

990 CMR: HAZARDOUS WASTE FACILITY SITE SAFETY COUNCIL

990 CMR 7.00: SITE SUGGESTION

Section

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7.01: Application

990 CMR 7.00 shall apply whenever a developer indicates in the Notice of Intent a willingness to accept site suggestions pursuant to 990 CMR 4.03(1)(a) or (c).

7.02: Suggestion Process

(1) Initial Period for Suggestion of Sites. For a period of 50 days following the conclusion of the briefing sessions held pursuant to 990 CMR 6.00, the Department shall accept and forward to the developer written suggestions for sites submitted by any of the following persons, subject to the limitations set forth in M.G.L. c. 21D, § 9:

- (a) private individuals who own, or have substantial financial interest in, the suggested site;
- (b) the chief executive officer of any city or town in the Commonwealth or the local assessment committee of a host community, who may suggest a site within said city or town or host community;
- (c) the developer;
- (d) any agency of the Commonwealth.

(2) Extension of Period for Suggestion of Sites. If at the end of the 50 day period specified in 990 CMR 7.02(1) no sites have been suggested, the Chairman or his designee may extend the suggestion period for additional 30 day periods. The Department shall send notice of each such extension to those persons specified in 990 CMR 6.04(2).

(3) Prior Notice. Any person or agency suggesting a site shall prior to suggestion send written notice to the owner or owners of record of the site and the chief executive officer of the host community, and shall submit to the Department a statement from the owner or person controlling the site which indicates a willingness to consider making the site available to the developer.

(4) Form for Suggestion of Sites. Any person or agency suggesting a site shall provide all information requested on a site suggestion form approved by the Council and the Department, including but not limited to a statement explaining how the suggested site meets the minimum requirements specified by the developer in his Notice of Intent.

(5) Suggestions Sites by the Department. If the developer has not suggested a site in the Notice of Intent and no sites have been suggested during the 50 day period specified in 990 CMR 7.02(1), the Department may suggest a reasonable number of sites, where such sites are either:

- (a) publicly owned and probably available for lease or sale to the developer; or
- (b) privately owned and reasonable grounds exist for the belief that such sites might be available for lease or sale to the developer.

7.03: Submission of a Notice of Intent

At any time during or after the site suggestion process the developer may submit to the Council a Notice of Intent for any site which has been suggested or otherwise brought to his attention and which he believes may be appropriate for the proposed project. Such Notice of Intent shall be comprised of the Notice of Intent as originally filed and all additional information required on the Notice of Intent form when a specific site is named. Such Notice of Intent shall be distributed to all Notice of Intent Recipients as specified in 990 CMR 4.04.

7.04: Site Selection

(1) Public Comment Period. No decision shall be rendered by the Council on any suggested site until the expiration of a 45 day public comment period. At the close of the period for suggestion of sites or any extension thereof, the developer shall publish notice of each site that has been suggested and of the public comment period in a newspaper of general circulation serving the community in which said site is located. At the developer's option, he need not publish notice of any site that he will not consider and intends to so notify the Council pursuant to 990 CMR 7.04(2)(c). The Council shall request that notice of all sites suggested and the public comment period be published in the Environmental Monitor, and the public comment period shall commence upon the date that said notice is published in the Environmental Monitor. All comments received shall be promptly transmitted to the developer.

(2) Developer's Preference. Within seven days of the close of the public comment period specified above, the developer may notify the Council in writing of:

- (a) any site the developer desires to be included on the final list of sites;
- (b) any recommended ranking of sites;
- (c) any site the developer would not consider if included on the final list of sites.

(3) Site Elimination. At the conclusion of the public comment period, the Council shall review all site suggestions, whether received by the Department or named in a Notice of Intent submitted pursuant to 990 CMR 7.03. The Council shall eliminate any sites where:

- (a) the developer has notified the Council pursuant to 990 CMR 7.04(2) that he would not consider said site if it were included on the final suggested site list;
- (b) the Council determines that the owner of record of said site desires to withdraw his property from consideration;
- (c) the Council finds that said site does not satisfy the criteria set forth in 990 CMR 5.04. In the event that the precise location of the proposed project on the property has not been specified by the developer or the person or agency suggesting it, the Council may find that the criteria set forth in 990 CMR 5.04 are satisfied if any portion of the property is large enough to accommodate the proposed project and that portion satisfies said criteria.

(4) Development of Final Suggested Site List. If following site elimination by the Council pursuant to 990 CMR 7.04(3) more than three sites remain, the Council shall after consultation with the Department of Environmental Quality Engineering reduce the number of sites to three, one of which shall be the developer's preferred site, if any. In developing a final suggested site list, the Council shall consider which sites, in relationship to all the factors listed below, are on balance most capable of being developed in a manner fully protective of the public health and safety and the environment.

- (a) the site requirements specified by the developer in the Notice of Intent;
- (b) any recommended ranking of sites submitted by the developer pursuant to 990 CMR 7.04(2);
- (c) the location of each site and its potential access routes in relation to flood plains, groundwater, surface water, wetlands, residential areas, generators who would be utilizing the services of the proposed facility and emergency services;
- (d) the surficial geology of each site;
- (e) the air quality of each site; and
- (f) any other considerations which, in the discretion of the Council, are relevant to the suitability of the site for the proposed project.

7.05: Notification of Final Suggested Site List.

Within ten days of the Council's promulgation of a final suggested site list the Department shall send a copy thereof to:

- (1) the chief executive officer and board of health of each potential host and abutting community;
- (2) the local assessment committee of each potential host community, if such has been appointed;

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- (3) the owner or owners of record of the suggested sites;
- (4) the developer;
- (5) the regional planning agency of any region in which there is a potential host or abutting community;
and
- (6) newspapers, radio stations and television stations serving the potential host communities.

The Department shall also request that the list be published in the Environmental Monitor.

REGULATORY AUTHORITY:

990 CMR 7.00: M.G.L. c. 21D, § 4.