

## RESPONSE TO COMMENTS

Medical Waste Services – East Park  
Permit No. 022-00020 / Agency Interest No. 133280  
Registration No. ARP20170001

### Medical Waste Transfer Station Registered Permit-by-Rule Registration

The Division of Waste Management (DWM) received a registration for a Medical Waste Transfer Station Facility on March 7, 2017 from Medical Waste Services, LLC. Pursuant to 401 KAR 47:140, Section 7, a public notice was issued on April 19, 2017 with a thirty (30) day comment period. In accordance with 401 KAR 47:110, Section 1(1), a public hearing was held on May 9, 2017. The following is a brief description of the comments received and DWM's response.

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**Comment 1:** Comments stated that the facility will not be constructed to withstand extreme weather conditions like a tornado, and who will be responsible in the event of an adverse weather emergency.

**Response:** The Cabinet has no regulatory authority to require the building to withstand extreme weather conditions. Local building code ordinances may be applicable.

**Comment 2:** There's already a medical waste transfer station nearby, what's the need in approving another one.

**Response:** The Cabinet has no regulatory authority to restrict similar businesses from locating closely to one another.

**Comment 3:** In the Carter County Fiscal Court proceedings, promises were made concerning the operation of the facility that are not reflected in the application that was submitted to the state. Specifically, the applicant told Carter County Fiscal Court that the proposed facility would not accept body parts, body fluids, pathological waste, or laboratory and veterinary wastes.

**Response:** In the registration, received on March 7, 2017, a "typical definition" of medical waste was quoted in the described operating procedures attachment. After the hearing, the registrant submitted additional information to the Cabinet that stated the facility will not accept human tissue or animal waste. This is considered an amendment to the registration and the facility will have to operate in accordance to the approved registration pursuant to 401 KAR 47:110, Section 2(1)(a).

This condition will be included in the permit: "The owner or operator shall not accept pathological waste, including human or animal body parts, organs or tissue from surgery or necropsy procedures, or any other waste required to be incinerated in accordance with 902 KAR 20:016 Section 3(10)."

**Comment 4:** Is this hearing just a formality or will the concerns expressed be addressed?

**Response:** Pursuant to 401 KAR 47:140, Section 16(1), the cabinet will respond to all significant comments on the proposed permit registration raised during the public comment period or public hearing. Any special conditions added to the permit as a result of comments received during the public comment period will be listed in the appropriate response.

**Comment 5:** Does this facility meet the definition of a transfer station?

**Response:** Pursuant to 401 KAR 47:005, Section 1(171), a “Transfer facility” has the meaning specified in KRS 224.1-010. "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation. 401 KAR 47:110 and form DEP 7059 describe a transfer station as a facility that collects waste from multiple sources (counties) before transferring them to a permitted solid waste disposal facility.

In KRS 224.1-010, a “Solid waste management facility” means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance.

**Comment 6:** The proposed site is at a high elevation in the county. What will happen with the waste water from the facility?

**Response:** Pursuant to 401 KAR 30:031, the facility is not permitted to cause a discharge of waste into any waters of the Commonwealth or contaminate groundwater. In response to this comment, the registrant was asked to confirm that all waste water from the facility will be discharged into a sanitary sewer system. The registrant provided a written statement that Medical Waste Services personnel met with the Ashland Wastewater Pretreatment administrator and it was determined no special discharge permit is required. A copy of this statement has been placed in the public record.

**Comment 7:** How does the autoclave process work? Where will they get the water used in the autoclave process?

**Response:** An autoclave uses saturated steam in a pressure vessel at time lengths and temperature to kill microbes and/or microbial agents within the medical waste. Per the registration, tap water will be used in the process.

**Comment 8:** Will the facility take waste from 48 states?

**Response:** The permit allows the permittee to accept waste from all 48 continental states.

**Comment 9:** Are there hazardous or infectious materials in the products transported to and from the facility?

**Response:** The proposed facility is not permitted to transport or accept hazardous waste. Some of the waste transported to the facility prior to autoclaving would be considered infectious. All infectious or biohazardous waste must be bagged, tagged, and labeled appropriately before transportation under OSHA regulations. Transportation of this waste is regulated by the Department of Transportation.

**Comment 10:** How can something be considered an infectious material and not be a hazardous waste?

**Response:** As established in 401 KAR 47:005, Section 1(78), "Infectious waste" means those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

As established in KRS 224.1-010(30)(b), "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed

There are no "infectious characteristics" *described* in the hazardous waste regulations or RCRA regulations that would classify a medical waste as hazardous.

This condition will be included in the permit: "Operation: The owner or operator shall not accept RCRA (Resource Conservation and Recovery Act) listed or characteristically hazardous waste, as defined in 40 CFR 261. The owner or operator shall not accept Controlled Substances as defined in 21 CFR 1308. [401 KAR 47:120 Section 2]"

**Comment 11:** What are the standards (state/federal) for operating a medical waste transfer station?

**Response:** 902 KAR 20:016 Section 3(10)(h) describes the acceptable disposal procedures for waste from Hospitals. 29 CFR 1910.1030 describes protection of employees from blood-borne pathogens. All Registered Permit-by-Rule Medical Waste Transfer Stations must operate in accordance with the operating requirements in 401 KAR 47:110 Section 2 and Environmental Performance Standards of 401 KAR 30:031.

The Energy and Environment Cabinet does not have regulations specific to the operation of medical waste facilities.

**Comment 12:** Medical facilities do not separate their waste sufficiently enough to remove materials that need to be incinerated from the materials that can be treated with the autoclave.

**Response:** It is the responsibility of the generator to properly dispose of its waste and to disclose the nature of this waste to any waste handler/transporter.

**Comment 13:** Carter County ordinance prohibits hazardous waste landfills.

**Response:** The cabinet does not have regulatory authority to enforce local ordinances. In the registration process for a Registered Permit-by-Rule Medical Waste Transfer Station, the registrant only has to provide the governing body of the solid waste management area with a copy of the registration submitted to the Cabinet. A Registered Permit-by-Rule Medical Waste Transfer Station does not authorize the registrant to operate a landfill or any other type of waste disposal facility.

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