

DOGM – DWMRC E&P WASTE OUTLINE

March 29, 2023

1. 2019 “solid waste”¹ definition change: EPA requires that all solid wastes from the oil and gas industry be properly characterized and managed under the state-primacy Solid Waste Program.
2. DOGM will continue to regulate operations and activities that do not fall within the Solid and Hazardous Waste Act, such as:
 - a. oil and gas liquids injection and storage under its current Underground Injection Control program (Utah Admin. Code R649-5);
 - b. to the extent permitted through DOGM rules, the management of oil and gas-derived material that does not amount to solid waste treatment or disposal² (e.g., drilling fluid recycling) (Utah Admin. Code R649-6); and
 - c. reserve pit design, operations, and closure under DOGM rules and abandonment criteria (inert material) (Utah Admin. Code R649-3-16).
3. DWMRC will regulate management and disposal of solid and hazardous wastes (discarded materials) generated from the exploration, development, or production of crude oil and gasses, including drilling fluids and muds, and other liquid wastes (E&P Wastes) as required under the Solid and Hazardous Waste Act and DWMRC rules.
 - a. DWMRC current rules are adequate to support permitting of E&P Waste disposal operations. However, DWMRC is working to develop new rules that focus specifically on E&P Wastes to provide clarity for industry.
4. DOGM will discontinue its existing landfarm and disposal evaporation facility programs³ as of a future transition date [TBD].
 - a. DWMRC and DOGM encourage existing landfarm and disposal evaporation facility operators, planning to continue accepting waste, to begin coordination for new permits under the Solid and Hazardous Waste Act and rules.
 - b. It is not necessary to wait for updated DWMRC rules to file new permit applications.

¹ See Utah Admin. Code R315-261.2. The definition of solid waste is not limited to wastes that are physically solid. Many solid wastes are liquid, semi-solid, or contain gaseous material. A solid waste is nearly any material that is discarded.

² Under certain circumstances, recycling that amounts to speculative accumulation may constitute disposal of solid waste. See Utah Admin. Code R315-261-2(e).

³ DOGM will update rules found in Utah Admin. Code R649-9 to remove rules governing the permitting of landfarms and disposal evaporation facilities, and to provide more specific requirements for recycling facilities.

5. DOGM-permitted landfarm and disposal evaporation facility operators will have three regulatory transition options:
 - a. Permitting of all or a portion of an existing facility footprint as a new DWMRC landfill or evaporation treatment and disposal facility. Compliance with all applicable statutory and regulatory standards will be required, including siting, engineering, financial assurance, etc.; or
 - b. Closure of all or a portion of an existing facility footprint under a new DWMRC Closure - Post Closure Permit before or after the transition date (this will not allow for disposal of any new wastes and the permit will require the landfarm operator to perform final closure with a cover that meets the alternative final cover requirements of Utah Admin. Code R315-303-3(4)); or
 - c. Closure of all or a portion of an existing facility footprint under DOGM program prior to transition date (Utah Admin. Code R649-9), subject to DWMRC concurrence (DOGM agency action).
6. DOGM-permitted landfarms and disposal evaporation facilities may continue to operate and receive wastes under existing permitting and rules until the transition date [TBD].
7. DWMRC permit applications will be due no later than a date certain [TBD], but are encouraged to be submitted at any time before then, with DOGM coordination.
8. Existing DOGM bonds will be released after the operator has a new DWMRC Permit and approved DWMRC financial assurance. Coordination will be required during this transition between DOGM/DWMRC and the operator.
9. Program changes will result in both agencies undertaking rulemaking.
 - a. DWMRC recognizes the value of more specific rules regarding E&P Wastes, including a new E&P Waste landfill and evaporation treatment and disposal facility classification, high-liquid waste stabilization standards, liners, and so forth;
 - b. DOGM will eliminate its disposal program rules and make other conforming changes.
10. Both agencies support and will pursue meaningful industry /stakeholder outreach.
11. Proposed schedule and other details to be determined after stakeholder outreach, but preliminary estimates could be up to 20 months (Year End 2024).
12. DOGM – DWMRC MOA reflecting clear guidelines, roles, etc.