



Department of
**Environment &
Conservation**

Solid Waste Rule Package Board Presentation

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Introduction

- Last solid waste rule process occurred in 2017 with regulations passed in Dec. 2019
- Since then, DSWM has identified some relatively minor but re-occurring regulatory topics we feel we have solutions for
- As done with the 2019 rule package, DSWM held 3 informal stakeholder meetings to discuss these potential changes
- This package has been through internal reviews, including OGC and the Governor's Office
- There are 11 items and some clean-up amendments

Require a Roof on Transfer Stations

Summary:

- This update will clearly state that a roof is required on transfer stations managing putrescible waste, which will align regulations with current DSWM and industry practices
- Ensure protection of human health and the environment
- Make compliance with other relevant regulations easier including, but not limited to:
 - 1) reducing/managing contact water,
 - 2) reducing wind dispersal, and
 - 3) minimizing vectors.

Require a Roof on Transfer Stations

Rule 0400-11-01-.02(2)(b)5 is amended to read:

- (i) An owner or operator of a transfer station must comply with items 1.(i)(I) through (XV) of this subparagraph, and (XVII) item 1(ii)(I) of this subparagraph.
- (ii) In addition to subpart (i) of this part, an owner or operator of a transfer station that manages putrescible solid waste must:
 - (I) Operate tipping areas within an enclosed building or covered area consisting of:
 - I. An impermeable floor;
 - II. Roof; and
 - III. At least three walls that are capable of confining all solid waste within the building or covered area;
 - (II) Construct and maintain the enclosed building or covered area to prevent precipitation from reaching solid waste inside the structure; and
 - (III) Ensure all solid waste is contained in the tipping area.

Clarify Major vs. Minor Modifications

Summary: Regulations currently capture some landfill modifications as minor that should be major and major that DSWM believes should be considered minor modifications. This rule will clarify what constitutes a major and minor modification.

- *Major Modifications shall include at least:*
 - Current:
 - Changes in final contour elevations
 - Increase in capacities
 - Changes in direction of site drainage, and
 - Other changes deemed major by the Commissioner
 - Proposed
 - **Increase** to any final contour elevation (amended)
 - Increase in capacity
 - Increase in maximum stormwater runoff at an existing outfall or development of a new outfall (amended)
 - A modification to a written facility specific condition contained in a final issued permit. (new)
 - A request for a modification that constitutes a waiver from a regulation. (new)
 - Other changes deemed major by the Commissioner

Clarify Major vs. Minor Modifications

Rule 0400-11-01-.02(6)(b)5 is amended to read:

~~(ii) Major~~ The following changes constitute major modifications: ~~shall include at least changes in final contour elevations,~~

~~(I) An increase in any final contour elevations;~~

~~(II) An increase in capacities capacity;~~ ~~changes in direction of site drainage~~

~~(III) An increase in maximum stormwater runoff at an existing outfall or the development of a new outfall;~~

~~(IV) A modification to a facility-specific condition contained in a permit;~~

~~(V) A modification that constitutes a waiver from a standard or requirement of this chapter;~~ and

~~(VI) other~~ Other changes deemed major by the Commissioner.

Remove Notarization Requirements on Annual and Triennial Engineering Reports

Summary:

- Already have certification statement on form (see image below)
- DSWM had intended to remove this requirement in the last package prior to the rules being promulgated

I. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision. The submitted information is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. As specified in Tennessee Code Annotated Section 39-16-702(a)(4), this declaration is made under penalty of perjury.

Remove Notarization Requirements on Annual and Triennial Engineering Reports

Rule 0400-11-01-.04(2)(t)1(vi) and

Rule 0400-11-01-.04(2)(t)2(v) are deleted:

~~vi) A notarized statement that, to the best of the knowledge of the owner or operator, the information contained in the AER is true and accurate.~~

~~v) A notarized statement that, to the best of the knowledge of the owner or operator, the information contained in the TER is true and accurate.~~

Define Appurtenances and Associated Buffer Requirements

Summary:

- Appurtenance is currently used in solid waste regulations under landfill buffer requirements
- However, it is not defined, which has led to confusion as to what constitutes an appurtenance and what is to be included in the buffer requirements
- This update would:
 - define appurtenances, and
 - clarify the 50-foot property line buffer requirement for appurtenances

Define Appurtenances and Associated Buffer Requirements

Rule 0400-11-01-.02(2) is amended to include:

“Appurtenance” means ponds, roads, ditches, buildings, borrow areas and stockpiles, cut slopes, fill slopes, and other structures, accessories, or items associated with a disposal facility.

Rule 0400-11-01-.04(3)(a)5 is amended to read:

A total site buffer with no constructed appurtenances within 50 feet of the property line, except for groundwater monitoring wells, piezometers, landfill gas monitoring wells, underground and above-ground utility poles, lines and pipes (e.g., gas, water, electric), fences, permitted entrances and exits, and similar appurtenances approved by the Commissioner.

Clarifying Due Process for Minor Modifications

Summary:

- An applicant who has submitted a minor modification must be afforded an opportunity to object/protest/give reason(s) why a change/addition that DSWM would like to include in an approved minor modification
- TDEC's Office of General Counsel believes the current process as dictated by T.C.A 4-5-320 is not a great fit.
- This clarification will ensure an applicant is afforded this opportunity and align the process with how this opportunity is afforded elsewhere in regulations.

Rule 0400-11-01-.02(6)(b)2(vi) is amended to read:

No minor modification to a permit shall be ~~made issued~~ under subpart (ii) of this part, ~~and no draft permit shall be prepared under subpart (iv) of this part,~~ until the permittee has been given ~~such written~~ notice ~~as is required by T.C.A. § 4-5-320~~ and an opportunity to comment.

Clarify Regulatory Clocks

Summary:

- The regulatory clock schedule in Rule 0400-11-01-.07(6) does not provide adequate details with regard to all the different types of permitting applications that DSWM must review and process.
- This update will provide these details and align the regulations with current DSWM practice
- **It should be stressed that this update does not result in an increase in the number of days DSWM has to review permits; rather it just clarifies the regulatory clock schedule**

Clarify Regulatory Clocks

Rule 0400-11-01-.02(2) is amended to include:

“Completeness determination” means the acknowledgement that an application addresses all required requirements but does not mean that the contents are technically adequate.

Rule 0400-11-01-.07(6)(a)2 is amended to read

~~Design and Construction Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., subparagraphs (9)(b) through (d) of Rule 0400-11-01-.04)~~ for Disposal & Compost Facilities.....45 days

Rule 0400-11-01-.07(b) is amended to read

Permit application shall be acted upon (issued or denied) by the Department within the following time after the ~~application hydrogeological report and engineering plans, narrative description, and closure/post-closure~~ ~~is~~ ~~are~~ certified complete

Clarify Regulatory Clocks

Rule 0400-11-01-.07(6)(b)1, 2, and 4:

1. Disposal Facility—**New Permits and Lateral Expansions**
 - (i) Class I 270 days
 - (ii) Class II 270 days
 - (iii) Class III 240 days
2. Processing Facility
 - (i) Permit By Rule 90 days
 - (ii) Compost Facility 120 days

Clarify Regulatory Clocks

Rule 0400-11-01-.07(6)(b)1, 2, and 4:

3. Major Modification
 - (i) Regulatory Requirement 180 days
 - (ii) Application All other major modifications not covered under part 1 of this subparagraph: 240 days
 - ~~(I) Plans Only 240 days~~
 - ~~(II) Hydrogeologic 270 days~~
4. Minor Modifications
 - (i) Engineering Plans, Narrative Description, and Closure/Post-Closure Review (i.e., subparagraphs (9)(b) through (d) of Rule 0400-11-01-.04) 90 days
 - (ii) Reserved.
5. Waste Evaluation 30 days

Clarifying Fee Schedule

Summary:

- The fee schedule in Rule 0400-11-01-.07(2) does not provide adequate details with regard to all the different types of permitting applications that DSWM must review and process.
- This update will provide these details and align the regulations with current DSWM practice
- **It should be stressed that this update does not result in an increase in fees; rather it just clarifies the fee schedule for DSWM's customers.**

Clarify Permit Fees

Current

(b) Fee Schedule

1. Disposal Facility	
(i) Class I	
Hydrogeologic	\$ 4,000
Design and Construction Plans	\$ 6,000
(ii) Class II	
Hydrogeologic	\$ 4,000
Design and Construction Plans	\$ 6,000
(iii) Class III	\$ 3,000
2. Processing Facility	\$ 1,000
3. Major Modifications	\$ 2,000
4. Special Waste Evaluation	\$ 300
5. Transfer Station	\$ 500
6. Transfer of Ownership	\$ 1,000
7. Special Waste Recertification	\$ 150

Proposed

1. Disposal Facility Class I & II Disposal Facilities	
(a) New Permit	
(i) Hydrogeologic Report	\$4,000
(ii) Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., Rule 0400-11-01-.04(9)(b)-(d))	\$6,000
(b) Lateral Expansions	
(i) Hydrogeologic Report	\$4,000
(ii) Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., Rule 0400-11-01-.04(9)(b)-(d))	\$6,000
(c) Vertical Expansions	
(i) Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., Rule 0400-11-01-.04(9)(b)-(d))	\$6,000
(d) All other major modifications that do not result in an increase in airspace	\$2,000
2. Class III Disposal Facilities	
(a) New Permit, Lateral and Vertical Expansions	\$3,000
(b) All other major modifications that do not result in an increase in airspace	\$2,000
2.3. Processing Facility	\$ 1,000
3. Major Modifications	\$ 2,000
4. Special Waste Evaluation	\$300
5. Transfer Station	\$ 500
6. Transfer of Ownership	\$ 1,000
7. Special Waste Recertification	\$ 150

Clarify Permit Fees

(b) Fee Schedule

1. Disposal Facility Class I and Class II Disposal Facilities

(i) Class I New Permit

(I) Hydrogeologic Report \$ 4,000

(II) Design and Construction Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., subparagraphs (9)(b) through (d) of Rule 0400-11-01-.04) \$ 6,000

(ii) Class II Lateral Expansions

(I) Hydrogeologic Report \$ 4,000

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8

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Clarify Permit Fees

(II)	Design and Construction Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., subparagraphs (9)(b) through (d) of Rule 0400-11-01-.04)	\$ 6,000
(iii)	Vertical Expansions	
	Engineering Plans, Narrative Description, and Closure/Post-Closure (i.e., subparagraphs (9)(b) through (d) of Rule 0400-11-01-.04)	\$ 6,000
(iv)	All other major modifications that do not result in an increase in airspace	\$2,000
(iii)2.	Class III Disposal Facilities	
(i)	New Permit, Lateral, and Vertical Expansions	\$ 3,000
(ii)	All other major modifications that do not result in an increase in airspace	\$2,000
2.3.	Processing Facility	\$ 1,000
3	Major Modifications	\$ 2,000
4.	Special Waste Evaluation	\$ 300
5.	Transfer Station	\$ 500

Secondary Containment

Summary:

- It is standard industry practice for landfills to include secondary containment on leachate tanks and is required in other states.
- Provides a safeguard that helps to mitigate/reduce risks associated with leachate management
- Rule provides specific requirements for the secondary containment system.

Secondary Containment

Rule 0400-11-01-.04(4)(a)7(iii) amended to read:

(iii) Leachate collection reservoirs, including tanks, must:

(I) Be constructed (~~e.g.~~ i.e., lined) such that collected leachate is contained;

(II) Have sufficient capacity to store the volume of leachate expected to be generated in 30 days, or other adequate provisions approved by the Commissioner; and

(III) Have a reliable and convenient means of detecting the level of collected leachate in the reservoir and of sampling such leachate-; and

(iv) Leachate tanks must include a secondary containment system, which may consist of dikes, liners, pads, ponds, impoundments, curbs, ditches, sumps, or other systems capable of containing the liquid stored, that is:

(I) Designed to contain 110 percent of the volume of either the largest tank within the containment system or the total volume of all interconnected tanks, whichever is greater; and

(II) Constructed of a material compatible with the liquid being stored.

Avoiding Leachate Pipe Penetrations of Liners

Summary:

- Current regulations allow leachate pipe penetrations of liners, even though DSWM has not approved one in many years.
- DSWM believes it's best practice to avoid/minimize such penetrations
- This update will only allow penetrations in certain situations.

Avoiding Leachate Pipe Penetrations of Liners

Rule 0400-11-01-.04(4)(a)1 is amended to include:

(a) Class I Disposal Facilities

1. Such facilities must have a liner designed to function for the estimated life of the site and the post-closure care period. It shall be designed, constructed, and installed to ensure that the concentration values listed in Appendix III of this rule will not be exceeded in the uppermost aquifer at the relevant point of compliance. **The liner must be:**

(vii) Designed and constructed with sumps and side slope risers as part of its leachate removal system and in a manner that minimizes penetrations through the liner. Where penetrations of the liner are approved by the Commissioner, they must be properly sealed to prevent leakage and, wherever possible, be designed with access to allow repair of damaged seals.

Fire Notification

Summary:

The rule will clarify that a permittee must notify DSWM in addition to TEMA.

Rule 0400-11-01-.02(5)(a)10(iii) is amended to read:

(iii) The permittee shall report orally within 24 hours from the time the permittee becomes aware of the circumstances of any release, discharge, fire, or explosion from the permitted solid waste facility ~~which that~~ could threaten the environment or human health outside the facility. Such report shall be made to the Commissioner and to the Tennessee Emergency Management Agency, using 24-hour toll-free number ~~1/800/~~ 1-800-262-3300.

Updating the Definition of Isolation Room Medical Waste

Summary:

- The Tennessee Department of Health (TDH) has informed DSWM that our current definition of isolation room waste is written broadly
- Capturing waste that are not contaminated with blood, body fluid, or other potentially infectious material
- According to TDH updated science and guidelines for containment of infectious and communicable disease has rendered our current definition financially costly and burdensome to facilities

Updating the Definition of Isolation Room Medical Waste

Rule 0400-11-01-.02(2) is amended to read:

“Medical wastes” means the following solid wastes:

- (a) Wastes generated by hospitalized patients who are isolated to protect others from ~~communicable diseases (see the current U.S. Centers for Disease Control guidance related to preventing transmission of infectious agents in healthcare settings for definition of diseases requiring such isolation)~~ diseases caused by pathogens. Pathogens are a microorganism (including bacteria, viruses, parasites, and fungi) or other agent, such as a proteinaceous infectious particle (prion) that can cause disease in humans or animals.

Next Steps

- Receive your comments/questions
- Respond to and make any adjustments based on your feedback
- Set up public hearing date and location
 - The rulemaking hearing notice must be filed with Secretary of State at least 52 days before hearing

Thank you!

Questions / Comments

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