

EXECUTIVE SUMMARY

Final-Form Rulemaking Rural Transfer Facility Permit-by-Rule

The Department of Environmental Protection (Department) recommends final-form amendments to Chapters 271 and 279 (relating to municipal waste management – general provisions; and transfer facilities) to update the regulations as set forth in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking aims to provide convenient and affordable access to waste disposal and recycling services in rural areas of Pennsylvania.

By establishing a permit-by-rule for persons to operate a rural transfer facility in areas where trash collection and recycling services are currently not economically feasible, rural Pennsylvanians will be able to responsibly dispose of their waste and recycling by dropping it off at a convenient location to be transferred to a permitted disposal or processing facility. Gaining access to disposal and recycling options will, in turn, help to alleviate the mismanagement of residential municipal waste and reduce associated burning or illegal dumping of waste in rural parts of Pennsylvania. This will help to alleviate the costs state and local governments incur to clean up illegal dump sites and reduce the enforcement costs the Department currently incurs to respond to burning and illegal dumping complaints.

Summary of the Final-Form Rulemaking

The final-form rulemaking establishes a permit-by-rule that allows for the operation of a municipal waste transfer facility. A permit-by-rule is a permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with the general requirements contained in the regulations authorizing the permit-by-rule at 25 Pa. Code § 271.103 and the requirements contained in the final-form rulemaking.

Under the permit-by-rule format, public or private entities notify the Department of their intent to operate a rural transfer facility and do not have to submit an application for review. This simplifies the application requirements associated with other types of permitted facilities by replacing voluminous application materials with more general operational plans and notification documents.

A facility operating under a permit-by-rule must follow a standard and abbreviated set of operating requirements that are tailored for the type of activity undertaken. For example, the permit-by-rule for rural transfer facilities would only be available for sites located in rural areas with a population density of under 300 people per square mile. Rural transfer facilities are also limited in the amount of waste they can manage onsite to 80 cubic yards of municipal waste stored in a maximum of 4 containers. Full operating requirements for the rural transfer facilities permit-by-rule are as set forth in Annex A. If the facility fails to comply with the conditions of the permit-by-rule set forth in this final-form rulemaking or is conducting an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment, then the facility may be required to obtain an individual or general permit instead.

In sum, a permit-by-rule allows persons or municipalities in rural areas more flexibility and ease in obtaining the authorization necessary to operate a facility and lower permitting costs to establish a rural transfer facility, while providing necessary and adequate environmental controls to ensure that public health and the environment are also protected.

Affected Parties

This final-form regulation does not mandate that any public or private entity operate a rural transfer facility. However, there are approximately 2,200 municipalities in the Commonwealth where a rural transfer facility could be located.

If someone decides to operate a rural transfer facility, then the final-form rulemaking would primarily affect the rural Pennsylvanians that make use of the facility and the persons or municipalities that operate them. Residents and businesses operating in a rural area using the facility will realize the benefit of having a local drop-off for waste disposal and recycling collection and an expected reduction in illegal dumping and burning of waste in their community. It is anticipated that the rural transfer facilities will be operated primarily by municipalities. It is not anticipated that these facilities will be operated with the expectation of much profit, but they will provide a service to those in the community. There also exists the potential for smaller, locally owned waste hauling companies to realize increased business with the establishment of rural transfer facilities.

Advisory Groups

The Department worked extensively with its Solid Waste and Recycling Fund Advisory Committees (SWAC and RFAC, respectively) to develop the final-form rulemaking. These Committees work with the Department to develop programs, policies and regulations to effectively implement Pennsylvania's solid waste management and recycling programs. Members of SWAC and RFAC represent municipal solid waste authorities, local government interests, solid waste management industry groups, the legislature, consulting firms and private citizens.

Discussions formally began in 2015, but the convenience center model evolved over the next several years until DEP developed a general permit (GP) to authorize their operation. DEP brought the GP before the SWAC and RFAC in December 2018 at which time it was determined that the recordkeeping requirements of the GP were too onerous for rural counties and municipalities to meet. In response to this feedback, the Department developed the proposed rulemaking to authorize rural transfer facilities under a permit-by-rule format. On June 3, 2020, SWAC voted to concur with the Department's recommendation that the proposed rulemaking move forward in the regulatory process. The Department then discussed the final-form rulemaking with SWAC on June 14, 2022, and SWAC voted to concur with the Department's recommendation that the final rulemaking be presented to the EQB for consideration.

Public Comments

The proposed rulemaking was published on January 15, 2022, opening a 30-day public comment period. The Department received no comments on the proposed rulemaking.

Recommendation

The Department recommends adoption of this final-form rulemaking.