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# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

## Waste Programs Division – Solid Waste Rule Development Process Stakeholder Workshop on Article 3 March 6, 2008

### NOTES

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A stakeholder workshop to obtain input and review possible modifications to Article 3 of the draft Solid Waste Rule was held on March 6, 2008. The workshop was conducted using the draft rule text dated 9-10-07. The draft rule text can be found at:

[http://www.azdeq.gov/environ/waste/solid/download/swrule\\_091007.pdf](http://www.azdeq.gov/environ/waste/solid/download/swrule_091007.pdf)

The stakeholder comments are noted below. Italicized comments were recorded from comment cards and other written comments submitted by stakeholders. A list of attendees is attached to this document.

#### **Stakeholder Meeting Schedule**

The next scheduled stakeholder meeting will be on March 13 to conclude preliminary discussion of Article 11.

#### **Status of Article 3**

Waste Programs Division Director Amanda Stone explained that ADEQ is concerned about unintended consequences to counties by making changes to Article 3. She discussed the agency's perspective on the article, and indicated that ADEQ would rely on stakeholder input regarding whether the article should be opened up for changes in this rulemaking.

Stakeholder consensus was to open Article 3 for changes and to focus on the following issues:

- Language cleanup/consistency with statute
- Frequency of collection issues
- Clarification of what applies to whom

#### **Discussion of Possible Rule Changes to Article 3**

Martha Seaman reviewed possible draft rule text changes to Article 3. Draft language and changes under consideration are provisional during informal discussions such as these; all rule language is subject to the decisions that need to be made before formally proposing the rule.

Presentation highlights and information from staff members included:

- We believe Article 3 deals with the non-facility world and the handling of solid waste before it arrives at a solid waste facility.
- Article 3 does apply in various generation situations such as residences and commercial establishments.
- The statutory authority for Article 3 and any amendments to deal with issues outside of solid waste facilities is found in ARS § 49-761(A and I), plus the general mandate in ARS § 49-104.
- In 301(A), one appropriate place is a recycling site.
- We may strike 301(B).
- We plan to strike Section 301(C).
- In Section 303, we have addressed the “owner/operator” and “render harmless” issues previously identified.
- In 303(A) we will strike “adjoining.”
- “Business establishment or industry” will be replaced with premises.
- We will likely strike 301(D).
- “Storage and disposal” and “collection and disposal” language will be replaced with “lawful handling.”
- The state uses this statute to require homeowners to clean up unsanitary conditions. ADEQ delegates this authority wherever counties will accept the delegation. If counties can’t respond to complaints, ADEQ must respond.
- ADEQ has inspection authority with respect to Article 3.
- Section 304 should say, “to ensure compliance with this article.”
- In 304, “department shall” will be changed to “department may.”
- 104(B)(8) provides for the uses found in Section 304.
- ADEQ would have to wait for a complaint before investigating as shown in Section 304.
- ADEQ will strike 305(A).
- Section 305(C) needs to include the litany of options in 301(A) plus recycling.
- Staff discussed whether Section 306 should be included and questions regarding notices.
- In Section 307, we are inclined to strike the size limitations of containers.
- We are struggling with how to express that putrescible waste, except for bulky items, should be covered.
- We may change “detachable” to “open containers” in Section 307.
- Staff will need to address the question of waste piles in the pre-facility context.
- We are not sure if 307(E) applies to concentrated animal feeding operations and need input from the counties.
- We plan to strike 307(D)(2).
- We plan to restore the first sentence of 307(E).
- White goods at landfills are not considered accessible to children.
- A city bag-and-tie program is a means to break the fly cycle in Section 308.
- In Section 308, we may replace “jurisdiction” with “collection agency.”
- Counties should consider the transportation issue in Section 310 and provide feedback to ADEQ.

- The idea of Section 311 was to provide a general rule for proper handling of solid waste, ie. handling at a solid waste facility. Certain acceptable alternatives to this general rule are offered in 311(B,C,D).
- Section 311(B) (1) encompasses a variety of scenarios from a small household pet, to wildlife, to multiple animals at a facility.
- Composting of dead animals must be handled properly. Stakeholders are invited to submit BMPs.

Stakeholder comments and questions follow.

### Article 3

- *Clarify that this Section (Article 3) does not apply to privately owned landfills that do not accept waste from off-site or other persons/generators.*
- I am concerned about the applicability to business entities and commercial establishments.
- The statute doesn't provide rulemaking authority to regulate beyond solid waste facilities or environmental nuisance.
- "Shall be responsible for" language is problematic. Should say, "people should manage their waste in ways that are lawful."
- ARS § 49-701(I) states that the rules do not apply to those exempt under 701 paragraph 29.

### Section

#### R18-13-301

- I am concerned that this section cannot be enforced with a homeowner.
  - It is the homeowner's responsibility to not dump in the desert, not leave trash in their yards.
  - Suggest the homeowner be responsible until pick up by a city or contractor.
- (A) – Solid waste collection services should be permitted.  
 (A) – Need to allow for hauling a neighbor's trash to the dump.  
 (A) – Not all counties permit collection vehicles.  
 (B) – Specifies "person." A person at home can't control this.  
 (B) – B seems contradictory to 301(A).

#### R18-13-303

- Consider use of the language, "rendering harmless for the collection and handling of..."
  - Need to clarify that these rules relate to municipal trash collection.
  - "Rendering harmless" is probably a 1960s term and is okay to strike.
  - An industry makes a product and hires professionals to handle solid waste.
  - I am concerned that a county could be asked to clean out a resident's garage.
- (A) – *First sentence does not include a reference to generator which I think should be included. Suggest, "A person who generates and is an owner," etc.*  
 (C) – What if my can gets missed during the weekly pickup?

**R18-13-304**

- How can the agency use a general statement for authority over a specific one?
- Add language about receiving a complaint or having reasonable cause.

**R18-13-305**

- *Less than 75 lb. animal – allowed in waste stream.*

**R18-13-305(B)**

Seaman asked stakeholders if the items listed under (B) should remain or if the agency should strike the list. Discussion points included:

- Strike, but there should be other allowable causes.
- Valuable to keep list.
- Are there unintended consequences on a homeowner remodeling their house?
- Home construction and demolition debris is heavy and hard on the collection equipment.
- Does “dangerous” mean “dangerous to pick up?”
- The hauler should make the decision about what to pick up.

**R18-13-305**

(C) – End with “facilities on tribal lands” for consistency.

**R18-13-306**

- City of Phoenix already does this.
- If 305 becomes more vague, 306 will be needed.
- Suggest that we don’t need the state government to tell us this.
- Helps to have this section in place.
- This applies more to the collection agency than a city.
- What is a solid waste collection service? How much of this applies to them?
- There is no distinction here regarding internal vs. contracted/external collection service.
- How does a one-time pickup service comply with this section?

(B) – Once annually can be a problem. Mail is expensive. We could use a website. However, people may not have Internet access.

**R18-13-307**

- Are there provisions in rule to allow for leakproof/water tight containers?
- (A) – In some cases, containers should be provided by the collection agency, not the person. In other cases, the person supplies the container to specifications. The responsibility must be on the part of the homeowner.
- (A) – This puts a burden on the homeowner.
- (A) – Need to make sure the contractor supplies enough containers.
- (A) – Is a plastic bag an acceptable container?
- (B) – Rolloffs are not designed to be non-leaking.
- (C) – *It seems that it would help if you changed the wording of the first sentence to "the owner, operator or occupant of any premises, business establishment or industry shall store putrescible solid waste in containers that meet the following*

*requirements:"*

*This would make it clearer that you are talking about garbage that could present a vector problem and would eliminate the problem that the proposed wording currently appears to require that all containers for solid waste including roll-offs be watertight and covered. The original language talks about garbage. The proposed language broadens this to include all solid waste.*

- (D) – A homeowner cannot guarantee that the appliance company removes doors.
- (D) – If a city collects white goods and brings them to a recycler, when do the doors come off? Also, what about programs to reuse these items (the doors shouldn't be removed)?
- (E) – CAFO should be covered under BMPs. I'd be in favor of striking this.
- (E) – There should be an exclusion for those covered under other provisions.
- (E) – Is this the appropriate place for 307(E)?

### **R18-13-308**

Stakeholders discussed frequency of trash collection. Considerations should include:

- Fuel used in frequent pickups.
- Encouraging recycling through less frequent pickups.
- Less revenues with less frequent pickup.
- Collection agency should decide how often to pick up recyclables in addition to weekly trash pick up.
- Need to avoid requirements that drive up prices to rural customers. This could result in dropped service and illegal dumping.

Other discussion regarding Section 308 included:

- Recycling programs do not include putrescible items.
  - Don't want to see the rule weakened. Utilize the flexibility of the rule through variances.
  - An NSWMA proposal would allow haulers to request the variance.
  - Can county rules be more stringent than state?
  - I would support county approval of the plan and the variance.
  - *MCESD holds that there is a public health benefit to twice-weekly garbage collection. However, our Maricopa County Health Code does give us authority to require this or to review variance plans. We do not object to modifying the requirements in the state code to lift the twice-weekly requirement, as long as the language does not restrict the ability of Maricopa County to implement our Code and variance program.*
- (A)(3) – Flies should not be a problem, since rubbish is non-putrescible.

### **R18-13-309**

- “Premises” implies property. Most services use right-of-way for collection.
- Should be a container placed for collection.

### **R18-13-310**

- There is a litter problem along roads leading to the landfill in Mojave County due to wind.

- Transport on private property shouldn't be included.
  - What about a personal load on a public road?
  - Garbage trucks are not watertight.
- (A)(1) – “Frequently” is vague. Should remove this word.

### R18-13-311

- This section plus composting provisions would outline proper methods for disposal of dead animals. Rendering also restores nutrients to the soil. I would add information about composting and allowable offsite uses.
- Anaerobic digestion is a good option for handling manure and can also be a good option for dead animals.
- I would encourage that the mandate to collection agencies to accept smaller dead animals remain in the rule, and larger ones if the hauler will accept it.
- There is a problem with the 200-foot and other lot /fence restrictions for homeowners wanting to bury a small pet in the backyard.

(4) – *Potential Regulation*

*A dead animal may be composted on the owner's property...*

- # *Dead animals should be added to the composting pile within 24 hours of death and covered with sufficient composting material*
- # *Composting should be done in a manner that prevents access to the carcass by any animal.*
- # *Runoff and odor should be prevented.*
- # *Dead animals should not be removed from the composting pile until all flesh, internal organs, and other soft tissues have decomposed.*
- # *Composting needs to be done on an all weather surface of compacted soil, asphalt, concrete, or similar material that will permit accessibility during all times of the year and that will prevent ground water contamination.*
- # *Composting must be done outside of wetlands, or the 100-year flood plain and at least 100 feet from private wells, 200 feet from public wells, 500 feet away from inhabited residences, and at least 100 feet away from any water sources.*
- # *The finished compost can then be freely distributed offsite.*

(C) – Handling of manure is subject to BMPs. This could be applied to composting dead animals.

Attendees, including those participating via conference call included:

John T. Barlow, Arizona Strip Landfill Corp.

Dave Bearden, WMI

Ed Bicknell

J. S. Biedenbarn, Coconino County

Mike Billotte, United Dairymen of Arizona

William Black, City of Mesa

Pat Bourque, City of Flagstaff

Garth Bowers, Cornerstone Environmental Group

Dean Cooke, Ariz. Strip Landfill Corp.

Curtis Cox, Arizona Attorney General's Office

Barton Day, Bryan Cave LLP

Scott Donovan, City of Flagstaff

Lana Fretz, Freeport McMoran

Karen Gaylord, Salman Lewis & Weldon

Joe Giudice, City of Phoenix

Reg Glos, Pinal County

Chuck Hamstra, City of Phoenix

Diane Hernandez, Hickmans Egg Ranch

Billy Hickman, Hickmans Egg Ranch

Thomas Hillmer, APS  
John Hunt, Arizona Dept. of Agriculture  
Martin Jones, Gallagher & Kennedy  
Lorrie Loder, Synagro  
David Merdick, Paul Rovey Dairy  
John Moody, Miller, LaSota & Peters  
Donna Moran, Town of Gilbert  
Kelvin Moss, CAFO Workgroup  
Kent Norton, Phelps Dodge Miami Inc.  
Cullin Patillo, Mohave County  
James Peck, SWANA  
Mark Prein, APS  
Carlos Ramirez, Dept. of AG

Marlene Rayner, Sierra Club  
Ken Robinson, City of Flagstaff  
Norm Sandler, Microgy, Inc.  
Sheree Sepulveda, City of Chandler  
Stephen Smith, Hydro Geo Chem, Inc.  
Lisa Spahr, Eng. & Env. Consultants, Inc.  
Jacqueline Strong, City of Chandler  
Scott Thomas, Fennemore Craig  
David Wallis, Gallagher & Kennedy  
James Wyatt, City of Phoenix  
Genevieve Young, Maricopa County  
Environmental Services Department