

SCS ENGINEERS



## Part 2. Key Issues with New NSPS and EG Rules for Landfills

SWANA Northwest Regional Symposium

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# New NSPS/EG Rules

- Industry group has been meeting with EPA both before and after rules were promulgated
- Group includes: SWANA, NW&RA, WM, Republic, and major industry consultants
  - Group meets twice per year at SWANAPalooza and Wastecon and communicate weekly
- Many issues have been identified with the rules and brought to EPA's attention
- EPA has brand new team working on landfill rules
- High level of frustration has led to legal petitions filed against EPA

# Applicability Issues

- Definition of Modification (cut-off date: July 17, 2014)
  - Permit data vs. commence construction date
  - NSPS/EG Round 1: Both permit and construction date must be after deadline
  - EPA current position: commence construction trumps permit date
  - Commence construction = shovel in the ground
  - Commence construction should occur only once in permitted expansion

# Applicability Issues (cont.)

- Lack of On- and Off-Ramps
  - New rules do not have clear on- and off-ramps from old to new rules
  - First EPA meeting: landfills would just “slide into” new rules
    - No such “slide” in language exists
  - New rules mimic old rules with the 30-month timeline from triggering applicability
  - Industry suggestion is for sites to utilize the full 30-month time window for compliance

# Applicability Issues (cont.)

- Rule Overlap
  - Landfill NESHAPs rule (40 CFR 63 Subpart AAAA) still exists and NSPS XXX and EG Cf sites are subject to it
  - But NESHAPs rule still references old NSPS (WWW) and EG (Cc or state equivalent)
  - EPA statement: landfills have to comply with both sets of rules; find most stringent requirement
  - Completely untenable situation; many conflicts

# Rule Overlap Issue

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			×	×

# State EG Rulemaking

- Industry group is continually tracking and updating spreadsheet for tracking (SWANA is posting)
- Need your input as you work with states
- Industry has prepared EG primer to submit to states
  - But need approval from WM, Republic, SWANA, and NW&RA to use

# State EG Rulemaking (cont.)

- We are working with SWANA/NW&RA chapters to get local involvement in state rulemaking
- Best case: State puts rulemaking on hold due to litigation and changes at EPA
- Next best case: We get states to resolve on/off-ramp and overlap issues in their rulemaking



# Initial Design Capacity and NMOC Report Issues

- Industry suggestion: We are starting compliance from the beginning (30 month) so file these reports as such
  - New requirements not applicable during this period
- Cover letter detailing applicability plus attached Design Capacity and NMOC reports
- NMOC report can be Tier 1 or 2; Tier 2 values still valid for 5 years
  - Issue with Tier 2 for coverage of site (new language)
- If exceed 34 Mg/year (or 50 Mg/year), reserve right to do additional Tier 2 and/or Tier 4 (if still under 50 Mg/year)

# Tier 4 Issues

- Once you start Tier 4, you cannot go back to Tiers 1-3
- Includes typical quarterly SEM + penetrations to cover
- NO Exceedances Above 500 ppm or failure
- Wind speed requirements are onerous; some sites will not be able to use at all
  - Wind barrier requirement confusing
- Technician must carry numerous equipment; safety issue
- Requires meticulous recordkeeping
- May not end up as useful as we thought

# GCCS Design Plans Issues

- Industry suggestion: Submit cover letter with attached PE signature/stamp page
  - Cover only new requirements
  - Reference existing GCCS Plans and approvals
  - Include Treatment System Monitoring Plan if applicable
  - Agency can require submittal within 90 days
  - But always at risk---another issue we have with EPA

# Closed Landfill Subcategory Issues

- In EG Rule, MSW Landfills Closed by 13 Months after Rules Promulgated can be “closed”
  - Closed Landfill defined as landfill that has submitted a closure report as specified by 40 CFR 60.38(f)
  - Make sure documentation filed within 13 months
- Not available for NSPS XXX Landfills
- Not required to re-submit Design Capacity/NMOC reports and Design Plans
  - Suggest you submit anyways to clearly document status

# SEM – Standard Events Issues

- All penetrations/open areas must be monitored
  - Not defined but:
    - Includes Wellheads, Leachate Risers, Gas System Penetrations
    - Does NOT Include: Litter Fencing, Flags, Signs, Trees, Utility Poles
  - EPA position: this a “clarification” not a new requirement; we should have been doing it all along
  - Industry suggestion: penetration monitoring to begin in 2017
    - Some are doing “engineering” studies prior to official event

# Startup, Shutdown, and Malfunction (SSM) Issues

- Loss of SSM Exemption
  - The provisions of this Subpart apply at all times ~~except during~~ including periods of SSM
- 5-day GCCS/1-hour control device downtime limits are gone
- Work practice standards must be implemented during SSM
  - Gas mover must be shutdown within one hour of control system offline
- EPA clarified that SSM specific to control devices where actual standards can be exceeded (e.g., flares) not entire GCCS
  - Different than current EPA guidance
- This is key issue to be debated with EPA and part of legal petitions

# SSM Issues (cont.)

- **What are the Implementation Issues?**
  - Without 1-hour and 5-day limits, is unlimited GCCS downtime allowed?
  - Can state/local agencies impose their own limits in the absence of any in federal rules?
  - Will EPA be updating Landfill NESHAPs rule to accommodate this change in NSPS/EG rules (lawsuit gives them 3 years)?
  - Do SSM plans need updating? What needs to be included in SSM reports?
  - How do we deal with well downtime or other GCCS components not considered for SSM anymore?

# First Steps?

- Verify Whether Landfill is “New” and Subject to NSPS XXX
- If New XXX Site will be Required to Resubmit Design Capacity and NMOC Reports (Tier 1 and/or Tier 2)
- If Closed or Closing, file Closure Report right away
- Start collecting wet site data
- If under 50 Mg/year, Consider Tier 4
- Once over NMOC threshold, file Initial GCCS Design Plan within one year
- Use entire 30-month window



# If Not “New”?

- States/Local Agencies have 9 Months to Finalize EG---Track Your State or Local Agency
- EPA - 4 Months to Review and Comment & 6 Months to Finalize a Federal EG---Track Approval Dates as Published in Federal Register
  - EPA approval is the official triggering date



- Deadlines will vary wildly by state
- Comply with current NSPS or EG (WWW or state) until fully applicable
- Be mindful of states with their own phase-in schedules

# Administrative and Judicial Petitions

- WM/Republic vs. EPA
- SWANA/NW&RA non-paying litigants
- Ongoing with some delays
- Overlap issue is key issue of petitions
- Also, on/off-ramp, NESHAPs/SSM, and any requirements that were not in draft rules
- No stay issued so compliance must continue
- Use of 30 months remains key “delay” tactic

# QUESTIONS?



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