



City of Phoenix
PUBLIC WORKS DEPARTMENT

August 11, 2008

Ms. Martha Seaman
Environmental Rules Specialist
Waste Programs Division
Arizona Department of Environmental quality
1110 W. Washington Street
Phoenix, Arizona 85007

Re: Comments on draft Solid Waste Rule Text

Dear Martha:

On behalf of the City of Phoenix, Public Works Department (COP), I submit the following comments on the draft solid waste rule text; redline revision, dated 07/07/08.

Representatives from the COP have attended and participated in each of the Arizona Department of Environmental Quality (ADEQ) stakeholder meetings providing verbal comments and discussion on each of the articles. The work of ADEQ is evident in that the rule is clearer as to which facilities fall into the three regulatory tiers. The following recommendations are based upon our interpretation of the solid waste draft rule.

Throughout the rule process ADEQ has worked to reach out to the stakeholder community. We are concerned that the commercial composting industry may not have been fully involved in the process. We encourage ADEQ to seek out additional comment from this industry. The composting industry plays a very important role in recycling and diversion of materials from the disposal waste stream.

Comments on Facilities not subject to the Solid Waste Rule

1. The COP is in agreement with the agency that the following facilities should not be subject to the solid waste rule:
 - Community recycling bins
 - Community refuse bins such as roll-off containers used for temporary neighborhood clean ups.
 - Greenwaste only composting operations

2. The City requests that ADEQ allow clean lumber to be included along with greenwaste as an exempt composting operation. The COP transfer stations frequently receive clean lumber and pallets for disposal that is currently ground into a mulch product to avoid landfill disposal. We are concerned that the current exemption will not allow this material without becoming a self-certification facility.
3. The City requests that ADEQ allow greenwaste and clean lumber composting operations be exempt from self-certification required for a waste storage pile with daily throughput of more than 180 cubic yards.
4. The City requests that ADEQ also allow greenwaste and clean lumber composting operations be exempt from self-certification required for a solid waste facility storing solid waste generated off site longer than 90 days. Composting operations need more than 90 days to adequately process greenwaste materials into a marketable product.

Comments on Article 6: Requirements for Facilities Subject to Best Management Practices

R18-13-603 - General Requirements

Subsection D - We recommend that this section be reviewed for its impact on small predominately rural facilities.

R18-13-604 - Emergency Preparedness

Subsection B – We recommend that this section be deleted as this is the responsibility of the local fire district to enforce for compliance with current fire codes.

R18-13-605 - Closure

The requirement in subsection A to submit the closure plan to the ADEQ should be deleted for BMP facilities as this seems more like a self-cert requirement than a BMP.

R18-13-607 - Staffed Transfer Stations

Subsection C.4. The notification requirement should be eliminated as it is too broad. ADEQ should define what types of unauthorized wastes require notification. This requirement also should be eliminated from sections 608, 609, and 610 as well as for self-certification facilities.

Subsection C.5. - This is more stringent than 40 CFR 258. Is the rule suggesting that these transfer facilities construct storage areas to handle wastes they should not be accepting. This makes no sense. In most cases, transfer facilities do not want to “handle” these materials rather they isolate the area and call in a contractor with expertise to manage these wastes.

Subsection C.6. – This requirement is vague. What is proper handling of waste requiring special handling?

Comments on Article 7. Requirements for Solid Waste Facilities Subject to Self-Certification

R18-13-700 - Requirements

To subsections A.2. and A.14. add, “*and not processing only vegetative waste and clean lumber*” to the end of the sentence. This inclusion will exempt vegetative waste and clean lumber composting operations from the self-certification requirements.

R18-13-701 - General Requirements

Subsection F.4 and G.2 are duplicative and already required under ARS49-109. Delete these subsections and remove this duplicative requirement.

Delete subsection H.3. – This requirement is vague. A material change in waste management practices may be unique to each type of facility and is difficult to define.

Delete Subsection H.7. and H.8. – These are financial assurance mechanisms requirements and are not applicable to this section. A change in the financial assurance mechanism should not constitute a substantial change.

R18-13-703 - General Requirements

Subsection E. Stormwater controls should not be applied to the entire site but should be limited to preventing stormwater from contacting the waste. Only storm water that comes in contact with the waste should be required to be collected and controlled under this rule. The current language is too broad as it applies to the entire site of which only a small portion of the site may be used for waste handling.

R18-13-704 - Emergency Preparedness

Subsections C-E should be deleted. This is the responsibility of the local fire district to enforce for compliance with current fire codes.

R18-13-707- Transfer Facilities with Daily Throughput of More Than 180 Cubic Yards

Delete the last half of the last sentence in subsection F.2. which states, “*or more often if necessary to ensure that no windblown litter crosses the facility boundaries*”. Although City facilities take daily action to control and collect windblown litter conditions may occur beyond the control of the facility where they are unable to ensure that no windblown litter crosses the facility boundaries. This requirement is unreasonable.

Subsection B.3. Requires that containers used in the handling of solid waste be maintained in a manner that prevents access by vectors. The solid waste industry daily uses open top roll-off containers and transfer trailers for the storage and transport of solid waste. These containers are tarped as a best management practice to prevent the loss of materials and to discourage access by vectors. The access by vectors is minimized but can not be prevented. Delete the last portion of the sentence that states, “*and that prevents access by vectors*”. Subsection F.5. – See comments for 703.E above.

R18-13-708 - Waste Storage Piles with Daily Throughput of More Than 180 Cubic Yards; Exempt facilities that process only vegetative waste and clean lumber from the requirements of this section.

Delete subsection D.4. or revise the notification requirements to be less broad for this and subsequent self-certification facilities. See comments above in R18-13-607.C.4, C.5 and C.6 which also apply to self-certification facilities.

R18-13-719 - Off Site Storage Facility Storing Solid Waste For Greater Than 90 Days; Exempt facilities that process only vegetative waste and clean lumber from the requirements of this section.

Comments on Article 11. Solid Waste Facilities Subject to Plan Approval

R18-13-1101 - Solid Waste Facilities Subject to Plan Approval
Subsection A.5. Exempt facilities that process only vegetative waste and clean lumber from the requirements of this section.

R18-13-1102 - Procedures Related to Plan Approval Facilities
Subsection A.2.l. and A.3.j. are too broad and open ended. The *other relevant information required by the Department* should be listed and described.

Subsection A.3.e.iii. Define or give guidance concerning what is required by an *industry-wide evaluation*.

Subsection A.4. What is the purpose of the water balance modeling?

Subsection B.1.a. The requirements in this subsection are excessive. The engineering firm performing the construction management for the project will perform these responsibilities. The separate delineation of each responsibility is unnecessary and expensive for most projects.

Subsection B.1.b. The overall minimum level of experience and qualifications of the general contractor are defined within the public bidding process for the project. The qualifications and training of the general contractor's crew and subcontractors are the responsibility of the contractor. The contractor is held to and must comply with the requirements of the plans and specifications.

Subsection B.1.c.

i and ii - appear to be the same. The testing frequency must meet industry protocol as defined in the plans and specifications and/or the specified test procedure(s).

iv - Unless specifically defined in the plans and specifications the means and measures taken to complete construction are dependent on and the responsibility of the contractor.

ix – The limits of testing are defined by the individual standardized test(s) specified.
x – The corrective actions to be taken upon test failure are defined as part of the plans and specifications.

Subsection B.1.d. Only one CQA/CQC report is necessary which may contain a variety of individual data sheets and reports.

Subsection B.2.a & b. Replace paragraphs a and b with the following single paragraph, “Demonstrate that the construction was completed in conformance with the approved design plans and specifications”. Additionally, remove “or revoke” from the actions that can be taken by the Department in this paragraph. To revoke approval is unacceptable. The Department and the owner/operator must work together to resolve the issue.

Subsection D.3.d. Delete the existing language and replace with the following: “The complete replacement or removal of monitoring equipment, including a groundwater or gas monitoring well, excluding repair, maintenance, and like replacement of existing equipment.”

Subsection D.3.f. Delete the existing language completely. The plan should not be required to be changed after the Department has approved the facility plan. A substantial change to a solid waste facility required by rule or statute should not require fee payment.

Subsection D.3.j. Delete “*or operational practices*”. A change in operational practices should be a Type II change.

Subsection D.3.r. The annual update approval of a financial assurance mechanism is a routine annual procedure and report that should not be classified as a Type III change.

Subsection E.3. Change 18 months to 24 months.

R18-13-1109 - Specific Requirements for MSW Landfills; Contingency Plans
Subsection B.3. – Delete this section. The requirement for a contingency plan for all the conditions listed in the approved facility plan is excessive and onerous.

R18-13-1111 - Specific Requirements for MSW Landfills; Monitoring Requirements
Subsection A – The requirement for notification of the Department within five days for a violation of any condition of the approved facility plan is too broad. Notification should be limited to violations that result in a discharge from the facility.

R18-13-1125 - Specific Requirements for Certain Commercial or Government owned Household Waste Composting Facilities
Subsection A. Exempt facilities that process only vegetative waste and clean lumber.

R18-13-2110 – Solid Waste Disposal Fees

None of the fee schedules in Appendix A reference a fee for applications from transitioning landfills as required in R18-13-1115.

The COP appreciates the opportunity to provide comments on the proposed rule.

Sincerely



Charles Hamstra
Landfill Compliance Officer
Public Works Department
City of Phoenix