

	<b>OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION POLICY AND PROCEDURE</b>	DEPARTMENT OF ENVIRONMENTAL QUALITY						
<b>Original Effective Date:</b> December 17, 1998  <b>Revised Date:</b> June 24, 2011  <b>Reformatted Date:</b> November 5, 2012	<table border="1" style="width: 100%;"> <tr> <td colspan="2" data-bbox="513 260 1141 317"> <b>Subject:</b> Procedure for Consistency Determinations         </td> </tr> <tr> <td colspan="2" data-bbox="513 321 1141 390"> <b>Program Name:</b> OWMRP-Sustainable Materials Management Unit         </td> </tr> <tr> <td data-bbox="513 394 906 512"> <b>Number:</b> OWMRP-115-8         </td> <td data-bbox="909 394 1141 512"> <b>Page:</b> 1 of 3         </td> </tr> </table>	<b>Subject:</b> Procedure for Consistency Determinations		<b>Program Name:</b> OWMRP-Sustainable Materials Management Unit		<b>Number:</b> OWMRP-115-8	<b>Page:</b> 1 of 3	<b>Category:</b> <input checked="" type="checkbox"/> Internal/Administrative <input type="checkbox"/> External/Non-Interpretive <input type="checkbox"/> External/Interpretive
<b>Subject:</b> Procedure for Consistency Determinations								
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<b>Number:</b> OWMRP-115-8	<b>Page:</b> 1 of 3							

*A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law.*

### **INTRODUCTION, PURPOSE, OR ISSUE:**

The purpose of this operational memo is to specify the procedure to be used by the Office of Waste Management and Radiological Protection (OWMRP) in determining if a solid waste disposal area proposal is consistent with the approved county Solid Waste Management Plan (Plan).

### **AUTHORITY:**

Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 115)

### **POLICY:**

Section 11509 of Part 115, states that "...a person shall not establish a disposal area contrary to an approved solid waste management plan."

Section 11511(3) of Part 115 states, "...the department shall not issue a construction permit for a disposal area within a planning area unless...the disposal area complies with and is consistent with the approved solid waste management plan."

### **PROCEDURES:**

The OWMRP District Supervisor should forward a written request to the Sustainable Materials Management Unit (SMMU) Chief to initiate independent review by the DEQ for consistency with the approved Plan. This request should contain all the information necessary for SMMU Planning Coordinator (Planning Coordinator) to evaluate the proposal. Information should include the DEQ application, name, location, type of proposal, and the consistency findings made by the county, including the name of the person and the agency in the county that made the decision, the basis of that decision and, if available, the procedure used by the county to make the decision.

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

Number: OWMRP-115-8

Subject: Procedure for Consistency Determinations

Page 2 of 3

Information should also be provided that pertains to the basis on which the Plan requires consistency determinations to be made. For instance, if the Plan requires a facility to meet certain isolation distance criteria to be consistent with the Plan, include information that addresses each criterion so that the Planning Coordinator can review the information. This may include such information as isolation distances, design criteria, commitments by the developer, host community agreements, etc. The OWMRP district staff should coordinate with the Planning Coordinator to determine the extent of information needed. In some instances district staff may be required to submit written documentation stating that the disposal area meets all the siting criteria identified in the Plan.

The OWMRP District Supervisor should also e-mail or call the SMMU Chief and indicate whether he or she agrees with the county's determination.

Once received, the Planning Coordinator will review the information against the requirements of the approved Plan and determine if the proposal is consistent with the Plan. The review will compare the requirements of the approved Plan against the information provided by the OWMRP district staff.

A memo to the OWMRP District Supervisor outlining the results of these reviews will be prepared by the Planning Coordinator for the SMMU Chief's signature within ten working days of receiving the OWMRP district staffs written request, unless additional time to resolve relevant issues is needed. The memo will set forth the SMMU position on consistency and the basis for that decision. If the proposed SMMU determination differs from the determination made by the county, this issue will be reviewed by the OWMRP, Solid Waste Section Chief, OWMRP, Enforcement Section Chief and the OWMRP, Field Operations Section Chief. If OWMRP staff are in disagreement of the Planning Coordinator's opinion on consistency, the issue will be elevated to the OWMRP Chief before the memo is sent to the OWMRP District Supervisor.

The OWMRP district staff will rely on the SMMU determination of consistency in acting on a permit application. If district staff disagrees with the findings of the SMMU, follow-up coordination between district and SMMU staff will be needed with issues elevated through management, as appropriate, to resolve any disagreements.

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

Number: OWMRP-115-8

Subject: Procedure for Consistency Determinations

Page 3 of 3

**Renewal of a Construction Permit**

A construction permit may be renewed per Section 11511(2) of Part 115, prior to the expiration of the permit. A new determination of consistency is not required.

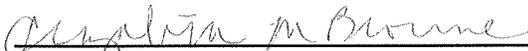
**Construction Permit Modification or Renewal of an Expired Construction Permit**

A construction permit modification or a renewal of an expired construction permit shall be processed in accordance with the same procedure that is used for a new construction permit. Thus, district staff shall forward a request to the SMMU Chief requesting review of the approved Plan to determine consistency. District staff shall forward any documentation needed for the Planning Coordinator to determine consistency with the approved Plan.

**APPENDICES:**

Flow Chart with Checklist

**OFFICE CHIEF APPROVAL:**

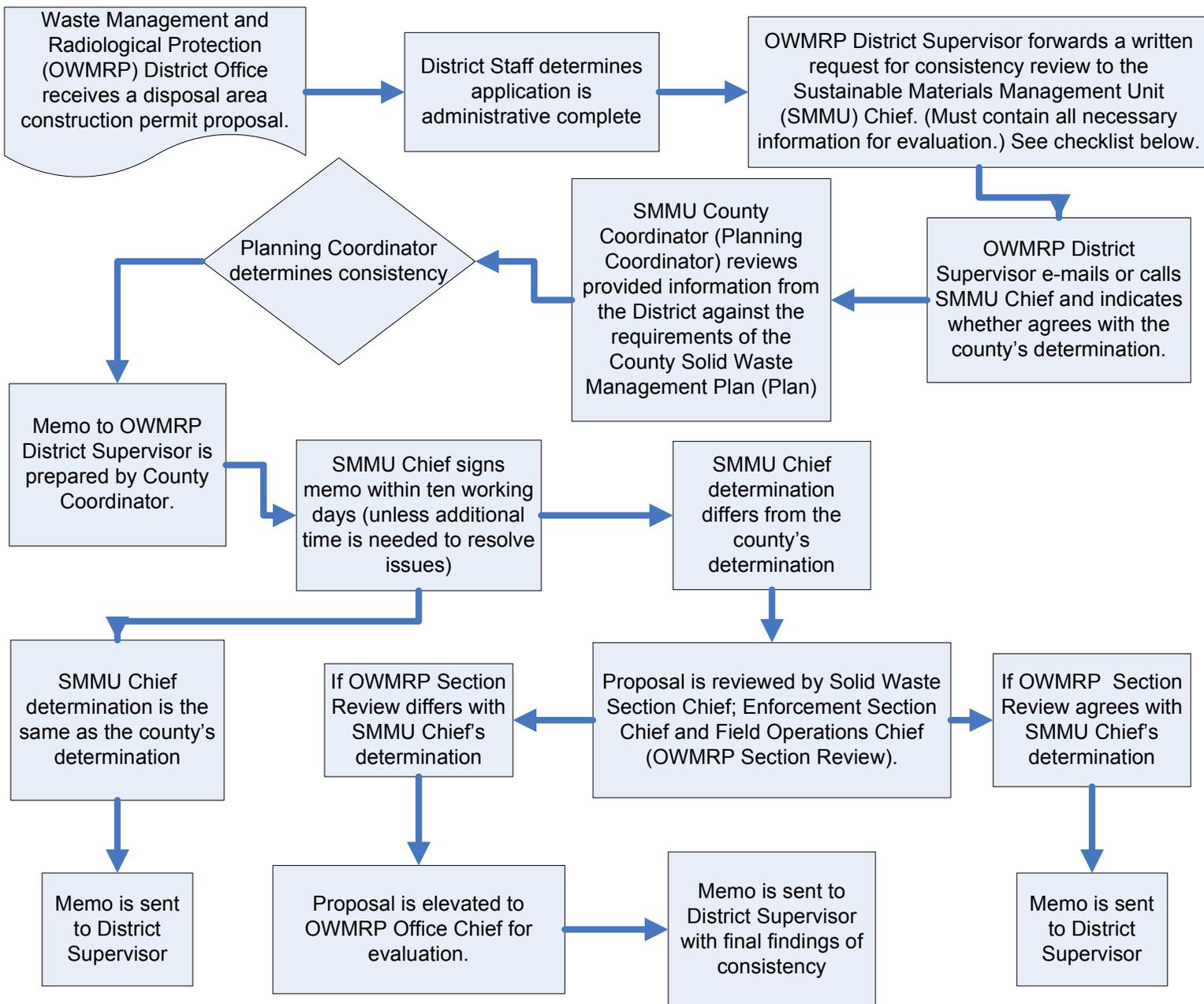


Elizabeth M. Browne, Chief  
Office of Waste Management and Radiological Protection



Date

# Consistency Determination Requests



## Check List

- DEQ Application
- Name/Location
- Type of proposal
- Letter of Consistency from the County
  - Name of person & agency that made the decision
  - Findings made by the county & basis of that decision
  - Procedure used by the county to make the decision
- Documentation of meeting specific isolation distances (if applicable)
  - Examples:
    - Maps
    - Isolation distances,]
    - Design criteria,
    - Commitments by the developer
    - Host community agreements, etc.)