



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
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MEMORANDUM

TO: Underground Storage Tanks and Solid Waste Disposal Control Board
FROM: Shelby R. B. Ward, Associate Counsel
DATE: September 20, 2023
RE: Special Waste Approvals at Transfer Station and Convenience Center
Permit-By-Rule Facilities

Question & Short Answer

Must Tennessee-based transfer stations and convenience centers obtain special waste approvals when handling special waste even if the waste passing through the stations and centers goes out-of-state?

Yes, Tennessee-based transfer stations and convenience centers are still required to obtain a special waste approval (for instances where special waste is at issue) regardless of the waste's ultimate destination. Specific procedures for special waste approvals exist for disposal facilities and permitted solid waste processing facilities as seen in Rule 0400-11-01-.01(4)(a), but the Rules do not explicitly indicate what the special waste approval process entails for transfer stations and convenience centers.

Discussion

1. Division rule establishes a special waste approval process for disposal facilities and permitted solid waste processing facilities.

The Division's rule provisions have a defined special waste process for solid waste (Class I through IV) disposal and permitted processing facilities. Paragraph (4) of Rule 0400-11-01-.01 specifies general requirements, outlines procedures for the approval process, describes conditional approval, and explains the effect of special waste approval. These terms only apply to disposal and processing facilities. *See* Tenn. Comp. R. & Regs. R. 0400-11-01-.01(4)(a) (explaining that "[t]he procedures and other requirements of [Paragraph 4] **shall apply only** to all permitted Class I, Class II, Class III and Class IV disposal facilities and all permitted solid waste processing facilities." (emphasis added). While the Rule language applies to a named class of facilities, other rules do require

transfer stations and convenience centers to obtain special waste approval without mentioning a detailed set of requirements or processes.

2. Rule sections require transfer stations and convenience centers to have special waste approval.

According to agency rules, transfer stations and convenience centers cannot accept special waste unless and until they obtain approval from the Division. Rule 0400-11-01-.02 governs special waste acceptance at transfer stations. Rule 0400-11-01-.02(2)(b)5. provides:

0400-11-01-.02 Permitting of solid waste storage, processing, and disposal facilities

(2) Permits by Rule

(b) Permit by rule eligible facilities or activities.

5. Transfer stations.

An owner or operator of a transfer station **must comply with items 1.(i)(I) through (XV) and (XVII) of this subparagraph.**

Tenn. Comp. R. & Regs. R. 0400-11-01-.02(2)(b)5. (emphasis added).

Item (2)(b)1.(i)(XIII) of Rule 0400-11-01-.02 requires owners or operators of transfer stations to “[e]nsure that special wastes are not received, unless... [s]uch receipt has been specifically approved in writing by the Commissioner, and... [s]pecial procedures and/or equipment are utilized to adequately confine and segregate the special wastes[.]” Tenn. Comp. R. & Regs. R. 0400-11-01-.02(2)(b)1.(i)(XIII). Beyond receipt of a written approval and the need for the facility to establish procedures or equipment to adequately confine and segregate waste, no additional details about the approval process for transfer stations is provided in rule language.

Concerning the location of ultimate waste disposal, Rule 0400-11-01-.02(2)(b)1.(i)(XIII) does not make a special waste approval exception based on the location of the waste’s disposal. Further, other provisions of Rule 0400-11-01-.02 suggest that requirements apply to sites that are based in Tennessee—not simply due to the endpoint of the waste.

- “The purpose of this rule is to establish the procedures, documentation, and other requirements which must be met in order for a person to be permitted to **operate a solid waste storage, processing or disposal facility in Tennessee.**” Tenn. Comp. R. & Regs. R. 0400-11-01-.02(1)(a) (emphasis added).
- “The requirements of this rule apply as specified to operators of **facilities in Tennessee.**” Tenn. Comp. R. & Regs. R. 0400-11-01-.02(1)(b)1. (emphasis

added).

The Rule provision governing special waste at convenience centers also requires special waste approvals with few details about the process leading up to approval and no exemption for wastes going out-of-state. The applicable rule language for convenience centers provides:

0400-11-01-.10 Convenience centers/county public collection receptacles.

(3) Design and operation standards

(1) The facility shall not receive special waste unless approval is received from the Department in writing. Approval will require the construction of special containment areas.

Tenn. Comp. R. & Regs. R. 0400-11-01-.10(3)(1). Likewise, this rule language does not require following the procedures outlined in Rule 0400-11-01-.01(4) but does require receipt of written approval from the Department and construction of special containment areas.

Rule 0400-11-01-.10(3)(1) also does not make exceptions based on locations of disposal. Further, other provisions of Rule 0400-11-01-.10 suggest that where the waste is disposed would not create an exemption for the special waste approval requirement. The purpose of the Rule indicates that it applies regardless of the final destination of the waste:

(1) Purpose

(a) This rule shall establish the minimum level of service which every county must provide in order to assure that all residents of a county are provided with collection and disposal service.

(b) This rule shall establish minimum standards for the design and operation of convenience centers if such service is selected by a County.

(c) This rule shall establish requirements for operation and use of county public collection receptacles for municipal solid waste.

Tenn. Comp. R. & Regs. R. 0400-11-01-.10(1).

Conclusion

Rules 0400-11-01-.02 and 0400-11-01-.10 establish that transfer stations and convenience centers need special waste approvals to accept special waste, regardless of whether that waste is going out-of-state for final disposal or to a Tennessee landfill/processing facility. However, rules do not include a detailed special waste approval process for transfer stations and convenience centers to follow.