

RESPONSE TO COMMENTS

Waste Services of the Bluegrass, LLC – Central Kentucky Landfill

Permit No. 105-00016 / Agency Interest No. 33403

Application No. APE20160006

Permit Renewal Application

The Division of Waste Management (DWM) received a permit renewal application on December 8, 2016 for the Central Kentucky Landfill (“CKY Landfill” or “landfill”). Pursuant to KRS 224.40-310 (14), a public notice was issued on January 19, 2017 with a thirty (30) day comment period. A second public notice was issued March 9, 2017 due to requests to hold a public hearing. The public comment period was extended to March 24, 2017; the date of the public hearing. The following is a brief description of the comments received, with DWM’s response.

Comment 1: Comments stated CKY Landfill has been sent notices of violation and been fined for numerous environmental violations by the state over the past few years and fails to stay in compliance. It was indicated the landfill shall not be allowed to continue to operate when it is not in compliance with the permit or with regulations. It was also stated CKY Landfill has accepted hazardous waste and that based on past performance, CKY Landfill should only be granted a one-year conditional permit, with the option for successive one year renewals if no new NOV’s are issued. Also received was the comment that the landfill should be issued a conditional permit contingent on compliance with the terms of the Agreed Order of October 2016. The comments requested that, once the 365 day period specified in the Agreed Order has elapsed, then the DWM can evaluate whether to renew the permit for five years.

Response: KRS 224.40-330(3) provides that no permit may be issued when any waste site or facility owned by the applicant is currently in violation pertaining to environmental protection until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the agency that has issued the violation, or that the violation is under appeal. The Cabinet’s records do indicate a history of violations. However, all have been addressed and/or are in the process of being corrected to the Cabinet’s satisfaction. As stated in one of the comments, an Agreed Order, DWM-150512 (Agreed Order) was signed and filed on October 11, 2016.

Additionally, the Cabinet, at any time, has authority pursuant to KRS 224.10-105 to take action regardless of the permit term. This includes the power “to issue, continue in effect, revoke, modify, suspend, deny, or condition permits for municipal solid waste management facilities as necessary... to protect the environment and the health and welfare of the citizens of the Commonwealth.”

The permit was not changed in response to this comment.

Comment 2: CKY Landfill accepts waste outside of their posted hours of operation. CKY Landfill allows waste debris to blow beyond the boundaries of their landfill onto neighboring properties. They are not controlling dust and keeping the roadways clear of mud from the site in

Comment 5: Applying six inches of daily cover is not enough to correct the landfill's odor problem. Fabri-Soil as Alternate cover does not prevent the odor problems. Also, the comment was received that the landfill has not applied adequate daily or interim cover in violation of 401 KAR 48:090, Section 3.

Response: 401 KAR 48:090, Section 3 outlines requirements for cover. At the end of the day, Central Kentucky Landfill must apply a minimum of six (6) inches of daily cover. In lieu of soil, tarps may be placed on the waste at the end of the day at CKY Landfill and several other landfills in the state of Kentucky. Also, Central Kentucky Landfill must apply interim, long term and final cover in accordance with the regulation. To file a complaint about inadequate cover, please call Rob Mauer with DWM at (502)782-6701. To file an odor complaint, please call Diana Davidson with DAQ at (502)782-6592.

In addition, DWM added the following permit condition, "Reports and Submittals: For all uncapped areas required to have long term cover pursuant to 401 KAR 48:090 Section 3(3), conduct surface scans in accordance with 40 CFR 60.753(d) no later than July 24, 2017. If the surface scans indicate no area is greater than 500 ppm methane concentration above background, the permittee shall submit a report certified by a licensed engineer stating that no areas of the landfill exceeded the 500 ppm threshold at the time of the surface scan and include a drawing of the surface scan path. If any area indicates the methane concentration is greater than 500 parts per million (ppm) above background at the surface of the landfill, prepare a remedial plan to capture or contain such landfill gas emissions. The plan shall be submitted to the Division of Waste Management (DWM), Solid Waste Branch via a minor modification along with the filing fee no later than August 24, 2017. It shall include a 24 inch x 36 inch site plan drawing; delineate the surface scan path; depict the area(s) where the scans indicate greater than a 500 ppm methane concentration above background; include a remedy; outline a schedule for implementation; and provide post-remedy provisions and contingencies, including more surface scans. If DWM issues any notice of deficiency or request for additional information on the plan or report, the permittee shall respond with the information within thirty (30) days. [401 KAR 47:120 Section 2, 401 KAR 47:140 Section 18, 401 KAR 48:090 Section 3]"

Comment 6: Daily working cell maps are inaccurate and it is impossible to tell where waste has been placed.

Response: CKY Landfill shall comply with recordkeeping provisions outlined in 401 KAR 47:190, Section 8. Also, this matter was discussed in the Agreed Order. The documents submitted on November 10, 2016 outlined provisions for waste cell location records.

DWM added the following permit condition, "Operation: The permittee shall comply with the provisions outlined in the documents submitted to the Division of Enforcement on November 10, 2016 in accordance with the Agreed Order, DWM-150512. The documents, which include the waste inspection program, have been incorporated into the permit renewal application, APE20160006. [401 KAR 47:120 Section 2]"

Comment 12: What are the consequences to the owner or operator of the landfill for violating the Environmental Performance Standards or for being an open dump?

Response: If a solid waste landfill does not comply with applicable provisions in KRS Chapter 224, 401 KAR Chapters 30, 47, and/or 48 (this includes the Environmental Performance Standards), the owner or operator of the landfill may be issued a Notice of Violation and this may result in enforcement actions, including civil penalties which may hold a statutory maximum of up to \$25,000 per day per violation. Further, a permit may be revoked pursuant to 401 KAR 47:130, Section 4.

The permit was not changed in response to this comment.

Comment 13: The acceptance of hazardous waste by the landfill will contaminate groundwater and affect human health and the environment surrounding the landfill.

Response: In accordance with the executed Agreed Order, the permittee ceased placing waste in the Construction Demolition Debris (CDD) landfill.

On May 19, 2017, the following condition was added to the permit for the Contained Landfill activity, "Wastestream: The owner or operator shall not accept listed or characteristic hazardous waste (excluding household hazardous waste and those from Conditionally Exempt Small Quantity Generators); nuclear waste; untreated medical waste; radioactive wastes or wastewaters prohibited or not exempted by KRS Chapters 211, 224, or 353, and regulations promulgated thereto; and any other waste prohibited by State or Federal Regulation. [401 KAR 47:120 Section 2]"

Comment 14: The landfill has admitted that they do not have the resources to extend the landfill's useful life until June 2022.

Response: Given the landfill has remaining airspace, the status of the activity remains active. However, if the facility runs out of airspace, a permit must be maintained for closure activities; closure only permits are renewed as well.

The permit was not changed in response to this comment.

Comment 15: The situation where the landfill accepted hazardous waste for disposal has not been adequately explained. The NOV for Hazardous Waste violations was rescinded, but the evidence used to justify that decision is insufficient. There is no record of what statements were taken from landfill personnel to contradict the findings of the Frankfort Regional Office.

Response: The Division of Enforcement's action in DWM-150512 against Waste Services of the Bluegrass, LLC was resolved by Agreed Order. The terms of the Agreed Order address issues related to identification of hazardous waste, proper disposal of such waste streams, and other remedial measures as detailed therein. A copy of that Agreed Order and other documentation related to the matter may be obtained by submission of an open records request to the Division of Waste Management.

The permit was not changed in response to this comment.

Comment 21: The landfill should have a full-time state inspector on-site pursuant to KRS 224.43-320. DWM should inspect the landfill each quarter.

Response: DWM performs quarterly inspections for contained landfills. KRS 224.43-320 was repealed pursuant to SB 249. The Cabinet intends to inspect the landfill at sufficient intervals in order to ensure that the landfill is in compliance with the law.

The permit was not changed in response to this comment.

Comment 22: The landfill has violated the Clean Water Act due to discharges of silver and cadmium above permitted limits. This is a violation of 401 KAR 47:030, Section 4.

Response: KRS 224.40-330(3) provides that no permit may be issued when any waste site or facility owned by the applicant is currently in violation of any state or federal statute or regulation pertaining to environmental protection until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the agency that has issued the violation, or that the violation is under appeal. The Cabinet's records do indicate a history of violations. At the present time, some violations have been corrected and some violations are in the process of being corrected to the Cabinet's satisfaction.

The permit was not changed in response to this comment.

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