

Texas Commission on Environmental Quality
Chapter 305
Summary of Comments

Change §305.62(i) as follows:
“...permits. This subsection contains additional requirements for a major amendment to an MSW permit.”
Add language to §305.62(i)(1)(a)(b)(c) to allow for “minor” modifications of buffer areas, etc. to still be accomplished without a full permit application.
Add to 305.62(c)(1) that amendment required if there is any increase in quantity of waste or fluid to be discharged or injected or a material change in the patter or place of discharge or injection.
Change §305.62(i)(1)(A) to read “an increase in the maximum <u>permitted</u> elevation of a landfill.”
305.62(i)(1)(A): “...maximum elevation <u>of any portion</u> of a landfill <u>or an increase in the maximum depth of any portion of a landfill.</u> ”
Change §305.62(i)(1)(B) to read “ <u>an expansion of the maximum permitted</u> lateral <u>extent</u> expansion of a landfill;
Add provisions to 305.62(i)(1) to include reopening of closed landfills or landfills that have been inactive for five years or more.
Consolidate 305.62(i)(1)(C) with 305.70(c) that “any increase in the landfill capacity authorized for waste disposal or any increase in the permitted or registered daily maximum limit of waste acceptance.”
Clarify that “any capacity increase” used in §305.62(i)(1)(C) does not require submittal of an amendment for “any capacity increase”, but rather requires that, if a capacity increase requires a major amendment, a full application is required.
Change to: <u>(C) any capacity increase in the permitted or registered daily maximum limit of waste acceptance</u>
Change §305.62(i)(1)(C) to read “any capacity increase <u>for which the executive director determines that full permit application is necessary to properly evaluate the proposed change</u> ”
Change §305.62(i)(2) to read “...the owner or operator <u>shall</u> may submit...”
Change §305.62(i)(2) to read “...only <u>those</u> portions of the permit <u>document and attachments thereto for which changes are being proposed by the owner or operator. The scope of the Executive Director’s technical review, and any hearing or other proceeding concerning the major amendment, shall be limited to the proposed changes.</u> ”
Change §305.62(c)(2) to read “...disposal of waste,...or injection of <u>waste</u> fluid <u>into an injection well</u> if there is...”
Clarification that §305.62(j) can be used for minor amendments.
Change §305.62(j) to read “This subsection applies only to temporary authorizations <u>issued to MSW permittees or registrants</u> made to existing MSW permits or registrations... paragraph (3) of this subsection <u>upon a verbal request</u> . When...within three days of the <u>approval</u> request.
Make the following change to §305.62(j)(1):
“...vector control as a result of varying seasonal or climatic conditions;
Change §305.70(c) to read “...or any increase...limit of waste acceptance <u>for a transfer station</u> shall be subject to...”
Clarify that §305.70(c) does not require an amendment for nominal increases in the daily maximum limit of waste acceptance above the rate presented in the SOP.
Add the following to the end of §305.70(c): <u>Changes in the estimated annual waste acceptance rate are subject to the requirements of §330.125(h) and §305.70(k).</u>

Add the following to the end of §305.70(a):
<u>“Applications for modifications filed before the effective date of these rules shall be considered under the former rules unless the applicant elects otherwise.”</u>
§305.70(g)(1): “...five steps, <u>in writing</u> , the application...”
305.70(i): “The chief clerk shall mail notice of issuance of a modification <u>to persons notified in the list provided by the permittee, and to all persons who requested to be notified of changes to this facility’s permit.</u>
Change §305.70(j) to read “Paragraphs...of this subsection that are allowable permit and registration modifications <u>that do not require notice</u> if...”
Change §305.70(j)(2)(A) to read “increase the <u>maximum</u> depth...”
§305.70(j)(4) should remain a (j) mod.
Delete §305.70(j)(6).
Undelete examples from §305.70(j)(6)
Addition of exempted and registered MSW facilities should remain under 305.70(j)(7); Why were examples deleted?
Add the following to the end of §305.70(j)(8):
<u>(e.g. changes in basin configuration, changes in basin equipment, changes in construction materials, changes to allow storage of reagents or liquids at the basins, changes in solidification procedures, etc.)</u>
Make the following changes to §305.70(j)(9):
“...control plan that <u>significantly</u> alter...run-on/run-off controls without <u>adversely altering impacting</u> offsite...”
If it is the intent to no long allow §305.70(j)(10) modifications, rethink deletion of this subject.
If deletion of section and failure to add it to 305.70(k) is to allow this sort of activity to become a 305.70(l) modification, request clarification of such.
Changes to §305.70(j)(11) create confusion; Language should remain unchanged from its current form.
If TCEQ makes changes as proposed, add a (k) mod which reads: <u>“changes in the topslopes and sideslopes of landfills which may cause adjustments in final contours without impacting offsite drainage or increasing landfill disposal capacity.”</u>
Change §305.70(j)(11) to read “corrections in the metes and bounds description of the permit or registration boundary that <u>has no effect</u> on the <u>waste disposal footprint or material effect in permit or registration acreage</u> ;
§305.70(j)(13) should remain a (j) mod.
Make the following changes to §305(j)(15):
“changes <u>or improvements</u> to...collection <u>or leachate storage</u> system design <u>(e.g. additional sumps, changes to leachate storage units, changes to allow direct discharge force mains for leachate disposal, changes in phasing of leachate units, adding automated leachate removal equipment, etc.)...</u>
§305.70(j)(14): “installation of a new monitoring...inoperable, with no <u>significant</u> change to the design...”
Make the following change to §305.70(j)(18):
“...design. Changes <u>that</u> are made...”
§305.70(j)(18) should remain a (j) mod.
§305.70(j)(18): “changes...prior approval under this section before implementation...appropriate commission regional office <u>for confirmation of eligibility</u> ; Upon receipt of the notification the executive director will determine if submittal of a modification is required.
Keep the old §305.70(j)(22).
“(22) changes to comply with the provisions of §330.203 of this title (relating to Special Conditions (Liner Design Constraints))”

§305.70(j)(22):
“...system so long as there is no <u>significant change</u> increase in depth...or <u>change in</u> groundwater...”
§305.70(j)(27): “...that do not <u>significantly</u> alter...”
§305.70(j)(32) should remain a (j) mod.
Add <u>“under this subsection”</u> to the end of §305.70(j)(21).
Add a (j) mod which allows for <u>“changes in the sequence of landfill development unless the changes would potentially affect the adjacent property owners or community in which case notice in accordance with §39.106 of this title would be required;”</u>
Add a (j) mod which allows for <u>“changes to the sequence of landfill development that do not change the overall landfill construction plan for the facility (e.g. the filling direction within a cell, construction of a portion of a cell, the sequence of the construction of cells within a phase of a landfill, the sequencing of installation of final cover, reconfigurations of the cell layout that do not change the general fill sequence, etc.);”</u>
Add a (j) mod which allows for <u>“changes in the site operating plan or the site development plan that do not reduce the capability of the facility to protect human health and the environment;”</u>
Add a (j) mod which allows for <u>“changes to landfill underdrain or subsurface dewatering systems that result in equivalent performance of these systems;”</u>
Add a (j) mod which allows for <u>“changes in the design and operations of waste processing and storage facilities that do not increase the authorized loading capacity or the size of the unit, (e.g. changing the tipping floor configuration of a transfer station, adding sewer connections to previously unsewered facilities, changes to contaminated water storage units, changes in equipment or procedures used for waste handling, etc.).”</u>
Add a (j) mod which allows for <u>“changes to the perimeter access control system that provide equivalent performance in controlling access to the site;”</u>
Add a (j) mod which allows for <u>“changes to the groundwater monitoring system for a facility that increases the number of monitoring wells or increases the depths of existing monitoring wells.”</u>
§305.70(k)(1): “...in accordance with 330.165(d) of this title (relating to Landfill Cover; <u>Alternate Daily Cover</u>);”
§305.70(k)(4) should remain a (k) mod and not be moved into §305.62(i)(1)(D)
§305.70(k)(5): “...plan that <u>add or</u> relocate...”
§305.70(k)(7): “changes...offsite <u>(e.g. a used or scrap tire collection area, a compost operation, a recycling collection area, a liquid waste processing facility, a registered transfer station, a citizens collection station, a beneficial gas recovery plant, a brush collection/chipping/mulching area, etc.), and changes that delete a citizen’s collection area used for collection of non-putrescible recyclable materials either stockpiled or collected in bins, or changes that delete stockpiles of non-putrescible recyclable materials;”</u>
§305.70(k)(8): “changes...permitted height or capacity, <u>due to sequence of development changes that reduce the waste disposal area;</u>
§305.70(k)(11): “changes...development <u>that would significantly affect the adjacent property owners or community;</u>
Delete §305.70(k)(11).
§305.70(k)(12): “name changes or transfers...Permits) must be process as permit or registration modifications and require public notice after issuance. The mailing procedures of 305.70(k) of this title shall be followed. Mailing procedures shall be completed after the transfer is approved and within 20 days following the approval. No transfer is required for a company name change, as long as the executive director can verify through the secretary of state or otherwise that a change in name alone has occurred.”
Change 305.70(k)(12) so a major amendment is required.
Add a (k) mod for <u>“changes to existing provisions in the site development plan, site operating plan, engineering report, the Part A application form of a permit or registration, or of any other approved plan provided that the changes provide equivalent performance based requirements for operating personnel or operating equipment;”</u>
Add a (k) mod for <u>“changes to the site layout plan that relocates an authorized unit or area within the facility.”</u>
Add a (k) mod for <u>“changes that provide for the use of an alternate final cover or alternative liner systems for a landfill.”</u>

Add a (k) mod for <u>“changes in the topslopes and sideslopes of landfills which may cause adjustments in final contours without increasing the maximum permitted height and without impacting offsite drainage or increasing landfill disposal capacity;”</u>
Add a (k) mod for <u>“changes in storage and processing facilities that may increase the size of certain features of the facility, or change the odor control features of the facility, but do not increase the authorized loading capacity of the unit, (e.g. an increase in the tipping floor area at a transfer station, increases in the number of truck loading/unloading stations at a transfer station, and changes in odor control equipment or odor control procedures).”</u>
Any changes in site access, operating hours, and any public health or environmentally significant changes to leachate collection systems, SOP and SDP be handled under 305.70(k).
Change new 305.70(m) back to 305.70(n) and use the following language for 305.70(m): <u>“Temporary authorizations shall be processed in accordance with the requirements of 305.62(j).”</u>
New 305.70(m): “...counsel, or other <u>affected</u> person..”
Add to 305.70(f) the requirement that a marked copy of the modification also be sent to local governmental jurisdictions that are active in municipal solid waste facility compliance verification activities.
Make supporting documentation more accessible to the public
All changes to a permit that affect provisions of a permit that had previously been reached in an agreement with affected citizens as a result of a contested hearing should come under the category of a Major Amendment.
Impose a 10-year term limit for MSW permits
Give the ED power to add additional items for review and comment due to public complaints or the need to update technology, or parts of the application that are out of date.
If term limits are not adopted, conduct permit reviews at least every 5 years of all landfills and include an opportunity for public input.
"Permit amendments should be required for enumerated changes to a landfill’s design that are deemed significant alterations of existing permit terms and conditions, which may include the following: <ul style="list-style-type: none"> (i) any material increase in the final elevation or depth of any existing or future waste disposal area of the landfill (not simply the highest point of the landfill); (ii) any material increase in the total area of the waste disposal footprint of the landfill; (iii) any increase in the total permitted waste disposal capacity of the landfill; and (iv) the initial establishment of critical design features, including but not limited to liner requirements, below-grade and above-grade slopes, or surface water drainage controls for the landfill. <p>A facility owner or operator should not be allowed to circumvent the foregoing limitations through a series of permit modifications."</p>
TCE urges the Commission to adopt the position that its modification rules should be applied strictly, not liberally, and that the amendment process be used for changes to a landfill’s design that allow: <ol style="list-style-type: none"> 1. any increase in the final elevation or depth of any waste disposal area of the landfill that unless the change significantly decrease the actual capacity and is needed to change for runoff controls or other such improvements in the design[1]. 2. any increase in the total area of the waste disposal footprint of the landfill; 3. any increase in the total permitted waste disposal capacity of the landfill (IESI agreed with this approach); 4. the initial approval or establishment of the design features for the landfill, including but not limited to liner requirements, below-grade and above-grade slopes, or surface water drainage controls for the landfill; and 5. any increase in daily waste acceptance rate averaged over a 30-day period that is more than 25% of the rate projected in any application filed after 1993. <p>[1] A modification should not be allowed for a proposed height increase or other change to balance the abandonment of an area in the permit boundary, which the operator may have designated for future disposal, but for which the full landfill design had never been approve.</p>
Eliminate the one-time 10-foot increase.

Unless term limits, suggest the following are major amendments:

1. The use of daily cover, especially since the TCEQ now allows toxic waste to be used as daily cover.
 2. Installation of a new landfill gas remediation system. Neighbors have been shut out of the modification process regarding landfill gas systems in the past.
 3. Installation of a new leachate collection system. Given that many Texas landfills do not have Subtitle D or equivalent liners and that the EPA has admitted that even those liners will eventually leak, leachate collection systems are a matter of great concern. No landfills in Texas have double liners with leak detection equipment in between. Groundwater is a precious resource and Texans must have maximum opportunity to protect their groundwater resources from contamination from landfills.
 4. The establishment of a cell or area that will accept brush and construction waste. The health and environmental problem in Helotes have brought home the real dangers of brush collection as have the problems at the Clow Road facility.
 5. The addition of design and operation requirements for the operation of a dedicated trench or cell or area that will accept Class 1 nonhazardous industrial waste even if the landfill permit authorize the acceptance of that waste and the trench or cell or area is located within the disposal footprint. There needs to be more public input on where such facilities are located.
 6. Changes that decrease the frequency of sampling for groundwater and landfill gas monitoring systems. Landfill gas emissions are harmful and potentially dangerous, as was the case in Austin in which an apartment building located over a closed dump had to be evacuated quickly.
 7. Changes to a site layout plan that add or relocate a liquid waste solidification facility or a petroleum-contaminated soil stabilization area.
 8. Changes in closure or post-closure care plans. These affect the surrounding area for generations and should be able to be examined in a contested case hearing.
 9. Changes to the post-closure use of a landfill during the post-closure care period.
 10. Changes to the site layout plan that add a registered MSW facility that requires a registration if located offsite. Landowners near a landfill in North Texas thought that once they had negotiated a date for the closure of a landfill were shocked to find out that a transfer station could be located at the landfill without a permit process. (There is a typo in the provision as proposed as a noticed modification on p. 26. The "it" should be an "if.")
 11. Increases in permitted or registered daily maximum limit of waste acceptance.
 12. Increases in hours of waste acceptance or hours of operation.
- Changes to drainage control plan that could impact offsite drainage. Many communities have had problems with storm water runoff due to vertical expansions. We must protect our surface water resources.

If required to make documents accessible on Internet, should be required to make all parts of the permit accessible.

Temporary authorizations must be more limited

An explicit reference to the SOAH Hearing process should be included in 305.62. 305.62 should conclude with an explicit mention of the Contested Case and Direct Referral options.

All modifications should be noticed to some extent.

Additional notice and information requirements needed.