

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk **Date:** September 20, 2024

From: Nicholas Pilcher and Anthony Tatu
Staff Attorneys
Environmental Law Division

Subject: Backup Documents for the Consideration of Hearing Requests/Requests for Reconsideration on Agenda

Applicant: SouthWaste Disposal, LLC

Proposed Permit No.: 2317

Program: Office of Waste, Waste Permits Division

Docket No.: TCEQ Docket No. 2024-1407-MSW

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Draft Permit 2317
- Technical Summary and Executive Director's Preliminary Decision
- Compliance History
- Response to Public Comment (RTC)

Texas Commission on Environmental Quality



Limited Scope Amendment to Municipal Solid Waste Permit No. 2317 SouthWaste Disposal San Antonio Facility

Municipal Solid Waste Permit No. 2317 is hereby amended as follows:

Description of Change:

The hours of operation, equipment used, energy and mass balance calculations, closure and post closure plan, and an increase in the amount of feedstocks received at the composting site.

The details of this permit amendment are contained in the application dated July 31, 2023, and the revisions dated August 18, 2023, and October 17, 2023.

Part of Permit Amended:

Site Development Plan

Title page

Table of contents

Sections 3.5.1, 3.5.2, 3.5.3, 3.5.5, 4.2, and 8.0

Tables 4 and 6

Appendix A

Title page

Figure 2

Appendix H

Title page

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Sections II, III, IV

Attachment A

Appendix J

Title page

Figure J.1

This amendment is a part of Permit No. 2317 and should be attached thereto.

Approved, Issued, and Effective in accordance with Title 30 Texas Administrative Code Chapter 305, Section 305.62(j)(2), and Chapter 332.

Issue Date:

For the Commission

**Technical Summary and
Executive Director's Preliminary Decision
of the**

**SouthWaste Disposal San Antonio Facility
MSW Limited Scope Amendment Application
to Permit No. 2317**

**Type V Municipal Solid Waste Composting Facility
Bexar County, Texas**

**Applicant:
SouthWaste Disposal, LLC**

Date Prepared: February 12, 2024

By the
Municipal Solid Waste (MSW) Permits Section
Office of Waste, Waste Permits Division
Texas Commission on Environmental Quality

This summary was prepared in accordance with 30 Texas Administrative Code Section 281.21(c). The information contained in this summary is based upon the permit application and has not been independently verified.

1. Applicant Contact Information

Name of Applicant: SouthWaste Disposal, LLC
16350 Park Ten Place, Suite 215
Houston, Texas 77084

Name of Facility: SouthWaste Disposal San Antonio Facility

Contact Person: Mr. Ben Camacho, Director of Compliance
16350 Park Ten Place, Suite 215
Houston, Texas 77084

Consulting Engineer: Mr. Spenser Harvey, Civil Engineer
Parkhill
800 S. Polk Street, Suite 200
Amarillo, Texas 79101

2. SUMMARY OF CHANGES

The applicant has submitted this limited scope amendment application requesting authorization to revise the existing Type V Composting Facility in Bexar County, Texas. The limited scope amendment revises the hours of operation from 7:00 am to 6:00 pm to 8:00 am to 5:00 pm, equipment used, energy and mass balance calculations, and the closure and post closure plan. The amendment also increases the amounts of feedstocks received at the composting site. Grease trap waste increased from 2,500 tons per month to 5,000 tons per month; municipal sewage sludge increased from 250 tons per month to 500 tons per month; septage increased from 250 tons per month to 500 tons per month. The amounts received for other lower quantity feedstocks also increased including meat, dead animal carcasses, fish, oils and greases, and dairy/food.

3. TECHNICAL REVIEW

The application has been technically reviewed by the Municipal Solid Waste Permits Section to determine its compliance with the applicable requirements in 30 TAC Chapters 305 and 332. Chapter 332 contains the minimum regulatory criteria for municipal solid waste composting facilities. It has been determined that the information in the permit amendment application demonstrates compliance with these regulatory requirements. A draft limited scope amendment document has been prepared and the application has been declared technically complete.

4. PUBLIC PARTICIPATION PROCESS

Technical review of the application has been completed, the application has been declared technically complete, and a draft permit and *Notice of Application and Preliminary Decision* (NAPD) have been prepared. Information about the application, the draft permit, the notice, and this technical summary will be filed in the TCEQ Office of the Chief Clerk for processing.

The public can participate in the final decision on the issuance of a limited scope amendment as follows:

- 4.1 The TCEQ will hold a public meeting if the executive director determines that there is substantial public interest in the application or if requested by a local legislator. During this meeting the commission accepts formal comments on the application and holds an informal question and answer period.
- 4.2 Technical review of the application is completed, a final draft limited scope amendment is prepared, and the application is declared technically complete. Information for the application, the draft limited scope amendment, the notice, and summaries are sent to the chief clerk's office for processing.
- 4.3 The NAPD is sent to the applicant and published in the newspaper. The NAPD provides instructions for submitting comments, requesting a public meeting, or requesting a hearing on the application, and that all comments or requests must be submitted within 30 days from the date of newspaper publication of the notice.
- 4.4 After the comment period has ended, if comments are received a *Response to Comments* (RTC) will be prepared. The RTC will be sent to all persons who submitted comments or requested a public meeting or hearing on the application. Persons who receive the RTC will have an additional 30 days after the date the RTC is mailed in which to request a public hearing.
- 4.5 After the 30-day period to request a hearing has ended, if any request have been received, the matter is placed on an agenda meeting for the TCEQ commissioners to determine whether to grant any of the hearing requests and refer the matter to the State Office of Administrative Hearings for a public hearing.
- 4.6 A public hearing is a formal process in front of an Administrative Law Judge (ALJ) who conducts the hearing. The applicant and protestant party(ies) present witnesses and testimony to support or dispute information contained in the application. When all of this is complete, the ALJ will issue a Proposal for Decision (PFD). This PFD is placed on an agenda meeting of the TCEQ commissioners to consider whether to grant or deny the application.
- 4.7 After the commission has acted on an application, a motion for rehearing may be made by a party that does not agree with the decision. Any motion for rehearing must be filed no later than 25 days after the party or the party's attorney of record is notified of the decision. The motion may be set on another agenda for consideration by the commission or allowed to expire by operation of law.
- 4.8 Applications for which no one requests a contested case hearing, and which meet all other requirements in 30 TAC 50.133(a) are uncontested applications and will be acted on by the executive director. An uncontested application will be placed on the executive director's agenda and the permit will be issued. The TCEQ will then mail notice that the permit was issued. The notice will be mailed according to 30 TAC 50.133(b) to the applicant, to any person who requested to

be on the mailing list for the application, any person who submitted comments during the public comment period, and any person who timely filed a request for a contested case hearing. The notice will include information about the opportunity to file a motion to overturn the executive director's decision. Any motion to overturn the executive director's decision must be submitted no later than 23 days after the date the agency mails notice of the issued permit.

5. Executive Director's Preliminary Decision

The executive director has made the preliminary decision that this proposed limited scope amendment to this permit, if issued, meets all statutory and regulatory requirements.

6. ADDITIONAL INFORMATION

For information concerning the regulations covering this application, contact the Municipal Solid Waste Permits Section:

Ms. Arin Anderson
Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711
(512) 239-3278

For more detailed technical information concerning any aspect of this application or to request a copy of the Site Development Plan, please contact the consulting engineer or the applicant at the address provided at the beginning of this summary.

The application can be viewed on the internet at
<https://www.tceq.texas.gov/goto/mswapps>.

For information concerning the legal aspects of the hearing process, agency rules, and submitting public comments, please contact the Texas Commission on Environmental Quality's Office of the Public Interest Counsel at (512) 239-6363.



Compliance History Report

Compliance History Report for CN603436114, RN101478071, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN603436114, SouthWaste Disposal, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101478071, SOUTHWASTE DISPOSAL SAN ANTONIO FACILITY	Classification: HIGH	Rating: 0.00
Complexity Points:	9	Repeat Violator: NO	
CH Group:	05 - Chemical Manufacturing		
Location:	20805 OLD LAMM RD ELMENDORF, TX 78112-6077, BEXAR COUNTY		
TCEQ Region:	REGION 13 - SAN ANTONIO		

ID Number(s):
MUNICIPAL SOLID WASTE PROCESSING PERMIT 2317 **MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 43022**
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 87042 **STORMWATER PERMIT TXR05BC61**

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023
Date Compliance History Report Prepared: January 11, 2024

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: January 11, 2019 to January 11, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Arin Anderson **Phone:** (512) 239-3278

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 6 July 10, 2020 (1658574)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
Notice of Intent Date: 09/28/2023 (1932114)
No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

**TCEQ LIMITED-SCOPE PERMIT AMENDMENT
APPLICATION NO. 2317**

**APPLICATION BY
SOUTHWASTE DISPOSAL, LLC
FOR MSW PERMIT NO. 2317**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the limited-scope amendment application (LSA Application) by SouthWaste Disposal, LLC (SouthWaste Disposal or Applicant), for a composting facility, Municipal Solid Waste (MSW) Permit Number 2317 and on the Executive Director's preliminary decision. The LSA Application would change the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and increase the amount of feedstocks received at the composting site.

As required by 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Executive Director is filing this Response to provide a response to public comments received in a timely manner.

This Response addresses all such public comments received, whether or not withdrawn, with the exception of comments that are outside the scope of this LSA Application. In accordance with 30 TAC §305.62(j)(2), only the portions of the permit and attachments to which changes are being proposed are required to be submitted by the applicant. Additionally, the Executive Director's review and any hearing or proceeding on an amendment subject to 30 TAC §305.62(j)(2) shall be limited to the proposed changes. This LSA Application proposes changes to the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and increases the amounts of feedstocks received at the composting site. Pursuant to 30 TAC §305.62(j)(2), public comments outside the scope of this LSA Application were related to water quality, windblown material from the facility, and impacts to livestock. If you need more information about this permit application or the permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov/.

I. Background

A. Facility Description

SouthWaste Disposal, 16350 Park Ten Place #215, Houston, Texas 77084 currently operates a composting facility located at 20805 Old Lamm Road, Elmendorf, Bexar County, Texas 78112. The facility consists of a 28.6-acre tract of land located less than one mile southeast of the intersection of Interstate Highway 37 and Loop 1604. The facility processes waste products such as grease trap waste into beneficial reuse compost. The permitted facility includes bulk material chipping and storage areas, a lined grease trap waste/septic/sewage sludge (GSS) processing area (composting pad), separate composting areas for other approved wastes, retention pond, post-processing area, aboveground feedstock storage tanks, and office areas (which include toilet and potable water facilities). GSS composting and curing processes are restricted to this lined GSS processing area, which comprises 6.5 acres of the facility.

B. Application Description

SouthWaste Disposal has applied to the TCEQ for a permit amendment to authorize changes to the hours of operation, equipment used, energy and mass balance calculations, closure and post-closure care plan, and an increase in the amount of feedstocks received at the composting site. The LSA Application, if granted, would change the hours of operation from 7:00 am to 6:00 pm to 8:00 am to 5:00 pm. The equipment used would change the above ground storage tanks from ten 18,000-gallon tanks to four 30,000-gallon tanks. The energy and mass balance calculations, which are used to determine the expected final product quantity from the processing of specified amounts of bulking material and feedstocks, would be updated to reflect proposed feedstock increases. The closure and post-closure care plan would change the current cost of the anticipated closure from \$356,621 to \$599,497. The amount of feedstocks received at the composting site would increase from 36,400 tons to 73,000 tons annually. During normal operations, the processing area contains multiple rows of compost in various stages of maturity. The volume of this immature compost is anticipated to change from approximately 8,840 cubic yards or approximately 4,860 tons to 16,900 cubic yards or approximately 6,350 tons.

C. Procedural Background

The LSA Application was received on August 7, 2023. An administrative Notice of Deficiency letter (NOD) was mailed on August 15, 2023. A response to the NOD was sent on August 18, 2023. The LSA Application was declared administratively complete on September 6, 2023. The Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment (NORI) was issued on September 6, 2023, and mailed on September 13, 2023. The NORI was published on September 10, 2023, in Spanish in *La Prensa Texas*; and on September 14, 2023, in *San Antonio Express-News* in Bexar County, Texas.

A technical NOD was mailed on October 10, 2023. A response to the NOD was sent on October 17, 2023. The Executive Director completed the technical review of the application on March 18, 2024. The Notice of Application and Preliminary Decision was published on March 22, 2024, in *San Antonio Express-News*; and on March 24, 2024, in Spanish in *La Prensa Texas*, in Bexar County, Texas. The public comment period for the LSA Application ended on April 23, 2024.

To determine whether to hold a public meeting for an application, the Executive Director considered the factors set forth in 30 TAC §39.501. According to 30 TAC §39.501(e)(1)(B), the Executive Director will hold a public meeting on the request of a member of the legislature who represents the general area in which the facility is located or when there is substantial public interest in the facility. Substantial public interest exists if a request for a public meeting is filed by: a group of ten or more local residents, property owners, or businesses located in the general area of the facility; a local government entity with jurisdiction over the location at which the facility is located by formal resolution of the entity’s governing body; a council of governments with jurisdiction over the location at which the facility is located by formal request of either the council’s solid waste advisory committee, executive committee, or governing board; or a homeowners’ or property owners’ association formally organized or chartered and having at least ten members located in the general area in which the facility is located. The Executive Director received five public meeting requests on this application. Based on these factors, the Executive Director did not hold a public meeting on the LSA Application.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a “hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application.” Texas Water Code (TWC) §5.115(a-1)(2)(B).

II. Public Comments Received

The Office of the Chief Clerk received timely comment letters from the following individuals:

Vincent Arreguin	Ashley Perez
Kathryn Avila	Clarissa Ramirez
Adelaida Espinoza	Rolando Ramirez
Mizden Gonzalez	Crystal Silva
Stella Hernandez	Mary Joy Thoren
Angela Lynch	Evelyn Torres
Ingrid Moncivaez	Roberto Villarreal
Jenny Peralta	

III. Access to Rules, Laws, and Information

- The Texas Secretary of State webpage is sos.state.tx.us.
- TCEQ rules in Title 30 of the Texas Administrative Code are available at sos.state.tx.us/tac/ by selecting “View the current Texas Administrative Code” on the right, and then selecting “Title 30 Environmental Quality.”
- Texas statutes are available at statutes.capitol.texas.gov.
- Federal rules in Title 40 of the Code of Federal Regulations are available at the EPA’s public webpage at epa.gov/laws-regulations/regulations.
- Federal environmental laws are available at the EPA’s public webpage at epa.gov/laws-regulations/laws-and-executive-orders.
- General information about TCEQ can be found at the Commission’s public webpage at tceq.texas.gov.
- Information about the TCEQ permitting process from TCEQ Public Education Program: 1-800-687-4040.
- You may receive a paper copy of this Response by contacting the TCEQ Office of the Chief Clerk, at 512-239-3300.
- The Application, the Executive Director’s preliminary decision, and draft limited scope amendment document are available for viewing and copying at the Central Library, located at 600 Soledad Street, San Antonio, Texas 78205. The permit application may be viewed online at <http://parkhill.com/tceq-permits/>.
- Commission records for this application and draft permits are available for viewing and copying in the Office of the Chief Clerk (OCC) at the TCEQ main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor. Certain documents located in OCC may also be viewed in the Commissioner’s Integrated Database at: www14.tceq.texas.gov/epic/eCID/.

IV. Public Comments and Responses

Comment No. 1: Odor

Vincent Arreguin, Kathryn Avila, Adelaida Espinoza, Mizden Gonzalez, Stella Hernandez, Angela Lynch, Jenny Peralta, Ashley Perez, Clarissa Ramirez, Rolando Ramirez, Crystal Silva, Mary Joy Thoren, and Roberto Villarreal expressed concerns that the existing facility produces nuisance odors and expressed their general opposition to the proposed changes to the facility. Kathryn Avila, Mizden Gonzalez, Ashley Perez, and Rolando Ramirez raised concerns that strong odors from the facility are misattributed to gas leaks.

Response No. 1:

30 TAC §332.4(2) states that composting must be conducted in a sanitary manner that prevents the creation of nuisance conditions as defined in 30 TAC §330.3 (relating to Definitions) and as prohibited by the Texas Health and Safety Code, Chapters 341 and 382 (Minimum Standards of Sanitation and Health Protection Measures; and Clean Air Act), the TWC, Chapter 26 (Water Quality Control), 30 TAC

§101.4 (relating to Nuisance), and any other applicable regulations or statutes. In addition, 30 TAC §332.45 requires the operator to immediately take action to abate nuisances.

In accordance with 30 TAC §332.8, prior to receiving any material with a high odor potential such as dairy material, meat, fish, and oil and grease, the operator must ensure that there is an adequate volume of bulking agent to blend with or cover the material and must begin processing the material in a manner that prevents nuisances. Additionally, 30 TAC §332.47(7)(J) requires a composting facility to submit a site operating plan (SOP), which includes specific guidance or instructions on minimizing odors.

Section 4.9 of the facility's SOP includes an odor management plan that instructs site management and operating personnel to store liquid feedstocks in enclosed above ground storage tanks, not apply feedstocks during high winds, use adequate bulking material, and turn or till bulking material immediately after feedstocks are applied in order to control the development of odor conditions.

If objectionable odors occur, the owner or operator must initiate appropriate measures to alleviate the condition. TCEQ encourages members of the public to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the Region 13 TCEQ Office in San Antonio, Texas at 210-490-3096 or the toll-free Environment Violation Hotline at 1-888-777-3186. Complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>. If the facility violates a term of the permit or TCEQ's regulations, the permittee may be subject to an enforcement action. For information on TCEQ's odor complaint investigation procedures, interested persons are encouraged to visit: https://www.tceq.texas.gov/compliance/complaints/odor_complaint.html. In addition, if the amendment application is approved, it would not limit the public's ability to use common law remedies for a nuisance in response to activities that interfere with their use and enjoyment of their property.

The Executive Director has reviewed the application and preliminarily determined that it satisfies the regulatory requirements regarding applicable odor and nuisance requirements.

Comment No. 2: Business

Vincent Arreguin, Kathryn Avila, Ingrid Moncivaez, and Ashley Perez raised concerns that the compost facility negatively affects businesses in the area.

Response No. 2:

The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute and rules. Accordingly, the TCEQ does not have jurisdiction to consider economic or tax impacts in surrounding areas when determining whether to approve or deny a permit application.

Comment No. 3: Air Quality

Adelaida Espinoza, Mizden Gonzalez, Clarissa Ramirez, and Evelyn Torres raised concerns about air quality and potential air emissions from the facility. Vincent Arreguin, Kathryn Avila, Mizden Gonzalez, Ashley Perez, Clarissa Ramirez, Rolando Ramirez, and Roberto Villarreal expressed concerns over the negative health effects that emissions could have on children and nearby residents, especially those with asthma and other respiratory concerns.

Response No. 3:

In accordance with 30 TAC §332.8, composting operations are required to apply for an air quality permit under 30 TAC Chapter 116 or meet all the applicable air quality requirements listed in 30 TAC §332.8(e) in order to obtain an air quality standard permit. The applicant has met all the applicable air quality requirements and is entitled to an air quality standard permit.

Additionally, 30 TAC §332.47(7)(I) requires a composting facility to submit a SOP, which includes specific guidance or instructions for controlling airborne emissions. Section 4.8 of the facility's SOP indicates that no specifically regulated airborne emissions are anticipated to be generated.

TCEQ encourages members of the public to report any observed violations at a facility to the Regional Office. Complaints regarding the facility may be made by contacting the Region 13 TCEQ Office in San Antonio, Texas at 210-490-3096 or the toll-free Environment Violation Hotline at 1-888-777-3186. Complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>. If the facility violates a term of the permit or TCEQ's regulations, the permittee may be subject to an enforcement action.

The Executive Director has reviewed the application and preliminarily determined that it satisfies the regulatory requirements regarding air quality.

V. Changes Made to the Draft Permit in Response to Comments

No changes were made to the final draft permit in response to public comments received.

VI. Conclusion

The Executive Director has reviewed the application and determined that it meets the regulatory and statutory requirements.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Michael Martinez, Staff Attorney
Environmental Law Division
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Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on June 18, 2024, the Executive Director's Response to Public Comment on the LSA Application by SouthWaste Disposal, LLC, for a MSW facility, Permit Number 2317, was filed with the TCEQ Office of the Chief Clerk.



Michael Martinez, Staff Attorney
Environmental Law Division
State Bar of Texas No. 24137012