

## 990 CMR: HAZARDOUS WASTE FACILITY SITE SAFETY COUNCIL

### 990 CMR 4.00: NOTICE OF INTENT

#### Section

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#### 4.01: Purpose

The Notice of Intent is a preliminary document designed:

- (1) to inform the public of a developer's proposal to construct or to expand a hazardous waste facility in the commonwealth, and
- (2) to provide the information necessary for the Council to determine whether the proposal is feasible and deserving of state assistance and therefore warrants further review pursuant to the siting process established by M.G.L. c. 21D.

#### 4.02: Contents

The Notice of Intent shall be submitted on a form approved by the Council and the Department, and shall include:

- (1) a description of the type of hazardous wastes the developer proposes to accept for storage, treatment, recycling or disposal at the facility;
- (2) a description of the technology and procedures the developer proposes to use to store, treat, recycle or dispose of hazardous waste at the facility;
- (3) a description of the developer's prior experience in the construction, operation and maintenance of hazardous waste facilities, in Massachusetts and elsewhere. This description shall include a record of compliance with federal, state and local statutes, by-laws and regulations applicable to the construction and operation of such facilities, and with respect to the developer or any person owning a significant financial interest in the proposed project shall list:
  - (a) any pending investigations, hearings, litigation, arbitration or adjudicatory proceedings involving the developer or said person concerning compliance with federal, state and local statutes, regulations and by-laws applicable to the management of hazardous waste and the protection of public health and safety and the environment; and
  - (b) any civil, criminal or administrative judgments rendered against the developer or said person concerning compliance with federal, state and local statutes, regulations and bylaws applicable to the management of hazardous waste and the protection of public health and safety and the environment; and
  - (c) any accidents which have occurred at any facility owned or operated by the developer or said person;
- (4) financial data, including an estimate of the total cost of the proposed project and the cost of each of the major components of the project, and audited financial statements or SEC 10-K forms for each of the past three years, and either:
  - (a) a plan of financing for the proposed project, including the amount to be raised through debt and the potential source(s) thereof, the amount to be raised through equity and the potential source(s) thereof, and material which demonstrates the feasibility of the financing plan; or
  - (b) a letter from a duly authorized agent of a national bank or other reputable independent financial institution indicating that it has reviewed the financial statements and projections of the proposed project, and that said statements and projections satisfy the existing lending standards

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of the bank or institution.

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### 4.02: continued

If the developer is a subsidiary corporation which wishes to have the financial resources of one or more parent corporations considered, then the developer shall submit, in addition to the above, a description of the relationship between the subsidiary and the parent corporation(s), and a letter from such parent corporation(s) confirming that its financial resources are available to finance the proposed project;

(5) if the developer has named a site for the proposed project, a description of said site, including the name and address of the owner thereof and all of the information necessary for the Council to determine whether said site satisfies the criteria set forth in 990 CMR 5.04;

(6) a description of the present suitability of the site for the proposed project and of the additional measures, if any, that will be required to make the site suitable; or, in the event that the developer is not naming a site, the requirements and characteristics of a site that would be appropriate for said proposed project;

(7) preliminary specifications and architectural drawings for the proposed project;

(8) a copy of the most recent statewide environmental impact report issued by the Department pursuant to M.G.L. c. 21D, § 3(1);

(9) such further information as is requested on the Notice of Intent form approved by the Council and the Department, as well as any additional information which either the Council or the Department, after reviewing the Notice of Intent, determines is necessary to render said Notice of Intent complete pursuant to 990 CMR 4.06;

(10) such documents as are prepared or approved by the Department which describe and explain the hazardous waste facility siting process, which describe and explain the types of planning and other technical assistance available to the host community and to abutting communities, and which describe and explain the types of special benefits that may be included in a negotiated facility siting agreement between a host community and a developer;

(11) a notice of the right to submit comments to the Council pursuant to 990 CMR 4.05 and 7.04(1);

(12) a list of the names and addresses of all persons to whom the Notice of Intent was submitted pursuant to the requirements of 990 CMR 4.04; and

(13) the following certification:

"I certify under the pains and penalties of perjury that I have personally examined and am familiar with the information submitted in this form and with those of the attached documents prepared by or under the direction of the developer, and that the information contained in this form and in those of the attached documents prepared by or under the direction of the developer is true, accurate and complete."

which shall be signed:

(a) if the developer is a corporation, by a principal executive officer of at least the level of vice president; or

(b) if the developer is a partnership, by a general partner; or

(c) if the developer is a sole proprietor, by the proprietor; or

(d) if the developer is a governmental agency, by the head of that agency.

(14) the developer siting fee or fees required, pursuant to 990 CMR 16.02(1).

### 4.03: Naming a Site

(1) In submitting a Notice of Intent the developer shall:

(a) name a specific site and indicate a willingness to utilize the site suggestion process pursuant to 990 CMR 7.00; or

(b) name a specific site and indicate an unwillingness to utilize the site suggestion process; or



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### 4.03: continued

- (c) name no specific site and indicate a willingness to utilize the site suggestion process.
- (2) If a developer proposes more than one specific site, he shall submit a separate Notice of Intent for each site so proposed.

### 4.04: Distribution

The Developer shall submit the Notice of Intent to the following persons (hereinafter referred to as the "Notice of Intent Recipients"):

- (1) Council members at those addresses contained in a list to be provided the developer by the Executive Secretary.
- (2) Executive Secretary, Hazardous Waste Facility Site Safety Council;
- (3) Director, Bureau of Solid Waste Disposal, Department of Environmental Management;
- (4) Director, Division of Hazardous Waste, Department of Environmental Quality Engineering;
- (5) Where the developer proposes a site in the Notice of Intent:
  - (a) the chief executive officer of the proposed host community;
  - (b) the chairman of the conservation commission of the proposed host community;
  - (c) the chairman of the planning board of the proposed host community;
  - (d) the chief of the fire department of the proposed host community;
  - (e) the chairman of the board of health of the proposed host community;
  - (f) the regional planning agency for the area in which the proposed host community is located;
  - (g) the chief executive officer and chairman of the board health of each abutting community;
  - (h) the owner(s) of the proposed site;
  - (i) the local public library.
- (6) Where a developer has specified communities in which he is willing to consider suggested sites:
  - (a) the chief executive officers of such communities;
  - (b) the regional planning agency or agencies for the area or areas in which the proposed host communities are located;
  - (c) the chairmen of the boards of health of such communities;
  - (d) the local public libraries of such communities.
- (7) Where a developer has specified a region or regions in which he is willing to consider suggested sites:
  - (a) the regional planning agency or agencies for such region or regions.

### 4.05: Public Comment Period

A Notice of Intent shall not be considered complete until the expiration of a 45 day public comment period. Upon receipt of a Notice of Intent, the Council shall issue a press release containing notice thereof and of the public comment period, and shall request that said notice be published in the Environmental Monitor. Where the developer has named a site in the Notice of Intent, or where he has specified a community or communities in which he is willing to consider suggested sites, the developer shall publish notice thereof and of the public comment period in a newspaper of general circulation serving each potential host community. The public comment period shall commence upon the date that notice of the filing of a Notice of Intent is published in the Environmental Monitor.

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### 4.06: Determination of Completeness

The Council shall expeditiously review the information provided in the Notice of Intent and received during the public comment period, and after consultation with the Department shall advise the developer in writing whether the Notice of Intent is complete. A Notice of Intent shall be considered complete if:

- (1) it adequately presents the information specified in 990 CMR 4.02 and
- (2) the Council has sufficient information to determine whether the proposal is feasible and deserving of state assistance.

### 4.07: Supplemental Information

Until such time as the Council declares a siting agreement to be operative pursuant to 990 CMR 14.03, the developer shall promptly notify the Council and the Notice of Intent Recipients of any new information or changes in the information already provided in the Notice of Intent which could reasonably be deemed material to the Council's determination that a proposed project is feasible and deserving of state assistance. Each such notification shall be accompanied by the certification specified in 990 CMR 4.02(13). Provided, however, that any such new information or changes in information that have been or will be contained in the Project Notification Form, the Preliminary Project Impact Report or the Final Project Impact Report need not be submitted to the Council pursuant to 990 CMR 4.00.

### REGULATORY AUTHORITY:

990 CMR 4.00: M.G.L. c. 21D, § 4.