



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: 9800102

Category: NSPS
EPA Office:
Date: 12/07/1998
Title: Subparts Cc and WWW Clarification
Recipient: Harrell, Larry
Author: Laur, Michele

Subparts: Part 60, Cc, Emission Guidelines for Municipal Solid Waste Landfills
Part 60, WWW, Municipal Solid Waste Landfills

References: 60.31c
60.757

Abstract:

Scenario 1--Multiple landfills are located on a single parcel of property including hazardous waste and chemical landfills. Some of the non-hazardous waste and non-chemical landfills are permitted to receive non-putrescible industrial waste and others have accepted MSW since 1987.

Q#1: Should the industrial waste only landfill as well as the landfills which accepted MSW on this single parcel of property be considered an "...entire disposal facility in a contiguous geographical space where household waste is placed..." (40 CFR 60.31c)?

A#1: 40 CFR 60.31c defines a municipal solid waste (MSW) landfill as 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 RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of the MSW landfill may be separated by access roads. The industrial waste only landfill would not be considered part of the disposal facility for determining design capacity but it would be considered part of a single source in that it is under common ownership or control, the same industrial grouping, and is contiguous or adjacent.

Q#2: If the industrial waste only landfill and the landfills which accepted MSW are considered "an entire disposal facility," should the design capacity for NSPS/EG reporting purposes be the sum of the design capacities for all landfills which accepted MSW and the industrial waste only landfill, or only the capacity of the landfill which accepted MSW?

A#2: The design capacity for NSPS/EG reporting purposes is the sum of the MSW landfills. Non-MSW landfills would not be included in the design capacity as long as it can be shown that they do not contain MSW. In responding to this question, it was assumed that each landfill was a distinct entity without co-mingling of MSW waste with other waste types even though the group of landfills is considered an "entire disposal facility." If any cell within any of the distinct landfills has accepted any municipal solid waste, the entire distinct landfill is considered a municipal solid waste landfill and its capacity would be included in the design capacity. It is the responsibility of the landfill owner/operator to provide sufficient documentation to show that the landfills have not accepted any municipal solid waste.

Q#3: If the industrial waste only landfill and the landfills which accepted MSW are considered "an entire disposal facility" subject to the NSPS/EG, and the MSW landfills were closed, capped, and accepted no waste on/after May 30, 1991, and the industrial waste only landfill receives a permit to construct a new cell now, thus increasing overall waste capacity on this parcel of property, would the permitted construction of the new industrial waste only cell remove the "entire disposal facility" from being subject to the EG regulations and place it into the NSPS? If so, must "new" Initial Design Capacity Reports and NMOC Emission Rate Reports be prepared and submitted pursuant to the NSPS; when would such reports be submitted?

A#3: Considering that the modification is to a proven non-MSW landfill, it would not move the entire facility from EG regulations to NSPS as long as the industrial waste landfill continues to contain only non-MSW waste. Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991. Therefore, the facility would not need to submit additional reports.

Scenario 2--A group of six landfills, all but two of which received MSW, are subject to the NSPS and all are located on the same parcel of property which is owned by a county government. The operation of the active landfill on this parcel of property is conducted by a contract operator who, by contract, is responsible for environmental compliance at the site. Shortly, this site will "fill up" and begin closure. The contract operator has purchased a parcel of property which adjoins the county's property. The contract operator has obtained a solid waste permit to build a new MSW landfill on the property which they purchased.

Q: Are the six landfills on the county-owned property plus the new landfill to be constructed on the property purchased by the vendor who currently operates the county landfill considered "an entire disposal facility" and therefore subject to the NSPS, or is only the newly-to-be constructed landfill subject to the NSPS?

A: A final source determination would be handled on a case by case basis and might require submission of additional information. In general, a stationary source is any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act. Building, structure, facility, or installation means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous adjacent properties and are under common ownership or control. The situation described is adjacent and contains units in the same industrial grouping. It would appear that there is also common control. If these criteria are met then the six landfills on the county-owned property PLUS the new landfill to be constructed on the property purchased by the vendor who currently operates the county landfill is considered an entire disposal facility and therefore subject to the NSPS.

Scenario 3--An MSW permitted landfill and a landfill permitted to receive Construction and Demolition (C&D) material only are located on a single parcel of property. The MSW landfill underwent capping/closure prior to May 30, 1991.

Q#1: Pursuant to the NSPS/EG, are these two landfills to be considered "an entire disposal facility" or is only the MSW permitted landfill the "entire facility?"

A#1: These landfills are considered an entire disposal facility but only the design capacity of the MSW landfill would be used to determine if it is an affected facility assuming that there is no MSW in the C&D landfill.

Q#2: Would a newly permitted increase in design capacity at the C&D landfill cause the "entire disposal facility" to become subject to the NSPS, if it is currently subject to the EG?

A#2: Considering that the modification is to a proven non-MSW landfill, it would not place the entire facility from EG regulations to NSPS as long as the C & D landfill continues to contain only non-MSW waste. 40 CFR Part 60 Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.

Letter:

MEMORANDUM

Subject: Request for Clarification (40 CFR 60, Subparts Cc and WWW)

From: Michele Laur, Environmental Engineer
Waste and Chemical Processes Group, ESD

To: Larry Harrell, Air Programs Manager
Browning-Ferris Industries

The following is in response to questions posed in your 7/28/98 e-mail regarding 40 CFR Part 60 Subparts Cc and WWW. These responses were generated using input provided by the Regional Offices, the Office of Enforcement and Compliance Assurance, the Office of General Counsel and the Office of Air Quality Planning and Standards. It should be noted that it is difficult to correctly answer generic questions with any certainty that the answer will be correct in every case because the assumptions of the author and respondent may be different. Therefore, these answers should be used as guidance for your facilities. The final answers for each of your facilities will be handled by the appropriate State or Regional Office on a case by case basis and you should anticipate that the submittal of additional detailed information may be required for the determinations.

Using information supplied in your e-mail, the scenarios are presented below followed by your question and EPA's response.

Scenario #1.

Multiple landfills are located on a single parcel of property. Some of the landfills are strictly hazardous waste landfills. Some are chemical fill landfills. Some of the non-hazardous waste and non-chemical landfills are permitted to receive non-putrescible industrial waste. Other non-hazardous waste, non-chemical landfills have accepted MSW since 1987.

Question #1: Should the industrial waste only landfill as well as the landfills which accepted MSW on this single parcel of property be considered an "...entire disposal facility in a contiguous geographical space where household waste is placed..." (40 CFR 60.31c)?

Answer #1: 40 CFR 60.31c defines a municipal solid waste (MSW) landfill as 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 RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of the MSW landfill may be separated by access roads. The industrial waste only landfill would not be considered part of the disposal facility for determining design capacity but it would be considered part of a single source in that it is under common ownership or control, the same industrial grouping, and is contiguous or adjacent.

Question #2: If the industrial waste only landfill and the landfills which accepted MSW are considered "an entire disposal facility," should the design capacity for NSPS/EG reporting purposes be the sum of the design capacities for all landfills which accepted MSW and the industrial waste only landfill, or only the capacity of the landfill which accepted MSW?

Answer #2: The design capacity for NSPS/EG reporting purposes is the sum of the MSW landfills. Non-MSW landfills would not be included in the design capacity as long as it can be shown that they do not contain MSW. In responding to this question, it was assumed that each landfill was a distinct entity without co-mingling of MSW waste w/other waste types even though the group of landfills is considered an "entire disposal facility". If any cell within any of the distinct landfills has accepted any municipal solid waste, the entire distinct landfill is considered a municipal solid waste landfill and its capacity would be included in the design capacity. It is the responsibility of the landfill owner/operator to provide sufficient documentation to show that the landfills have not accepted any municipal solid waste.

Question #3: If the industrial waste only landfill and the landfills which accepted MSW are considered "an entire disposal facility" subject to the NSPS/EG, and the MSW landfills were closed/capped/accepted NO waste on/after May 30, 1991, AND the industrial waste only landfill receives a permit to construct a new cell now, thus increasing overall waste capacity on this parcel of property, would the permitted construction of the new industrial waste only cell remove the "entire disposal facility" from being subject to the EG regulations and place it into the NSPS?

Answer #3: Considering that the modification is to a proven non-MSW landfill, it would not place the entire facility from EG regulations to NSPS as long as the industrial waste landfill continues to contain only non-MSW waste. 40 CFR Part 60 Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.

Question #4: If the construction action referenced in Question #3 above does bring the "entire disposal facility" under the purview of the NSPS (Subpart WWW), does moving it from the purview of the EG (Subpart Cc), does this action require that "new" Initial Design Capacity Reports and NMOC Emission Rate Reports be prepared and submitted pursuant to the NSPS?

Answer #4: In this case, the construction action referenced in Question #3 above does not bring the "entire disposal facility" under the purview of the NSPS (Subpart WWW). However, if it did bring it under the purview of the NSPS, 60.757(a)(3) requires an amended design capacity report be submitted within 90 days of the increase to or above 2.5 million Mg and 2.5 million cubic meters. Therefore, an amended (not new initial) design capacity report would be required. The rule also requires that the NMOC estimates be recalculated annually. There is no reason to alter this time table since an amended report is not required.

Question #5: If the answer to the preceding question is "Yes," then does submittal of the NMOC Emission Rate Report pursuant to the NSPS in which the emission rate equals or exceeds 50 Mg/yr, start the NSPS compliance deadline schedule for a gas collection and control system design plan and subsequent deadline for installation/operation of the system? OR, does the facility still abide by the schedule initiated by the emission rate report of 50 Mg/yr or more submitted pursuant to the EG even though the facility is no longer subject to EG requirements?

Answer #5: The answer to the preceding question is no. However, if it were yes the following response would be given. Since the requirements and time intervals for collection and control are the same in the EG and NSPS (no additional burden), and EPA has a policy of "no backsliding", the facility would still abide by the schedule initiated by the emission rate report of 50 Mg/yr or more submitted pursuant to the EG.

Scenario #2.

A group of six landfills, all but two of which, received MSW are subject to the NSPS and all are located on the same parcel of property which is owned by a county government. The operation of the active landfill on this parcel of property is conducted by a contract operator who, by contract, is responsible for environmental compliance at the site. Shortly, this site will "fill up" and begin closure. The contract operator has purchased a parcel of property which adjoins the county's property. The contract operator has obtained a solid waste permit to build a new MSW landfill on the property which they purchased.

Question #1: Are the six landfills on the county-owned property PLUS the new landfill to be constructed on the property purchased by the vendor who currently operates the county landfill considered "an entire disposal facility" and therefore subject to the NSPS, OR is only the newly-to-be constructed landfill subject to the NSPS?

Answer #1: Source determinations are handled on a case by case basis. A stationary source is any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act. Building, structure, facility, or installation means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous adjacent properties and are under common ownership or control. The situation described is adjacent and contains units in the same industrial grouping. It would appear that there is also common control. If these criteria are met then the six landfills on the county-owned property PLUS the new landfill to be constructed on the property purchased by the vendor who currently operates the county landfill is considered an entire disposal facility and therefore subject to the NSPS. Once again, these determinations are handled on a case by case basis.

Scenario #3.

An MSW permitted landfill and a landfill permitted to receive Construction and Demolition (C&D) material only are located on a single parcel of property. The MSW landfill underwent capping/closure prior to May 30, 1991.

Question #1: Pursuant to the NSPS/EG, are these two landfills to be considered "an entire disposal facility" or is only the MSW permitted landfill the "entire facility?"

ANSWER #1: These landfills are considered an entire disposal facility but only the design capacity of the MSW landfill would be used to determine if it is an affected facility assuming that there is no MSW in the C&D landfill.

Question #2: If both landfills are to be considered "an entire disposal facility," would a newly permitted increase in design capacity at the C&D landfill cause the "entire disposal facility" to become subject to the NSPS, if it is currently subject to the EG?

Answer #2: Considering that the modification is to a proven non-MSW landfill, it would not place the entire facility from EG regulations to NSPS as long as the C & D landfill continues to contain only non-MSW waste. 40 CFR Part 60 Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.

As stated earlier, these responses are provided for guidance purposes only. The final responses will be determined on a case by case basis. Should you require additional information, please feel free to contact me at (919)541-5256.