

**Solid Waste Advisory Committee (SWAC)
Meeting Summary
July 16, 2010**

Participants		
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1) **Welcome and introductions.**

Overview of agenda

- Handouts:
 - Agenda
 - Draft May 7, 2010, Meeting Summary
 - SWAC Legislation Table
 - E-waste/Open Burning updates

Liane provided an update of the transition: The division is taking shape and now has a name; the Environmental Resource Management Division (ERMD). The ERMD will include the following eight sections:

- Field Operations
- Revolving Loan
- Enforcement
- Hazardous Waste

- Solid Waste and Land Application
- Radiological Protection (may go to Department of Community Health, which is a better fit as they do not deal with anything but human health).
- Drinking Water and Environmental Health (campgrounds, pools, community water supply, noncommunity water supply, well construction, sourcewater protection)
- Office of Geological Survey

When the organizational charts are finalized they will be shared with the group. The overall size of the Department of Natural Resources and Environment (DNRE) will more than double, going from 150 full-time equivalents (FTEs) to 360 FTEs, which will increase the administrative expenses.

Citizen Advisory Councils are on the same track as the Regional Director positions. Interviews have begun for these positions, and movement is expected on the Citizen Advisory Councils by the end of the year. It was noted that environmental interests will now be included for Citizen Advisory Council considerations. It was also noted that advisory groups such as the SWAC should not be affected by these developments.

Budget Update:

There is no activity to report, only that conference committee members have been named but no meetings have been held. The Solid Waste Program funding should not be impacted in conference committee discussions as it is the same in both proposals- the use of a Perpetual Care Account “patch” to fund the program through the next fiscal year. The Solid Waste Program has several vacancies that will not be filled, however work on our waste database is continuing. Also some e-waste money has been spent on solid waste staff working on the e-waste program. A reminder was made that the SWAC will revisit fee discussions beginning in the fall (for FY12) as a proposal will be submitted to the Department of Management and Budget by early December. Liane noted that although we as a Solid Waste Program are not willing to give up on prospect of using holistic fee for the DNRE, realistically the ERMD will need to propose a fee structure similar to what was presented in the past (increased per/ton fee).

It was also noted that the cost allocation for administrative costs associated with the recombination of the DNRE, as well as Executive Division, Department of Information Technology, and building costs have not been provided from the DNRE yet. More information on these costs will be shared at the November SWAC meeting. It was asked how an “early out” or other retirement proposal would affect the Solid Waste Program. The DNRE could be hugely impacted as approximately 450-500 people may be eligible under proposed legislation. It is also unknown how many positions would be filled as people retire. It was asked that proposed fees and other budget information be shared before the November meeting so that SWAC members may discuss the proposal with their own members. ERMD staff will send information to SWAC members as it is available, but SWAC members should not expect to see any hard numbers before the September meeting.

The SWAC was asked for their thoughts on expanding fees to other facilities such as

Material Recovery Facilities (MRFs) and/or compost facilities. This option has been discussed in the past. Some members expressed concern that composting and recycling programs should be expanded if these fees were expanded. It was also noted that there is more movement by corporations to divert materials from landfills. Because of this diversion, more businesses are being established to deal with different types of waste (e.g. shingle recyclers). Some SWAC members believe that this movement will only continue and that the DNRE will be responsible for regulating these facilities as well as landfills and it is only fair that fees be extended to these facilities as well. It was also noted that fees can be used for different reasons. One way fees can be used is to discourage certain behaviors; the other is to fund regulatory programs. Some SWAC members are supportive of fees to support regulatory activities at facilities such as MRFs, but not to discourage behavior such as on landfills. ERMD staff noted that the Solid Waste Program is not changing- any additional programs that join ERMD will not use solid waste funding. ERMD staff also wants to make a distinction between fees to support the Solid Waste Program and fees such as \$7.50 surcharge to increase programs, etc.; FY12 budget and fees will be for existing core programs, not for any program expansion.

A SWAC member raised a question about the Waste Data System (WDS) database rewrite- ERMD staff gave a quick overview of the WDS database including that it is used by the Hazardous Waste Program, Solid Waste Program, and Scrap Tire Programs and that funding comes from each of these different funds. The WDS database currently houses data pertaining to the annual report, perpetual care fund, surcharge, permits, and licenses from solid waste disposal areas in the state as well as other hazardous waste and scrap tire information. The re-design of this outdated database is a \$1.2 million project and has been in the works for many years. The re-design will add modules such as utilization and compost registration information, and staff will now have the ability to add information such as traditional recyclables, industrial byproducts, etc. ERMD staff currently does not have the ability to add or make changes to the database.

2) **Approve draft meeting summary.**

No comments or changes were made to the May 7, 2010, meeting summary. The "draft" watermark will be removed from the notes and posted on the Web site.

3) **Standing Agenda Items:**

- a) **Legislative Update:** Steve gave an overview of some legislation that is a priority for the DNRE, although there has not been much activity since the last SWAC meeting. Highlighted legislation included:
 - i) Planning lite amendments which have not all been introduced but the DNRE will still be trying to move this year. (HB 4371 has been the only one introduced).
 - ii) HB 4459 Medical Waste: this legislation came out of a workgroup with medical waste stakeholders. May move still- passed out of house. Companion to HB 4458 that would regulate accident scene.

DNRE does not support the following bills:

- iii) HB 5334/SB 725 (Grass to Gas): A legislative workgroup was formed, it has been heard that demonstration projects are a possibility.
- iv) HB 5558/HB 5559 (\$7.50 surcharge): A workgroup was held with Rep. Roberts in January to figure out how the revenue will be spread out among communities/programs, although nothing has happened since.
- v) HB 6059: prevents the DNRE from passing Open Burning Rules under Part 55.

SWAC members expressed interest in addressing generator bans: sharps, pharmaceutical waste, nanotechnology products, and under what circumstances the DNRE would be able to support generator bans or product stewardship bills.

b) Rules Update:

- i) Open Burning: Staff has been responding to comments received in public comment period- less than 100 comments were received. Not many comments were received overall, possibly because the ban did not include burning leaves and grass (as was the case in New York, who saw thousands of comments). Staff is in the process of working on a database to assure all residents have access to curbside waste pickup which right now looks like all residents DO have access to curbside pickup. The database of locations will be released to the SWAC for review (when?). Staff is also looking at potentially creating coordinated drop-off sites, bag services, etc. This type of coordination across the state including local units of government would raise regulation questions as far as it potentially being a Type B transfer station and may have planning implications. Staff have also looked at cost data for rural curbside pickup which has ranged from \$300/year but usually falls to around \$200/year. The current outreach strategy is running parallel to the comment response. Information will be provided to local units of government including enforcement information. Staff is also developing articles that can be shared when the rules go out, which will be separate from the rulemaking process.
- ii) Compost and Inert Rules: The rules package has gone up to the Executive Division and should be up to SOAHAR next week. The workgroup will see the package when they go up to SOAHAR although only minor revisions have been made since the workgroup met.

One recent change in the proposed rules is the addition of accumulation requirements for inert materials under Rule 114. The current rules exempt the use of inert materials from the construction permit and operating license requirements, but are silent on storage and processing prior to use. A recent case in the City of Detroit is forcing the issue for accumulation of asphalt millings. The DNRE does not intend to take enforcement action against piles of crushed concrete, asphalt, and similar inert materials that are being accumulated prior to use. Until a rule change clarifies the ability to accumulate the materials, the DNRE intends on issuing a site/source

separated material exemption to enable the storage of inert materials such as crushed concrete, asphalt, etc.

There was some concern expressed regarding the exemption including numerous conditions that the site must meet. These conditions, which are “boilerplate” conditions contained in all exemptions issued by the DNRE, are “freaking out” the recipients of the exemption. It was suggested that the exemption be changed to say something more along the lines of “designation does not preclude other laws...” rather than make compliance with them a condition. ERMD staff indicated that some of the conditions could be revisited, but that the condition that says the storage cannot cause the creation of a Part 201 facility needs to remain.

The committee also discussed a rising problem with shingle recycling. One site that had a designation of inertness ended up over accumulating due to a contract issue. The site is now under escalated enforcement by the DNRE. The committee offered suggestions to avoid this problem such as asking the Department of Transportation to change their road specs to include shingles in road projects. It was also suggested to ask the Governor to create an Executive Order to change road specs to include shingles, similar to an Executive Order issued by Governor Blanchard in the 1980’s.

- c) **Operational Memo Update:** Several operational memos that were previously shared with the SWAC are still in process. Stakeholder input will be requested as additional operational memos are developed or updated.
 - d) **E-waste Update:** 62 electronics manufacturers have paid the registration fee and 14 e-waste recyclers have paid the registration fee. Total registration fees received \$214,000. Fifty-seven of the manufacturer registrations are administratively complete. All 14 of the recyclers are administratively complete. Manufacturers and recyclers have been informed of their status (administratively complete or administratively incomplete). The list of administratively complete registrations and scanned versions of the registrations are available on our Web site. An article informing retailers of their obligations was sent to retailers associations. The Electronic Waste Advisory Council (EWAC) has been named, but no meetings have been set. The EWAC is required to submit its report in April 2012.
- 4) **Update from Measurement Subcommittee:** The operational request for proposal (RFP) deadline has passed- MRC was the only proposal submitted. The next step will be soliciting a funding source as no funding has been allocated through the state. Subcommittee will be meeting and will discuss utilization- looking at lifecycle analysis/ end of life energy/practice.

Financial Assurance Subcommittee: A note was sent out to everyone who volunteered to participate and a conference call will be set up for participants to discuss their approach. It was asked if the Environmental Protection Agency (EPA)

has done any of the “heavy lifting” as far as financial assurance. EPA has done some work, primarily focusing on RCRA Subtitle C requirements, and some of those studies will be made available to the subcommittee.

- 5) **Planning Discussion:** This agenda item was brought up as a result of discussion at our previous meeting regarding the planning process going forward with a Plan update. It was noted that the DNRE has limited resources as do the counties. The SWAC was reassured that Planning has not been ignored; the DNRE just does not have the resources to complete a Plan update at this point. ERMD staff is currently preparing a comprehensive issue paper presenting the pros and cons of calling for a Plan update, although staff is leaning towards not calling a Plan update immediately, and waiting for planning lite amendments to be passed. It was noted that the DNRE could call for the update now, and five years from now we may still not have updates completed because we did not get the planning lite amendments approved which include tighter timelines. It was asked if a fast track amendment process is still in place. Staff noted that many of the planning lite amendments would eliminate the need for a fast track process. It was also noted that many counties have amended their plans, as they are allowed to do a comprehensive amendment at any time. However, most counties are amending specific provisions (adding transfer stations, import/export authorizations). A committee member requested a new comprehensive list of import and export tables. Staff indicated it may be posted online with a disclaimer that the actual Plans should be checked. It was asked if additional staff would be funded if the planning lite amendments were passed and if so, how would the additional staff be funded? ERMD staff noted that there is currently not enough staff to implement the planning lite amendments and additional planning staff would be considered as part of the core program if these amendments were passed. It was also noted that a holistic fee that would provide additional funding would add additional staff with additional programs. Committee members asked who is drawing the lines between maintaining current levels and making a “wish list” of program needs. If planning lite passes this fall then it would be easier to ask for one more FTEs in the budget and consider it fulfilling “core” programs. If planning lite does not pass, the ERMD would not feel comfortable asking for another FTE for planning. Is it possible to share a version of planning lite?
- 6) **Agenda Items for Next Meeting:** Generator responsibility for bans: understand limitations on DNRE for supporting - look at mercury for example; funding.
- 7) **Next Meeting Date:** Meeting Friday, September 10th from 9:00 am – 12:00 pm