


INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	STATUS: Effective	POLICY NUMBER: Air-042-NPD	
AGENCY NONRULE POLICY DOCUMENT SUBJECT: Municipal Solid Waste Landfills and Applicability of 326 IAC 8-8 and 326 IAC 8-8.1	AUTHORIZED: Brian Rockensuess, Commissioner		
	SUPERSEDES: New	ISSUING OFFICE(S): Office of Air Quality, Compliance and Enforcement Branch	
	ORIGINALLY EFFECTIVE: Date October 14, 2022	RENEWED/REVISED: Date New	

Disclaimer: This nonrule policy document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. IDEM will also submit the policy to the Indiana Register for publication.

1.0 PURPOSE

The purpose of this nonrule policy document is to explain the department's intentions with respect to enforcement regarding municipal solid waste (MSW) landfill requirements for existing MSW landfills subject to 326 IAC 8-8 or 326 IAC 8-8.1 which incorporate certain provisions of 40 CFR 60, Subpart WWW and the federal plan requirements for MSW landfills at 40 CFR 62, Subpart OOO. Under Title V, this causes a dual applicability requirement which will be eliminated with the passage of 326 IAC 8-8.2.

2.0 SCOPE

This policy applies to any MSW landfill subject to Indiana Rules 326 IAC 8-8 or 326 IAC 8-8.1 incorporating certain provisions of 40 CFR 60, Subpart WWW by reference and is subject to federal plan requirements for MSW landfills at 40 CFR 62, Subpart OOO.

3.0 SUMMARY

Under authority of the Clean Air Act (CAA), U.S. EPA (EPA) promulgated several regulations which apply to MSW landfills. In 1996, under CAA, Section 111, EPA promulgated the original standards of performance for new MSW landfills at 40 CFR 60, Subpart WWW, and Emission Guidelines (EG) for existing MSW landfills at 40 CFR 60, Subpart Cc.

The Indiana Air Pollution Control Board (IAPCB) adopted the MSW landfill rules 326 IAC 8-8 and 326 IAC 8-8.1 to control nonmethane organic compounds (NMOC), which include volatile organic compounds (VOCs) and hazardous air pollutants. These rules established emission standards and guidelines requiring certain MSW landfills to control emissions from landfills by installing a landfill gas collection and control system (GCCS) which either incinerates or recovers the gas. 326 IAC 8-8 and 326 IAC 8-8.1 incorporate certain provisions of 40 CFR 60, Subpart WWW by reference. EPA approved these rules on March 20, 2000, to put in place a state plan implementing the emission guidelines at 40 CFR 60, Subpart Cc. EPA also approved 326 IAC 8-8 as part of the Indiana's MSW Landfill State Implementation Plan (SIP) to reduce VOC emissions. MSW landfills located in Indiana are subject to either 326 IAC 8-8 or 326 8-8.1 which incorporate certain provisions of 40 CFR 60, Subpart WWW by reference.

On May 21, 2021, EPA issued a new federal plan establishing emission control requirements and compliance schedules for the control of designated pollutants from certain designated MSW landfills in accordance with section 111(d) of the CAA and 40 CFR 60, Subpart B. The federal plan, 40 CFR 62, Subpart OOO, became effective on June 21, 2021.

The new federal plan includes the same elements as required for a state plan: identification of legal authority and mechanisms for implementation; inventory of designated facilities; emissions inventory; emission limits; compliance schedules; a process for the EPA or state review of design plans for site-specific GCCS; testing, monitoring, reporting, and record keeping requirements; and public hearing requirements. Legacy controlled landfills can carry over some submittals from the old rules to the new rule to save effort. In most cases, this includes reuse of their initial design capacity report, initial or annual NMOC emission rate reports, collection and control system design plan, initial performance tests and initial annual reports. Legacy controlled landfills are required to continue to install and expand their GCCS under the federal plan at the same schedule required by the previous landfill rules.

Any MSW landfill may now be subject to both the Indiana rules 326 IAC 8-8 or 326 IAC 8-8.1 which incorporate certain provisions of 40 CFR 60, Subpart WWW by reference and the federal plan, 40 CFR 62, Subpart OOO. MSW landfill sources which have 326 IAC 8-8 or 326 IAC 8-8.1 requirements in their Title V operating permits would potentially be subject to two sets of standards (certain provisions of 40 CFR 60, Subpart WWW, and the federal plan requirements at 40 CFR 62, Subpart OOO) until the state rules are changed and the Title V operating permits have been modified to eliminate dual applicability.

IDEM is in the process of repealing 326 IAC 8-8 and 326 IAC 8-8.1 and adding 326 IAC 8-8.2 to replace the incorporation of certain provisions of 40 CFR 60, Subpart WWW with the incorporation of certain provisions of the Emission Guidelines at 40 CFR 60, Subpart Cf or corresponding federal plan provisions at 40 CFR 62, Subpart OOO to eliminate the dual applicability.

This nonrule policy document explains the department's intentions with respect to compliance and enforcement regarding MSW landfill requirements for existing MSW landfills subject to 326 IAC 8-8 or 326 IAC 8-8.1 which incorporate certain provisions of 40 CFR 60, Subpart WWW and the federal plan at 40 CFR 62 Subpart OOO until 326 IAC 8 can be revised to incorporate the provisions of 40 CFR 60, Subpart Cf or corresponding federal plan provisions at 40 CFR 62, Subpart OOO.

Until this rulemaking can be completed, IDEM does not intend to enforce the requirements of certain provisions of 40 CFR 60, Subpart WWW incorporated in 326 IAC 8-8 and 326 IAC 8-8.1 provided any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 complies with provisions of the federal plan at 40 CFR 62, Subpart OOO.

4.0 DEFINITIONS

- 4.1. "Clean Air Act (CAA)" –Law defining the U.S. EPA's responsibilities for protecting and improving the nation's air quality and the stratospheric ozone layer.
- 4.2. "Code of Federal Regulations (CFR)" – A codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.
- 4.3. "Indiana Administrative Code (IAC)" – A collection of the rules of various State of Indiana boards and agencies.
- 4.4. "EPA" – See U.S. Environmental Protection Agency.
- 4.5. "Indiana Department of Environmental Management (IDEM)" – An agency of Indiana State Government whose mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial, and government activities vital to a prosperous economy.
- 4.6. "Legacy controlled landfill" – Any MSW landfill subject to 40 CFR 62, Subpart OOO which submitted a gas collection and control system (GCCS) design plan prior to May 21, 2021, in compliance with 40 CFR 60.752(b)(2)(i); the federal plan at 40 CFR 62, Subpart GGG; or a state or tribal plan implementing 40 CFR 60, Subpart Cc, depending on which regulation was applicable to the landfill. This definition applies to those landfills which completed construction and began operations of the GCCS and those within the 30-month timeline for installation and start-up of a GCCS according to 40 CFR 60.752(b)(2)(ii); the federal plan at

40 CFR 62, Subpart GGG of this part; or a state or tribal plan implementing 40 CFR 60, Subpart Cc.

- 4.7. "Municipal solid waste landfill (MSWL)" – A landfill which includes predominantly household waste (domestic waste) with sometimes the addition of commercial wastes collected by a municipality within a given area.
- 4.8. U.S. Environmental Protection Agency (U.S. EPA) – An agency of the federal government charged with protecting human health and with safeguarding the natural environment: air, water, and land.

5.0 ROLES

- 5.1. Office of Air Quality, Compliance and Enforcement Branch inspectors shall:
 - A. Perform compliance inspections, compliance reviews, and implement this nonrule policy document at MSW landfill facilities subject to 326 IAC 8-8 or 326 IAC 8-8.1.
 - B. Exercise enforcement discretion and will not enforce the requirements to comply with certain provisions of 40 CFR 60, Subpart WWW incorporated in 326 IAC 8-8 and 326 IAC 8-8.1 provided any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 complies with provisions of 40 CFR 62, Subpart OOO.
- 5.2. Office of Air Quality, Compliance and Enforcement Branch enforcement case managers shall:
 - A. Respond to enforcement cases and implement this nonrule policy document at MSW landfill facilities subject to 326 IAC 8-8 or 326 IAC 8-8.1.
 - B. Exercise enforcement discretion and will not enforce the requirements to comply with certain provisions of 40 CFR 60, Subpart WWW incorporated in 326 IAC 8-8 and 326 IAC 8-8.1 provided any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 complies with provisions of 40 CFR 62, Subpart OOO.
- 5.3. MSW landfills subject to provisions of 326 IAC 8-8 and 326 IAC 8-8.1 shall:
 - A. Incorporate by reference certain provisions of 40 CFR 60, Subpart WWW.
 - B. Comply with provisions of 40 CFR 62, Subpart OOO until such time rules 326 IAC 8-8 and 326 IAC 8-8.1 are repealed and 328 IAC 8-8.2 is added to incorporate certain provisions of 40 CFR 60, Subpart Cf, or corresponding federal plan provisions at 40 CFR 62, Subpart OOO.
 - C. Submit a Title V permit modification to incorporate the new provisions of 326 IAC 8-8.2 which will incorporate the provisions 40 CFR 60, Subpart Cf, or corresponding federal plan provisions at 40 CFR 62, Subpart OOO.

6.0 POLICY

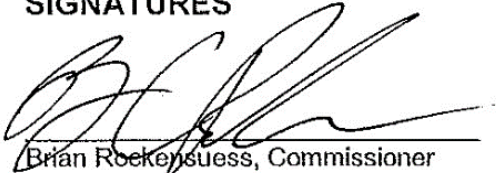
- 6.1. Any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 may now be subject to both the Indiana rules 326 IAC 8-8 or 326 IAC 8-8.1 which incorporate certain provisions of 40 CFR 60, Subpart WWW by reference and the provisions of the federal plan at 40 CFR 62, Subpart OOO, creating dual applicability to both.
- 6.2. 326 IAC 8-8 and 326 IAC 8-8.1 shall be repealed.
- 6.3. 326 IAC 8.2 shall replace 326 IAC 8-8 and 326 IAC 8-8.1.
- 6.4. Upon the effective date of this NPD, IDEM will exercise its enforcement discretion and will not enforce the requirements to comply with the incorporation of provisions of 40 CFR 60, Subpart WWW in 326 IAC 8-8 and 326 IAC 8-8.1 provided that any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 complies with provisions of the federal plan at 40 CFR 62, Subpart OOO.
- 6.5. Any MSW landfill subject to 326 IAC 8-8 or 326 IAC 8-8.1 shall submit a Title V permit modification to incorporate the new provisions of 326 IAC 8-8.2 which incorporate 40 CFR 60, Subpart Cf or corresponding federal plan provisions at 40 CFR 62, Subpart OOO within ninety (90) days of the effective date of the rule revisions repealing 326 IAC 8-8 and 326 IAC 8-8.1 and adding 326 IAC 8-8.2 which incorporates the provisions of 40 CFR 60, Subpart Cf or corresponding federal plan provisions at 40 CFR 62, Subpart OOO.

- 6.6. This policy shall remain in effect until one hundred eighty (180) days after the effective date of the rule revisions repealing 326 IAC 8-8 and 326 IAC 8-8.1 and adding 326 IAC 8-8.2 which incorporate the provisions of 40 CFR 60, Subpart Cf, or corresponding federal plan provisions at 40 CFR 62, Subpart OOO.

7.0 REFERENCES

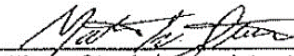
- 7.1. Indiana Administrative Codes:
- A. [326 IAC 8-8](#), Municipal Solid Waste Landfills Located in Clark, Floyd, Lake, and Porter Counties
 - B. [326 IAC 8-8.1](#), Municipal Solid Waste Landfills Not Located in Clark, Floyd, Lake, and Porter Counties
 - C. [326 IAC 2-7](#) – Part 70 Permit Program
- 7.2. United States Code of Federal Regulations
- A. [40 CFR 60, Subpart Cf](#) Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
 - B. [40 CFR 60, 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
 - C. [40 CFR 62, Subpart OOO](#) Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014

8.0 SIGNATURES



Brian Roekensuess, Commissioner
Indiana Department of Environmental Management

04/25/2022
Date



Matthew Stuckey, Assistant Commissioner
Office of Air Quality

April 11th, 2022
Date

Nancy King

Nancy King, General Counsel

April 19, 2022
Date

This policy is consistent with Agency requirements.



Quality Assurance Program, Office of Program Support
Indiana Department of Environmental Management

26 Apr 2022
Date