

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN RE: CITRUS COUNTY BOARD OF COUNTY COMMISSIONERS
REQUEST PURSUANT TO
FLORIDA ADMINISTRATIVE CODE
RULE 62-701.310

CASE NO. SWAP 08-4

APPROVAL OF ALTERNATE PROCEDURES

This cause comes before me upon receipt of a request by Citrus County Division of Solid Waste Management on behalf of the Citrus County Commission for the approval of alternate procedures and requirements under Rule 62-701.310, Florida Administrative Code (F.A.C.), for use of an alternate landfill side slope liner sub base material for the Phase 3 expansion at the Citrus County Central Landfill in Citrus County. The applicant requests that an exception be granted from compliance with Rule 62-701.400(3)(c)1., F.A.C., which requires that the lower geomembrane of a double liner system for a landfill be placed directly on a subbase with a minimum thickness of six inches and a maximum saturated hydraulic conductivity of less than or equal to 1×10^{-5} cm/sec.

FINDINGS OF FACT

I. The applicant currently operates a Class I landfill under permit number 21375-008-SO. This existing landfill consists of Phase 1, a disposal area of 16.5 acres which is lined with a single geomembrane liner, and Phase 1A, a disposal area of 3.3 acres which is lined with a double geomembrane liner, and Phase 2, a disposal area of 6 acres with a double geomembrane liner. The applicant has applied for the Phase 3 expansion which is being processed under permit application number 21375-013-SC/01.

2. Phase 3 is a proposed expansion of approximately 6.2 acres to the existing facility and is to be constructed with a double geomembrane liner design, over a geosynthetic clay liner, over a geogrid layer for structural and bridging support in the event of sinkhole formation on the bottom of the cell, with a composite drainage net for the leachate collection and leachate detection systems, and a geogrid to enhance interface stability on the side slopes. The applicant has proposed to install the liner system in accordance with Rule 62-701.400(3)(c)1., F.A.C. with the exception of using prepared, in-place naturally occurring, sub grade soils for the subbase on the liner side slopes in place of the six-inch subbase required by rule. The angles of the liner side slopes for Phase 3 are proposed at 2:1, horizontal to vertical, and their total area is approximately 3.0 acres. This Request for Alternate Procedure only applies to the liner system on the interior side slopes in Phase 3.

3. The applicant has demonstrated that the proposed alternate design has a containment capability equal to or better than the established double liner design. Additionally, the applicant has demonstrated through calculations and proposed methods of operation that the proposed alternate design will be stable.

CONCLUSIONS OF LAW

Rule 62-701.310, F.A.C., authorizes the approval by the Department of alternate procedures and requirements concerning solid waste management facilities. Based upon the above findings and the information contained in the Request for Alternate Procedures the Department concludes:

1. That the applicant has demonstrated a sufficient basis for the exception from the established requirements;

2. That the applicant has adequately demonstrated that the alternate procedures provide an equal degree of protection for the public and the environment as the established requirements; and,

3. That the alternate procedures are at least as effective as the established requirements.

Upon consideration of the foregoing it is therefore ORDERED that the request for alternate procedures and requirements from Rules 62-701.400(3)(c)1., F.A.C., are GRANTED, subject to the following conditions:

1. This Order does not authorize construction of any solid waste disposal unit until and unless permit number 21375-013-SC/01 is issued.

2. This Order applies only to the liner interior side slopes of the Phase 3 expansion.

NOTICE OF RIGHTS

Pursuant to Section 403.815, F.S., and Rule 62-110.107, F.A.C., you are required to publish at your own expense the enclosed Notice of Proposed Agency Action. The notice shall be published one time only within 30 days in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department

at the address or telephone number listed below. You must provide proof of publication to the Department at the address listed below as soon as practical after publication.

In the alternative, you may include the following language in the public notice for permit number 21375-013-SC provided that that public notice allows 21 days for the filing of any petition:

The Department of Environmental Protection also gives Notice of its Intent to grant approval of alternate procedures pursuant to Rule 62-701.310, Florida Administrative Code (F.A.C.), as part of the proposed permit, to Citrus County Board of County Commissioners for use of an alternate landfill side slope liner subbase material on the Phase 3 expansion at the Citrus County Central Landfill in Citrus County. The applicant has requested an exception from Rule 62-701.400(3)(c)1., F.A.C., which requires that the lower geomembrane of a double liner system for a landfill be placed directly on a subbase with a minimum thickness of six inches and a maximum saturated hydraulic conductivity of less than or equal to 1×10^{-5} cm/sec.

The Department's Order Granting Approval of Alternate Procedures and Requirements will be considered final, unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed agency action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and

must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this written notice. Petitions filed by other persons must be filed within twenty-one days of publication of the notice or receipt of the written notice, whichever occurs first. The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;

(d) A statement of all material facts disputed by petitioner or a statement that there are no disputed facts;

(e) A statement of the ultimate facts alleged, including a statement of the specific facts which the petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wants the Department to take with respect to the Department's action or proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case under the provisions of that statute. This does not prevent any interested parties from agreeing to other forms of alternate dispute resolution.

Any party to this order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 20th day of August, 2009, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Charles F. Goddard, Chief
Bureau of Solid & Hazardous Waste
Division of Waste Management
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically mailed to Mr. John Thrumston, Chairman, Citrus County Board of County Commissioners, Third Floor Masonic Building, 111 West Main Street, Inverness, Florida 34450, and to the listed persons on this 20th day of August, 2009, in Tallahassee, Florida.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52(11), Florida Statutes, with the designated Department clerk, receipt of which is hereby acknowledged.



(Clerk)

8/20/2009

(date)

Copies furnished to:

Susan Metcalfe, Citrus Co.
Dominique Bramlett, SCS Engineers
Chris McGuire, DEP/OGC
Susan Pelz, DEP/SWD
Richard Tedder, DEP/Tallahassee

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF PROPOSED AGENCY ACTION

The Department of Environmental Protection gives Notice of its Intent to grant approval of alternate procedures pursuant to Rule 62-701.310, Florida Administrative Code (F.A.C.), to Citrus County Board of County Commissioners for use of an alternate landfill side slope liner subbase material on the Phase 3 expansion the Citrus County Central Landfill in Citrus County. The applicant requests that an exception be granted from compliance with Rule 62-701.400(3)(c)1., F.A.C., which requires that the lower geomembrane of a double liner system for a landfill be placed directly on a subbase with a minimum thickness of six inches and a maximum saturated hydraulic conductivity of less than or equal to 1×10^{-5} cm/sec.

The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Division of Waste Management, Solid Waste Section, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Persons whose substantial interests are affected by the above proposed agency action have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.), to petition for an administrative determination (hearing) on the proposed action. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, within 21 days of publication of this notice. A copy of the Petition must also be mailed at the time of filing to the applicant at the address indicated. Failure to file a petition within 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;

(d) A statement of all material facts disputed by petitioner or a statement that there are no disputed facts;

(e) A statement of the ultimate facts alleged, including a statement of the specific facts which the petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of publication of this notice in the Office of General Counsel of the Department at the above address. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, Florida Administrative Code.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case under the provisions of that statute. This does not prevent any interested parties from agreeing to other forms of alternate dispute resolution.