

63.6(e)(3). If you take action during a SSM event, you must keep records for that SSM event which demonstrate that you followed the procedures specified in the SSM plan. You must submit a report every 6 months if the action is consistent with the SSM plan. However, if the action is not consistent with the SSM plan, you must notify EPA within 2 days of the SSM event and must follow up with a letter within 7 days of the event (section 63.10(d)(5)(ii)).

#### *G. What Are the Additional Requirements for Bioreactors?*

A bioreactor is defined as a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste. We consider landfill gas condensate to be a constituent of leachate. Addition of wastewater sludges to the waste mass is considered addition of liquids other than leachate. Bioreactors at active landfills that meet the design capacity criteria are required to install and begin operating gas collection and control systems in a timely manner as previously discussed in this preamble. The timing for extending the collection and control system into new cells or areas of the bioreactor is also different from conventional landfills. Once control of your bioreactor is required, you must install collection and control systems in new areas or cells of the bioreactor prior to initiating liquids addition to that area, cell, or group of cells. Controls may be removed from the bioreactor portion of the landfill either:

(1) When the criteria for control removal specified in the landfills EG/NSPS are met, or (2) When the bioreactor is permanently closed, liquids addition has ceased, and liquids have not been added to the bioreactor for at least 1 year.

At some landfills, a portion of the landfill is a bioreactor and the remainder is designed and operated as a conventional landfill. In these situations, the control requirements and the timing of control installation for the conventional portion of the landfill do not change. You must continue to use the equations and factors in the EG/NSPS to calculate the annual estimated uncontrolled NMOC emissions for your landfill as a whole (including the total waste placed in the bioreactor area and the conventional area). When your

calculated uncontrolled NMOC emissions equal or exceed 50 Mg/yr, then you must install a collection and control system for the conventional portions of the landfill according to the schedule in the NSPS, or the applicable State, Tribal, or Federal plan that implements the EG. Only the bioreactor portion of the landfill must meet the control schedule for bioreactors.

Note that as a general rule, it is currently difficult for an owner/operator of a MSW landfill to operate a large bioreactor as defined in the final rule. This is because of the Federal criteria regulating MSW landfills, specifically 40 CFR part 258.28 which prohibits the addition of liquids other than leachate and gas condensate to a landfill and 40 CFR part 258.26 which limits the entry of rainwater into MSW landfills through specified run-on control systems. A few landfills have gained site specific variances under Project XL to operate landfill bioreactors.

However, on June 10, 2002, EPA proposed a revision to 40 CFR part 258 that would allow the Director of an approved State to issue a research, development, and demonstration (RD&D) permit for a MSW landfill (67 FR 39662). That proposed RD&D rule would allow the States to grant variances to certain parts of the MSW landfill criteria (40 CFR part 258) through the issuance of RD&D permits. As a result, once the RD&D rule becomes final and an approved State integrates the new Federal regulations, the Director of an approved State may issue permits which could potentially allow for the operation of a bioreactor landfill as long as there is no increased risk to human health and the environment (as compared to a MSW landfill permitted under the existing 40 CFR part 258 criteria). Therefore, once the proposed rule allowing RD&D permits for MSW landfills becomes final, we expect the number of bioreactor landfills to increase.

### **III. Summary of Public Comments and Responses**

This section of the preamble is a brief summary of the major public comments received in response to the original proposal and the supplemental proposal for the MSW landfills NESHAP, and changes resulting from the comments. Additional comments are summarized in the document "Municipal Solid Waste Landfills: Background Information Document for National Emission Standards for Hazardous Air Pollutants—Public Comments and Responses." The document contains a full report of all comments received and

our responses. The document may be found in Docket A-98-28.

#### *A. Applicability of the NESHAP*

*Comment:* Two commenters recommended that additional MACT requirements apply only to major sources and that EPA require no controls for area sources.

*Response:* We believe regulation of area sources is appropriate under section 112(k) of the CAA. Under Section 112(k), we developed a strategy to control emissions of HAP from area sources in urban areas, identifying 33 HAP that present the greatest threat to public health in the largest number of urban areas as the result of emissions from area sources. Municipal solid waste landfills were listed on July 19, 1999, as an area source category to be regulated pursuant to section 112(k) because 13 of the listed HAP are emitted from MSW landfills (64 FR 38706). Section 112(k) requires that sufficient categories of area sources be regulated to assure that sources accounting for at least 90 percent of the aggregate emissions of each of the HAP identified pursuant to 112(k) as being the greatest threat to health in urban areas are subject to standards. As we stated at proposal, we believe it is necessary to regulate some area MSW landfills to meet this requirement of section 112(k). Therefore, we have not changed this aspect of the final rule's applicability. (Note that the bioreactor provisions of the final rule apply to major and area sources that exceed the EG/NSPS design capacity criteria of 2.5 million Mg and 2.5 million m<sup>3</sup> and operate as a bioreactor regardless of whether they meet or exceed the EG/NSPS estimated uncontrolled NMOC emissions criteria of 50 Mg/yr. See sections II and III.C of this preamble for further information on bioreactor applicability and requirements.)

*Comment:* A commenter expressed concern that small landfills that are collocated with major source facilities become subject to EG/NSPS control under the final rule.

*Response:* Small landfills that are collocated with major source facilities are subject to the final rule. The final rule requires them to comply with the EG/NSPS. If the design capacity of the collocated landfills is less than 2.5 million Mg or 2.5 million m<sup>3</sup>, the landfills comply by submitting a design capacity report as required by the EG/NSPS. The final rule language has been revised to clarify that the final rule applies to these landfills but does not extend the additional final rule requirements and EG/NSPS collection and control requirements to landfills