DEQ's Response to Comments/Proposed Rule

Solid Waste Management Rules, Docket No. 58-0106-2601

Comments

1. Circular Butte Landfill, Jefferson County
2. Timber Creek Recycling

Cmt #	Commenter	Comment Summary	Response
1	Jefferson County	The $4000 annual inspection fee for our closed landfill facilities seems excessive. We currently have one closed facility, and the last record I can find is of an inspection in September 1999, in which it looks like we were in the Post-closure phase, as this landfill closed in January 1996 according to the records I have. Seeing that this facility has not been inspected regularly, as far as we can tell, and that an inspection at this site should take a relatively short period of time, we think that $4000 is an excessive amount to pay, and during the meetings held for the fees, it was discussed that closed landfills would be prorated, and now DEQ is wanting us to pay the full $4000. I think DEQ may want to look at individual closed landfills and prorate the fees according to the amount of work it takes to actually conduct the inspections.	Historically, the Health Districts were responsible for inspecting municipal solid waste landfills (MSWLFs). The Idaho Solid Waste Facilities Act (SWFA), Chapter 74, Title 39, Section Idaho Code, removed all authorities from the Health Districts for solid waste facility oversight. The fees for the annual inspection of all MSWLFs subject to DEQ oversight are required by Section 39-7424, Idaho Code, "In order to facilitate the department assuming the responsibility for the activities formerly the responsibility of the various public health districts, it is necessary to impose a system of fees upon each municipal solid waste disposal facility… to support the additional regulatory responsibilities of the department."

			Closed MSWLFs that have not been released from the post-closure care standards in 40 CFR 258.61 are still subject to DEQ oversight. Section 39-7425, Idaho Code allows DEQ to write rules to pro-rate closed MSWLF annual inspection fees. DEQ agrees the fees for MSWLFs should be pro-rated as allowed by statute. However, due to the expedited and compressed nature of this limited rulemaking proposal and the complicated nature of ensuring equity in site-specific pro-rating rules, DEQ has chosen to reduce the annual inspection fee by a flat amount. The fee for closed MSWLFs has been reduced to $2,000 from $4,000 as designated in 39-7424, Idaho Code. DEQ proposes the reduced flat fee until a robust, non-expedited, negotiated rule making (NRM) process for the full rule chapter may be completed with the industry stakeholders. DEQ has initiated the scoping meeting process for the full rule chapter update and anticipates requesting to submit the rule for formal NMR for the 2029 legislative session.
2	Timber Creek	The concern here is whether a major modification would trigger any change in the approved operations plan.	The SWFA, Section 39-7424, states “In order to facilitate the department assuming the responsibility for the activities formerly the responsibility of the various public health

		Additionally, given how broad the scope is for major modification, there is potential for creating significant challenges for operators acting in good faith. Our hope is for these rules is to not create a high regulatory burden on good actors while still finding the balance to protecting the health and safety of the public. Simply put, opening up and amending the TCR operation plan any time we need to add a new food stock would be extremely problematic. Paying a major modification fee for a change to the operations plan would also be burdensome, as well as financial issues for any small business in Idaho. Finally, the definition and lack of clarity surrounding what could be construed as a pilot project is also cause for our concern. Starting these changes off as a pilot project could potentially cause delays, confusion, and inconsistency. TCR encourages the Department to define pilot projects in clear and concise language that poses the least possible burden for small businesses like TCR.	districts, it is necessary to impose a system of fees upon each municipal solid waste disposal facility or site authorized pursuant to this chapter, **or other disposal facility authorized by the director, to support the additional regulatory responsibilities of the department."** Major modifications pertain to changes to a solid waste facility's approved siting, design, or operations plans. DEQ worked with stakeholders to develop a way to allow some modifications to be exempt from application fees. DEQ does not assess fees for minor modification applications. Applicants and the applicant's qualified professional will have the opportunity to demonstrate how any proposed changes are minor modifications. The application fees for a pilot project and major modifications were negotiated, with stakeholders, lower than initially proposed by DEQ. If a pilot project is found to be a major modification, the facility will pay the major modification fee once the pilot is completed and the updates are incorporated into the approved facility design and/or operations plan.

			The existing rules indicate that if a modification alters the classification of the facility, the owner and operator shall comply with the application content, review and approval requirements of the new classification. Major modifications for Tier II facilities would be modifications that are found to increase risk to human health and the environment, but which would not alter the classification of the facility to a Tier III facility. The updates to the Solid Waste Facilities Act (SWFA) did not define the terms major and minor modifications in the definitions section, 39-7402. The solid waste program was advised by council to create the definitions in rule for the purposes of the application fee for major modification since, the examples of major and minor modifications included in 39-7419 are not considered definitions. Additionally, the SWFA only pertains to municipal solid waste (MSW) landfills and not non-municipal solid waste (NMSW) rule facilities. The purpose of the addition was to add clarification to both the MSW and NMSW modification requirements and the statutorily authorized fees for both MSW and NMSW facilities. This addition supports better alignment between the rules and SWFA.

			DEQ receives numerous requests for the use of new and novel technology, processes, and waste management and processing tools that have limited proven efficacy and may not have any demonstrated viability for the site-specific conditions of any facility. The purpose of this inclusion is to allow facilities the ability to pilot such novel technologies prior to formal adoption and approval by DEQ in the facility's design and/or operating plan. There were several rule scoping meetings that discussed the addition of pilot projects, and this is the definition that the participating stakeholders agreed upon during negotiated rule making. Timber Creek may provide comments during upcoming scoping and negotiated rule making meetings on this definition. Timber Creek recycling is included on the Department's solid waste email list for rule makings. The first scoping meeting for revising the full rule chapter was held on October 21, 2026. The next scoping meeting for the full rule chapter is tentatively planned for November 19, 2026, at 9:30am. The facility will receive an email notice for the scoping meeting a couple of weeks before the formalized date and time.