

**Proposed Amendments to Title 132 –
*Integrated Solid Waste Management
Regulations***



NDEQ Waste Management Division

**Initial Outreach Meeting, Lincoln NE
February 3, 2015
2:00pm, Room 424**



Areas Proposed for Amendment

4 focus areas:

- Clarify existing provisions.
- Create new provisions or modify existing provisions to streamline Department permitting functions.
- Continue to protect the environment.
- Correct typographical errors.



Title 132 Outreach

What?	When?
1 st Outreach Meeting to discuss concepts	Feb. 3, 2015, 2:00pm @ NDEQ
Preliminary draft regulations available on NDEQ website	March 2015
2 nd Outreach Meeting to discuss draft regulations	April 2015
Legal Notice Period	May 2015
EQC Hearing Date	June 4, 2015



Chapter 2 – proposal 1

ISSUE #1: what types of solid waste processing activities require a permit?

- Examples of activities that do need a permit include medical waste autoclaving, solid waste compaction, or temporary storage.
- Composting > 1,000 cubic yards of “other material” – including chipped wood – will still require a permit.

BACKGROUND for #1: Facilities and NDEQ staff can spend a lot of time figuring out whether SW processing requires a permit.

- statutes & regulation indicate waste generators can process their own waste without a permit.
- NDEQ wants to be flexible (when possible) in regulating those activities with clear environmental benefit & low risk of harm.

PROPOSAL for #1: Clarify the solid waste permit exception by treating these activities similar to how we regulate recycling.



Chapter 3 – proposal 2

ISSUE #2: What does the liquids prohibition allow to be disposed at municipal solid waste landfills?

- Disposing large volumes of liquids is outside Title 132’s design criteria for liners and leachate collection systems.

BACKGROUND for #2: Some facilities are disposing of large volumes of liquids from businesses, packaged in household-size containers.

- Example: a beer truck full of 12 oz. containers
- Household size + from a household – ALLOWED
- Household size + from a business – NOT ALLOWED

POSSIBLE PROPOSALS for #2:

- Specify an allowable volume?
- Define “bulk” in Chapter 1?
- Add other clarifying language?



Chapter 3 – proposal 3

ISSUE #3: How best to regulate inactive facilities with remaining capacity?

- Title 132 assumes facilities will remain active until “receipt of the final volume of waste”.

BACKGROUND for #3:

- Nebraska has a few facilities nearing closure in the future.
- If a facility goes inactive, maintenance of adequate cover and erosion prevention become concerns. Intermediate cover is not an allowable long-term management approach.
- At present, NDEQ does not have regulatory tools – other than a permit revocation – to review how inactive facilities are being managed by their owner/operators.
- A permit revocation is always a “worst-case scenario” regulatory decision and an outcome to be avoided.



Chapter 3 – proposal 3 (continued)

PROPOSAL for #3: Add 2 provisions from 40 CFR 258.60(f):

- 1st provision requires inactive facilities with remaining capacity to begin closure within one year of the “*most recent*” receipt of wastes.
- 2nd provision allows extensions beyond the 1 year deadline if owner/operator demonstrates the facility is taking steps to prevent threats to human health and the environment from the unclosed unit.
- These provisions create a “middle ground” between no regulatory tools and a permit revocation.
- Facility operating permit would remain active and be renewed at least once every 5 years.
- We view these provisions as an opportunity to collaborate with facilities on an annual basis.



Chapter 5 – proposal 4

ISSUE #4: Title 132, Chapter 5 has requirements that C&D waste disposal areas must notify the Department of closure activities.

- Parallel sections in Chapters 3, 4, & 6 for MSW landfills, fossil fuel combustion ash disposal areas, and solid waste processing facilities, respectively, contain a requirement that these notices also be placed in the *facility's operating record*. Chapter 5 does not require this.

PROPOSAL FOR #4: make closure record-keeping requirements consistent for all permitted facilities.



Chapter 6 – proposal 5

ISSUE #5: Must solid waste transfer stations have entry gates?

BACKGROUND for #5:

- The gate requirement was copied from Chapter 3 for MSW landfills which have an obvious need for gates and perimeter fencing to prevent trespassing and scavenging.
- Transfer stations can be lockable, enclosed structures so trespassing and scavenging are less of a problem.
- Other issues, such as illegal access & dumping, may be addressed by means other than a gate.

PROPOSAL for #5: Add a "Department-approved alternative" to the requirement that transfer stations have gates.



Chapter 8 – proposal 6

ISSUE #6: How long should the financial assurance pay-in period be for construction & demolition waste landfills?

BACKGROUND for #6:

- Recent natural disasters and their impact on C&D landfill capacity have caused Waste Management Division staff to reevaluate the length of the trust & enterprise fund pay-in period needed to provide adequate financial assurance.
- Pay-in terms greater than 30 years may leave a facility under-capitalized for sudden closure.

PROPOSAL for #6: Implement a 30-year maximum pay in period for trust & enterprise fund FA mechanisms.

- We currently recommend a pay-in term of 30 years or less, but there is no maximum in regulation. At present, no facilities have pay-in periods longer than 30 years.



Chapter 14 – proposal 7

ISSUE #7: How can the Department simplify waste tire hauler permitting?

BACKGROUND for #7:

- Issuing these permits was taking a lot of staff time because they all had different application & expiration dates.
- It was decided that permits would be issued with a fixed expiration date of March 31st.
- New tire haulers who apply mid-year would be issued permits for less than a year with the same end date of March 31st.

PROPOSAL for #7: put the fixed expiration date of March 31st for waste tire hauler permits in regulation.

- This is currently being handled administratively.



Chapter 14 – proposal 8

Issue #8: How can the Department ensure that “agricultural uses” of waste tires are those allowed by regulation?

Background for #8:

- Chapter 14 lists several beneficial uses of waste tires – one of these is “for agricultural purposes” which is defined in Ch. 1 (ALLOWED: “bumpers, ballast, & bunks”)
- The regulated public tends to apply their own notions of “agricultural purposes” without referring to Ch. 1.
 - Fencing, windbreaks, cattle mounds, bridges, road uses.
- “Agricultural purposes” which are outside of the definition in Ch. 1 can lead to compliance issues.

Proposal #8: Add a reference to Chapter 1 to clarify that “for agricultural purposes” means only those purposes as defined in Chapter 1.



Typographical Corrections

- **Chapter 2:**
 - 002.01I needs same vertical alignment as 002.01H.
 - The subsections in 006 require renumbering.
 - In 007.01 and 012.01, "department" in lowercase should be changed to uppercase.
 - move a general signature requirement out of the permit application requirements to the general correspondence requirements.
- **Chapter 6:** Neb. Rev. Stat. 81-1505 (needs hyphen added).
- **Chapter 8:** remove obsolete language from the fee schedule in §003.
- **Chapter 9:** Environmental "Control" was never deleted from the heading of Chapter 9.
- **Chapter 14:**
 - The subsections in §007.01 require renumbering.
 - Correct a reference in Section 018. Section 017, not 018, contains the required amount of financial assurance by hauler type.



Questions to Stakeholders

1. What would add clarity to the liquids prohibition?
 - Volume? Definition for “bulk”? Other ideas?
 - What is your experience with liquids disposal?
2. What types of solid waste processing activities are you engaged in?
3. Can you imagine circumstances in which your facility would go inactive? How would you manage cover and address erosion?
4. Would you choose to use an alternative to a gate at your transfer station?