



Department of
**Environment &
Conservation**

Solid Waste Program 2020 Rule Package Summary

Underground Storage Tanks and Solid Waste Disposal Control Board

Rule Change Update

- The Solid Waste Program rule package the USTSWDB approved on Feb 7th, 2018 was voted on and approved by the Joint Government Operations Committee on December 19th, 2019 and became effective on December 31, 2019.

Rule Change Update: Refresher

- Exemption For Recovered Material Processing Facilities From Permit Requirements to Both Encourage Recycling, and Ensure Exempt Facilities are Operating as Legitimate Recycling Operations.
- Addition Of Periodic Engineering Reports For Landfills Which Will Include Surveys, Capacity Calculations, And Leachate System Performance.
- 10 Year Renewal And Recertification Of Closure/Post-Closure Plans For Landfills, Including a Narrative And Cost Estimates For The Care Of The Landfill After The 30 Year Post Closure Period Is Over.
- New Language That Strengthens Permit-By-Rule Authorizations
- Abundant “Housekeeping” Fixes To Typos, Outdated References, And Contradictory Rules.



**3 Rules Will Increase
Program's Workload**

Priority #1

Annual Engineering Reports

- Required every year for all operation Class I and Class II facilities.
- Includes a current survey overlaid over approved final contours
- Calculations of current constructed capacity and remaining volume
- Leachate generation report (Class I only)
- Special Waste tonnage report (Class I only)

Priority #1

Annual Engineering Reports

- Regulations state they are due on May 1st 2020
- Working on a companion submittal form
- Have begun communicating with the affected permits
- We expect Class I facilities to be easier to communicate new requirements than Class II facilities
- This rule is a modification of the annual “Remaining Life Survey”; so Class I facilities are already in the habit of annual submittals, this will of course have more detail this year.
- Late 2020 incorporation of these reports into annual engineering inspection program.

Priority #2

RMPF Exemption / Notification

- The intent of this rule change is to develop a “bright line” in determining which facilities are permit exempt Recovered Material Processing Facilities, and which facilities qualify for a Solid Waste Processing permit-by-rule. By incorporating a detailed permit exemption into the rules we better define whether a facility is first of all a RMPF, and whether it is exempt from permit requirements.

Priority #2

RMPF Exemption / Notification

- Prior to commencing operations, the owner or operator notifies the Commissioner on forms provided by the Department and completed in accordance with the instructions accompanying the forms, which include:
 - I. The facility name, owner, operator, mailing and location address;
 - II. The type(s) of material to be received;
 - III. The maximum storage capacity at the facility for the storage of each material identified in sub item II of this item;
 - IV. A general description of the recovered materials processing operation

Priority #2

RMPF Exemption / Notification

- RMPFs that handle 100 tons or more per year of “post-consumer” material are already required by rule to submit annual reports (Rule 0400-11-01-.09(5)(c)) but are limited to “primary collectors”. This annual report will meet notification requirements, so we foresee no more action for these.
- Financial Assurance will be required for those recovered material processors who's commodities processing and/or disposal fees outweigh the value of the material.
- TDEC does not intend to assess financial assurance requirements on municipal/county operations, traditional post-consumer material recovery facilities, or metal, fiber, plastic or similar processing facilities. (detailed policy will be developed with stakeholder input with specifics of financial assurance)

Priority #2

RMPF Exemption / Notification

- Implementation Plan:
 - By March 1st, Develop a notification form
 - By April 1st, begin distribution of notification form to the known RMPF universe .
 - From prior reporting
 - From Annual Progress reports
 - From Stakeholder lists.
 - Summer: Aggregate notifications, and form a committee to develop guidance, and additional rules if needed to clearly define which RMPFs will require financial assurance.
 - Fall: Make contact with those RMPFs that will require financial assurance and plan next steps.

Priority #3

Closure/Post Closure Renewal

- Require the resubmittal of the Closure/Post-Closure (CPC) plans every 10 years.
- DSWM will be able to update itemized cost estimates which are the basis for financial assurance.

Priority #3

Closure/Post Closure Renewal

- (c) Resubmittal of Plan – All Class I and Class II facilities must submit a new closure/post-closure care plan every 10 years from the date of the original permit or most recent permit expansion. The resubmittal of plan will be processed as a minor modification to the facility and must comply with subparagraph (b) of this paragraph. At minimum it must include:
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 - 1. Itemized closure/post-closure cost estimates must be adjusted by recalculating the maximum closure/post-closure amounts in current dollars and taking into account any design changes, new monitoring points and changes in materials.
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 - 2. The phased development plan must be updated and reconciled with the closure/post-closure cost estimate.
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 - 3. Minimum closure areas must be revised or added to reflect planned partial closure of the facility.
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 - 4. A separate itemized cost estimate for long term custodial care activities. This cost estimate is not to be included in the financial assurance amount for the facility.

Priority #3

Closure/Post Closure Renewal

- Planned Timetable
 - No submittals will be required until at least next year (2021) while we develop a timetable and communicate with permittees
 - Class I landfills are first priority
 - Identify which landfills have not had a major modification in last 10 years
 - We anticipate staggering the due dates to even out work flow.

- A reminder of other rule changes with little or no program effort needed.



Additional Rules

1. Clarifications to Permit –by-Rule Language

- Clarify that owners or operators must operate consistent with their submitted notification, including:
 - The description of the processing and disposal activities conducted and the types of solid wastes handled;
 - The written narrative (how O/O will comply with PBR specific standards - the storage capacity for each unit - any other information deemed necessary); and design plan.
- Provides the authority for revocation of the authorization to operate and denial of an authorization to operate.

2. Rule 0400-11-01-.01(6) – Electronic Submittal

- DSWM will have the ability to require electronic submittals of all documents
- *These rules require submittals of applications and reports. To aid in the review or processing of an application or report, the Commissioner may request the submission of the application or report to include a copy of the application or report in an electronic format acceptable to the Commissioner. When requested by the Commissioner the additional electronic copy of the application or report shall be submitted in accordance with the Commissioner's instruction.*

3. Petroleum Contaminated Soil Exemption

- Deletes Rule 0400-11-01-.02(1)(b)3(xiv)
- Elimination of the legacy exemption from early in UST adoption of standards.
- This exemption is no longer consistent with UST practice.
- Currently, contaminated soils are handled under the special waste approval process, and are not approved for placement in non-approved disposal facilities.

4. Financial Assurance for Permit by Rule Facilities

- Remove the 1000 cubic yard exclusion from the PBR financial assurance requirement with an implementation schedule.
- ~~(XX) The owner/operator of a solid waste processing facility which has a solid waste storage capacity of 1000 cubic yards or greater shall file Prior to receiving solid waste for processing, or within 90 days of the effective date of these rules, if authorized and operating on the effective date of these rules:~~
 - I. File with the Commissioner a performance bond or equivalent cash or securities, payable to the State of Tennessee. ~~Such financial assurance is intended to ensure that adequate financial resources are available to~~ in an amount determined by the Commissioner to ~~insure~~ be sufficient to ensure the proper operation, closure, and post closure care of the facility;

5. Repeal Coal Ash Fill PBR

- Due to the promulgation of the federal CCR disposal rules (40 CFR 257) the coal ash fill PBR is no longer an appropriate permit for public utilities.
- In addition, federal CCR beneficial use guidance creates framework for approving coal ash fill projects moving forward.

7. 365 Day Part I/II Submittal Requirement

- Within 1 year of submitting their Part I, applicants must submit either Hydrogeological Report or Engineering Plans (one piece of the Part II application), or they will be require to resubmit the Part I at the time of a complete Engineering Plan submission.
- Require the applicant to resubmit the Part I permit application at the time of the submittal of the Engineering Plans
- Maximum number of Part I submittals will be 2.

8. Field Filter Samples

- Removes restriction of field filtering of samples
- DSWM is developing a Filtered Sample Guidance document to explain when field filter is appropriate and when it is not.

9. Rule 0400-11-01-.04(8)(c)3(i) and (ii) – Final Cover Low Permeability

- At Class III and Class IV facilities, unless the Commissioner determines that a greater depth is needed to achieve the general performance standard of subparagraph (a) of this paragraph, the depth of final cover shall be at least 30 inches of compacted soil. The final cover consists of an 18 inch compacted soil layer with a maximum hydraulic conductivity of 1×10^{-5} cm/s overlain by a 12 inch protective layer.

10. Rule 0400-11-01-.04(8)(g)8 – Deed Restrictions

- **Summary:** The Attorney General's Office - Environmental Division made this recommendation for a clarification in the Rule because “Under (g)8 TDEC would not be in a legal position to rely on an original administrative order because this rule was enacted after that order went final”

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