

**§ 60.110b Applicability and designation of affected facility.**

(a) Except as provided in paragraph (b) of this section, the affected facility to which this subpart applies is each storage vessel with a capacity greater than or equal to 75 cubic meters (m<sup>3</sup>) that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification is commenced after July 23, 1984.

(b) This subpart does not apply to storage vessels with a capacity greater than or equal to 151 m<sup>3</sup> storing a liquid with a maximum true vapor pressure less than 3.5 kilopascals (kPa) or with a capacity greater than or equal to 75 m<sup>3</sup> but less than 151 m<sup>3</sup> storing a liquid with a maximum true vapor pressure less than 15.0 kPa.

(c) [Reserved]

(d) \* \* \*

(8) Vessels subject to subpart GGGG of 40 CFR part 63.

\* \* \* \* \*

■ 3. Section 60.111b is amended by:

■ a. Removing the paragraph designations and placing the definitions in alphabetical order;

■ b. Revising the definition of "Storage vessel;"

■ c. Revising the definition of "Maximum true vapor pressure;"

■ d. Revising the definition of "Volatile organic liquid (VOL);" and

■ e. Adding, in alphabetical order, a definition of "Process tank."

The revisions and addition read as follows:

**§ 60.111b Definitions.**

\* \* \* \* \*

*Maximum true vapor pressure* means the equilibrium partial pressure exerted by the volatile organic compounds (as defined in 40 CFR 51.100) in the stored VOL at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOL's stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOL's stored at the ambient temperature, as determined:

\* \* \*

*Process tank* means a tank that is used within a process (including a solvent or raw material recovery process) to collect material discharged from a feedstock storage vessel or equipment within the process before the material is transferred to other equipment within the process, to a product or by-product storage vessel, or to a vessel used to store recovered solvent or raw material. In many process tanks, unit operations such as reactions and blending are

conducted. Other process tanks, such as surge control vessels and bottoms receivers, however, may not involve unit operations.

\* \* \* \* \*

*Storage vessel* means each tank, reservoir, or container used for the storage of volatile organic liquids but does not include:

(1) Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors;

(2) Subsurface caverns or porous rock reservoirs; or

(3) Process tanks.

*Volatile organic liquid (VOL)* means any organic liquid which can emit volatile organic compounds (as defined in 40 CFR 51.100) into the atmosphere.

\* \* \* \* \*

**§ 60.116b [Amended]**

■ 4. Section 60.116b is amended by removing the last sentence of paragraph (b).

[FR Doc. 03-24774 Filed 10-14-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 258**

[RCRA-2002-0034; FRL-7573-6]

RIN 2050-AE91

**Municipal Solid Waste Landfill Location Restrictions for Airport Safety**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Technical amendment.

**SUMMARY:** EPA is amending the location restriction section in the Criteria for Municipal Solid Waste Landfills (MSWLFs) under the Resource Conservation and Recovery Act (RCRA), in order to add a note providing information about landfill siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act). Today's amendment does not change existing criteria under RCRA with respect to siting MSWLF units.

**EFFECTIVE DATE:** This technical amendment is effective on October 15, 2003.

**ADDRESSES:** Copies of the documents relevant to this action (Docket No. RCRA-2002-0034) are available for public inspection during normal business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding

federal holidays, at the RCRA Information Center (RIC), located at EPA West, Room B-102, 1301 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703-412-9810 or TDD 703-412-3323 (hearing impaired).

For information on specific aspects of this rule, contact Mary T. Moorcones, Municipal and Industrial Solid Waste Division of the Office of Solid Waste (mail code 5306W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 540-338-1348; e-mail:

[moorcones.mary@epamail.epa.gov](mailto:moorcones.mary@epamail.epa.gov).

Some information about this rule can be accessed via the Internet at: <http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/airport.htm>.

**SUPPLEMENTARY INFORMATION:****General Information****A. How Can I Get Copies of This Document and Other Related Information?**

1. Docket. EPA has established an official public docket for this action under Docket ID No. RCRA-2002-0034. The official public docket consists of the documents specifically referenced in this action, any public comments received and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the RCRA Information Center (RIC), located at EPA West, Room B-102 1301 Constitution Avenue, NW, Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 202-566-0270 or TDD 703-412-3323 (hearing impaired). To review the docket materials in person, we recommend that the public make an appointment by calling 202-566-0270.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to access the index listing of the contents of the official public

docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above in Unit I.A. Once in the system, select "search," then key in the appropriate docket identification number.

#### B. Acronyms

The full names for the acronyms used in this document are:

Acronym	Definition
AC .....	Federal Aviation Administration Advisory Circular 150/5200-34, together with its Appendix 1, dated August 26, 2000.
CFR .....	The United States Code of Federal Regulations.
EPA .....	The United States Environmental Protection Agency.
FAA .....	The United States Federal Aviation Administration.
Ford Act	Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.
MSWLF ..	Municipal Solid Waste Landfill.
RCRA .....	The Resource Conservation and Recovery Act.
U.S. ....	United States.
U.S.C. ....	United States Code.

### I. Purpose of Today's Action

EPA is adding a note at the end of 40 CFR 258.10, the location restriction requirements in the criteria for municipal solid waste landfills (MSWLFs), to inform the public about landfill siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Pub. L. 106-181 (Ford Act), enacted on April 5, 2000. The Ford Act is an aviation statute administered by the Federal Aviation Administration (FAA). However, section 503 of the Ford Act includes a provision limiting the "construction or establishment" of new municipal solid waste landfills (MSWLFs) after April 5, 2000, within six miles of certain smaller public airports. Therefore, as a convenience for owners/operators of MSWLFs and for those wishing to construct or establish new MSWLFs, EPA is providing a reference to the Ford Act following the location requirements that apply to MSWLFs under RCRA.

On July 11, 2002, EPA published a direct final rule (67 FR 45915) and a parallel proposed rule (67 FR 45948) to incorporate the Ford Act restrictions into EPA's criteria for MSWLFs under RCRA. Had the rule gone into effect, it would have added a new paragraph (e)

to § 258.10 to incorporate the Ford Act landfill siting restrictions. However, EPA received several adverse comments on the direct final rule, therefore the Agency withdrew the rule on October 8, 2002 (67 FR 62647).

One commenter challenged EPA's authority to issue the rule under RCRA, as well as the adequacy of the record to support incorporation of the Ford Act requirements in the RCRA criteria. A second commenter also questioned the validity of data cited by EPA with respect to the hazards from bird strikes.

After reviewing the comments, EPA has decided not to finalize the rule as proposed. Instead of adding a new subsection (e) to 40 CFR 258.10, EPA is incorporating information about the Ford Act in a note following the criteria in 40 CFR 258.10. As a result, the specific limitations of the Ford Act are not being incorporated into the criteria for MSWLFs under RCRA and are not enforceable as part of EPA's MSWLF criteria. The note is for advisory purposes only.

Because section 503 of the Ford Act is directly applicable to any "person" constructing or establishing a MSWLF, it does not by its terms require implementation through regulation. The Ford Act does not amend Subtitle D of the Resource Conservation and Recovery Act (RCRA), which EPA administers. Therefore, in light of the comments received, EPA has reconsidered promulgating a regulation under RCRA that incorporates the Ford Act requirements. In addition, to the extent that section 503 the Ford Act is to be interpreted, the Federal Aviation Administration, not EPA, is the administering agency under the statute. The FAA has issued guidance interpreting section 503. See FAA AC No.150/5200-34. For further information, the public should contact the FAA.

### II. Airport Safety Location Restrictions

#### A. The Ford Act

The Ford Act has been in effect since April 5, 2000. Section 503(b) amends 49 U.S.C. 44718(d), and states:

(1) No person shall construct or establish a municipal solid waste landfill (as defined in § 258.2 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this subsection) that receives putrescible waste (as defined in § 257.3-8 of such title) with 6 miles of a public airport that has received grants under chapter 471 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 passengers or less unless the State

aviation agency of the State in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this subsection and the Administrator determines that such exemption would have no adverse impact on aviation safety.

(2) Limitation on Applicability—Paragraph 1 shall not apply in the State of Alaska and shall not apply to the construction, establishment, expansion, or modification of, or to any other activity undertaken with respect to, a municipal solid waste landfill if the construction or establishment of the landfill was commenced on or before the date of enactment of this subsection.

Section 503(c) of the Ford Act establishes civil penalties for violations of the limitations on siting landfills set forth above in section 503(b).

As previously stated, these landfill siting restrictions are directly applicable to any person constructing or establishing a new landfill as those terms are defined in the statute and interpreted by the FAA, the agency charged with administering the Ford Act. Therefore, it is not necessary for EPA to incorporate these provisions into the MSWLF criteria. Today's amendment to include a reference to section 503 of the Ford Act in a note to 40 CFR 258.10, which is the section of the criteria that sets forth the location restrictions for airport safety under RCRA, Subtitle D, is solely for the convenience of the public.

#### B. Criteria for Landfill Siting Under RCRA

Nothing in this notice amends the requirements of 40 CFR 258.10, which sets forth location restrictions for MSWLFs to address airport safety. Section 258.10(a) and (c) contain requirements for new MSWLFs, existing MSWLFs and lateral expansions of landfills that are located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used only by piston-type aircraft. Owners or operators of such landfills are required to (1) demonstrate that the MSWLFs are designed and operated so as not to "pose a bird hazard to aircraft; (2) place a copy of the demonstration in the MSWLF operating record, and (3) notify the State Director that it has been placed in the operating file. "State Director" is defined as the chief administrative office of the lead state agency responsible for implementing the state permit program for 40 CFR part 258 regulated facilities."

Section 258(b) applies to new MSWLFs and lateral expansions

proposed to be constructed within a five-mile radius of the end of any airport runway used by a turbojet or piston-type aircraft. For such proposed new MSWLFs and lateral expansions, the owner or operator must notify the affected airport and the FAA.

Section 258.10(d) defines "airport" to mean a "public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities." This subsection also defines "bird hazard."

#### List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: October 2, 2003.

**Thomas Dunne,**

*Associate Assistant Administrator, Office of Solid Waste and Emergency Response.*

■ For the reasons discussed in the preamble, title 40 chapter 1 of the Code of Federal Regulations, is amended as follows:

#### PART 258—[AMENDED]

■ 1. The authority citation for part 258 continues 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);

■ 2. Section 258.10 is amended by adding a note to the end of the section to read as follows:

#### § 258.10 Airport safety.

\* \* \* \* \*

**Note to § 258.10:** A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act), Pub. L. 106-181 (49 U.S.C. 44718 note). Section 503 prohibits the "construction or establishment" of new MSWLFs after April 5, 2000 within six miles of certain smaller public airports. The Federal Aviation Administration (FAA) administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 5

[FCC 03-207]

#### Experimental Radio Licenses and Authorizations

**AGENCY:** Federal Communications Commission

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules which apply to experimental radio licensing. The primary revision requires that all applications for licenses for Experimental Radio stations be filed electronically. We are codifying the existing requirement that any objections to Experimental Radio license applications must comply with the provisions of the Commission's rules governing informal objections.

**DATES:** Effective November 14, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jim Burtles, Office of Engineering and Technology, (202) 418-2445, or Doug Young, Office of Engineering and Technology, (202) 418-2440.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order* adopted August 15, 2003, and released August 20, 2003, that finalizes those regulations. The full text of this Commission decision is available on the Commission's Internet site at <http://www.fcc.gov>. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

#### Summary of the Order

1. The Order, 63 FR 64199, November 19, 1998, revised the rules in the Experimental Radio Service to promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of our processes; eliminate unnecessary and burdensome experimental regulations; and protect public safety frequencies.

2. *Electronic Filing.* Since November 18, 1998, the application forms

applicable to licenses for Experimental Radio stations could be submitted to the Commission electronically. These forms are:

- a. FCC Form 405, Application for Renewal of Experimental License or STA.
- b. FCC Form 442, Application for New or Modified Experimental Radio Station Authorization.
- c. FCC Form 702, Application for Consent to Assignment of Radio Station Construction Authorization or License (For Stations in Services Other Than Broadcast).
- d. FCC Form 703, Application for Consent to Transfer Control of Corporation Holding Station License.
- e. Special Temporary Authority (STA), Application for STA.
- f. Add Attachments, Form for Submitting Additional Exhibits to an Existing Experimental Licensing Application.

g. Submit Correspondence, Form for Replying to Correspondence Sent by the OET ELS Branch Pertaining to a Pending Application.

h. Amend/Complete Application, Form for Amending or Completing a Page on a Previously-Filed Experimental Radio Licensing Application

2. These forms have been accessible at the official web site of the Commission's Office of Engineering and Technology, <https://gulfoss2.fcc.gov/prod/oet/cf/els/index.cfm>. Of the 769 total

Experimental Radio license application filings in calendar year 2002, 88% were filed electronically. In the Quarter ending March 31, 2003, 215 filings were submitted, and 93% of these were made electronically. By requiring that applications for Experimental Radio licenses henceforth be filed electronically, we are taking another step toward the Commission's compliance with Section 1704 of the Government Paperwork Elimination Act. We do, however, recognize that the mandatory electronic filing requirement could impose unusual burdens on some filers and that, therefore, it may be appropriate for us to consider granting limited waivers of this requirement. Such waivers, however, will not be routinely granted and the filing party must plead with particularity the facts and circumstances warranting relief.

3. Mandatory electronic filing of applications for Experimental Radio licenses will commence on January 1, 2004. This change is reflected in the amendments to part 5 of the Commission's Rules, 47 CFR 5.1-5.125. Because this change from voluntary to mandatory electronic filing is merely procedural in nature and does not substantively change the information