

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF LAND RECYCLING AND WASTE MANAGEMENT**

DOCUMENT NUMBER: 254-2100-100

EFFECTIVE DATE: February 7, 1997

TITLE: Local municipality involvement process.

AUTHORITY: Act 97 of July 7, 1980 (P.L. 380, No. 97), as amended, known as the Solid Waste Management (“SWMA”), 35 P.S. § 6018.101 et seq; and the rules and regulations promulgated thereunder.

POLICY: This policy describes a process for involvement of local municipalities in the review of municipal waste permit applications. The Department will meet and consult with local municipalities potentially affected by proposed municipal waste disposal or processing permits specified in 25 Pa. Code §271.126 (relating to requirement for environmental assessment), including permit applications that would result in additional waste volumes or capacity.

PURPOSE: This policy establishes the procedure the regional offices will follow to involve municipal officials for new or existing municipal waste disposal or processing permits specified in 25 Pa. Code §271.126 (relating to requirement for environmental assessment), including permit applications that would result in additional waste volumes or capacity. It is the Department’s intent that no new applicable municipal waste application shall be further reviewed unless and until the concerns of local municipalities have been addressed by the Department in accordance with applicable law.

This procedure supplements existing public notice and comment procedures for municipal waste facility permit reviews.

APPLICABILITY: This policy applies to pending and future applications for new facility permits, and pending and future applications for permit modifications that would result in additional waste volumes or capacity, for municipal waste disposal or processing permits as specified in 25 Pa. Code §271.126 (relating to requirement for environmental assessment).

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give the rules in these policies that weight or deference. This document establishes the framework within which the Department will exercise its administrative discretion in the future. The Department reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH: 4 pages

LOCATION: Volume 6, Tab 48

DEFINITIONS:

Host municipality or county: The municipality or county within which an applicable municipal waste disposal or processing facility is located, proposed to be located, or has been permitted but not constructed.

Local municipalities include the following: the host municipality, the host county, municipalities adjacent to the host municipality or municipalities, municipalities located within one mile of the permitted or proposed area, other municipalities that demonstrate that they may be adversely impacted by the proposed project, and municipalities located along the approach routes.

Approach routes: routes from the nearest limited access (or major) highway used by vehicles traveling to and from the facility.

Municipal officials: Representatives of local municipalities with whom the Department will coordinate early permit review. The following positions can be used to develop a list of municipal officials to contact for the purposes of implementing this guidance.

County: Chairperson of the Board or County Executive and Planning Director

Cities: Mayor or Manager and Public Works Director

Boroughs: Manager or Secretary

First Class Townships: Manager or Executive

Second Class Townships: Chair of the Supervisors

Permit application: Any pending or future application for a municipal waste facility permit or permit modification that would result in additional waste volume or capacity, and for other municipal waste disposal or processing permits specified in 25 Pa. Code §271.126 (relating to requirement for environmental assessment).

TECHNICAL GUIDANCE:

This process does not replace the Department's requirements for public notice, opportunity for public comment or other avenues of public involvement in the permit review process.

Applicants are encouraged to meet with the Department in a pre-application meeting to review Department requirements and the permit review process. It is envisioned that host municipalities and those interested parties invited at the discretion of the Regional Manager would be involved prior to submission of an actual permit application. However, the permit application review process formally begins when the Department receives or accepts a permit application. "Receives" refers to most applications and "accepts" refers to Alternative Project Timeline applications in accordance with the Money-Back Guarantee Review Program (Pennsylvania Bulletin, Vol. 26, No. 26, June 29, 1996).

Upon receipt of an application, or notification by the permit applicant, the Department will notify the municipal officials by registered mail. Regional staff should work with their Regional Local Government Liaison in developing the list of and coordinating with the municipal officials. The Regional Manager may also wish to contact the municipal officials by telephone.

The written notification will include the following information:

The identity of the applicant, and the date the application was submitted to the Department, if it has been submitted.

The location of the existing or proposed facility.

An explanation of the new application or requested modification.

The name, phone number and address of the Department official who will be the primary contact person for the municipal contacts.

Prior to initiating the technical review of the permit application, the Department will arrange to meet with the municipal officials and permit applicant. The purpose of this meeting is threefold:

For the applicant to explain thoroughly the permit application to the municipal officials.

For the Department to explain the permit application review process and the public involvement steps in that process.

For the Department and the applicant to hear and understand concerns or questions from the municipalities before the formal review of the application has commenced.

Specific topics to be discussed at the meeting should include, at a minimum:

The proposed project.

Applicable department policies and guidance documents.

The permit review process, including steps and alternative project timeline.

Public participation in the permit review process.

Local zoning concerns.

Host municipal agreements.

Anticipated impacts on the county municipal waste plan.

The Department's oversight of facility operations.

For existing facilities, problems or concerns related to the facility experienced in local municipalities.

The Department, if requested to do so, will review any host agreements entered into by the applicant to address the potential impact of the proposal upon the public health, safety and welfare and the environment prior to conducting further reviews. The primary purpose for this review is to determine whether the host agreement(s) will impact the permit review process.

The Department encourages municipal officials to gather input from interested parties as they deem appropriate. In some cases, the host county or municipality may choose to host the meeting. Municipal officials will be encouraged to include the Host Municipal Inspector(s) and a representative from the local solid waste authority, as appropriate.

Prior to the meeting, the Department will provide the attendees with general information on the municipal waste program and the applicable statutes, regulations, policies and guidance documents. Ideally, the applicant will prepare a packet of information which describes the project, the location, waste volumes, traffic patterns, preliminary facility design and operational information. The Department will include this information in its mailing to the attendees.

The permit review should not commence unless and until the permit applicant provides this information to the Department and attends the meeting.

Whenever possible, the Department and/or the applicant should respond to issues and concerns raised by the local municipalities. If the Department is unable to respond, it will explain why or provide an expected date for an explanation. It is conceivable that the Department will not be able to respond to all of the issues or concerns until later in the permit review process. The Department will provide the meeting attendees with a summary of the meeting, including responses to issues that were addressed during the meeting, within 45 days.

Follow-up meetings may be scheduled if appropriate and useful. The input of the local municipalities will be sought throughout the permit application review process, particularly with regard to the balancing of harms and benefits required under the Environmental Assessment Process.

ALTERNATIVE PROJECT TIMELINES:

Because of the size, complexity and technical issues generally associated with certain permit applications and because of the Department's desire to involve the public to a greater degree in these decisions, a customized permit application review timeline will be negotiated between the applicant, the Department and representatives of the host county and municipality. In the event the parties are unable to reach consensus on a timeline, the Department will determine an appropriate timeline which will consider the level of public interest and include sufficient opportunities for meaningful public participation.