

Clean Energy via Anaerobic Digestion: Final Regulatory Changes

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What Problems Are We Solving?

- Current regulations are inadequate to address technologies other than recycling and composting
 - Are these other technologies solid waste facilities?
 - Are they recycling or composting activities?
- What is appropriate permitting pathway?
 - No certainty for developers, MassDEP or other parties
 - Banging a square peg in a round hole
- What are the appropriate standards to apply?



Summary - Public Hearing Draft

- Structure:
 - Exempt activities – current exemptions plus new ones
 - Permits by Rule - small recycling, composting and conversion activities
 - Full permits - larger recycling, composting and conversion activities
- Raised current thresholds for some activities
- Expanded public comment process for permits
- Required compliance certifications for exempt activities



Public Hearings and Comments

- 5 public hearings held in December and January
- Received comments from approximately 42 people/organizations
- Many issues were raised and many detailed suggestions offered
- Made a number of changes to the regulations in consideration of the comments received



Major Areas of Comment

- Site Assignment vs. exemptions
- Controlling potential impacts of managing SSO
- Appropriate limits and controls on operations
- Public participation
- Appeal Process
- Enforcement
- Transition of existing operations



Basic Assumptions

- Facilities managing MSW must go through Site Assignment
- Materials that are pre-sorted are not considered MSW
 - Residuals remaining after separating recyclables from the waste are MSW
- POTWs managing SSO in addition to sludge in an AD unit are “adequately regulated” under BRP regulations and exempt from SW regulations
- Must ensure quality of both incoming pre-sorted materials and outgoing products
- Maintain standards of public health and environmental protection
- Provide for adequate public review and comment on permits



Site Assignment Issue

- Basic premise is that recyclables and source separated organics (SSO) are not solid waste
- Siting regulations have operated under this premise since 1990
- Therefore, operations managing recyclables or SSO do not require a site assignment
- General Permits and RCC Permits are limited to operations managing only recyclables or SSO



Public Process for RCC Permits

- Expanded the public comment process for RCC Permits
 - Parallels process used for other solid waste permits
 - Draft RCC permit issued
 - Public notice required, which starts 30 day public comment period
 - Public Hearing
 - Not required, but may be requested by:
 - Applicant
 - Town, through the BOS or mayor
 - Commissioner deems there is sufficient public interest



Public Process for RCC Permits

- Adjudicatory Hearings on final permit may be requested by:
 - The applicant
 - An aggrieved person
 - Group of 10 persons
 - The municipality in which operation is to be located
- Must be completed no later than 6 months after request for appeal is filed



Goal

- Establish levels of MassDEP review and oversight commensurate with environmental and public health issues



Site Assignment Exemptions

- Conditional exemptions
 - Operations and activities that do not need MassDEP oversight
 - Notification required for some activities
- General permits
 - Operations that are generally limited in size and/or have limited potential for nuisance conditions
 - Annual compliance certification will be required
- RCC permits
 - Larger operations requiring more direct MassDEP oversight
 - Permit application and review



Site Assignment Exemptions

- 2 types of exempt activities:
 - Very small operations handling solid waste
 - Small operations handling recyclables or organic materials
- These operations manage pre-sorted recyclables and source separated organics
- Expanded the list of exempt activities to include:
 - Activities at agricultural units – regulated by MDAR
 - Municipal food material collection drop-off <1 tpd



General Permits - Applicability

- For larger recycling and composting activities
 - Recycling operations <250 tons per day, not including paper
 - Composting operations:
 - Receiving no more than 105 tons per week and 30 tons per day of putrescibles
 - Aerobic or anaerobic digesters receiving no more than 100 tons per day of organics from on or off site



General Permits - Recycling

- Must submit annual certification that operation meets requirements established in the regulations, including:
 - No unpermitted discharges
 - Recyclable materials not contaminated by toxics
 - Products are marketable
 - Residuals do not average more than 15% (single stream) or 10% (other recycling facilities)



General Permits – Composting and Small AD Operations

- Must certify that operation meets requirements established in the regulations, including:
 - No unpermitted discharges
 - Maintains proper temperatures (if composting)
 - Implements an odor control plan and a vector control plan
 - Is located at least 250 feet from existing well
 - Ensures quality of organic materials coming in and products produced
 - No more than 5% residuals generated



RCC Permits

- For recycling, composting and conversion activities above General Permit thresholds
- Only recyclable or organic materials may be processed or converted under these permits
- Design and operation must be feasible
- Public review and comment period on draft permit



RCC Permits

- Added a number of application details and possible permit conditions to what was proposed in Public Hearing Draft
- Application and permit review includes:
 - Plans to address control of toxics coming in
 - Site information
 - Design and operation information
 - Vector and odor control plans
 - Contingency plans to address management of materials and products
 - Information on products and residuals



RCC Permits

- Permitting process:
 - MassDEP issues draft permit with conditions
 - Applicant publishes public notice of 30 day public comment period
 - Public hearing not required but may be requested
 - MassDEP issues final permit after the close of the public comment period or hearing, if one is held
 - Adjudicatory hearing may be requested
 - Must be resolved within 6 months



Transition of existing operations

- New or newly acquired operation qualifying for either a General Permit or RCC Permit
 - Submit compliance certification 30 days prior to commencing operation or acquisition of operation
- Existing exempt operations
 - Submit certification by Feb 15, 2014
- Existing DON operations
 - Continue operation in compliance with DON until expiration date or 5 years from effective date of regs, whichever is sooner



Alternative Use of Existing Site

- Modified 16.21 to:
 - Clarify that a recycling, composting or conversion operation at an assigned facility does not need a new or modified site assignment unless the activity cannot be conducted consistent with the current site assignment



Questions?

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