



Department of  
**Environment &  
Conservation**

## **Guidance and Policy**

Board Briefing - December 7, 2022

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# BACKGROUND

On August 8, 2017, the BOE issued a Policy for Developing Policy and Guidance. The BOE has templates for Policy and Guidance documents.

# BACKGROUND (continued)

"Guidance" means a non-binding agency statement that explains the objective of rules or regulatory requirements and provides advice on compliance with the rule. These include: Compliance Guides, Regulatory Interpretive Memorandum, etc.

# BACKGROUND (continued)

"Policy" means a set of decisions, procedures and practices pertaining to the internal operation or actions of an agency. These include: Standard Operating Procedures (SOPs), Good Practice Guidelines (GxP), Checklists, Memoranda of Understanding or Memoranda of Agreement between Divisions, etc.

# Guidance and Policy

After the disclaimer in all future DSWM Guidance and Policy documents, the following statement will be included:

**THIS DOCUMENT IS NOT REGULATION. IT DOES NOT HAVE THE FORCE AND EFFECT OF LAW. IT IS INTENDED ONLY TO PROVIDE INFORMATION CONCERNING EXISTING STATUTORY AND REGULATORY OBLIGATIONS. GUIDANCE OR POLICY IS NOT TO BE CITED AS THE BASIS FOR ENFORCEMENT ACTIONS, PERMIT DENIALS, INFORMATION REQUESTS, ETC.**

This statement was developed with attorneys of TDEC Office of General Counsel.

# Updated Special Waste Guidance (SWG)

I briefed the Board on the draft updated SWG on December 1, 2021. The draft update was placed on the BOE web page for public comment on December 3, 2021. The DSWM received comments from Dwight Hinch, Andy Binford, and a letter from:

Sarah Houston, Protect Our Aquifer

Justin J. Pearson, Memphis Community Against Pollution

Dan Firth, Tennessee Chapter Sierra Club

Amanda Garcia, Chelsea Bowling and Daniel J. Metzger, Southern Environmental Law Center

# Response to Comments

Board members have been provided the DSWM Response to Comments which were divided into two groups as follows:

- 1) Comments Specifically Addressing the Draft Updated SWG; and
- 2) Comments Beyond the Scope of the Updated SWG.

Please note that the “Comments Beyond the Scope of the Updated SWG” are presented as the item provided by the commenter(s) and do not summarize the numerous comments under the item. Since these comments are beyond the scope of the updated SWG and very broad, the responses are limited. The Response to Comments was reviewed by an attorney with the TDEC Office of General Counsel.

# Updated Draft SWG

The draft SWG has been updated to be consistent with BOE Policy and to make the document more user friendly. Items 11 through 18 have been added on page 4 to include K listed hazardous waste. There have been several clarifications made including evaluation outcomes, use of safety data sheets, and TCLP Analyses. Sections D and G have been added to include information on Prohibited or Restricted Wastes and Laboratory Reports, respectively. The draft updated SWG has been reviewed by an attorney with the TDEC Office of General Counsel.



# Policy

The draft Standard Operating Procedure (SOP) – Processing Closure Certifications/Documents provides the procedures for DSWM employees to assist in the processing of Closure Certifications/Documents to verify that a closure has been completed in accordance with the most recent approved closure plan and the final cover system was constructed in accordance with the most recent approved construction quality assurance plan.

This SOP directs DSWM Staff and provides no guidance. The draft SOP has been reviewed by an attorney with the TDEC Office of General Counsel

# Path Forward

Barring any unexpected issues, the DSWM intends on finalizing the Updated Special Waste Guidance, emailing the updated guidance and our response to comments to those who commented on the draft, and posting it on the BOE and DSWM web pages.

Barring any unexpected issues, the DSWM intends on finalizing the Standard Operating Procedure (SOP) – Processing Closure Certifications/Documents and posting it on the BOE and DSWM web pages.

# COMMENTS AND QUESTIONS

# QUESTIONS or COMMENTS