

Research, Development, and Demonstration Rule (RD&D)- Final

The RD&D rule (Rule) for municipal solid waste landfills (MSWLF), which has been nearly two years in the making, was signed by the U. S. EPA Administrator on March 15, 2004. The final Rule was published in the Federal Register on March 22, 2004, and became effective 30 days thereafter on April 21, 2004.

Comments from individuals, states, organizations representing waste management professionals, and other environmental organizations were considered in the development of the final Rule. The Rule allows directors of approved state programs to provide a variance from the run-on, liquids restrictions, and final cover criteria set forth in §258.26(a)(1), §258.28(a), and Subpart F, respectively. However, applicants for RD&D permits must demonstrate that compliance with such a permit will not increase risk to human health and the environment when compared to compliance with a standard MSWLF permit. The Rule does not include authority for further variance from the design criteria in Subpart D, unless already provided for in the existing regulations.

The Rule is not self-implementing. Only approved States that adopt authority to grant such permits can issue RD&D permits.

The rule is published in its entirety on the back of this flyer.

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Highlights of RD&D Rule:

- Narrow focus: allows variances only related to run-on control systems, liquid restrictions, and final cover design criteria.
- No restriction on size of facility.
- RD&D permit: 3 year initial duration, with up to three 3-year renewals (total 12 years).
- Does not allow variance to post-closure care requirements through an RD&D permit, although such flexibility may be available through state regulations.
- May require additional financial assurance.
- Provides states with authority to allow the addition of bulk liquids into landfills constructed with approved alternative liner designs and leachate collection systems capable of limiting head over liner to no more than 30 cm.
- Must demonstrate no increased risk to human health and the environment.



PART 258 - CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 is revised to read as follows: Authority: 33 U.S.C.1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c), 6981(a).

Subpart A - [Amended]

2. Amend subpart A to add §258.4 as follows:

§ 258.4 Research, development, and demonstration permits.

- (a) Except as provided in paragraph (f) of this section, the Director of an approved State may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from either or both of the following criteria provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30-cm depth of leachate on the liner:
 - (1) The run-on control systems in § 258.26(a)(1); and
 - (2) The liquids restrictions in § 258.28(a).
- (b) The Director of an approved State may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from the final cover criteria of §258.60(a)(1), (a)(2) and (b)(1), provided the MSWLF unit owner/operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water, or cause leachate depth on the liner to exceed 30-cm.
- (c) Any permit issued under this section must include such terms and conditions at least as protective as the criteria for municipal solid waste landfills to assure protection of human health and the environment. Such permits shall:
 - (1) Provide for the construction and operation of such facilities as necessary, for not longer than three years, unless renewed as provided in paragraph (e) of this section;
 - (2) Provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and non-hazardous wastes which the State Director deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;
 - (3) Include such requirements as necessary to protect human health and the environment, including such requirements as necessary for testing and providing information to the State Director with respect to the operation of the facility;
 - (4) Require the owner or operator of a MSWLF unit permitted under this section to submit an annual report to the State Director showing whether and to what extent the site is progressing in attaining project goals. The report will also include a summary of all monitoring and testing results, as well as any other operating information specified by the State Director in the permit; and
 - (5) Require compliance with all criteria in this part, except as permitted under this section.
- (d) The Director of an approved State may order an immediate termination of all operations at the facility allowed under this section or other corrective measures at any time the State Director determines that the overall goals of the project are not being attained, including protection of human health or the environment.
- (e) Any permit issued under this section shall not exceed three years and each renewal of a permit may not exceed three years.
 - (1) The total term for a permit for a project including renewals may not exceed twelve years; and
 - (2) During permit renewal, the applicant shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and other any other requirements that the Director determines necessary for permit renewal.
- (f) Small MSWLF units.
 - (1) An owner or operator of a MSWLF unit operating under an exemption set forth in §258.1(f)(1) is not eligible for any variance from §§ 258.26(a)(1) and 258.28(a) of the operating criteria in subpart C of this part.
 - (2) An owner or operator of a MSWLF unit that disposes of 20 tons of municipal solid waste per day or less, based on an annual average, is not eligible for a variance from §258.60 (b)(1), except in accordance with §258.60(b)(3).

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