

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p>	
<p>(1) Agency: Department of Environmental Protection</p>		<p>IRRC Number: 3328</p> <p>RECEIVED IRRC 2022 JAN -11 P 2:03</p>	
<p>(2) Agency Number: 7 Identification Number: 564</p>			
<p>(3) PA Code Cite: 25 Pa. Code Chapters 271 and 279</p>			
<p>(4) Short Title: Rural Transfer Facility Permit-By-Rule</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):                  Primary Contact: Laura Griffin, 717.783.8727, laurgriffi@pa.gov                  Secondary Contact: Jessica Shirley, 717.787.8727, jessshirley@pa.gov</p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation  <input type="checkbox"/> Final Regulation  <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This proposed regulation aims to provide convenient and affordable access to waste disposal and recycling services in rural areas of Pennsylvania. By establishing a permit-by-rule for persons to operate a rural transfer facility in areas where trash collection and recycling services are currently not economically feasible, rural Pennsylvanians will be able to responsibly dispose of their waste and recycling by dropping it off at a convenient location to be transferred to a permitted disposal or processing facility and will benefit from gaining access to disposal and recycling options. This will, in turn, help to alleviate the mismanagement of residential municipal waste and reduce associated burning or illegal dumping of waste.</p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The proposed amendments to Chapters 271 and 279 are authorized under sections 105 and 501 of the Solid Waste Management Act (35 P.S. §§ 6018.105 and 6018.501), which grant the Environmental Quality Board (Board) the authority to adopt rules and regulations of the department to accomplish the purposes and carry out the provisions of the Solid Waste Management Act; sections 301 and 302 of Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4001.301—4001.302); and Section 1920-A of the Administrative Code of 1929 (71 P.S. § 510-20), which grants the Board the authority to adopt rules and regulations for the proper performance of the work of the Department.</p>			

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, this regulation is not mandated by a federal or state law or court order, or federal regulation. There are no relevant state or federal court decisions.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Presently, all Pennsylvanians do not have convenient and affordable access to waste disposal and recycling options. Specifically, in rural areas of Pennsylvania trash collection and recycling services are not economically feasible to establish and, therefore, are unavailable to many local communities. This proposed rulemaking would establish a regulatory framework for public or private entities to operate rural transfer facilities where rural Pennsylvanians can drop off their waste and recycling to be transferred to a permitted disposal or processing facility. In doing so, rural Pennsylvanians will benefit from gaining access to disposal and recycling options and being able to responsibly dispose of their waste. There are approximately 2,200 municipalities in the Commonwealth where a rural transfer facility could be located.

It is anticipated that the proposed regulation will help to alleviate the mismanagement of residential municipal waste and associated burning or illegal dumping of waste that currently exists in the more rural areas of Pennsylvania. Open burning of waste can be a dangerous and environmentally hazardous activity; ninety-eight percent of the wildfires in Pennsylvania are a direct result of people's actions placing emergency responders in harm's way, and an EPA report published in November 1997 shows that a single household burn barrel may emit as many toxic chemicals as a well-controlled municipal incinerator. There are also more than 6,200 illegal dumps identified across the Commonwealth by a Keep Pennsylvania Beautiful study and cost on average \$3,000 per site to clean up. During the current fiscal year, the Department spent \$1,105,000 on illegal dumping cleanups, and the Department anticipates spending at least \$4,045,000 to address cleaning up illegal dumps over the next 3 years.

Accordingly, this proposed rulemaking will improve protection of public health and the environment by preventing air and land pollution through an anticipated decrease in the instances of burning and illegal dumping of municipal waste and recyclables. It will also help to alleviate the costs state and local governments incur to clean up illegal dump sites and reduce the enforcement costs the Department currently incurs to respond to burning and illegal dumping complaints.

Once implemented, this proposed regulation will help to bolster Pennsylvania's recycling marketplace by providing a means for the capture of more recyclables. Pennsylvania's recycling marketplace supplies approximately 66,000 jobs in the Commonwealth, and by providing additional collection opportunities through the proposed rulemaking, this regulation will create additional business opportunities for waste haulers and disposal companies.

Additionally, for any public or private entities who decide to operate a rural transfer facility, the proposed rulemaking's approach of creating a permit-by-rule for operation of a transfer facility will be beneficial by streamlining the permitting process. Under the permit-by-rule format, public or private entities would notify the Department of their intent to operate a rural transfer facility and would not have to submit an application for review. Instead, a facility operating under a permit-by-rule must follow a

standard and abbreviated set of operating requirements that are tailored for the type of activity undertaken. This simplifies the application requirements associated with other types of permitted facilities by replacing voluminous permit application materials with more general operational plans and notification documents. Therefore, a permit-by-rule will allow persons or municipalities in rural areas more flexibility and ease in obtaining the authorization necessary to operate the facility and require lower permitting costs to establish a rural transfer facility, while providing necessary and adequate environmental controls to ensure that public health and the environment are also protected.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions that are more stringent than the federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This proposal will not put Pennsylvania at a competitive disadvantage. The waste addressed by this proposed regulation is not subject to interstate competition. The purpose of the regulation is to create a more convenient avenue within Pennsylvania for managing waste generated in amounts and locations that cause it to be inefficient to collect. Because of the inefficiency associated with collecting this waste, it is not economically feasible for entities in other states to compete for this waste.

The Department is not requiring the municipalities to construct or operate these facilities. Rather, the rulemaking provides an option for municipalities that struggle with the negative impacts of illegal dumping and open burning caused by a lack of access to proper waste disposal and recycling facilities. The primary benefits of the facilities will be convenience for the users and reduction in illegal dumping and burning of waste.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No other regulations of the Department or other state agencies will be affected by this proposed regulation.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department has worked extensively with its Solid Waste and Recycling Fund Advisory Committees (SWAC and RFAC, respectively) to develop this proposed regulation. These Committees work with the Department to develop programs, policies and regulations to effectively implement Pennsylvania's solid waste management and recycling programs. Members of SWAC and RFAC represent municipal solid waste authorities, local government interests, solid waste management industry groups, the legislature, consulting firms and private citizens.

Discussions formally began in 2015, with the formation of an Ad Hoc committee to focus on convenience centers and advise DEP on the requirements for operation. The Ad Hoc committee disbanded after its final meeting in August 2015.

The convenience center model evolved over the next several years, until the Department developed a general permit (GP) to authorize their operation. The Department brought the GP before SWAC and RFAC in December 2018, at which time it was determined that the recordkeeping requirements of the GP were too onerous for operators (i.e., rural counties and municipalities) to meet. However, SWAC and RFAC members and the Department agreed that a means of authorizing operation of these facilities to aid in providing convenient, affordable access to waste disposal and recycling to all Pennsylvanians was imperative. The Department's response to this call was development of this proposed rulemaking authorizing a permit-by-rule for rural transfer facilities.

On June 3, 2020, SWAC voted to concur with the Department's recommendation that the proposed rulemaking move forward in the regulatory process.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility. However, there are approximately 2,200 municipalities in the Commonwealth where a rural transfer facility could be located, and the Department anticipates 30-40 areas initially will likely take advantage of the proposed permit-by-rule.

If someone decides to operate a rural transfer facility, then the proposed rulemaking would primarily affect the rural Pennsylvanians that make use of the facility and the persons or municipalities that operate them. Residents and businesses operating in a rural area using the facility will realize the benefit of having a local drop-off for waste disposal and recycling collection and an expected reduction in illegal dumping and burning of waste in their community. It is anticipated that the rural transfer facilities will be operated primarily by municipalities. It is not anticipated that these facilities will be operated with the expectation of much profit, but they will provide a service to those in the community. There also exists the potential for smaller, locally owned waste hauling companies to realize increased business with the establishment of rural transfer facilities.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility.

Anyone who chooses to operate a rural transfer facility in accordance with the proposed permit-by-rule would be required to comply with the provisions of the proposed rulemaking. There are approximately 2,200 municipalities in the Commonwealth where a rural transfer facility could be located, and the Department anticipates 30-40 areas initially, operated primarily by municipalities, will likely take advantage of the proposed permit-by-rule.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility. However, there are approximately 2,200 municipalities in the Commonwealth where a rural transfer facility could be located, and the Department anticipates 30-40 areas initially will likely take advantage of the proposed permit-by-rule.

For any rural community where a rural transfer facility is established, the proposed rulemaking will provide convenient and affordable access to waste disposal and recycling services where trash collection and recycling services are not currently economically feasible and therefore, are unavailable.

The proposed regulation will in turn help to alleviate the mismanagement of residential municipal waste and associated burning or illegal dumping of waste by covering a waste and recycling collection gap that currently exists in the more rural areas of Pennsylvania. Open burning of waste can be a dangerous and environmentally hazardous activity; ninety-eight percent of the wildfires in Pennsylvania are a direct result of people's actions placing emergency responders in harm's way, and an EPA report published in November 1997 shows that a single household burn barrel may emit as much toxic chemicals as a well-controlled municipal incinerator. There are also more than 6,200 illegal dumps identified across the Commonwealth by a Keep Pennsylvania Beautiful study and cost on average \$3,000 per site to clean up. Accordingly, this proposed rulemaking will improve protection of public health and the environment by preventing air and land pollution through an anticipated decrease in the instances of burning and illegal dumping of municipal waste and recyclables. It will also help to alleviate the costs state and local governments incur to clean up illegal dump sites and reduce the enforcement costs the Department currently incurs to respond to burning and illegal dumping complaints.

Once implemented, this proposed regulation will help to bolster Pennsylvania's recycling marketplace by providing a means for the capture of more recyclables. Pennsylvania's recycling marketplace supplies approximately 66,000 jobs in the Commonwealth, and by providing additional collection opportunities through the proposed rulemaking, this regulation could help to create additional business opportunities for waste haulers and disposal companies in Pennsylvania.

Additionally, for any public or private entities who decide to operate a rural transfer facility, the proposed rulemaking's approach of creating a permit-by-rule for operation of a transfer facility will be beneficial by streamlining the permitting process. Under the permit-by-rule format, public or private entities would notify the Department of their intent to operate a rural transfer facility and would not have to submit an application for review. Instead, a facility operating under a permit-by-rule must follow a standard and abbreviated set of operating requirements that are tailored for the type of activity undertaken, such as facilities can only be located in rural areas and specific limits to how much waste a facility can have onsite at any one time. This simplifies the application requirements associated with other types of permitted facilities by replacing voluminous application materials with more general operational plans and notification documents. Therefore, a permit-by-rule will allow persons or municipalities in rural areas more flexibility and ease in obtaining the authorization necessary to operate the facility and require lower permitting costs to establish a rural transfer facility, while providing necessary and adequate environmental controls to ensure that public health and the environment are also protected.

It is important to note that this proposed rulemaking will not have an impact on individuals, small businesses, businesses and labor communities or other public and private organizations that already have curbside waste pickup or another convenient form of waste management in Pennsylvania.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This proposed regulation aims to provide convenient and affordable access to waste disposal and recycling services in rural areas of Pennsylvania where trash collection and recycling services are not economically feasible to establish and therefore, are currently unavailable to many rural communities. Since the proposed rulemaking does not mandate that any public or private entity operate a rural transfer facility, there are no costs required or adverse effects expected for the proposed rulemaking.

Should a public or private entity decide to operate a rural transfer facility under the terms of the proposed rulemaking where all members of the community can drop off their waste and recycling to be transferred to a permitted disposal or processing facility, rural Pennsylvanians will benefit from gaining access to disposal and recycling options and being able to responsibly dispose of their waste. Accordingly, the proposed regulation will help to alleviate the mismanagement of residential municipal waste and associated burning or illegal dumping of waste in the more rural areas of Pennsylvania. This will improve protection of public health and the environment by preventing air and land pollution through an anticipated decrease in the instances of burning and illegal dumping of municipal waste and recyclables. It will also help to alleviate the costs state and local governments incur to clean up illegal dump sites and reduce the enforcement costs the Department currently incurs to respond to burning and illegal dumping complaints. Furthermore, once implemented, the proposed regulation will also allow for the capture of more recyclables, positively contributing to Pennsylvania's recycling marketplace and the 66,000 jobs it creates.

Since the Department is not requiring rural municipalities to operate a rural transfer facility under the proposed rulemaking, the only costs that would be incurred would be by a public or private entity to construct and operate the facility. Depending on the size of the facility, it is estimated the cost to operate could be as little as several hundred dollars per year for a smaller location to tens of thousands of dollars per year for facilities transferring multiple containers to a permitted processing or disposal facility per week. However, rural transfer facilities are not expected to operate at a financial loss. The operator of the facility may charge a fee for residents to use the facility that will cover the cost of operating the facility. In addition, municipalities that operate a rural transfer facility under the proposed permit-by-rule can apply for grant monies that would reimburse them for eligible costs to construct and operate the facility that is based on the amount of source separated recyclables collected and legitimately recycled each year.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility; therefore, there are no direct costs being imposed on the regulated community. The proposed regulation also does not impose a fee on those that choose to operate under the permit-by-rule.

Any public or private entity that decides to operate a rural transfer facility is expected to "break even" in terms of the costs associated with operations. However, the logistical savings associated with the

consolidation and collection of waste in one location rather than the uneconomical collection at multiple residences in rural areas with relatively low population densities will present measurable cost savings.

There are different business models associated with the operation of Rural Transfer Facilities. It is assumed that a private entity operating one of these facilities would be charging a membership fee or implementing a fee structure per amount of waste disposed, in order to make a profit. Local governments would be more likely to operate a facility at no charge to users or may opt to charge a nominal fee to residents and businesses to use a rural transfer facility. This is commonly referred to as “pay as you throw” and is usually charged per trash bag of waste disposed. In return, residents and businesses would gain an affordable, convenient, environmentally friendly and legal way to manage their waste. Since the proposed rulemaking aims to provide services that do not currently exist in rural areas, a specific cost to comply or savings to members of the regulated community who decide to operate a rural transfer facility cannot be calculated.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This proposed regulation does not mandate that any local government operate a rural transfer facility, so there are no costs/savings anticipated for local governments.

However, if a local government decides to operate a rural transfer facility, they are expected to break even economically. They may operate a facility at no charge to users or may opt to charge a nominal fee to residents and businesses to use a rural transfer facility. This is commonly referred to as “pay as you throw” and is usually charged per trash bag of waste disposed. In return, residents and businesses would gain an affordable, convenient, environmentally friendly and legal way to manage their waste. The savings will be realized in the form of reduction in illegal dumping and associated spending by local governments to clean up illegal dump sites and potentially logistic and operational cost savings associated with collection of waste and recyclables in a centralized location rather than multiple locations not in close proximity to a waste processing or disposal facility. Since the proposed rulemaking aims to provide services that do not currently exist in rural areas, the Department is not able to quantify these benefits but will leave that value judgement up to municipalities that evaluate whether or not they would like to operate a rural transfer facility.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

State government does not anticipate incurring any additional costs as a result of this proposed rulemaking.

Should public or private entities begin to operate rural transfer facilities, potential savings for state government might be realized through a reduction in illegal dumping. During the current fiscal year, the Department spent \$1,105,000 on illegal dumping cleanups. The Department anticipates spending at least \$4,045,000 to address cleaning up illegal dumps over the next 3 years.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Prior to operation of a facility under the proposed rulemaking, a notice of intent to operate must be submitted to the Department. The notice should include:

- The name, address and telephone number of the facility
- Proposed hours of operation for the facility
- The name, address and telephone number of the person or municipality responsible for operating the facility
- A brief description of the facility
- The name and address of the facilities to which the rural transfer facility transfers municipal waste

Any person who decides to operate a rural transfer facility would be subject to the recordkeeping requirements included in the proposed rulemaking. Specifically, the proposed rulemaking requires that records of pick up dates for all containers be maintained onsite for 5 years and made available to the Department upon request.

Using a permit-by-rule approach in the proposed rulemaking minimizes the amount of paperwork associated with this type of facility. There is no permit application, and records are not required to be submitted to the Department, unless requested.

(22a) Are forms required for implementation of the regulation?

No, forms are not required for the implementation of this proposed regulation.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Forms are not required for the implementation of this proposed regulation.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

\*Due to the varying business models associated with operating a Rural Transfer Facility, the varying sizes/complexities of such facilities and the speculative nature of trying to estimate the number of facilities that will be operated, the Department is not able to estimate the cost/savings in dollar amounts. It should be considered that this regulation does not compel any individual or other entity to operate a Rural Transfer Facility, and therefore if anyone deems that the costs outweigh the savings, they can elect not to operate such a facility.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 (2018-19)	FY -2 (2019-20)	FY -1 (2020-21)	Current FY (2021-22)
Solid Waste Abatement Fund	\$2,760,000	\$2,352,000	\$2,118,000	\$2,018,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility, so there are no small businesses identified that will be impacted by this proposed rulemaking.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

This proposed rulemaking does not mandate any public or private entity operate a rural transfer facility. However, should a public or private small business entity decide to operate a rural

transfer facility, the proposed rulemaking would require them to maintain records of pick up dates for all containers onsite for 5 years and make the records available to the Department upon request.

(c) A statement of probable effect on impacted small businesses.

There will be no adverse impacts anticipated for small businesses as a result of this proposed rulemaking.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There are no less intrusive or less costly methods of achieving the purpose of the regulation.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The proposed rulemaking includes provisions for acceptance of construction/demolition waste at a rural transfer facility should a public or private entity decide to operate one. By including these provisions, DEP is attempting to provide specific outlets to small construction businesses for the waste they generate as these companies are a leading source of illegal dumping in the Commonwealth.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Transfer station individual permits are currently available for entities interested in operating a rural transfer facility, but the cost and operating requirements are burdensome to the point that they are not a feasible option for these facilities to actually use. As such, the Department worked extensively with its Solid Waste and Recycling Fund Advisory Committees (SWAC and RFAC, respectively) to consider alternative regulatory provisions and develop a model for convenient, affordable access to waste disposal and recycling in rural areas of Pennsylvania. Members of SWAC and RFAC represent municipal solid waste authorities, local government interests, solid waste management industry groups, the legislature, consulting firms and private citizens.

Following planning discussions with SWAC and RFAC over many years, the Department developed a general permit (GP) as a means to authorize convenience centers. The Department brought the GP before SWAC and RFAC in December 2018; at which time it was determined with input from both Committees, that the recordkeeping requirements of the GP were too onerous for operators (i.e., rural counties) to meet. However, SWAC and RFAC members and the Department agreed that a means of authorizing operation of these facilities to aid in providing convenient, affordable access to waste disposal and recycling to all Pennsylvanians was imperative.

The Department's response to this call was development of this proposed rulemaking authorizing a permit-by-rule for rural transfer facilities as it is the least burdensome mechanism available for permitting these facilities.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility, so there are no adverse impacts anticipated for small businesses. However, the Department pursued a permit-by-rule format for entities who do decide to operate a rural transfer facility as it is the least stringent and least burdensome regulatory mechanism available to authorize this type of activity. By using a permit-by-rule, the reporting requirements have been simplified to only require operators of a rural transfer facility to maintain records of pick up dates for all containers onsite for 5 years and make the records available to the Department upon request. Additionally, the proposed rulemaking makes use of performance standards where practical, to provide flexibility for all operators.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data is not the basis for this regulation. An estimated 2,200 municipalities would be eligible for the operation of a Rural Transfer Facility. Citizens of these municipalities may not have access to convenient waste disposal options. The purpose of this regulation is to allow for those citizens to have access to convenient waste disposal.

(29) Include a schedule for review of the regulation including:

- |   |  |
|---|--|
| A. The length of the public comment period:                                 | <u>30 days</u>                                       |
| B. The date or dates on which any public meetings or hearings will be held: | <u>None planned</u>                                  |
| C. The expected date of delivery of the final-form regulation:              | <u>Quarter 3 2022</u>                                |
| D. The expected effective date of the final-form regulation:                | <u>Upon publication in the Pennsylvania Bulletin</u> |

E. The expected date by which compliance with the final-form regulation will be required:

30 days after publication  
in the *Pennsylvania Bulletin*

F. The expected date by which required permits, licenses or other approvals must be obtained:

30 days after publication  
in the *Pennsylvania Bulletin*

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

DEP will evaluate the types and amounts of waste and materials collected at rural transfer facility sites operating under the permit-by-rule format proposed in this rulemaking and determine the benefits seen through the following:

- 1) Routine on-site inspection and enforcement activities.
- 2) Complaint tracking efforts.
- 3) Initiatives that aim to reduce illegal dumping in Pennsylvania, through which DEP obtains metrics on tons of illegally disposed waste collected during clean-up events and solicits community feedback on the effectiveness the state's disposal infrastructure.

DEP expects to observe a measurable decrease in illegal dumping and burning complaints after the adoption of this rulemaking. DEP will also solicit and receive input from the municipalities operating rural transfer facilities to ascertain their perspective on the effectiveness of the rule on curbing illegal dumping, open burning and improving rural Pennsylvania's access to convenient and affordable disposal and recycling outlets.

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU**

**(Pursuant to Commonwealth Documents Law)**

RECEIVED  
12/23

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DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.  
Attorney General

By: **Amy M. Elliott**  
(Deputy Attorney General)

**12/23/21**  
DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD**

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-564

DATE OF ADOPTION November 16, 2021

BY *Patrick McDonnell*  
TITLE **PATRICK MCDONNELL  
CHAIRPERSON**

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY *Chad Block*

**November 29, 2021**  
DATE OF APPROVAL

(Deputy General Counsel)  
(Chief Counsel - Independent Agency)  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

**NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD**

**Municipal Waste Rural Transfer Facility Permit-By-Rule**

**25 Pa. Code Chapters 271 and 279**

**PROPOSED RULEMAKING  
ENVIRONMENTAL QUALITY BOARD  
[25 PA. CODE CHS 271 AND 279]**

**Municipal Waste Rural Transfer Facility Permit-By-Rule**

The Environmental Quality Board (Board) proposes to amend Chapters 271 and 279 (relating to municipal waste management – general provisions; and transfer facilities) to update the regulations to read as set forth in Annex A. This proposed rulemaking would amend Chapter 271 to establish requirements for operating a Rural Transfer Facility under a permit-by-rule. The amendment to Chapter 279 clarifies that the requirements of that chapter are not applicable to Rural Transfer Facilities.

This proposed rulemaking was adopted by the Board at its meeting on November 16, 2021.

*A. Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

*B. Contact Persons:*

For further information, contact Ali Tarquino Morris, Director, Bureau of Waste Management, P.O. Box 69170, Rachel Carson State Office Building, Harrisburg, PA 17106-9170, (717) 783-7827; or Nikolina Smith, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8501. Persons with a disability may use the Pennsylvania Hamilton Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website at [www.dep.pa.gov](http://www.dep.pa.gov) (Select "Public Participation," then "Environmental Quality Board" and then navigate to the Board meeting of November 16, 2021).

*C. Statutory Authority*

The proposed amendments to Chapters 271 and 279 are authorized under sections 105 and 501 of the Solid Waste Management Act (35 P.S. §§ 6018.105 and 6018.501), which grant the Board the authority to adopt rules and regulations of the department to accomplish the purposes and carry out the provisions of the Solid Waste Management Act; sections 301 and 302 of Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4001.301 – 4001.302); and Section 1920-A of the Administrative Code of 1929 (71 P.S. § 510-20), which grant the Board the authority to adopt rules and regulations for the proper performance of the work of the Department.

*D. Background and Purpose*

Presently, all Pennsylvanians do not have convenient and affordable access to waste disposal and recycling options. Specifically, in rural areas of this Commonwealth trash collection and

recycling services are not economically feasible to establish and therefore unavailable to many local communities. This lack of access results in residential waste and recycling being mismanaged through illegal dumping or open burning of the waste, which cause environmental degradation and place a significant strain on the Department and local governments to clean up.

For context, a ten-year study (partially funded by the Department) was conducted by Keep Pennsylvania Beautiful in which more than 6,200 illegal dumps were identified across this Commonwealth. The study found that cleanups of illegal dump sites cost on average \$3,000 per site and divert funding and staff resources from State and local governments that could otherwise be used more productively. It also conveyed that there is less illegal dumping in areas where there is universal access to waste and recycling collection and more than 87% of Pennsylvanians indicated they would be willing to take their household waste, recyclables, or other items not collected at the curb to a convenient outlet and pay for the service.

Additionally, open burning of waste also can be a dangerous and environmentally hazardous activity. According to the Pennsylvania Department of Conservation and Natural Resources, one of the major causes of forest fires in this Commonwealth is debris burning. A careless or unaware person burning trash or yard waste can be responsible for causing wildfires that burn thousands of acres of valuable forests. In fact, ninety-eight percent of the wildfires in this Commonwealth are a direct result of people's actions, and place emergency responders directly in harm's way. Furthermore, a U.S. Environmental Protection Agency report published in November 1997 shows that a single household burn barrel may emit as many toxic chemicals as a well-controlled municipal incinerator.

To address the waste and recycling collection gap that currently exists in the more rural areas of this Commonwealth and help to prevent illegal dumping and burning of waste, the Board is proposing to establish a permit-by-rule framework for persons to construct and operate rural transfer facilities. A rural transfer facility is a facility located in a municipality with a population density of under 300 people per square mile where residents can drop off municipal waste and source separated recyclable materials that the operators of the facility would then transfer to a permitted processing or disposal facility.

The Board proposes to use a permit-by-rule framework for authorizing rural transfer facilities operations. A permit-by-rule is a permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with the general requirements contained in the regulations authorizing the permit-by-rule at 25 Pa. Code § 271.103 (relating to permit-by-rule for municipal waste processing facilities other than for regulated medical or chemotherapeutic waste; qualifying facilities; general requirements) and the requirements contained in this proposed rulemaking.

Under the permit-by-rule format, public or private entities would notify the Department of their intent to operate a rural transfer facility and would not have to submit an application for review. This simplifies the application requirements associated with other types of permitted facilities by replacing voluminous application materials with more general operational plans and notification documents while still protecting the health, safety and welfare of Pennsylvanians and the environment.

A facility operating under a permit-by-rule must follow a standard and abbreviated set of operating requirements that are tailored for the type of activity undertaken. As noted previously, the permit-by-rule for rural transfer facilities would only be available for sites located in rural areas with a population density of under 300 people per square mile. Rural transfer facilities would also be limited in the amount of waste they can manage onsite to 80 cubic yards of municipal waste stored in a maximum of 4 containers. In general, this and other thresholds in the proposed rulemaking are based on those that were included in the draft general permit the Department previously proposed to authorize what were referred to as convenience centers. The Department worked closely with regional waste program managers and the Solid Waste Advisory Committee to determine appropriate thresholds as described as follows. These thresholds were also based on information the Department had about existing individually permitted municipal waste transfer facilities, including how much waste these facilities accept on a quarterly or annual basis. The thresholds represent and establish an appropriate amount of waste to be managed at a small rural transfer facility that will meet the needs of rural communities without approaching amounts that would require the facility to obtain an individual permit. Further explanation of the proposed thresholds and full operating requirements for the rural transfer facilities permit-by-rule are outlined as follows. If the facility fails to comply with the conditions of the permit-by-rule as proposed in this rulemaking, the facility may be required to obtain an individual or general permit instead.

This proposed rulemaking was developed in consultation with the Department's Solid Waste and Recycling Fund Advisory Committees (SWAC and RFAC, respectively). Members of SWAC and RFAC represent municipal solid waste authorities, local government interests, solid waste management industry groups, the legislature, consulting firms and private citizens.

Discussions formally began in 2015, with the formation of an Ad Hoc committee to focus on developing a model for what were then known as convenience centers and advise the Department on the requirements for operation. The Ad Hoc committee disbanded after its final meeting in August 2015.

The convenience center model evolved over the next several years, until the Department developed a general permit (GP) to authorize their operation. The Department brought the GP before SWAC and RFAC in December 2018, at which time it was determined that the recordkeeping requirements of the GP were too onerous for operators (i.e., rural counties and municipalities) to meet. However, SWAC and RFAC members and the Department agreed that a means of authorizing operation of these facilities to aid in providing convenient, affordable access to waste disposal and recycling to all Pennsylvanians was imperative. The Department responded by developing this proposed rulemaking to authorize a permit-by-rule for rural transfer facilities. On June 3, 2020, SWAC voted to concur with the Department's recommendation that the proposed rulemaking move forward in the regulatory process.

## *E. Summary of the Proposed Rulemaking*

### *§ 271.103. Permit-by-rule for municipal waste processing facilities other than for regulated medical or chemotherapeutic waste; qualifying facilities; general requirements*

Proposed amendments to this section would add provisions for the operation of a rural transfer facility authorized through a permit-by-rule.

Subsection (i) is proposed to be added to authorize operation of a rural transfer facility through a permit-by-rule under certain conditions. The permit-by-rule format streamlines and reduces costs associated with permitting and obtaining the authorizations necessary to establish and operate a transfer facility. This allows persons or municipalities in rural areas more flexibility and ease in constructing, siting and operating the facility, in conjunction with the added benefit of reducing illegal dumping and better serving residents of rural areas while still being protective of public health and the environment.

Paragraph (1) proposes operating requirements that a rural transfer facility must follow to receive authorization under this proposed permit-by-rule. These requirements are intended to ensure rural transfer facilities are operating in a way that ensures the health, safety and welfare of Pennsylvanians and the environment are protected.

Subparagraph (i) describes the types of wastes that may be transferred through a rural transfer facility. It proposes that no processing other than the transfer of residential municipal waste, construction/demolition waste and yard waste take place at the rural transfer facility since this is a permit-by-rule for municipal waste specifically. As such, the only materials that may be accepted at a rural transfer facility are municipal wastes as defined elsewhere in statute and regulation. See 35 P.S. § 6018.103 and 25 Pa. Code § 271.1. Construction/demolition and yard waste are both classified as municipal wastes and are specifically identified to clarify what wastes are acceptable for management at a rural transfer facility.

Subparagraph (ii) requires the rural transfer facility to collect steel and bimetallic cans, corrugated cardboard and aluminum, at a minimum, for the purpose of recycling. This requirement is proposed in order to capture more recyclables, which contributes to this Commonwealth's recycling marketplace and helps support the 66,000 recycling-related jobs it provides.

Subparagraph (iii) proposes that a rural transfer facility may not collect or process any liquid, special handling waste, residual waste or hazardous waste. Management of these types of wastes by regulation requires additional scrutiny and approval for management and is not suitable for this municipal waste permit-by-rule.

Subparagraph (iv) proposes limits on the volume of municipal waste that can be stored at a rural transfer facility prior to transfer. The proposed rulemaking sets these limits at 80 cubic yards stored in a maximum of 4 containers at a facility. These proposed limits do not apply to construction and demolition (C&D) waste nor yard waste as they have their own limits specified in § 271.103(i)(2) and § 271.103(i)(3). These thresholds are based on information the Department has about existing individually permitted municipal waste transfer facilities, including how much waste these facilities accept on a quarterly or annual basis. The thresholds

represent an appropriate amount of waste to be managed at a small rural transfer facility to meet the needs of rural communities without approaching amounts that would require the facility to obtain an individual permit. The volume thresholds were established to limit the size and impact of these facilities so the less rigorous permit-by-rule framework for construction and operation can be utilized.

Subparagraph (v) proposes that containers at rural transfer facilities be emptied at least once every 10 days. The total waste collected, excluding C&D and yard waste, cannot exceed 160 cubic yards during that same 10-day period, and all containers must be emptied within 72 hours of being filled. Similar to the reasoning discussed previously for the requirements in proposed § 271.103(iv), these volume and storage thresholds were established to limit the size and impact of these facilities and so the less rigorous permit-by-rule framework for construction and operation can be utilized. Time limits for emptying containers were specifically established to minimize the potential for nuisances associated with operation of the facility.

Subparagraph (vi) proposes that records of pick up dates for all containers at a rural transfer facility be kept onsite for 5 years and made available to the Department upon request. These requirements are consistent with those already established for other facilities authorized by a permit-by-rule in 25 Pa. Code § 271.103. The additional requirement to keep records onsite for 5 years ensures that the Department can collect data on the facilities to evaluate the effectiveness of the rulemaking.

Subparagraph (vii) proposes that a rural transfer facility cannot cause or allow a point or nonpoint source discharge from or on the facility to surface waters of this Commonwealth. This requirement is included to maintain compliance with The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and protect the waters of the Commonwealth.

Subparagraph (viii) proposes prohibitions on the areas in which rural transfer facilities may be located. These prohibited areas include: a populated area as described in § 272.411(a) and (b) (relating to affected municipalities) and section 1501(a) and (b) of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. § 4000.1501); a municipality with a population density over 300 people per square mile; or an area that is zoned as residential, unless otherwise approved in writing by a municipality. Municipalities with a population density over 300 people per square mile is used in section 1501(b) of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. § 4000.1501(b)) and was included in the list of prohibited areas because municipalities with a population density exceeding this threshold already have recycling and waste management infrastructure. The intent of this proposed regulation is to facilitate and establish access to waste management and recycling services in the underserved rural areas of this Commonwealth. The defined areas described previously are not considered rural or underserved and are, therefore, not suitable for siting and operation of a rural transfer facility.

Subparagraph (ix) proposes a requirement that the rural transfer facility not store waste, yard waste or source separated recyclable materials outside of a container in order to protect human health and the environment by preventing nuisances, vectors, and point and nonpoint source pollution. These requirements also aim to protect the market value of recyclable materials collected by preventing contamination during management.

Subparagraph (x) prohibits a rural transfer facility from accepting waste transported by a truck, tractor or combination having a gross vehicle weight rating, gross combination weight rating, registered gross weight, registered combination weight or actual gross weight of 17,001 pounds or more. These vehicle weight limits are established in the regulations implementing the Commonwealth's Vehicle Code at 67 Pa. Code § 231.8(1) and trigger additional authorization and licensing under the Waste Transportation Safety Act, 27 Pa.C.S. §§ 6201—6209 (Act 90). Rural transfer facilities are not an acceptable destination for vehicles exceeding these weight limits, as they carry an amount of waste that would exceed the volume and storage limits established by the permit-by-rule. Use of a rural transfer facility by these size vehicles would negate the potential benefits of convenient and affordable disposal and recycling for local residents.

Subparagraph (xi) proposes that rural transfer facilities must be operated in a manner to minimize and control nuisances and vectors to protect human health and the environment. Facilities that do not meet this requirement may be required to obtain an individual or general permit under § 271.103(c).

Subparagraph (xii) proposes that rural transfer facilities store source separated recyclable materials in a manner that preserves their marketability. This requirement is intended to ensure that recyclables are not damaged and ultimately are able to be recycled to help bolster this Commonwealth's recycling marketplace.

Subparagraph (xiii) requires an operator of a rural transfer facility to submit written notice to the Department when intending to operate a facility under the proposed permit-by-rule. As proposed in clause (A), the notice must be submitted to the Department within 30 days of adoption of this proposed rulemaking when published as a final-form rulemaking and by January 31 every 5 years after the initial notice. As proposed in clause (B), for any rural transfer facilities that are constructed after the effective date of the final-form rulemaking, operators shall submit written notice to the Department at least 30 days before beginning operations and by January 31 every 5 years after the initial notice. As proposed in clause (C), the written notice shall contain the following information: the contact information and address of the rural transfer facility; proposed hours of operation; the contact information and address of the person or municipality responsible for operating the facility; a brief description of the facility; and the name and address of the facilities to which the rural transfer facility transfers municipal waste. If there are any changes to the facilities to which a rural transfer facility transfers waste, the rural transfer facility operator shall notify the Department within 15 days of the change. These notification requirements are consistent with requirements for existing municipal waste permit-by-rule facilities in § 271.103(d) and (e)-(h). Notification also allows the Department to accurately identify the universe of rural transfer facilities operating in this Commonwealth and the disposal facilities they utilize.

Subparagraph (xiv) proposes that the operator post and maintain signs at the rural transfer facility. Clauses (A)-(D) propose that the signs include the facility name, hours of operation, a list of accepted materials, and the contact information and address of the facility operator. This subparagraph is consistent with existing site identification and signage requirements. These requirements allow for proper identification of the rural transfer facility site; provide emergency

contact information to users; and provide clarity about what materials are able to be managed at the facility.

Paragraph (2) proposes that rural transfer facilities may provide for the collection of C&D waste in addition to the volumes permitted in § 271.103(i)(1)(iv) as long as the following two conditions are met. The volume of C&D waste stored at the rural transfer facility cannot exceed 40 cubic yards and be stored in a maximum of 2 containers as proposed in subparagraph (i), and the containers are removed and taken to a permitted processing or disposal facility at least once every 10 days as proposed in subparagraph (ii). These requirements are based on information the Department has about existing individually permitted municipal waste transfer facilities, including how much waste these facilities accept on a quarterly or annual basis, and allow for limited management of C&D waste while protecting the overall intent of the rulemaking, which is to provide convenient and affordable access to disposal of municipal waste and management of recyclables to underserved areas of the Commonwealth.

Paragraph (3) proposes that a rural transfer facility may provide for the collection of yard waste in addition to the volumes permitted in § 271.103(i)(1)(iv) as long as the following two conditions are met. The volume of yard waste stored at the rural transfer facility cannot exceed 40 cubic yards and be stored in a maximum of 2 containers as proposed in subparagraph (i), and the containers are removed at least every 10 days and taken to a composting facility, land application site or other facility permitted for the beneficial use of yard waste as proposed in subparagraph (ii). These requirements are based on information the Department has about existing individually permitted municipal waste transfer facilities, including how much waste these facilities accept on a quarterly or annual basis, and allow for limited management of yard waste while protecting the overall intent of the rulemaking, which is to provide convenient and affordable access to disposal of municipal waste and management of recyclables to underserved areas of the Commonwealth.

#### *§ 279.1. Scope*

Subsection (a) is proposed to be amended to clarify that the application and operating requirements for transfer facilities established in Chapter 279 do not apply to rural transfer facilities operating under a permit-by-rule, as these facilities are now authorized under § 271.103(i).

#### *F. Benefits, Costs and Compliance*

##### *Benefits*

This proposed regulation aims to provide convenient and affordable access to waste disposal and recycling services in rural areas of this Commonwealth where trash collection and recycling services are not economically feasible to establish and therefore, are currently unavailable to many rural communities. By establishing rural transfer stations where all members of the community can drop off their waste and recycling to be transferred to a permitted disposal or processing facility, rural Pennsylvanians will benefit from gaining access to disposal and recycling options and being able to responsibly dispose of their waste.

Accordingly, the proposed regulation will help to alleviate the mismanagement of residential municipal waste and associated burning or illegal dumping of waste that currently exists in the more rural areas of this Commonwealth. This rulemaking provides a mechanism for municipalities to strategically locate a facility in areas that are most convenient for residents and/or where open burning and illegal dumping are an issue. Making responsible waste disposal and recycling options conveniently available in the community at little or no cost will meet the need of those currently paying significantly more to properly dispose of waste and manage recyclables. It will also provide an incentive to recycle and begin properly disposing of waste for those currently mismanaging these materials due to lack of convenience and prohibitive costs. This will improve protection of public health and the environment by preventing air and land pollution through an anticipated decrease in the instances of burning and illegal dumping of municipal waste and recyclables. It will also help to alleviate the costs State and local governments incur to clean up illegal dump sites and reduce the enforcement costs the Department currently incurs to respond to burning and illegal dumping complaints. Furthermore, once implemented, the proposed regulation will also allow for the capture of more recyclables, positively contributing to this Commonwealth's recycling marketplace and the 66,000 jobs it creates.

Public or private entities who decide to operate a rural transfer facility under the authorization of the proposed rulemaking will also realize benefits. By using the permit-by-rule format for this proposed rulemaking, the application requirements are simplified, compared to the requirements associated with other types of permitted facilities, by replacing voluminous application materials with more general operational plans and notification documents. A permit-by-rule provides persons or municipalities in rural areas more flexibility and allows them to obtain the authorization necessary to operate a rural transfer facility at a lower permitting cost, while providing necessary and adequate environmental controls to ensure that public health and the environment are protected.

#### *Compliance Costs*

This proposed regulation does not mandate that any public or private entity operate a rural transfer facility. Therefore, no compliance costs are required as part of this proposed rulemaking.

#### *Compliance Assistance Plan*

The Department will continue to work with the regulated community to ensure the proposed regulation is understood. Department staff will provide compliance assistance during routine facility permitting and inspection activities.

#### *Paperwork Requirements*

Rural Transfer Facility operators are required in the proposed rulemaking to maintain records of pick-up dates for all containers for a period of 5 years. Records may be kept in a hard copy format or electronically. The permit-by-rule allows for significantly less paperwork than if a facility were required to apply for and obtain a general or individual permit.

### *G. Pollution Prevention*

By providing convenient and affordable access to waste disposal and recycling services in rural areas of this Commonwealth, the proposed rulemaking will help to alleviate the mismanagement of residential municipal waste and associated burning or illegal dumping of waste. By decreasing the instances of burning and illegal dumping of municipal waste and recyclables, the regulation will thereby improve public health and the environment by preventing air and land pollution.

Development of this regulation will also provide the Department with the opportunity to further educate the public about proper management of waste and recyclables and the environmental and economic benefits of proper management.

### *H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 4, 2022, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5(b)) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

### *J. Public Comments*

Interested persons are invited to submit written comments, suggestions, support or objections regarding the proposed rulemaking to the Board. Comments, suggestions or objections must be received by the Board by February 14, 2022.

Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board online by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by email at [RegComments@pa.gov](mailto:RegComments@pa.gov). A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by email is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17107-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16<sup>th</sup> Floor, 400 Market Street, Harrisburg, PA 17101-2301.

PATRICK McDONNELL,  
*Chairperson*

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

Part I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VIII. MUNICIPAL WASTE

CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter B. GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS

REQUIREMENT

\* \* \* \* \*

§ 271.103. Permit-by rule for municipal waste processing facilities other than for regulated medical or chemotherapeutic waste; qualifying facilities; general requirements.

\* \* \* \* \*

**(i) Rural transfer facility. The following apply to a facility that provides publicly available municipal waste processing and collection of source separated recyclable materials:**

**(1) A processing facility shall be deemed to have a municipal waste transfer facility permit under this article if, in addition to subsections (a)-(c), the following conditions are met:**

**(i) No processing other than the transfer of residential municipal waste, construction/demolition waste and yard waste takes place at the facility.**

**(ii) The facility provides for the collection of, at a minimum, steel and bimetallic cans, corrugated cardboard and aluminum for the purpose of recycling.**

**(iii) The facility does not collect or process any liquid, special handling waste, residual waste or hazardous waste.**

**(iv) Except as provided in paragraphs (2) and (3), the volume of municipal waste stored at the facility prior to transfer does not exceed 80 cubic yards stored in a maximum of 4 containers.**

**(v) Municipal waste is transferred to a permitted processing or disposal facility at least once every 10 days and the total volume of municipal waste managed at the facility does not exceed 160 cubic yards during the same 10 days. A full container must be transferred to a permitted processing or disposal facility within 72 hours of the container being filled.**

**(vi) Records of pick up dates for all containers at the facility shall be kept onsite for 5 years and made available to the Department upon request.**

**(vii) The facility does not cause or allow a point or nonpoint source discharge in violation of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) from or on the facility to surface waters of this Commonwealth.**

**(viii) The facility is not located in any of the following:**

**(A) A populated area as described in § 272.411(a) and (b) (relating to affected municipalities) and section 1501(a) and (b) of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. § 4000.1501).**

**(B) A municipality with a population density over 300 people per square mile.**

**(C) An area that is zoned as residential, unless otherwise approved in writing by the municipality.**

**(ix) The facility does not store waste, yard waste or source separated recyclable materials outside of a container.**

**(x) The facility does not accept waste transported by a truck, tractor or combination having a gross vehicle weight rating, gross combination weight rating, registered gross weight, registered combination weight or actual gross weight of 17,001 pounds or more.**

**(xi) The facility is operated in a manner to minimize and control nuisances and vectors.**

**(xii) Source separated recyclable materials are stored in a manner which preserves their marketability.**

**(xiii) The operator submits written notice to the Department as follows:**

**(A) Within 30 days of \_\_\_\_\_ (Editor's note: The blank refers to the effective date of adoption of this proposed rulemaking when published as a final-form rulemaking), and by January 31 every 5 years after the initial notice.**

**(B) The operator of a rural transfer facility constructed after \_\_\_\_\_ (Editor's note: The blank refers to the effective date of adoption of this proposed rulemaking when published as a final-form rulemaking) shall submit written notice to the Department at least 30 days before beginning operation and by January 31 every 5 years after the initial notice.**

**(C) The written notice shall contain the following:**

**(I) The name, address and telephone number of the facility.**

**(II) Proposed hours of operation for the facility.**

**(III) The name, address and telephone number of the person or municipality responsible for operating the facility.**

**(IV) A brief description of the facility.**

**(V) The name and address of the facilities to which the rural transfer facility transfers municipal waste. The rural transfer facility shall notify the Department in writing of any changes to the facilities to which it transfers waste within 15 days of the change.**

**(xiv) The operator posts and maintains signs that include the following information:**

**(A) Facility name.**

**(B) Hours of operation.**

**(C) A list of accepted materials.**

**(D) The name, business address, and telephone number of the facility operator.**

**(2) A rural transfer facility may provide for collection of construction/demolition waste, in addition to the volumes permitted in (i)(1)(iv), if the following conditions are both met:**

**(i) The volume of construction/demolition waste stored at the facility prior to transfer does not exceed 40 cubic yards, stored in a maximum of 2 containers.**

**(ii) The containers are removed and taken to a permitted processing or disposal facility at least once every 10 days.**

**(3) A rural transfer facility may provide for collection of yard waste, in addition to the volumes permitted in (i)(1)(iv), if the following conditions are both met:**

**(i) The volume of yard waste stored at the facility prior to transfer does not exceed 40 cubic yards, stored in a maximum of 2 containers.**

**(ii) The containers are removed at least every 10 days and taken to a composting facility, land application site or other facility permitted for the beneficial use of yard waste.**

\* \* \* \* \*

## CHAPTER 279. TRANSFER FACILITIES

### Subchapter A. GENERAL

#### § 279.1. Scope.

(a) This chapter sets forth application and operating requirements for a person or municipality that operates a transfer facility, **other than a rural transfer facility operating under a permit-by-rule under § 271.103(i) (relating to permit-by rule for municipal waste processing facilities other than for regulated medical or chemotherapeutic waste; qualifying facilities; general requirements)**. The requirements in this chapter are in addition to the applicable requirements in Chapter 271 (relating to municipal waste management—general provisions).

\* \* \* \* \*



January 4, 2022

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17120

Re: Proposed Rulemaking: Municipal Waste Rural Transfer Facility Permit-By-Rule (#7-564)

Dear Mr. Sumner:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Municipal Waste Rural Transfer Facility Permit-By-Rule proposed rulemaking (#7-564) for review by the Independent Regulatory Review Commission (Commission). This proposal is scheduled for publication in the *Pennsylvania Bulletin* on January 15, 2022, with a 30-day public comment period ending on February 14, 2022. The Environmental Quality Board adopted this proposal on November 16, 2021.

This proposed rulemaking would create a permit-by-rule framework for authorizing rural transfer facilities operations. A rural transfer facility is a facility located in a municipality with a low population density where residents can drop off municipal waste and source-separated recyclable materials that the operators of the facility would then transfer to a permitted processing or disposal facility. A permit-by-rule is a permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with the general requirements contained in the regulations authorizing the permit-by-rule at 25 Pa. Code § 271.103 and the requirements contained in this proposed rulemaking.

As set forth in the Regulatory Review Act, the Department will consider any comments and recommendations made by the Commission, as well as the House and Senate Environmental Resources and Energy Committees and the public, prior to final adoption of the enclosed rulemaking.

Please contact me by e-mail at [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov) or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Laura E. Griffin". The signature is written in a cursive, flowing style.

Laura Griffin  
Regulatory Coordinator

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
 THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-564  
 SUBJECT: *Municipal Waste Rural Transfer Facility Permit - By-Rule*  
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION, *Environmental Quality Board*

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a.  With Revisions
  - b.  Without Revisions

RECEIVED  
 EPRC  
 7/12 JAN -4 P 2:04

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

1/4/22 *Parr Newgard*

Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY  
*Representative Daryl Metcalfe*

1/4/22 *[Signature]*

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY  
*Representative Greg Vitali*

1/4/2022 *electronic submitted*

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY  
*Senator Gene Yaw*

1/4/2022 *electronic submitted*

Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY  
*Senator Carolyn Comitta*

\_\_\_\_\_

INDEPENDENT REGULATORY REVIEW COMMISSION  
*David Summer*

\_\_\_\_\_

ATTORNEY GENERAL (for Final Omitted only)

1/4/2022 *electronic submitted*

LEGISLATIVE REFERENCE BUREAU (for Proposed only)  
*Leah Brown*

## Kathy Cooper

---

**From:** Eyster, Emily  
**Sent:** Tuesday, January 4, 2022 10:25 AM  
**To:** Griffin, Laura; Troutman, Nick  
**Cc:** Cole, Kate; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael  
**Subject:** Re: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Morning Laura!

Proposed rulemaking has been received.

Thank you,

Emily Eyster  
Legislative Director, Office of Senator Carolyn T. Comitta  
Executive Director, Senate Environmental Resources and Energy Committee  
Cell: (717) 756-4702  
Phone: (717) 787-5709  
[www.pasenate.com](http://www.pasenate.com)

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**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Tuesday, January 4, 2022 10:00 AM  
**To:** Eyster, Emily <Emily.Eyster@pasenate.com>; Troutman, Nick <ntroutman@pasenate.gov>  
**Cc:** Cole, Kate <kacole@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; Hartman, Michael <Michael.Hartman@pasenate.com>  
**Subject:** Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568  
■ EXTERNAL EMAIL ■

Good morning,

Pursuant to Section 5(a) of the Regulatory Review Act, please find attached the following **four (4) proposed rulemakings** for review by the Senate Environmental Resources and Energy Committee:

1. #7-563 - NPDES Schedules of Compliance Proposed Rulemaking
2. #7-564 - Municipal Waster Rural Transfer Facility Permit-By-Rule Proposed Rulemaking
3. #7-566 (IRRC #3325) - Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities Proposed Rulemaking (REDELIVERY)
  - *This rulemaking is being redelivered due to changes to the Preamble in the public hearing section. No other changes have been made to the rulemaking package.*
4. #7-568 - VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coatings, Large Petroleum Dry Cleaning Facilities and Synthetic Organic Chemical Manufacturing Industry (SOCMI) Processes for the 2015 Ozone NAAQS Proposed Rulemaking

Also attached are the transmittal sheets showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,

Laura

**Laura Griffin** | Regulatory Coordinator

*she/her/hers*

Department of Environmental Protection | Policy Office

Rachel Carson State Office Building

400 Market Street | Harrisburg, PA

Phone: 717.772.3277 | Fax: 717.783.8926

Email: [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov)

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## Kathy Cooper

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**From:** Troutman, Nick  
**Sent:** Tuesday, January 4, 2022 1:04 PM  
**To:** Griffin, Laura; Eyster, Emily  
**Cc:** Cole, Kate; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael  
**Subject:** RE: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568

Hi Laura! Got it. Thanks

---

**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Tuesday, January 4, 2022 10:01 AM  
**To:** Emily.Eyster@pasenate.com; Troutman, Nick <ntroutman@pasen.gov>  
**Cc:** Cole, Kate <kacole@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; Michael.Hartman@pasenate.com  
**Subject:** Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568  
**Importance:** High

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2022 JAN -14 P 10:01

● CAUTION : External Email ●

Good morning,

Pursuant to Section 5(a) of the Regulatory Review Act, please find attached the following **four (4) proposed rulemakings** for review by the Senate Environmental Resources and Energy Committee:

- 1) #7-563 - NPDES Schedules of Compliance Proposed Rulemaking
- 2) #7-564 - Municipal Waster Rural Transfer Facility Permit-By-Rule Proposed Rulemaking
- 3) #7-566 (IRRC #3325) - Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities Proposed Rulemaking (REDELIVERY)  
- *This rulemaking is being redelivered due to changes to the Preamble in the public hearing section. No other changes have been made to the rulemaking package.*
- 4) #7-568 - VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coatings, Large Petroleum Dry Cleaning Facilities and Synthetic Organic Chemical Manufacturing Industry (SOCMI) Processes for the 2015 Ozone NAAQS Proposed Rulemaking

Also attached are the transmittal sheets showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,  
Laura

**Laura Griffin** | Regulatory Coordinator  
*she/her/hers*

Department of Environmental Protection | Policy Office  
Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA  
Phone: 717.772.3277 | Fax: 717.783.8926  
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LPB

**Kathy Cooper**

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**From:** Bulletin <bulletin@palrb.us>  
**Sent:** Tuesday, January 4, 2022 3:06 PM  
**To:** Griffin, Laura; Code&Bulletin  
**Cc:** Adeline E. Gaydosh; Leah Brown; A.J. Mendelsohn  
**Subject:** [External] Re: Delivery of Proposed Rulemaking - Municipal Waste Rural Transfer Facility Permit-By-Rule (7-564)

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA\_SPAM@pa.gov.*

Hi Laura,

Thank you for sending this proposed rulemaking. It is indeed scheduled for publication in the 1/15 issue of the *Pennsylvania Bulletin*.

Have a terrific rest of your afternoon!  
Adeline

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JAN 4 2022  
12:04 PM

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**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Tuesday, January 4, 2022 2:14 PM  
**To:** Code&Bulletin <codeandbulletin@palrb.us>; Bulletin <bulletin@palrb.us>  
**Cc:** Adeline E. Gaydosh <agaydosh@palrb.us>; Leah Brown <lbrown@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>  
**Subject:** Delivery of Proposed Rulemaking - Municipal Waste Rural Transfer Facility Permit-By-Rule (7-564)

Good afternoon,  
Please see the attached documents, including Word versions of the Preamble and Annex A, for Proposed Rulemaking – Municipal Waste Rural Transfer Facility Permit-By-Rule (#7-564), for publication on **January 15, 2022**.

The transmittal sheet confirming receipt of the rulemaking by the House ERE Committee and email confirmation of receipt by both the Senate ERE Committee chairs is attached.

Please confirm that you received the rulemaking documents for publication.

Thank you!

Laura

**Laura Griffin** | Regulatory Coordinator

*she/her/hers*

Department of Environmental Protection | Policy Office

Rachel Carson State Office Building

400 Market Street | Harrisburg, PA

Phone: 717.772.3277 | Fax: 717.783.8926

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