

Phone conversation with Mike Crepeau at Gordon Environmental re: "Increments of Progress"

11/15/2016

Allow 6 months to award contracts and submit purchase orders. This includes time to develop a procurement package, which includes contract documents, technical plans and specifications, and construction plans.

Allow another 3 months to initiate construction once contracts have been awarded.

Allow 8 months to complete construction. This leaves 1 month to get the system operational.

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**MSW LANDFILL NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES
REGULATORY CONCERNS AND IMPLEMENTATION RECOMMENDATIONS**

Representatives of the waste management industry, including National Waste & Recycling Association (NWRA), the Solid Waste Association of North America (SWANA), Waste Management (WM), and Republic Services (Republic), have prepared the following information and recommendations regarding USEPA’s new Part 60 standards for MSW landfills (Subparts XXX and Cf). In summary, the rules are fundamentally flawed, subject to judicial and administrative challenges that are likely to prevail, and therefore the rules are likely to change in the near future. Thus, we recommend that states defer action on these rules at this time, since it will not result in any negative consequences for the state. For states that plan to move forward with implementing these rules, we ask for full consideration of the recommendations below.

BACKGROUND

In August 2016, USEPA adopted new Part 60 standards for MSW landfills. Although USEPA intended to *revise* the original 1996 standards (Subparts WWW & Cc), USEPA instead adopted *new* Subparts XXX & Cf without any explanation as to how landfills currently complying with the original standards should now comply with the new rules. Most notably, the Part 63 NESHAP for landfills (Subpart AAAA) also continues to require compliance with Subparts WWW & Cc. Thus, instead of one set of rules for the source category, both the old and new rules apply in overlapping fashion, as illustrated below:¹

Landfills that were last constructed / modified ...	Emission Guidelines		NSPS	
	Cc (old)	Cf (new)	WWW (old)	XXX (new)
... before May 30, 1991	✘	✘		
... on or between May 30, 1991 & July 17, 2014		✘	✘	
... after July 17, 2014			✘	✘

Notably, under these provisions, all landfills last modified between 1991 and 2014 (*i.e.*, the vast majority of active landfills) will be simultaneously regulated as both a “existing source” under new Subpart Cf and as a “new source” under old Subpart WWW, which is inconsistent with the definition of those terms in the Clean Air Act. No other source category is regulated this way. Because the new rules differ from the old, and are also unclear in many other important respects, the overlapping applicability raises many questions.

To address these concerns, NWRA, SWANA, WM, and Republic filed an administrative petition asking USEPA to correct certain flaws and to stay the effectiveness of the rules until the necessary revisions can be made. The same group of industry representatives also filed judicial challenges to Subparts XXX and Cf that are currently pending before the United States Court of Appeals for the District of Columbia Circuit.

¹ See 40 C.F.R. §§ 60.32c; 60.750; 60.31f ; 60.760; 63.1935; & 63.1955.

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STATES CAN DELAY PLAN SUBMITTALS WITHOUT PENALTY OR SANCTIONS

The promulgation of new Subparts XXX and Cf, and USEPA's failure to address the continuing applicability of old Subparts WWW and Cc, has created a regulatory morass for affected facilities and states. Although states are charged with developing state plans for existing sources under Subpart Cf, USEPA has failed to ensure that Subpart Cf can replace Subparts Cc and WWW as intended. Moreover, in the midst of the administration change at USEPA, confusion abounds. In light of the rules' many flaws, the pending judicial and administrative challenges, and the change in administration, *states could elect to not implement the rules at this time.*

Although the new Subpart Cf establishes a May 30, 2017, deadline for submission of state plans, USEPA has confirmed states will not be sanctioned for missing the deadline for a state plan to implement USEPA's emission guidelines. Instead, states that miss the deadline will simply become subject to any future federal plan that USEPA may adopt. Since USEPA has not yet developed a federal plan, and all pending challenges will likely be resolved prior to the adoption of a federal plan, any future federal plan should address the flaws that would otherwise be inherent in any state plan based on Subpart Cf as it exists today. States may also adopt a state plan at any time in the future, even after becoming subject to a federal plan. Thus, in taking no action, states have a risk-free way of avoiding the burden of developing and implementing a state plan based on flawed rules, as well as avoiding the burden of revising that state plan later to address those flaws once they are resolved by USEPA. Some states are already following this approach (*e.g.*, Iowa and Oklahoma), and we expect others will do so as well.

STATES TAKING ACTION SHOULD CONSIDER CERTAIN IMPLEMENTATION ISSUES & RECOMMENDATIONS

Although we believe that states should take no immediate action with respect to the new landfill rules, we respectfully ask any state that intends to develop state rules or plans now to consider the following issues and recommendations:

- 1. MSW Landfills Must Be Subject to Only One Set of Standards at a Time:**
Despite USEPA's failure to confirm that Subparts WWW and Cc should no longer apply to landfills once regulated under Subparts XXX or Cf, states may address that issue by including a provision in their state rules and state plan stating that compliance with Subparts XXX or Cf constitutes compliance with the other standards.
- 2. Subpart Cf State Plans Should Not Be More Stringent Than Subpart XXX:**
Subparts Cf and XXX contain nearly identical compliance requirements even though they apply to existing and new sources, respectively. Although states have flexibility to implement Subpart Cf through the promulgation of regulations and the development and submission of a state plan, the emission guidelines affecting existing sources should not be more stringent than the standards USEPA has developed for new sources.
- 3. State Plans Should Specify an Approval Process for Design Plans.**
The new EG rule requires state plans to include a process for state review and approval of the site-specific design plan for each gas collection and control system (GCCS). While

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states are required to approve the design plans, they may either review the plan themselves, or rely upon the required review and certification of the design plan by the state-regulated professional engineer (PE). We recommend that state agencies rely upon the PE review and certification of the design plans as sufficient review. We also encourage states to confirm that they will approve, as part of those Subpart Cf design plans, alternatives to the standards that were previously approved under Subparts WWW or Cc, including alternative timelines and higher operating values.

4. State Plans Should Provide Sufficient Compliance Time:

Even after resolution of the overlapping applicability issues, landfills will need some time to comply with the new monitoring, reporting, and recordkeeping requirements. Subpart Cf provides that time—the “compliance time” provision (40 C.F.R. § 60.32f) requires compliance to begin *after submission of the NMOC emission rate report*, and the “reporting guidelines” provision (40 C.F.R. § 60.38f(c)) requires submission of the NMOC report within 90 days *after USEPA approval of a state’s plan*. In addition, landfills that have NMOC emission rate of 34 Mg/yr or greater must also complete and submit a GCCS Design Plan that includes new Subpart Cf requirements within one year of the date of the NMOC report (40 C.F.R. § 60.38f(d)(4)), and that plan may contain important implementation details. States should recognize these milestones prior to requiring full compliance.

5. State Plans Should Not Be Effective Until USEPA Approval:

To avoid confusion related to the effective date of the state Subpart Cf rule, states should include text in the state rule and the state plan confirming that neither will take effect until USEPA approval, consistent with the Subpart Cf provisions identified above.

6. Incorporations by Reference Should Include Future Amendments:

To ensure continued consistency with federal regulations of any aspect of Subpart Cf that is incorporated by reference, states should specify that such incorporation includes any future changes, additions, or revisions to the federal rules. Incorporating future revisions is particularly important in light of the pending judicial and administrative challenges likely to result in such revisions.

7. States Should Include an Automatic Rescission Clause:

Subparts XXX and Cf could be stayed, repealed, or revised due to the pending challenges. Therefore, state plans should include a provision rendering the new requirements void to the same extent that they may become unenforceable by USEPA as a result of any action by a federal court, Congress, or a new final action by USEPA itself. USEPA has recently approved such rescission clauses under appropriate circumstances.

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A good example of how a state may implement these concepts in its state rule and plan is provided below, which contains excerpts from a draft rule prepared by the State of Tennessee:

Paragraph (7) of Rule 1200-03-07-.07 General Provisions and Applicability for Process Gaseous Emission Standards is amended by deleting it in its entirety and substituting instead the following:

- (7) Each municipal solid waste landfill for which construction, reconstruction or modification was commenced on or before July 17, 2014 that has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition, shall satisfy the standards and requirements as follow: ...
- (c) All facilities subject to this paragraph shall comply with the provisions of 40 CFR Part 60 Subpart XXX, §§ 60.762 through 60.769, except as listed in Parts 1 through 4 of this subparagraph.
1. The initial design capacity report required by § 60.767(a) and the initial nonmethane organic compounds (NMOC) emission rate report required by § 60.767(b) are due 90 days after the effective date of EPA approval of the state's plan under section 111(d) of the Clean Air Act. ...
 4. For any affected facility for which higher operating temperatures were previously approved at one or more wellheads pursuant to § 60.753(c):
 - (i) Pursuant to §60.767(c)(2), the established higher operating temperatures must be submitted in the gas collection and control system (GCCS) design plan as alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of §§ 60.763 through 60.768. ...
- (e) For any facility subject to this paragraph, compliance with 40 CFR 60 Subpart XXX, as adopted herein, ensures compliance with the requirements codified in 40 CFR 60 Subparts Cc, Cf, and WWW.



March 13, 2017

Ms. Cindy Hollenberg
New Mexico Environment Department
Air Quality Bureau
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Santa Fe, NM 87505

Submitted electronically: cindy.hollenberg@state.nm.us

Re: Comments on New Mexico's Proposed State Plan for Implementing Emission Guidelines (40 C.F.R. Subpart Cf) and Proposed Amendments to 20.2.64 NMAC

Dear Ms. Hollenberg:

The New Mexico Chapters of the National Waste & Recycling Association (NWRA) and the Solid Waste Association of North America (SWANA) are pleased to provide the attached comments to the New Mexico Environment Department (NMED) on the proposed State Plan and proposed rule amendments to 20.2.64 NMAC pursuant to 40 C.F.R. Part 60, Subparts B and Cf. These comments supplement the comments previously submitted to you via email correspondence by Mr. David Thorley of Waste Management (attached).

Comments on the proposed State Plan:

1. Process for review of Design Plans: As allowed by Subpart Cf, we recommend the agency accept the Professional Engineer's certification and provide written approval of such via registered mail. A professional engineer's certification should provide more than adequate assurance of proper design. Accepting such certifications would also be far more efficient than review of each individual landfill's plan by the state, given the case-by-case analysis required for those plans. By accepting a professional engineer's certification, New Mexico's approach would mirror that taken by EPA in several other similar standards.

If agency elects to review the Design Plans for approval, then the agency should clarify in the State Plan timeframe within which it will provide approval or denial to the facility. The Subpart Cf rule assumes 90 days; we recommend the agency complete its review and issue its approval within 90 days of receiving the complete Design Plan. This provides certainty to the facility so they can proceed with GCCS operations in accordance with its approved Design Plan.

2. Review and tracking of reports submitted to the New Mexico Environment Department: The proposed plan requires existing Municipal Solid Waste (MSW) landfills to submit semi-annual reports and annual compliance certifications. These submittals are to include NMOC emission rate reports or methane surface emissions monitoring reports. This is more stringent than Subpart Cf requirements. Subpart Cf does not require semi-annual reporting of any reports; only annual reporting. See 60.38f(c), (d)(4)(iii) and (h). The NMOC reports are due annually or every 5-years, as applicable and until the reports indicate the site exceeds 34 Mg and completes installation of the GCCS. The Tier 4 methane surface emissions monitoring reports are due annually for sites that qualify to use Tier 4. The annual compliance report for Subpart Cf is due annually.

Comments on proposed amendments to 20.2.64 NMAC:

In review of the proposed rule, we offer the following comments.

1. Effective Date and Compliance Deadline (20.2.64.5): the agency should clarify that, regardless of the effective date for the rule, the deadline for compliance is based on the date EPA approves the State Plan. This is consistent with the specific provisions of Subpart Cf which are incorporated by New Mexico and establish a compliance schedule that does not require immediate compliance on the effective date of a state's Subpart Cf rule. See 40 C.F.R. 60.38f(a).

The requirements of Subpart Cf begin to operate through 20.2.64 when EPA approves the State's 111(d) plan. 40 CFR 60.38f(a) requires a landfill with a design capacity \geq 2.5 million megagrams and 2.5 million cubic meters to submit an NMOC emission rate report. These reports are the baseline on which the remaining requirements of the regulations are based. They are due no later than 90 days after the effective date of EPA approval of the state's plan. EPA is required by 40 CFR 60.27(b) to approve or disapprove the site plan within 4 months after the plan due date.

2. Applicability (20.2.64.109): The agency should revise the date of Subpart Cf promulgation from July 14, 2016 (pre-publication date) to August 26, 2016 (Federal Register publication date)
3. Applicability (20.2.64.109): The proposed rules overwrite their prior incorporation of WWW and Cc with the new incorporation of Subparts XXX for "new landfills" and Subpart Cf for "existing landfills". The proposed rules incorporating Subparts XXX and Cf by reference appear to resolve the overlapping applicability of Subpart Cf for sources currently subject to Subpart Cc (see general comments attached). However, the proposed rules do not address Subpart WWW, which continues to remain in effect via a prior incorporation by reference of 40 CFR Part 60 in 20.2.77 NMAC and currently applicable to the vast majority of existing MSW landfills. Even if New Mexico does not plan to enforce the old requirements of Subpart WWW once it begins enforcing the new provisions of Subpart Cf, Subpart WWW could remain in effect absent specific rule language or clarification in the State Plan. We recommend the agency include the following language in the Applicability section of the proposed rule:

20.2.64.109 C. For any facility subject to this paragraph, compliance with 40 CFR 60 Subpart XXX or Cf, as adopted herein, ensures compliance with the requirements codified in 40 CFR 60 Subparts Cc and WWW.

4. Requirements for Existing Municipal Solid Waste Landfills (20.2.64.111): it appears Subsection B requires sites follow the Subpart Cf compliance schedule for submitting all reports, including the initial design

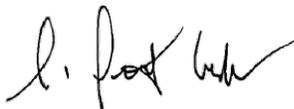
capacity and NMOC emission rate reports, as well as the GCCS design plan. This is consistent with industry's view that compliance with Subpart Cf requires all landfills to submit these reports per the compliance schedule presented in the Subpart Cf rules. We recommended the agency add language to clarify the initial design capacity report required by § 60.38f (a) and the initial nonmethane organic compounds (NMOC) emission rate report required by § 60.38f (c) are due 90 days after the effective date of EPA approval of the state's plan under section 111(d) of the Clean Air Act.

5. Requirements for Existing Municipal Solid Waste Landfills (20.2.64.111): The proposed increments of progress and corresponding schedule should be deleted from the rule as they are more stringent than the Subpart Cf rule. First, increments of progress are only required if the compliance schedule extends more than 12 months from the date required for submittal of the 111d Plan. The compliance schedule starts once the State Plan is approved by EPA, which per 40 C.F.R. Subpart B must occur within 4 months of the State Plan submittal to EPA. Within 90 days of the State Plan approval date, the initial design capacity and NMOC emission rate reports are due to the agency. The compliance schedule does not exceed 12 months and therefore no increments of progress are required.

Second, the requirement to complete construction and installation of the GCCS within 29 months is more stringent than the 30 months allowed in Subpart Cf. The proposed requirement to complete performance testing within 150 days is more stringent than 180 days allowed in Subpart Cf. Since New Mexico is prohibited by statute from adopting standards that are more stringent than federal standards, see NMSA § 74-2-5.C.(2)(a), these provisions must be revised.

The New Mexico Chapters of NWRA and SWANA appreciate the opportunity to provide specific comments on the proposed State Plan and proposed rule amendments to 20.2.64 NMAC. In addition, we would be interested in discussing these issues further and request a meeting in the near future. Should you have questions, please contact Anne Germain at agermain@wasterecycling.org or Jesse Maxwell at jmaxwell@swana.org.

Very truly yours,



Keith Gordon
New Mexico Chapter Chair
National Waste & Recycling Association



Charles Fiedler
New Mexico Chapter Chair
Solid Waste Association of North America

Attachment

cc: A. Germain, NWRA
J. Maxwell, SWANA
Amy Banister and David Thorley, WM

NEW Municipal Solid Waste Landfills – New Source Performance Standards and Emission Guidelines

In August 2016, EPA issued revised standards for both new and existing municipal solid waste landfills (MSWLs). The New Source Performance Standards at 40 CFR 60 Subpart XXX apply to landfills constructed or modified after July 17, 2014. The Emission Guidelines at 40 CFR 60 Subpart Cf apply to landfills constructed or modified on or prior to this date. Both of these federal rules aim to reduce landfill gas emissions and will be incorporated by reference into the New Mexico Administrative Code (NMAC).

Subpart Cf, promulgated under Section 111(d) of the Clean Air Act, requires that states, tribes and local authorities with jurisdiction over existing landfills develop a plan to implement the emission guidelines. One aspect of that state plan, for New Mexico, will be the amendment of 20.2.64 NMAC – *Municipal Solid Waste Landfills*.

Both the state plan and the revised rule will require approval by the Environmental Improvement Board at a public hearing set for **April 28, 2017**.

- Public Notice in [English](#) and [Spanish](#)
- The [Petition for Hearing EIB 16-06 \(R\)](#) includes the proposed state plan and the proposed amendments to Part 64. The proposed state plan must also include a demonstration of authority to implement the emission guidelines, a list of active and closed landfills in New Mexico and an emissions inventory for active landfills in New Mexico.
- Comments to the proposed rule revision and State Plan were received on February 28 and March 15, 2017. NMED has summarized and responded to these comments in a [Comment Summary and Response document](#) that will become part of the permanent public record.
- [Original Plan Hearing Record](#) (1996)

For summary information on the new emission guidelines, download the [MSWL FactSheet final](#). If you have further questions regarding the emission guidelines or the State Plan development, contact Cindy Hollenberg, cindy.hollenberg@state.nm.us or (505) 476-4356.

MSWL Comments / NMED Responses – current as of 3/21/17

Date received	From	Comment	NMED Response
2/28/2017	David Thorley (representing the National Waste & Recycling Association, the Solid Waste Association of North America, Waste Management and Republic Services)	1. Recommend that states defer action as there are no negative consequences for states.	Subpart Cf directs states to submit state plans implementing the emission guidelines by May 30, 2017. Should states fail to do so, EPA would impose a federal plan on those states. New Mexico intends to submit a state plan to avoid this possibility. Also, sources generally prefer to work with states rather than EPA for implementation of federal rules.
		2. Simultaneous regulations create overlaps in applicability since old rules were not rescinded at the same time new rules were promulgated.	NMED disagrees. Although not stated explicitly in rule language, the preamble (at 80 FR 59286) provides guidance and written correspondence from EPA confirms that existing landfills must comply with Subpart WWW or Cc until either: (a) the landfill reconstructs or modifies and thereby becomes subject to Subpart XXX; or (b) the new emissions guidelines (Cf) are implemented through a state plan.
		3. Include a provision in plan to clarify that complying with Subparts XXX or Cf constitutes compliance with the old standards.	NMED does not believe this to be necessary, considering the guidance provided in the preamble and EPA concurrence with this interpretation. Existing landfills continue to comply with Subpart WWW or Cc as applicable until they reconstruct or modify, or until the State Plan is approved by EPA. However, 40 CFR Part 63 Subpart AAAA (NESHAP) will continue to apply; therefore, the emission thresholds of Subpart WWW (50 Mg) will continue to apply through the NESHAP. (Subparts WWW, Cc, XXX and Cf are emission standards for nonhazardous air pollutants and are promulgated under a different Part than the NESHAP.)
		4. Emission guidelines for existing sources should be no more stringent than standards for new sources.	This comment addresses federal rules that were promulgated several months ago. These concerns should have been directed to U.S. EPA during the comment period for the proposed rules.

Date received	From	Comment	NMED Response
2/28/2017 (cont'd)	David Thorley (representing the National Waste & Recycling Association, the Solid Waste Association of North America, Waste Management and Republic Services)	5. State plans should specify an approval process for design plans, relying on the PE review and certification.	As stated in New Mexico's proposed plan, design plans will be submitted to the Permitting Section of the Air Quality Bureau, whose responsibilities currently include and will continue to include reviewing the design plans for completeness and PE certification. This means that if the design plan is complete and is certified appropriately for the landfill by a professional engineer, the design plan will be approved. For clarity, the language in Section 2, item 3 of the proposed State Plan has been modified.
		6. States should recognize that compliance begins after the effective date of the State Plan's EPA approval.	The effective date for Subpart Cf is October 28, 2016, per 81 FR 59276. However, Cf is applicable to states. Affected facilities must begin compliance after the effective date of a state's approved plan. EPA approval is expected within 4 months of submission. Plans must be submitted to EPA by May 30, 2017.
		7. State Plans should not be effective until EPA approval to avoid confusion. Include text in the state rule confirming this.	The proposed revisions to Part 64, after adoption by the Environmental Improvement Board, become effective no earlier than 30 days after submission to the State Records Center and Archives. New Mexico rules require a specific effective date within the rule; that effective date will be approved as part of the adoption at the public hearing. Affected facilities must begin compliance with subpart Cf after EPA approval of the adopted State Plan. Because the State Plan approval process is well defined and both EPA and NMED concur that compliance does not begin until after approval of the State Plan, NMED does not feel it is necessary to add this language to the State Plan and it is not appropriate to add it to the state rule (20.2.64 NMAC).

Date received	From	Comment	NMED Response
2/28/2017 (cont'd)	David Thorley (representing the National Waste & Recycling Association, the Solid Waste Association of North America, Waste Management and Republic Services)	8. Incorporations by Reference should include future amendments.	<p>NMED prefers to evaluate federal rules on a case-by-case basis to determine whether to incorporate them by reference. Federal NSPS are incorporated by reference in 20.2.77 NMAC (Part 77). We do not include future amendments since our delegation of authority is based on the most recent incorporation by reference and we do not expect the Environmental Improvement Board to adopt unknown rule or plan language.</p> <p>The emission guidelines will not be incorporated by reference. Rather Part 64 directs affected facilities to comply with either emission guidelines (for existing facilities) or standards (for new facilities). Should emission guidelines be amended, NMED will evaluate whether or not to amend the State Plan or state rule.</p>
		9. States should include an automatic rescission clause in their Plans.	<p>If federal rules are revoked, they would no longer be enforceable. A rescission clause is not necessary and would introduce undue uncertainty into the eventual outcome of such an occurrence. Should this revocation occur, NMED would evaluate Part 64 and the State Plan and revise them accordingly. EPA concurs with this conclusion.</p>
3/15/2017	National Waste & Recycling Association (NWRA) and Solid Waste Association of North America (SWANA)	1. Recommend acceptance of the Professional Engineer's certification and provide written approval via registered mail.	<p>As stated in response to David Thorley's comments, NMED conducts an administrative review only, relying on the certification from the Professional Engineer. However, to add clarity, Section 2, item #3 has been modified accordingly in the proposed State Plan. The draft and proposed State Plans already included language indicating that letters stating approval (or disapproval if incomplete) would be sent by registered mail.</p>

Date received	From	Comment	NMED Response
3/15/2017	National Waste & Recycling Association (Nwra) and Solid Waste Association of North America (Swana)	2. The proposed State Plan is more stringent than Subpart Cf in that semi-annual reports and annual compliance certifications require NMOC emission rate reports or methane surface emissions monitoring reports.	The requirement for semi-annual reports and annual compliance certifications (ACC) are found at 20.2.70.302 NMAC. This requirement is written into Operating Permits. The requirement to report NMOC emissions estimates is annual, although many facilities include the report from the previous ACC with their semi-annual reports to substantiate that permit conditions are being met. For clarity, the proposed State Plan has been modified to reflect this understanding.
		3. The effective date in 20.2.64.5 NMAC should clarify that compliance does not begin until EPA approves the State Plan.	Section 5 of Part 64 follows the requirements for all New Mexico Administrative Code rules. It is not appropriate to add this type of clarifying statement here, nor is it necessary. (See response to Thorley comment #7.)
		4. 20.2.64.109 NMAC should use the Federal Register publication date, rather than the date of promulgation.	Section 109 will be corrected to August 29, 2016.
		5. Add 20.2.64.109.C to indicate compliance with Subpart Cf (or XXX) ensures compliance with Subpart Cc or WWW. Adding this to the State Rule would avoid confusion regarding overlap of rules.	NMED believes that this rule language would create further confusion, rather than mitigating it. (See response to Thorley comment #3.)
		6. Add language to 20.2.64.111 to clarify that initial reports (design capacity and NMOC emission rate reports) are due 90 days after the effective date of the EPA-approved State Plan.	This is not necessary as these reporting due dates are clearly stated in 40 CFR 60.38f and the referenced section requires that sources adhere to the reporting schedule listed in Subpart Cf.

Date received	From	Comment	NMED Response
3/15/2017	National Waste & Recycling Association (Nwra) and Solid Waste Association of North America (Swana)	7. Increments of progress should be deleted from the rule because they are more stringent than the Subpart Cf rule: (a) the compliance schedule does not extend more than 12 months for initial design capacity and NMOC emission rate reports; (b) construction and installation of a GCCS must be completed within 30 months, rather than 29 months; and (c) performance testing should be completed within 180 days of startup of a GCCS, not 150 days.	Increments of progress are required for plan approval. NMED chose to include increments of progress in the rule because this is a requirement for sources. In response to specific concerns: (a) Increments of progress refer only to the installation and startup of a gas collection and control system, not to submittal of design capacity or NMOC emission rate reports. (b) The 30-month deadline in Subpart Cf refers to when the system must be operational, not when installation is finished. After receiving no input regarding increments of progress, NMED initiated a phone discussion with an experienced consultant for appropriate deadlines. The consultant suggested that construction be completed 30 days in advance of the final compliance (startup) deadline to assure the system is running properly by the final compliance deadline of 30 months. (c) Our rule states that testing must be scheduled for no later than 150 days following the final compliance date (startup). Subpart Cf requires that the report from this initial compliance test be complete and submitted within 180 days of GCCS startup. The 30 days difference allows for the completion of the compliance test report. Further, the exceptions allowed in Subsection C provide for situations in which these deadlines cannot be met. For these reasons, NMED does not believe that the increments of progress represent a standard that is more stringent than the emission guidelines.