

Massachusetts Solid Waste Advisory Committee (SWAC)
September 21, 2021, 10:00 am – 12:00 pm
Solid Waste Regulations Discussion

Q: Does 16.01(3)(b) apply to on-site residuals composting as well as anaerobic digestion? For instance: a town that wants to compost sludge on-site or off-site.

A: Sludge treatment facilities located at wastewater treatment facilities generally have their own regulations. However, in some cases, the facility is not sited pursuant to M.G.L. c. 83 s.6, and then the solid waste regulations would apply. Composting sludge off-site from a wastewater treatment facility is considered a solid waste activity.

C: Given the very negative experience CERO had enforcing against a food waste operation in Northborough, I'm not sure a general permit for any food waste handling facility is wise.

R: MassDEP is proposing some additional requirements for general permits such as setbacks, restrictions related to certain organic materials that are difficult to compost without odor or nuisance issues, MassDEP is also proposing to tighten its enforcement options to address operations that appear to be problematic even prior to operation.

Q: Would the general permit setback limits apply to just food waste composting or also yard waste composting?

A: Those would apply to all composting under a general permit, regardless of the input. But there is a small composting exemption at 16.03 for operations with less than 20 cubic yards or 10 tons per week (plus bulking materials).

C: We would like to see the addition of three items to the recycling reporting form. 1) Audited inbound tonnages of all single stream commodities. 2) Outbound tonnages of the same commodities. 3) The destinations (states, countries) that receive each commodity.

C: Would like to echo the previous comment. This will allow us to have transparency and also help with procurement when evaluating vendors and contract management.

R: The primary focus is getting reports to ensure facilities are compliant with regulations. That may or may not align with this request for additional information. MassDEP will continue to look at this. The reporting forms may change after the regulatory process is complete.

C: If setbacks apply to backyard composting, then there can be no backyard composting in most of Watertown, for instance.

R: The setbacks do not apply to backyard composting. The regulations currently include a conditional exemption for residential composting. The regulations also currently include a conditional exemption for on-site composting up to a certain size as an exempt activity. Per 16.03 - Exempt Activities. It's likely schools' composting would be within those limits and thus would not be subject to the setbacks in 16.04.

Q: Would MassDEP consider adding a wetlands setback as well?

A: Wetlands regulations have their own setbacks (not specific to composting) which should cover this subject.

Q: How do these setbacks jive with new Environmental Justice (EJ) requirements?

A: These setbacks are independent of changes relative to environmental justice communities. Our EJ changes are more about public process and notice requirements. The other EJ changes were passed in June via MEPA.

Q: Would the 100-foot setback remain in place for landfills under 16.40(4)(a)

A: The 100-foot buffer language has been removed from the new regulatory language.

C: This requirement should not be applied to vertical expansions or similar projects that may require site suitability.

R: MassDEP will consider this comment in preparing draft regulations.

Q: Why are you suggesting treating landfills differently from other waste facilities? Why use the prime/unique classification system at all when we know it is outdated and often wrong?

A: Once you have a landfill, that soil can never be agricultural soil. A transfer station, however, is not much different from any other commercial development and would not permanently alter the soil in the same way. We're not aware of a better soils classification alternative than USDA/NRCS.

Q: Will the new agricultural language be a waivable criterion by the MassDEP Commissioner?

A: MassDEP will consider comments on this issue.

C: Could we consider whether the soils are shown in an area known as "urban" in USDA overlay?

A: MassDEP will consider this as well. The fundamental proposed change under consideration is to view landfills differently from other handling facilities and be flexible in applying the criteria to those facilities.

Q: What was the significance of changing the wording from "land" to "soil" in paragraph B?

A: That is a statutorily defined term in the Department of Agricultural Resources statute. It has to be actively farmed and a certain minimum size.

Q: Re: the tax rate at 19.050.

A: MassDEP is proposing to update the base rate that exists in the regulations to catch up with our actual process and current standards.

Q: If a private landfill owner is approaching 30 years and his site is fully stable and no groundwater issues exist, why is MassDEP proposing to set a 50 percent limit on the FAM reductions? Where does this 50 percent number come from?

A: There are still significant issues that can go wrong at a landfill after 30 years. MassDEP wants to keep a substantial FAM in place to respond to potential issues at such a facility.

C: The FAM should apply to municipal landfills closed in the 1990s, especially the ones labelled "significant threat."

Q: Once functional stability has been achieved, the FAM issue needs major re-thinking.

A: It's important to address landfills beyond 30 years. MassDEP is not convinced that the oversight of landfills should stop at 30 years. These discussions are to give people an opportunity to weigh in on this.

Q: Can we look at a statewide BUD for catch basin grit similar to street sweepings? We are quickly running out of local options and the costs are escalating quickly.

A: MassDEP is willing to consider a statewide BUD application. However, it is important to note that MassDEP will be more conservative in reviewing a statewide application as the potential use would be much larger and more widespread. MassDEP is often more willing to be more flexible on a site-specific application rather than a broad application than can be used anywhere.

C: The exemption for ash derived from clean wood - 16.03(2)(b)(8). Clean wood ash can still have a lot of chrome in it.

Q: Will the five-mile radius rule for Environmental Justice notice apply going forward?

A: This is for facilities needing specific air permits - they will have to undergo additional public process. MEPA has a one-mile radius for solid waste facilities that don't need an air permit.

Q: What will the Department's EJ notification expectation be when a community identifies as minority but does not identify as non-English speaking or low income?

A: The notification requirements are the same for either group (minority or not fluent in English). When MassDEP has identified an area as having a non-English speaking population, MassDEP requires notice in additional languages. For minority groups, MassDEP requires notice in publications that MassDEP hopes reach such population. We want people to have access to information.

Q: When will you share the specific proposed regulatory language?

A: MassDEP will prepare a public hearing draft and run it through our internal approval process before publishing it for public comment. Once that is available, we will have a formal public hearing, begin the public comment period, and share a red line strikeout document of proposed changes.

Q: Will you implement any of these changes before final approval?

A: This depends on the specific proposed changes. In some cases, these changes involve clarifying regulations to reflect current practice. In other cases, the changes would not take effect until after publication of final regulations.