



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 60 and 63**

**[EPA-HQ-OAR-2002-0047; FRL-10013-69-OAR]**

**RIN 2060-AU18**

**National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on March 26, 2020. The EPA finalized the residual risk and technology review (RTR) conducted for the Municipal Solid Waste (MSW) Landfills source category regulated under national emission standards for hazardous air pollutants (NESHAP). This action corrects inadvertent errors in the cross-referencing and formatting in the **Federal Register**; as well as clarifies two operational and reporting requirements in the March 26, 2020, final rule. This action also revises the heading of 40 CFR part 60, subpart WWW as described in the March 26, 2020, **Federal Register** document. The corrections and clarifications described in this action do not affect the substantive requirements of the regulations or the results of the RTR conducted for the MSW Landfills source category.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** For questions about this final action, contact Andrew Sheppard, Natural Resources Group, Sector Policies and Programs Division (E143-03),

Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4161; fax number: (919) 541-0516; and email address: *Sheppard.Andrew@epa.gov*.

**SUPPLEMENTARY INFORMATION:** The EPA is making the following corrections to the final MSW Landfills NESHAP (40 CFR part 63, subpart AAAA) as published in the **Federal Register** on March 26, 2020 (85 FR 17244).

The EPA is correcting cross-referencing errors that were the result of extensive changes to the structure and content of the MSW Landfills NESHAP during the RTR. The initial restructuring is described in the proposed RTR for the MSW Landfills NESHAP (84 FR 36670, July 29, 2019). Further changes to the MSW Landfills NESHAP occurred between proposal and promulgation and those changes are described in the final RTR for the MSW Landfills NESHAP (85 FR 17244, March 26, 2020). Operating facilities cannot comply with certain requirements of the rule as written because the requirements include citations to paragraphs in the rule that do not exist, do not contain the cited content, and/or are inconsistent with the same requirements as they were previously promulgated in section 111 of the Clean Air Act (CAA). As described in the preambles to the proposed and final MSW Landfills NESHAP rules, landfills are subject to regulations under CAA sections 111 (40 CFR part 60, subparts Cf and XXX) and 112 (40 CFR part 63, subpart AAAA). The rules were written to promote consistency among MSW Landfills regulations under the CAA. See section IV.D of the preamble to the proposed rule at 84 FR 36689 (July 29, 2019) and section III.D of the preamble to the final rule at 85 FR 17248 (March 26, 2020). Therefore, where requirements are the same, the regulatory text was copied from 40 CFR part 60, subpart XXX and adapted to cite corresponding references in 40 CFR part 63, subpart AAAA. During this process, some errors were made due to differences in the structures

of the two rules. With this action, the EPA is correcting the following errors. These corrections do not change the requirements with which landfills must comply.

First, the EPA is correcting two formatting errors.

- 40 CFR part 60, subpart WWW. Revise the heading of subpart WWW to read: Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014. This change is consistent with the discussion in the preamble to the final rule (85 FR at 17248), but the change was inadvertently not made to the relevant title in the regulatory text. This action implements the revision.
- 40 CFR 63.1983(h)(2)(ii). Remove paragraph (ii). Paragraph (i) is not subordinate to 40 CFR 63.1983(h)(2); rather, it follows 40 CFR 63.1983(h) as 40 CFR 63.1983(i); therefore, there is no need to reserve a paragraph (ii). The proposed regulatory text was correctly printed in the proposed rule at 84 FR 36721 (July 29, 2019).

Additionally, the EPA is correcting the following cross-referencing errors.

- 40 CFR 63.1947(c)(2). Correct the reference from 40 CFR 63.1980(e) and (f) to 40 CFR 63.1982(c) and (d). The reference specifies procedures to use to determine bioreactor moisture content but refers to paragraphs that no longer exist. The requirements in 40 CFR 63.1947(c)(2) were originally promulgated in 40 CFR 63.1945(a)(2) in 2003 and referred to the requirements that are now found in 63.1982(c) and (d). The content of the requirements was not changed in the 2020 amendments to the MSW Landfills NESHAP and/or this correction.
- 40 CFR 63.1959(a)(3)(i), 40 CFR 63.1959(c)(3)(i), and 40 CFR 63.1959(e)(1). Correct the references from 40 CFR 63.1981(i) to 40 CFR 63.1981(l)(1). These three standards

refer to procedures for the submittal of performance test reports, but the reference leads to requirements for an initial report instead of ongoing requirements to submit reports electronically. Section III.D.9 of the preamble to the final rule stated that performance tests must be submitted electronically using the requirements in 40 CFR 63.1981(l)(1). Additionally, matching requirements in 40 CFR 60.764(a)(3)(i), 40 CFR 60.764(b)(3)(i), and 40 CFR 60.764(e)(1), respectively, refer to the electronic reporting requirements of 40 CFR 60.767(i)(1), which match those of 40 CFR 63.1981(l)(1).

- 40 CFR 63.1959(a)(4)(i)(A). Correct the reference from 40 CFR 63.1981(e) to 40 CFR 63.1981(d). The standard discusses the procedures for submitting a gas collection and control system design plan if a landfill's emissions exceed the stated threshold according to one method of calculation, but the reference does not include the intended procedures. Corresponding requirements for plan submittal using different calculation methods in 40 CFR 63.1959(a)(2)(ii)(A), 40 CFR 63.1959(a)(3)(iv)(A), and 40 CFR 63.1959(b)(2)(i) all refer to 40 CFR 63.1981(d). Additionally, the requirements in 40 CFR 63.1959(a)(4)(i)(A) align with those of 40 CFR 60.764(a)(4)(i)(A), which refer to requirements that match those in 40 CFR 63.1981(d).
- 40 CFR 63.1959(b)(2)(iii)(A). Correct the reference from "paragraph (f) of this section" to "paragraph (e) of this section." The requirements reference an exception to the requirements of 40 CFR 63.11(b). This exception is stated explicitly in 40 CFR 63.1959(e), not (f). The text in 40 CFR 63.1959(b)(2)(iii)(A) mirrors that in 40 CFR 60.762(b)(2)(iii)(A), which references 40 CFR 60.764(e) for the exception. The requirements in 40 CFR 60.764(e) align with those in 40 CFR 63.1959(e).

- 40 CFR 63.1960(a). Correct the reference from “paragraphs (a)(1) through (6) of this section,” to “paragraphs (a)(1) through (5) of this section.” Paragraph (a)(6) does not exist. This reference was copied from corresponding text in 40 CFR 60.765(a). The requirements in 40 CFR 60.765(a) are found in paragraphs (a)(1) through (6), but paragraph (a)(4) is reserved. The reserved paragraph was removed from 40 CFR 63.1960(a) but the corresponding change in numbering for the reference was not made.
- 40 CFR 63.1960(a)(3)(i)(B). Correct the reference from 40 CFR 63.1983(e)(5) to 40 CFR 63.1983(e)(4). The reference refers to a specific report, whose requirements are included in 40 CFR 63.1983(e)(4). Additionally, the text in 40 CFR 63.1983(e)(4) refers back to 40 CFR 63.1960(a)(3)(i)(B). These requirements mirror those in 40 CFR 60.765(a)(3)(ii), which references 40 CFR 60.768(e)(4). The corresponding requirements for 40 CFR 60.768(e)(4) are found in 40 CFR 63.1983(e)(4).
- 40 CFR 63.1960(a)(5). Correct the reference from 40 CFR 63.1981(c)(3) to 40 CFR 63.1981(d)(3). These requirements discuss the need for alternative collection systems to demonstrate compliance with the MSW Landfills standards. The original reference is for a report on emissions, instead of the design plan that requires the demonstration of sufficiency of alternatives. The requirements in 40 CFR 63.1960(a)(5) mirror those in 40 CFR 60.765(a)(6), which refers to 40 CFR 60.767(c)(3). The requirements in 40 CFR 60.767(c)(3) match those in 40 CFR 63.1981(d)(3).
- 40 CFR 63.1960(b). Correct the reference from 40 CFR 63.1981(b) to 40 CFR 63.1981(d). The requirements discuss the timing of installation for system components included in the landfill’s design plan, but the reference points to a report for landfill capacity instead of the design plan. The requirements in 40 CFR 63.1960(b) match those

in 40 CFR 60.765(b), which refers to 40 CFR 60.767(c). The requirements corresponding to those in 40 CFR 60.767(c) are found in 40 CFR 63.1981(d).

- 40 CFR 63.1960(e)(2). Correct the reference from 40 CFR 63.1958(c)(1) to 40 CFR 63.1958(e)(1). The text in 40 CFR 63.1960(e) describes the requirements for MSW landfills during periods of start-up, shutdown, and malfunction (SSM). At proposal, the regulatory text incorrectly referenced operational standards for temperature instead of SSM events in two places. While one of the references was corrected in the final rule, the second was overlooked and is being corrected here. See Section IV.D.3 of the preamble to the final rule (at 85 FR 17255, March 26, 2020).
- 40 CFR 63.1961(f). Correct the reference from 40 CFR 63.1981(i) to 40 CFR 63.1981(h). The requirements for demonstrating compliance with the surface methane operational standard state that certain information must be included in the semi-annual report but cite the paragraph for the initial performance test report instead of the paragraph containing requirements for semi-annual reporting.
- 40 CFR 63.1983(g). Correct the reference from paragraphs 40 CFR 63.1961(a)(1) through (5) to 40 CFR 63.1961(a)(1) through (6). This section discusses the requirement to keep records of certain gas collection and control system parameters that are measured during system operation. While the requirements were revised from 40 CFR 63.1961(a)(1) through (5) in the proposal to 40 CFR 63.1961(a)(1) through (6) in the final, the corresponding reference was not updated. The changes to the requirements were discussed in section IV.D.1 of the preamble to the final rule at 85 FR 17253-17254 (March 26, 2020).

With this document, the EPA is also clarifying its intent on certain requirements in the March 26, 2020, final rule where questions have arisen on implementation.

- 40 CFR 63.1958(c). Add text to clarify when the revised wellhead interior operating standard applies. Prior to compliance with the amended standards, a landfill owner must operate each interior wellhead in the collection system as specified in 40 CFR 60.753(c) of 40 CFR part 60, subpart WWW. The requirements in 40 CFR 60.753(c) require landfill owners to operate each interior wellhead with landfill gas temperatures less than 55 degrees Celsius and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. As explained in the preamble to the final rule at 85 FR 17248 (March 26, 2020), the amendments to the MSW Landfills NESHAP eliminated the operational standards for nitrogen and oxygen and increased the temperature operating standard. The final regulatory text was unclear as to whether or not the nitrogen and oxygen standards remained in effect after the compliance date of September 27, 2021. Thus, the correction clarifies that landfill owners do not need to comply with the provisions of 40 CFR 60.753(c) of 40 CFR part 60, subpart WWW once they comply with the amended standards.
- Table 1 to Subpart AAAA—Applicability of NESHAP General Provisions to Subpart AAAA. Revise Footnote 2 to clarify the intent that landfill owners or operators do not need to submit duplicate notifications under 40 CFR part 63, subpart AAAA if they have already submitted notifications under either 40 CFR part 60, subpart WWW or subpart XXX, or a state or federal plan implementing 40 CFR part Cc or Cf, that contain the same information as required by 40 CFR part 63, subpart AAAA. This clarification is consistent with the regulatory text in the introductory paragraph to 40 CFR 63.1981 that

states that submission of parallel reports under 40 CFR part 60, subpart WWW; 40 CFR part XXX; or a state or federal plan implementing 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf constitutes compliance with parallel requirements in that section.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because, as explained here and in each bullet above, the changes to the rule are minor technical corrections, are noncontroversial in nature, and do not substantively change the requirements of the MSW Landfills NESHAP. Rather, the changes align the cross-references in the requirements of the MSW Landfills NESHAP with corresponding cross-references in the requirements of the Emission Guidelines and New Source Performance Standards for MSW Landfills in 40 CFR part 60, subparts Cf and XXX. Additionally, the revisions correct the regulatory text to match other intended minor revisions described in the preamble to the final rule. Thus, notice and opportunity for public comment are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

## **List of Subjects**

### **40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

### **40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 28, 2020.

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**Anne Austin,**  
*Principal Deputy Assistant Administrator, Office of Air and Radiation.*

For the reasons set forth in the preamble, the EPA amends 40 CFR parts 60 and 63 as follows:

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014**

2. Revise the heading of subpart WWW to read as set forth above.

**PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES**

**Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills**

3. The authority citation for part 63 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

4. Section 63.1947 is amended by revising paragraph (c)(2) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(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 §§ 63.1982(c) and (d) to determine when the bioreactor moisture content reaches 40 percent.

5. Section 63.1958 is amended by revising paragraph (c) introductory text to read as follows:

**§ 63.1958 Operational standards for collection and control systems.**

\* \* \* \* \*

(c) Operate each interior wellhead in the collection system as specified in 40 CFR 60.753(c), until the landfill owner or operator elects to meet the operational standard for temperature in paragraph (c)(1) of this section.

\* \* \* \* \*

6. Section 63.1959 is amended by revising paragraphs (a)(3)(i), (a)(4)(i)(A), (b)(2)(iii)(A), (c)(3)(i), and (e)(1) to read as follows:

**§ 63.1959 NMOC calculation procedures.**

(a) \* \* \*

(3) \* \* \*

(i) Within 60 days after the date of completing each performance test (as defined in § 63.7 of subpart A), the owner or operator must submit the results according to § 63.1981(l)(1).

\* \* \* \* \*

(4) \* \* \*

(i) \* \* \*

(A) Submit a gas collection and control system design plan within 1 year as specified in § 63.1981(d) and install and operate a gas collection and control system within 30 months of the

first annual report in which the NMOC emission rate equals or exceeds 50 Mg/yr, according to paragraphs (b)(2)(ii) and (iii) of this section.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(A) A non-enclosed flare designed and operated in accordance with the parameters established in § 63.11(b) except as noted in paragraph (e) of this section; or

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) Within 60 days after the date of completing each performance test (as defined in § 63.7), the owner or operator must submit the results of the performance test, including any associated fuel analyses, according to § 63.1981(l)(1).

\* \* \* \* \*

(e) \* \* \*

(1) Within 60 days after the date of completing each performance test (as defined in § 63.7), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by § 63.1959(c) or (e) according to § 63.1981(l)(1).

\* \* \* \* \*

7. Section 63.1960 is amended by revising paragraphs (a) introductory text, (a)(3)(i)(B), (a)(5), (b) introductory text, and (e)(2) to read as follows:

**§ 63.1960 Compliance provisions.**

(a) Except as provided in § 63.1981(d)(2), the specified methods in paragraphs (a)(1) through (5) of this section must be used to determine whether the gas collection system is in compliance with § 63.1959(b)(2)(ii).

\* \* \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the positive pressure measurement. The owner or operator must submit the items listed in § 63.1981(h)(7) as part of the next semi-annual report. The owner or operator must keep records according to § 63.1983(e)(4).

\* \* \* \* \*

(5) An owner or operator seeking to demonstrate compliance with § 63.1959(b)(2)(ii)(B)(4) through the use of a collection system not conforming to the specifications provided in § 63.1962 must provide information satisfactory to the Administrator as specified in § 63.1981(d)(3) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 63.1958(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 63.1981(d). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

\* \* \* \* \*

(e) \* \* \*

(2) Once an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with the operational standard in § 63.1958(e)(1), the provisions of this subpart apply at all times, including periods of SSM. During periods of SSM, you must comply with the work practice requirement specified in § 63.1958(e) in lieu of the compliance provisions in § 63.1960.

8. Section 63.1961 is amended by revising paragraph (f) to read as follows:

**§ 63.1961 Monitoring of operations.**

\* \* \* \* \*

(f) Each owner or operator seeking to demonstrate compliance with the 500-ppm surface methane operational standard in § 63.1958(d) must monitor surface concentrations of methane according to the procedures in § 63.1960(c) and the instrument specifications in § 63.1960(d). If you are complying with the 500-ppm surface methane operational standard in § 63.1958(d)(2), for location, you must determine the latitude and longitude coordinates of each exceedance using an instrument with an accuracy of at least 4 meters and the coordinates must be in decimal degrees with at least five decimal places. In the semi-annual report in § 63.1981(h), you must report the location of each exceedance of the 500-ppm methane concentration as provided in § 63.1958(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

\* \* \* \* \*

9. Section 63.1983 is amended by revising paragraph (g) to read as follows:

**§ 63.1983 What records must I keep?**

\* \* \* \* \*

(g) Except as provided in § 63.1981(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 63.1961(a)(1) through (6).

\* \* \* \* \*

10. Amend Table 1 to subpart AAAA of part 63 by revising Footnote 2 to read as follows:

**Table 1 to Subpart AAAA of Part 63**

\* \* \* \* \*

**TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA**

Part 63 Citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \*

<sup>2</sup> If an owner or operator has complied with requirements that are parallel to the requirements of the part 63 citation of this table under 40 CFR part 60, subpart WWW or subpart XXX, or a state or federal plan that implements 40 CFR part 60, subpart Cc or Cf, then additional notification for that requirement is not required.