



Rowan County Environmental Management

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January 31, 2011

Ms. Ellen Lorscheider
North Carolina Department of Environment and Natural Resources
Division of Waste Management: Solid Waste Section
1646 Mail Service Center
Raleigh, North Carolina 27699-1646
Sent via email to: ellen.lorscheider@ncdenr.gov

RE: **PROPOSED RULE CHANGES NORTH CAROLINA SOLID WASTE MANAGEMENT RULES .1604 AND 1626**

Dear Ms. Ellen Lorscheider,

Rowan County's engineering consultant, Mr. Joe Readling (HDR), along with other individuals met Mark Poindexter, Donna Wilson and yourself in December to discuss the proposed changes to the general and operational requirements sections of the North Carolina Solid Waste Management Rules 1604 and 1626. The following comments and proposed language changes are supported by the Rowan County Department of Environmental Management.

A. Fiscal Note: The fiscal note for the proposed rule change states the following assumption:

A facility, if managed and constructed properly should not have any "releases". While all operators strive to avoid releases, even a properly constructed and managed facility may have releases at times particularly associated with side slope breakouts. There was significant discussion among the group regarding the causes and occurrence of leachate seeps and outbreaks at landfills.

Cited causes include increased compaction in recent years due to heavier compaction equipment, additional daily cover soils placed to cover waste "flagging" and the fact that since initial implementation of Subtitle D in North Carolina more facilities have achieved higher elevation on the waste mass resulting in more side slope being above the anchor trench in elevation. These discussions summarized that although operators manage their landfills in accordance with the rules, leachate seeps can still occur despite best management practices.

B. 13B. 1604 (L)(iii): The proposed rule change states:

The permittee shall report orally within 24 hours from the time the permittee becomes aware of the circumstances of any ~~release, discharge,~~ release or discharge outside the liner, collection system or other

containment component, any fire or explosion from the permitted landfill facility. Such reports shall be made to the Division representative at the appropriate regional office of the Department of Environment, Health, and Natural Resources.

Little discussion focused upon the changes to the reporting requirement itself. However, we recommend additional language for this Rule for clarity of the reporting process. Additionally, we have edited some of the language for clarity.

Recommendation: We recommend the following changes to the proposed language:

The permittee shall report orally within 24 hours from the time the permittee becomes aware of the circumstances of 1) any leachate release or discharge outside the liner, collection system or other containment component; or 2) any fire or explosion from the permitted landfill facility. Such reports shall be made to the Division representative at the appropriate regional office of the Department of Environment, Health and Natural Resources. Upon reporting a release or discharge outside the liner, collection system or other containment component the following processes shall be initiated as required:

(i) Identify the extent of impact;

(ii) Prepare and implement a plan to measure and remediate any impact; and

(iii) Prepare a report which summarizes the actions and results from the items listed above.

C. 13B. 1626 (8)(d) : The proposed rule change states:

Leachate shall be contained ~~on site or~~ within a lined disposal cell or within a leachate collection and storage system. All leachate shall be properly treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.

Additional discussion among the group centered on “Acts of God.” Large rain events (such as hurricanes) can generate large quantities of rain over small periods of time. There was concern among the group that any leachate seeps that occurred following a large storm event would be enforced as a violation of the Rule. NCDENR representatives indicated that storm events that were larger than the “design storm” would not be considered for enforcement action.

Generally, the discussion among the group centered on the broad nature of the scope of proposed Rule change and that some provisions should be made for small releases that are captured and remediated quickly by operators, similar to spill response measures under other regulatory jurisdictions.

The group discussed the possibility of proposing additional changes to the Rules in order to present options for leachate release enforcement and management other than the automatic issuance of a Notice of Violation. Concern was expressed regarding the potential unwillingness of some operators to self-report when an automatic Notice of Violation is required as well as removal of the consideration of extenuating circumstances from NCDENR enforcement officers. Other options for enforcement that were discussed included the usage of Administrative Order on Consent.

The stated intent of the Rule is the protection of the environment. The use of buffers to protect the environment was discussed. Specifically, the use of the groundwater compliance boundary to protect off-site groundwater was discussed. The compliance boundary allows impacted groundwater on the landfill site, up to a distance of 250 feet from the landfill cell boundary. Although this boundary is used to determine compliance, any release

of leachate within the 250 foot boundary from the landfill can be considered a violation according to the proposed rule revision.

It was stated during the meeting that Subtitle-D regulations were designed as a zero discharge program, however, discharges to groundwater are allowed up to a distance of impact of 250 feet (the relevant point of compliance). Additionally, discharges of landfill gas are allowed as long as they do not exceed 100% LEL at the property boundary. The use of buffers for evaluating and maintaining compliance is already a part of Subtitle-D regulations. Releases of leachate should be viewed in this same light and be managed, minimized and protected against.

Recommendation: We recommend the following text changes for consideration:

Leachate shall be contained within the relevant point of compliance as defined in 15A NCAC 13B.1631(2)(a). All leachate shall be properly treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.

- D. 13B.1626 (12)(e):** This portion of the rule was not discussed during the meeting, however, the NCDENR proposed changes to 13B.1626 (8)(d) would be inconsistent with implementation of Rules in other Divisions of NCDENR where releases, spills, etc., require a contingency plan (i.e. SP3, SPCC, etc.). Furthermore, it has been made evident in NCDENR requirements after leachate releases at several sites, that the preparation of a contingency plan for leachate releases is needed. This requirement has only been applied to certain sites where releases have occurred, however, having a plan for all sites to control and mitigate unexpected leachate releases will be the most protective of the environment. Therefore, we recommend the following revision to this section of the rule:

(e) A contingency plan for leachate releases and extreme operational conditions.

Rowan County believes these recommendations will provide maximum protection for the environment from leachate releases and appreciate your consideration of the above comments. Please feel free to contact me if you would like to discuss this further.

Sincerely,

Kathryn P. Jolly

Kathryn P. Jolly, R.E.M.

Director of Environmental Management