Requirements for existing (active and closed) MSWLs shall be in accordance with 40 CFR 60
94 Subpart Cf, except as provided in Subsections B and C below.

95 **B.** All reports required in 40 CFR 60 Subpart Cf shall be submitted to the department according to
96 the schedules outlined in that subpart. Additional notifications regarding progress toward meeting the final
97 compliance schedule for control system installation and startup shall be submitted to the department as follows:

98 (1) Contracts for construction of collection and control systems shall be awarded or orders for
99 purchase of components shall be completed no later than ~~[6]~~ six months following submission of the final
100 control plan;

101 (2) On-site construction or installation of the collection and control system shall be initiated no
102 later than ~~[9]~~ nine months following submission of the final control plan;

103 (3) On-site construction or installation of the collection and control system shall be completed
104 no later than 29 months following the submission of an annual NMOC emission rate report showing
105 NMOC emissions equal to or exceeding the emissions threshold in Subpart Cf; and

106 (4) Initial performance testing shall be scheduled for no later than 150 days following the final
107 compliance date in Subpart Cf.

108 **C. Exceptions:** On a case by case basis, an existing active or closed MSWL may apply for a less
109 stringent emission standard or longer compliance schedule than those otherwise required by this ~~[Part]~~ part,
110 provided that the owner or operator demonstrates to the ~~[Department]~~ department:

- 111 (1) [~~Unreasonable~~] unreasonable cost of control including, but not limited to MSWL age,
112 location, or basic design;
113 (2) [~~Physical~~] physical impossibility or impracticability of installing necessary control
114 equipment; or
115 (3) [~~Other~~] other environmental factors specific to the MSWL that make application of a less
116 stringent standard or final compliance time significantly more reasonable.
117 [20.2.64.111 NMAC - Rp, 20.2.64.111 NMAC, XX/XX/17]

118
119 **HISTORY OF 20.2.64 NMAC:**

120 **Pre-NMAC History:** None.

121
122 **History of Repealed Material:**

123 20.2.64 NMAC, Municipal Solid Waste Landfills, filed 11/14/96, repealed effective XX/XX/17 and replaced by
124 20.2.64 NMAC, Municipal Solid Waste Landfills, effective XX/XX/17.

125
126 **Other History:**

127 20 NMAC 2.64, Municipal Solid Waste Landfills, filed 11/14/96 was renumbered, reformatted and replaced by
128 20.2.64 NMAC, Municipal Solid Waste Landfills, effective 10/31/02.