

2016 DRAFT SOLID WASTE MANAGEMENT RULES

SUMMARY OF PROPOSED CHANGES

Draft Date: 12/01/2016

Purpose of Revisions:

This rulemaking is a comprehensive revision to the Agency of Natural Resources' (ANR) Solid Waste Management Rules (SWMR). Current regulations were last revised in 2012, specifically to address the addition of compost management facilities, the remainder of the regulations have not been updated since 2006.

This rulemaking intends to accomplish the following:

- Restructure and organize of the SWMR for clarity;
- Incorporate the provisions of existing solid waste procedures into rule;
- Adjust and clarify, the existing regulations; and
- Update the SWMR's technical provisions to reflect recent legal and policy developments and the current practices occurring within Vermont's solid waste management industry.

Summary of Proposed Revisions

Structure:

One of the primary changes that will be noticed within these draft rules is a general reorganization of subchapters. The rules have been reorganized to clarify what is required of particular facility types or solid waste management activities. In some cases, regulations applicable to specific management activities have been relocated to a more appropriate subchapter or subsection. While the subchapter titles themselves have not necessarily changed, the materials contained within may have moved.

Generally, the revised provisions in subchapters 1-8 are intended to apply to all solid waste management facilities and management activities, while subchapters 9-13 contain provisions that would be applicable to particular management activities or facility types. Subchapter 14 covers "Special Topics", which include provisions applicable to regulated activities which may not necessarily occur within any one specific solid waste facility. A proposed Table of Contents is included within this guidance document as *Attachment A* and can also be found at the beginning of the draft rules.

Content:

In addition to technical changes throughout, the revised draft rules incorporate regulations for several additional waste management activities, namely, anaerobic digesters, organic recovery facilities (ORFs), and organic drop-off facilities. These proposed revisions are intended to better accommodate the changing practices regarding the management of organics within the State. Other major changes include revising certification requirements for solid waste management activities, including the public notice process (in response to the passage of Act No. 150 (S.123); changes to financial responsibility requirements for municipal landfills; changes to post-closure requirements and post-closure fund obligations for all landfills; and consolidation and various changes to requirements for disposal facilities. These and other proposed major changes are summarized below.

The following is intended to summarize the primary changes within each respective subchapter. Please refer to the proposed revised language in each respective subchapter of interest for additional detail and a fuller understanding of the proposed changes. Language proposed to be added to the SWMR is shown as underlined; material proposed to be removed is indicated as ~~strikethrough~~.

At this point in time in the rule-making process, existing language which has *only* been relocated is not presented in underline, this is intended to make it easier to read and to identify changes to the language of the rules which are likely to be of highest interest. However, in future filings of these rules, all new and relocated material, will be presented in underline as required.

Commenting:

At this point, these preliminary rule changes have not completed legal review and as such are likely to change before the final rule making process begins. Please keep this in mind when making your comments.

Comments can be made with comment fields within the PDF or within a separate word document.

PDF Comments – If making your comments within the provided PDF, please re-save the PDF with the following title for submission ‘SW Rules Comment_Date_Your Name/Organization’

Word Document Comments – please preface each of your comments with the section citation to which that comment is relevant. Please save the document with the following title for submission ‘SW Rules Comment_Date_Your Name/Organization’

We ask that comments from organizations or groups be compiled prior to submission such that only one document is submitted for each group.

Comments should be submitted by February 1, 2017 and emailed to: Dennis.Fekert@vermont.gov

Subchapter 1 - Purpose

Additions to this subchapter are intended to clarify the Agency’s relevant statutory authority under which the Solid Waste Management Program (SWMP) and revisions are adopted. Revisions also clarify requirements for applicants, co-applicants, and duly authorized representatives with regard to the submission of an application for a solid waste management facility and payment of fees.

Subchapter 2 – General Definitions and Acronyms

Definitions for the following terms are proposed to be added:

Active Life	Final Cap	Organics Recycling Facility
Active Portion	Food Residual	Operating Capacity
Administrative Amendment	Geosynthetics	Operator
Administratively Complete Application	Growth Capacity	Post-closure
Agency	Implementation Plan	Processed Construction and Demolition Debris
Biosolids	Implemented Waste	Processed Glass Aggregate
Cell	Interim Cap	Qualified Operator
Corrective Action	Intermediate Cover	Regional Plan
Custodial Care	Inert Materials	Regulated Medical Waste
Development Soil	Insignificant Waste Management Event	Sanitary Landfill
Development Soil Concentration Level	Lateral Expansion	Secretary
Diversion	Leaf and Yard Residuals	Solid Waste Management Entity
Drinking Water Source	Mandated Recyclables	Uniform Solid Waste
Exceptional Quality (EQ) Biosolids	Non-implemented Waste	White Goods
Final Grades	Nuisance	100-year Flood
	Organics	

Topic-specific definitions have also been established for compost and organics management facilities (to be included in Subchapter 11) and for Regulated Medical Waste (found in Subchapter 14). If there is any duplication between definitions contained within this subchapter and those topic specific subchapters, the definitions are consistent with one another.

A listing of acronyms used throughout the revised draft has also been provided.

Subchapter 3 - Applicability, Exemptions, and Prohibitions

Proposed revisions to this subchapter include a new exemption for unpainted and contaminant-free brick and concrete to be disposed of on the same property from which it originated and glycerol which is delivered to an anaerobic digester as feedstock. The intent of these additions is to remove unnecessary regulatory review of management activities.

Additional proposed exemptions incorporated into this subchapter include the following materials which have previously been recognized as exemptions within existing Procedures:

Material	Procedure (last revision date)
Processed Glass Aggregate	<i>“Acceptable Uses for Processed Glass Aggregate”</i> (2002)
Wood Ash	<i>“Comprehensive Wood Ash Management Procedure”</i> (2009)
High-Carbon Bulking Agents	<i>“Defining High Carbon Bulking Agents Used in Composting”</i> (2012)

Subchapter 4 - Planning

This subchapter proposes to incorporate the term “solid waste management entity” to refer to solid waste districts, alliances, communities, and independent towns, or other solid waste management authorities, which establish solid waste management planning programs throughout the state. Additionally, revisions to this subchapter of the rules would incorporate the current process by which the Agency will continue to review and approve solid waste implementation plan (SWIP) submissions.

Subchapter 5 - General Application Submittal Requirements

The changes being proposed for this subchapter should be considered along with the proposed revisions in Subchapter 6. Revisions in this subchapter would standardize the SWMP’s current permitting programs into specific categories (full facility certifications, minor facility certifications, and registrations/emergency approvals) and prescribe revised application and public notice requirements based on the type of solid waste management activity. The revised permitting requirements in this subchapter would serve as minimum requirements for all permitted activities regulated by the SWMP, while there may be additional permitting requirements for specific waste management activities within the relevant subchapter for that activity. The proposed permitting requirements being incorporated into the Rules are intended to track the standardized processes for DEC permitting programs by Act No. 150 (S.123) of 2016, which will become effective in state law in January 1, 2018.

The final section of this subchapter is being revised to include application requirements for variances requests. The current *Procedure for Variances from the Solid Waste Management Rules; Hazardous Waste Management Regulations; and Air Pollution Control Regulations* was established in 2005.

Subchapter 6 - Application Review and Certification Issuance

Revisions made in this subchapter would also standardize permit processing to reflect provisions enacted in Act 150. These changes lay out new certification review processes for each permit category (full certification, minor certification, and registration/emergency approvals). A review process is also defined for applications for variances, and certification amendments and renewals.

Broadly, the revisions proposed for application submission and review include: shifting public noticing of applications to a web-based format rather than printed copy; requiring direct notification of adjoining landowners and provisions for up-to-date information regarding the progress of an application to be accessible using web-based notifications; defining the Agency’s technical review of an application; public comment period and opportunities for a public meeting on an application; and method for notice of final decision and response to comments on an application.

Subchapter 7 – General Siting, Design, and Operating Standards

This subchapter is a consolidation of materials from subchapters 5-7 of the current SWMR. It contains the minimum siting, design, and operational standards that are applicable to all solid waste facilities regardless of size or management activities. Specific siting, design, and operating standards for specific management activities and facility types can be found within subsequent subchapters.

The primary proposed new content to this subchapter provides guidelines for implementation of corrective action that any solid waste facility must take if an emission or discharge from that facility is determined to pose a threat to public health and safety or the environment.

Subchapter 8 – Financial Responsibility, Capability and Estimates

There are two primary changes proposed for this subchapter. The first is requiring all landfills, including municipal landfills, to provide evidence of financial responsibility. Under current rules, municipally-owned solid waste landfills are provided with the option of making annual contributions to a fund for closure and post-closure care. It has been the SWMP's experience that funds set aside for closure and post-closure care are typically insufficient when a facility ceases routine operations. The process of establishing financial responsibility by privatized landfills remains unchanged, but municipal owned landfills would now be held to that same requirements.

The second substantial change to this subchapter addresses long-term maintenance of post-closure funds for landfills. The 30-year post-closure period for landfills has been required for financial planning purposes; and it was not intended to cease post-closure management and maintenance at the end of the 30 years if environmental impairment was still present. The post-closure funds are in place to manage any remedial activities; and the need for these funds could occur at any point during the post-closure period. Therefore, post-closure funds should not be adjusted based solely upon a static date, but rather should be preserved at a functional value and adjusted based on successful performance of the landfill closure systems.

Subchapter 9 - Storage, Transfer, Recycling and Processing Facilities

There have been numerous changes to this subchapter made to clarify existing provisions and to update management practices to reflect changes to the waste stream (architectural waste, leaf and yard wastes, food residuals, etc.). The most significant change to this subchapter is the addition of organic recovery facilities (ORFs). In concept, ORFs will aggregate post-consumer food scraps, food residuals and food processing residuals, process these into a slurried form which can subsequently be delivered to an appropriate organics management facility, primarily anaerobic digesters, as such these rules will consider ORFs as solid waste processing facilities.

Subchapter 10 – Disposal Facilities

This subchapter has significant proposed changes. Structurally, material from subchapters 3, 6, 7, 10 and 13 of the current SWMR related to disposal requirements (either categorical disposal sites or landfills) has been consolidated into this subchapter. Requirements of the current Subchapter 13 (Management of mining and mineral processing waste) have been merged here to eliminate unnecessary duplication of information within the rules. The technical requirements for a categorical mining waste facility are not substantially different from those for a categorical disposal facility and similarly, a mineral processing or mining waste landfill does not have substantially different requirements from a municipal solid waste landfill. The merger of the provisions for mining and mineral processing waste into this subchapter has not substantially changed the requirements for these facilities.

Numerous revisions are proposed in this subchapter, regarding landfill design and operations standards. A brief summary of the technical changes and newly added provisions follows:

1. Categorical disposal facilities are proposed to be approved for acceptance of development soils (as defined in subchapter 3), upon determination of a development soil under the management of the Sites Management Section.
2. As proposed, post-closure care and custodial care of closed landfills will no longer be a certified activity. Rather the management of these closed landfills will occur under approved plans and be regulated by the requirements provided for within these draft rules.
3. The landfill design section has been updated to address transitions from daily cover, intermediate cover, interim cap and final cap of landfills.
4. Incorporation of provisions for landfill gas management and monitoring systems has been added along with requirements for action if leachate is suspected within a landfill liner system.

5. Clarification on what additional submittals are required to be provided for consideration of a landfill application. In practice the SWMP has been requiring these items in order to consider an application approvable; however, their submission has not previously been explicit in rule.
6. Requirements for post-closure care have been incorporated into the rule. These requirements are currently incorporated into certifications for post-closure care, which are re-issued every five years. In this proposed “permit-by-rule” structure, the need for recertification is eliminated and the long-term management of these facilities is streamlined.
7. The required performance criteria necessary to achieve custodial care status for a closed landfill are incorporated into this subchapter. These criteria are currently in the Agency’s 2013 *“Procedure Addressing Completion of Post Closure Care for Solid Waste Disposal Facilities”*.

Subchapter 11 – Compost Facilities

No substantial technical changes are proposed for this subchapter, although several sections are proposed to be consolidated to reduce duplication of information. The primary addition is provisions for agricultural operations providing food residuals as feed for chickens.

Subchapter 12 – Organics Management Facilities

This subchapter introduces a new facility type to the SWMR, organic drop-off facilities, and expands and clarifies the requirements for anaerobic digesters. Organic drop-off facilities are small collection facilities limited to food residual collection only, and are intended to provide additional convenience for organic management throughout the state.

The current SMWR includes limited requirements for anaerobic digesters. In practice, and as the management of solid wastes at these facilities expands, the Agency has recognized that there are differing tiers of regulation that are justified depending on the types of solid wastes being managed at the digester and the location of the digester. In order to prevent unnecessary regulatory review of these activities, provisions have incorporated these concepts.

Subchapter 13 – Residuals Management Facilities

Previously, provisions for residuals management facilities have not been consolidated into an easily referenced location within the SWMR. This subchapter now contains all relevant information for residuals management facilities, better incorporation of federal site use practices and introduces new exemptions for management activities. Provisions for the importation of exceptional quality (EQ) biosolids, pollutant limits, pathogen and vector attraction requirements and compost curing have also been clarified and provided.

Subchapter 14 – Regulated Medical Waste

New requirements for Regulated Medical Waste (RMW) are being incorporated into rule. These requirements stem from provisions in the Agency’s existing *“Procedure Addressing Regulated Medical Waste Definitions and the Handling and Treatment of Regulated Medical Waste”* (2001).

While the general concepts of the existing RMW procedure remain, there are significant additions and alterations which are intended to update these rules to reflect current and best practice. These include clarified or additional definitions, establishment of a tiered management system based on generator status (residential, large quantity, small quantity), clarification regarding packaging and treatment of used sharps and additional transportation requirements.

Subchapter 15 – Special Topics

This subchapter includes new acceptable uses and the criteria for approval and determination of such uses. The research, development, and demonstration permits (RD&D) language has been removed. The intent of this language was primarily for the allowance of re-circulation of leachate at municipal solid waste landfills and in practice this has proven to be problematic and unpractical at Vermont facilities.

The rules for consumer products containing mercury have been moved to this subchapter, as have the standards for household hazardous waste and conditionally exempt generators (HHW, CEG) collection events.

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