



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable David Rouzer, Chair
The Honorable Mitch Gillespie, Co-Chair
The Honorable Ruth Samuelson, Co-Chair

FROM: Kari Barsness ^{KKB}
Director of Legislative and Intergovernmental Affairs

SUBJECT: Recommendations on Solid Waste Fee Adjustments

DATE: November 29, 2012

Pursuant to S.L. 2012-187, Section 15.1, the department shall report to the Environmental Review Commission on recommendations for adjusting the current fees for landfill and transfer station permits that are sufficient to address any additional demands associated with review of new 10-year permits. The department shall report by December 1, 2012. Please consider the attached report as the formal submission of this reporting requirement.

If you have any questions or need additional information, please contact me by phone at (919) 707-8618 or via e-mail at Kari.Barsness@ncdenr.gov.

cc: Assistant Secretary for Environment, Robin W. Smith
Dexter R. Matthews, Director, Division of Waste Management
Jennifer Hoffmann, Fiscal Research Division
Mariah Matheson, Research Division

Proposed Permit Fee Changes for Sanitary Landfills and Transfer Stations G.S. 130A-295.8

12/1/12



**North Carolina Department of Environment and Natural Resources
Dee Freeman
Secretary**

**Division of Waste Management
Dexter R. Matthews
Director**

**NCDENR
Division of Waste Management
1646 Mail Service Center
Raleigh NC 27699-1646
919-707-8200**

<http://portal.ncdenr.org>

**Proposed Permit Fee Changes for Sanitary Landfills and Transfer Stations
G.S. 130A-295.8**

Table of Contents

I. Summary.....3
II. Introduction and Purpose of Statute Change(s).....4
III. Impact on State Government Permit Fee Revenues.....5
IV. Conclusion.....5
Appendix A: S.L. 2012-187, Regulatory Reform Act of
2012.....6
Appendix B: Changes Proposed by DENR to General Statute.....7

Agency Contact: Michael Scott, Section Chief
DENR Division of Waste Management
1646 Mail Service Center
Raleigh, N.C. 27699-1646
(919) 707-8246
Michael.Scott@ncdenr.gov

Necessity:

The Division of Waste Management seeks to change the Solid Waste permit fees related to sanitary landfills and transfer station permits to comply with recent changes in state law regarding permit duration. Specifically, the Regulatory Reform Act of 2012 (Appendix A) allows the option for a sanitary landfill or a transfer station to apply for a permit with a 10-year duration. The current statutory requirements for permit fees are based on five-year permit durations. The proposed statutory changes are necessary to comply with the new state law and to provide continued funding to the Solid Waste Program with permit fees that are reflective of the work incurred by program staff in reviewing permit submittals for 10-year durations. It is important to note that the overall amount of permit fee revenue collected from sanitary landfills and transfer stations will not change under the proposed permit fee adjustments, but the timing of payments will be different. Sanitary landfill and transfer station operators will have the choice of selecting a five-year or 10-year permit term and the associated fee under the new state law.

I. Summary

The proposed statutory fee changes (Appendix B) were prompted by Senate Bill 810 Section 15.1, ratified June 28, 2012. The bill requires the Commission for Public Health to adopt rules that would allow the regulated community to obtain “a permit to construct a 10-year phase of a landfill development” or “a permit with a 10-year duration to construct and operate a transfer station.” The bill also required the Department of Environment and Natural Resources to examine the current fee schedule for permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8, and to formulate recommendations to adjust the current fee schedule sufficient to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance of permits with a duration of 10 years for transfer stations.

Permit fees are credited to the Solid Waste Management Account, a non-reverting account that is used along with appropriations and other fee money for salaries and costs of the Solid Waste Program. The Solid Waste Program includes staff involved in permitting facilities, enforcing solid waste regulations and laws, statewide and local government planning, facility and government reporting, and administration of several special waste programs such as the Scrap Tire Program, White Goods Program and the Electronics Program.

II. Introduction and Purpose of Statute Change(s)

Current landfill and transfer station regulations require a permit amendment every five years for construction and facility operation. A 2012 change in state law allows sanitary landfills and transfer stations to apply for permits with a 10-year duration. The private solid waste companies within the industry expressed a desire for the lengthened permit term for sanitary landfills and transfer stations. The legislation enacted in July 2012 was initiated by the companies who manage waste disposal and transfer. The extension of permit duration is a trend that is occurring nationwide. In recent years, both Virginia and South Carolina have approved similar changes. The extended term of the permit will be helpful for long-range planning for the industry and will allow the industry flexibility to construct the individual landfill phases as needed by volume instead of by a particular date.

Table 1 below presents a breakdown of the different facilities that will be affected by the proposed statutory permit fee changes. Municipal Solid Waste Landfills (MSWLF), Construction and Demolition Landfills (C&DLF), Industrial Landfills (IND LF), and Transfer Stations are included in the table along with the proposed fee modifications (New 10-year duration, Amend 10-year duration, Major Modification of 10-year duration).

<i>Proposed Fee Schedule 5-Year and 10-Year Duration Permits</i>			<i>New Permit</i>	<i>New 10- Year Duration Permit</i>	<i>Permit Amendment</i>	<i>Amend 10-Year Duration Permit</i>	<i>5-Year Review of 10- Year Duration Permit (Modification)</i>	<i>Major Mod of 10-Year Duration Permit</i>
<i># Facilities Active</i>	<i>Facility Type</i>	<i>Category</i>	<i>Fee</i>	<i>Proposed Fee</i>	<i>Fee</i>	<i>Proposed 10-Yr Amendment Fee</i>	<i>Fee</i>	<i>Proposed Major Modification Fee</i>
20	MSWLF	< 100,000 tpy	\$25,000	\$38,500	\$15,000	\$28,500	\$1,500	\$7,500
20	MSWLF	≥100,000 tpy	\$50,000	\$77,000	\$30,000	\$57,000	\$3,000	\$15,000
45	C&DLF	< 100,000 tpy	\$15,000	\$22,500	\$9,000	\$16,500	\$1,500	\$4,500
8	C&DLF	≥100,000 tpy	\$30,000	\$46,000	\$18,500	\$34,500	\$2,500	\$9,250
5	IND LF	< 100,000 tpy	\$15,000	\$22,500	\$9,000	\$16,500	\$1,500	\$4,500
11	IND LF	≥100,000 tpy	\$30,000	\$46,000	\$18,500	\$34,500	\$2,500	\$9,250
86	Transfer Station		\$5,000	\$7,500	\$3,000	\$5,500	\$500	\$1,500

III. Impact on State Government Permit Fee Revenues

The new state law will allow facilities to have 10-year permit durations. Fee revenue, if adjusted according to the proposed statute language (See Appendix B), will show increased revenue during the first five years and an equal decrease in funding during the second five years. This is a result of 10-year permit fees that will be higher than the current five-year fees. The overall amount of permit fee revenue collected from sanitary landfills and transfer stations will not change under the proposed permit fee adjustments, but the timing of payments will be different. This pattern will continue for the life of the facility.

Because there is a potential cost savings for facilities in obtaining 10-year permits due to decreased consulting costs, the agency anticipates that the majority of facilities will switch to the 10-year permit option. Applications for 10-year permits for sanitary landfills and transfer stations will include more information for Solid Waste staff to review compared to the current five-year submittals. The additional information for 10-year permit terms will result in more staff time being dedicated to these permit submittals. This additional time allocation will be balanced at the five-year mark when a limited review is conducted on a 10-year permit versus a conventional five-year amendment.

IV. Conclusion

Changes to the current solid waste statutes for permit fees are requested in order to provide continued funding to the Solid Waste Program in a proportional amount to the work incurred by program staff for review of sanitary landfill and transfer station permits for 10-year terms. Program staff have identified the additional demands associated with reviewing permits with extended terms and have proposed the attached fee adjustments as changes that are necessary based on the extended review time for permits with 10-year terms.

Appendix A: S.L. 2012-187, Regulatory Reform Act of 2012

S.L. 2012-187, Section 15.1 reads:

“SECTION 15.1.

No later than July 1, 2013, the Commission for Public Health shall adopt rules to allow applicants for sanitary landfills the option to (i) apply for a permit to construct a five-year phase of landfill development and apply to amend the permit to construct subsequent five-year phases of landfill development; or (ii) apply for a permit to construct a 10-year phase of landfill development and apply to amend the permit to construct subsequent 10-year phases of landfill development, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of each amendment for subsequent phases of development. No later than July 1, 2013, the Commission shall also adopt rules to allow applicants for permits for transfer stations the option to (i) apply for a permit with a five-year duration to construct and operate a transfer station; or (ii) apply for a permit with a 10-year duration to construct and operate a transfer station, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of any amendment to the permit. In developing these rules, the Department of Environment and Natural Resources shall examine the current fee schedule for permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8 and formulate recommendations for adjustments to the current fee schedule sufficient to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance permits with a duration of up to ten years for transfer stations. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before December 1, 2012. The rules required by this section shall not become effective until the fee schedule set forth under G.S. 130A-295.8 is amended as necessary to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance of permits with a duration of up to ten years to construct and operate transfer stations.”

Appendix B: Changes Proposed by DENR to General Statute

130A-295.8 is proposed for amendment to read:

§ 130A-295.8. Fees applicable to permits for solid waste management facilities.

(a) The Solid Waste Management Account is established as a non-reverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(a1) Permits for sanitary landfills and transfer stations shall be issued for a design and operation phase of five years or a design and operation phase of ten years. A permit issued for a designed phase of ten years shall be subject to a limited review within five years of the issuance date.

(b) As used in this section:

(1) "New permit" means any of the following:

- a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to operate the constructed portion of a phase included in the permit to construct.
- b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.
- c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.
- d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

- a. An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.
- b. An application for the five-year renewal of a permit for a permitted solid waste management facility.
- c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility.

(3) "Permit modification" means any of the following:

- a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit".
- b. A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.
- c. An application for the five-year review of a ten -year permit including review of the Operations Plan, Closure Plan, Post-Closure Plan, Financial Assurance Cost Estimates, Environmental Monitoring Plans and other applicable plans.

(4) "Permit major modification" means an application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for a ten-year design capacity that does not constitute a "permit amendment" or a "new permit".

(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:

- (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit– \$25,000.
- (1A) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – \$38,500.
- (2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment– \$15,000.
- (2A) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – \$28,500.

Proposed Permit Fee Changes for Sanitary Landfills and Transfer Stations (G.S. 130A-295.8)

- (3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification – \$1,500.
- (3A) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – \$7,500.
- (4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit– \$50,000.
- (4A) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – \$77,000.
- (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment– \$30,000.
- (5A) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – \$57,000.
- (6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification – \$3,000.
- (6A) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – \$15,000.
- (7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit– \$15,000.
- (7A) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – \$22,500.
- (8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment– \$9,000.
- (8A) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – \$16,500.
- (9) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Modification – \$1,500.
- (9A) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – \$4,500.
- (10) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit– \$30,000.
- (10A) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – \$46,000.
- (11) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment– \$18,500.
- (11A) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – \$34,500.
- (12) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Modification – \$2,500.
- (12A) Construction and Demolition Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – \$9,250.
- (13) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit– \$15,000.
- (13A) Industrial Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten-Year) – \$22,500.
- (14) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment– \$9,000.
- (14A) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten-Year) – \$16,500.
- (15) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Modification – \$1,500.
- (15A) Industrial Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten-Year) – \$4,500.
- (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New – \$30,000.
- (16A) Industrial Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten-Year) – \$46,000.
- (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment– \$18,500.
- (17A) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten-Year) – \$34,500.
- (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Modification – \$2,500.

- (18A) Industrial Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten-Year) – \$9,250.
- (19) Tire Monofill, New Permit – \$1,750.
- (20) Tire Monofill, Amendment – \$1,250.
- (21) Tire Monofill, Modification – \$500.
- (22) Treatment and Processing, New Permit – \$1,750.
- (23) Treatment and Processing, Amendment – \$1,250.
- (24) Treatment and Processing, Modification – \$500.
- (25) Transfer Station, New Permit – \$5,000.
- (25A) Transfer Station, New Permit (Ten-Year) – \$7,500.
- (26) Transfer Station, Amendment – \$3,000.
- (26A) Transfer Station, Amendment (Ten-Year) – \$5,500.
- (27) Transfer Station, Modification – \$500.
- (27A) Transfer Station, Major Modification (Ten Year)– \$1,500.
- (28) Incinerator, New Permit – \$1,750.
- (29) Incinerator, Amendment – \$1,250.
- (30) Incinerator, Modification – \$500.
- (31) Large Compost Facility, New Permit – \$1,750.
- (32) Large Compost Facility, Amendment – \$1,250.
- (33) Large Compost Facility, Modification – \$500.
- (34) Land Clearing and Inert, New Permit – \$1,000.
- (35) Land Clearing and Inert, Amendment – \$500.
- (36) Land Clearing and Inert, Modification – \$250.