Solid Waste Proposed Rule Package for Adoption

TENNESSEE UNDERGROUND STORAGE TANKS and SOLID WASTE DISPOSAL CONTROL BOARD MEETING

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Solid Waste Regulatory Clarifications and Updates Proposal

- Last Solid Waste Rule Process occurred in 2017 with regulations passed in Dec. 2019
- Public Hearing was held January 9th, 2024
- A Summary of the rules and comments will be presented today with a recommendation for adoption.

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 practice

- 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 (vague)
    - Increase in capacities
    - Changes in direction of site drainage, (vague) and
    - 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 that could alter the impact of the facility on the public, public health, the environment, 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 amended:

~~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.~~ The certification statement in part (3)(a)10 of Rule 0400-11-01-.02 and submitted as required by part (3)(a)8 of Rule 400-11-01-.02

~~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.~~ The certification statement in part (3)(a)10 of Rule 0400-11-01-.02 and submitted as required by part (3)(a)8 of Rule 400-11-01-.02

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:

"Constructed appurtenance" means ponds, buildings, borrow areas, cut slopes, fill slopes, and other structures, accessories, or similar items associated with a disposal facility.

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

~~A~~ After the effective date of this rule, 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, utility poles, underground and above-ground 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
- 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 for the purposes of subparagraph (6)(a) of Rule 0400-11-01-.07, an acknowledgement that an application addresses all applicable requirements specified in subparagraph (3)(c) of Rule 0400-11-01-.02, 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~~ The Department shall act upon a permit application ~~shall be acted upon by the Department~~ (issue or deny) 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		
	(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
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

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

(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
(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~~

Secondary Containment

Summary:

- Provides a safeguard that helps to mitigate/reduce risks associated with leachate management
- Rule provides specific requirements for the secondary containment system.

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

(iv) After the effective date of this rule, leachate tanks must include a secondary containment system, that may consist of dikes, liners, pads, ponds, impoundments, curbs, ditches, sumps, or other systems capable of containing the liquid stored, that are:

(I) Designed to contain 110 percent of the volume of the largest tank within the containment system; interconnected tanks must have engineering controls (e.g., level sensors and gauges, high level alarms, automatic shutoff controls) to isolate each tank to prevent discharge of the total volume from all interconnected tanks to the secondary containment system;

(II) Using best engineering practices, constructed of materials compatible with the liquid being stored, and

(III) While in use, maintained to be adequately sealed against leakage.

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. lined)~~ and maintained 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) After the effective date of this rule, 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 are:

(I) Designed to contain 110 percent of the volume of the largest tank within the containment system; interconnected tanks must have engineering controls (e.g., level sensors and gauges, high level alarms, automatic shutoff controls) to isolate each tank to prevent discharge of the total volume from all interconnected tanks to the secondary containment system;

(II) Using best engineering practices, constructed of a material compatible with the liquid being stored, and

(II) While in use, maintained to be adequately sealed against leakage.

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) After the effective date of this rule, designed and constructed with sumps and side slope risers, or technology that provides equivalent or superior performance that is approved by the Commissioner, 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 feasible, be designed with access to allow repair of damaged seals.

Fire Notification

Summary:

The rule will clarify that a permittee must notify DSWM in the event there is a fire at a solid waste facility.

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, using the toll-free number 1-888-891-8332, 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).~~ Liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials; and microbiological wastes containing blood or other potentially infectious materials;

(b) Cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures~~;~~.

~~(c) Waste human blood and blood products such as serum, plasma, and other blood components;~~

Updating the Definition of Isolation Room Medical Waste

~~(d)~~(c) Pathological wastes (i.e., tissues, organs, and body parts~~, and body fluids~~) that are removed during surgery and autopsy~~.~~;

~~(e)~~(d) All discarded sharps (e.g., hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades) used in patient care or ~~which~~ that have come into contact with infectious agents during use in medical, research, or industrial laboratories~~.~~; or

~~(f)~~(e) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or in the in vivo testing of pharmaceuticals.~~;~~ or

~~(g) The following wastes from patients known to be infected with blood-borne disease:~~

~~1. Contaminated wastes from surgery and autopsy (e.g., soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, surgical gloves).~~

~~2. Wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents (e.g., specimen containers, slides and cover slips, disposable gloves, lab coats, aprons).~~

~~3. Wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposal equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and lab coats.~~

~~4. Discarded equipment and parts that were used in patient care, medical and industrial laboratories, research, and in the production and testing of certain pharmaceuticals and that may be contaminated with infectious agents.~~

Questions

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