

COMMENT RESPONSE DOCUMENT

DOCUMENT NUMBER: GENERAL PERMIT WMGR025

RESIDUAL AND MUNICIPAL WASTE COMPOSTING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT
DIVISION OF MUNICIPAL AND RESIDUAL WASTE**

01-28-08

LIST OF COMMENTATORS

1. **Pennsylvania's Alternative Manure Utilization and Treatment Sub-Committee.**
2. **Gannett Fleming, Inc.**
3. **Professional Recyclers of Pennsylvania.**
4. **Gina Miller (Citizen).**
5. **Elizabeth Creedon and Eric Wiediger (Together- Resident).**
6. **AgRecycle.**
7. **PennState (College of Agriculture- Rick Stehouwer).**
8. **RT Environmental Services, Inc.**
9. **Pennsylvania Environmental Network.**
10. **PennState (Organic Materials Processing and Education Center–Nadine Davitt).**
11. **North Whitehall Township.**
12. **Melissa Armstrong (Citizen).**
13. **Jane Garbacz (Citizen).**
14. **AI Rattie (USCC STA Program Administrative/Technical Manager)**

A. Description:

1. Comment: To clarify the beneficial uses covered by the permit, Line 7 should appear as follows (changes are underlined):

“The beneficial uses of the finished compost approved in this permit are for the use, marketing or distribution as a soil substitute, soil conditioner, soil amendment, fertilizer, or mulch.” (1)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

2. Comment: This proposed general permit needs to include the composting facility definition. Providing a definition clarifies permit terminology and the applicability of permit requirements and conditions. Additionally, the terminology for composting facility needs to be used consistently. Unless properly defined, facility and composting facility should not be used interchangeably.

“The composting facility shall include all storage areas, the composting and curing areas, and the finished compost storage area (other than areas storing bagged product for retail sale).” (1)

Response: The term “composting facility” is defined in the municipal and residual waste regulations and would include all composting, storage areas and curing areas, but based upon the general permit would not include areas where bagged product is being stored as the product would no longer be considered a waste. See the Department’s definition at 25 Pa. Code §287.1 or §271.1.

3. Comment: The regulatory definition of water source should be included or referenced to clarify that water source includes both public and private water supplies. (1)

Response: The Department’s regulatory definition of “water source” found in the municipal and residual waste regulations makes no distinction between public or private water sources, so both are encompassed in the definition.

4. Comment: The criteria for determining when compost ceases to be a waste should be clear and easily understood by the applicant and the general public. (5) (9)

Response: The permit has been modified to indicate the finished compost is not considered a waste when it has satisfied the conditions of the permit and is ready for use, marketing or distribution as a soil conditioner, soil amendment, fertilizer, mulch or for erosion control.

5. Comment: To ensure that composting sites remain facilities that are producing quality products for end user markets, we encourage your Department to stipulate

that only source-separated waste be allowed to be accepted at composting operations. If not, we foresee not only the quality diminishment of compost finished products but also substantial issues regarding site litter maintenance, overall cleanliness and possible contamination issues. (6) (7)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

6. Comment: Please define the term “whole animals”. Due to the proximity of residential neighborhoods to parcels of land where this operation could and does exist, the concern over excessive odors and health risks should be considered. (11) (13)

Response: The term “whole dead animals” has been removed and replaced with the term “mortalities”.

7. Comment: Beneficial uses of compost should include erosion control. Compost used as a form of erosion control has proved to be beneficial and should be encouraged by DEP. (10)

Response: The Department agrees with this comment and has revised the list of end uses to include erosion control.

8. Comment: Does the proposed general permit WMGR025 incorporate the previous waste streams and conditions of the past general permit WMGR025? (9)

Response: The revised general permit WMGR025 includes the waste streams and applicable conditions of the previous WMGR025.

9. Comment: What is pre-consumer food waste and what is post-consumer food waste. (9)

Response: Pre-consumer food waste includes waste from the marketing or preparation areas of grocery stores, restaurants, cafeterias, etc. and would include such things as vegetable parts or non-marketable fruits. Post-consumer food waste includes waste that remains after consumption and is discarded from cafeterias, restaurants, households, etc.

10. Comment: Can compost produced under the permit be used to remediate brownfields or other kinds of land, including mine land? (9)

Response: Finished compost produced under the permit is not a waste and may be used in accordance with generally accepted practices provided its use meets other federal and state laws and regulations and the requirements of other programs within the Department of Environmental Protection.

11. Comment: Under GP 25, “paper” is allowed for composting, which does not specifically support DEP and EPA tenets for “highest and best use” of recovering paper. Consider alteration to this phrase in GP to clarify this reference to non-recyclable paper and fiber. (3)

Response: It is not expected that paper will be diverted from recycling operations for use at composting facilities operating under this general permit. Historically, paper has been added to the composting process when recycling options are not economical or practical.

12. Comment: According to DEP’s website, WMGR046 allows additional waste streams not mentioned in the proposed general permit. Will the waste streams that are not mentioned in the Draft be included in the final WMGR025? (9)

Response: No. WMGR025 only allows for the composting of the organic wastes approved in WMGR046 such as agricultural waste, paper mill sludge, food processing waste, spent mushroom substrate and yard waste. General permit WMGR046 also allows for the processing or mixing of other wastes, such as coal ash and drinking water treatment sludge, with compost to produce a manufactured soil.

13. Comment: Contaminated soil should never be incorporated into compost. Regulated fill must be excluded. (13)

Response: The Department agrees that regulated fill may not be accepted under the general permit. Only those waste streams identified in the general permit may be composted at the facility.

14. Comment: The Department states that “The beneficial uses of the finished compost approved in this permit are for the marketing or distribution as a soil substitute, soil conditioner, soil amendment, fertilizer or mulch.” How do each of these differ? Definitions of each should be included. Precise language must be used. (13)

Response: The term “soil additive or soil substitute” is defined in the municipal and residual waste definitions. To the extent that terms are not defined in the regulations, the standard accepted industry definition for those terms should be utilized.

15. Comment: Can blood be mixed with the compost? (9)

Response: Yes, butcher waste (residual material generated from the processing or butchering of animals) may be mixed with the compost. Butcher waste may contain blood.

16. Comment: Is manure from Concentrated Animal Feeding Operations (CAFO) considered the same as manure from family farms? What is the definition of manure and can't it be mixed with other things and still be called manure? Will CAFO waste be allowed under the permit? (9)

Response: Manure is defined as "a waste that is produced by animals at the farms". Based on this definition, manure from a CAFO operation is the same as animal manure from family farms. Thus, manure from a CAFO operation may be accepted under this permit. Manure mixed with other waste is not to be considered manure by definition.

17. Comment: Are dredge spoils allowed under the permit to be part of the compost? If so, please define "dredge spoils". (9)

Response: No. Dredge spoils are not an acceptable material under this general permit.

18. Comment: Is human waste allowed to be utilized under the permit? (9)

Response: No. Human waste, also referred to as "sewage sludge" in the municipal waste regulations, may not be accepted under this general permit.

19. Comment: How exactly can anyone tell if there are prions in the waste? Prions should be of concern. How does this permit fit in with the CWD Plan in Pennsylvania? (9)

Response: The general permit has been revised to require that butcher waste to be composted be free of diseases. This general permit does not reduce the frequency of testing or visual inspection required by other State and Federal agencies.

20. Comment: Will the use of compost created by operators under this permit preclude land from obtaining organic certification? (9)

Response: Whether or not land is precluded from obtaining "organic" certification will be determined by the various relevant "organic certification" boards or agencies that have been established.

21. Comment: The entire Pennsylvania Fertilizer Act should be included within the body of the permit. (9)

Response: The Pennsylvania Fertilizer Act can be changed by the PA Legislature at any time. Thus, the Department believes the inclusion of this entire Pennsylvania Fertilizer Act in the body of the permit is unnecessary and serves no useful purpose. The Fertilizer Act and all other environmental statutes are readily available from various Commonwealth sources.

22. Comment: What does DEP mean by “pathogen control”? What pathogens could be in this material? (9)

Response: “Pathogen control” refers to the elimination or reduction of disease causing organisms or substances that may be present in the compost material. Whenever animal manures and body parts are utilized, there is a potential for pathogen contamination. The required elevated composting temperatures and retention times are designed to ensure the destruction of any potential pathogens that may be present.

23. Comment: Can out-of-state wastes be used under this general permit? Please explain how this is so, and under what conditions. How can it be determined what is in such wastes? (9)

Response: Out-of-state wastes may be composted provided the requirements of the permit are satisfied and the finished compost material meets the metals limits as specified in Table 1. It is the responsibility of the permittee to determine if feedstocks accepted at the facility meet all the requirements of the permit.

24. Comment: Will irradiated food and wastes be allowed under the permit? Will cloned animal wastes be allowed under the permit? Will pharmaceuticals and the specially designed materials and plants they are grown in be allowed? (9)

Response: This general permit authorizes only the composting and beneficial use of waste materials as specified in Condition A of the permit. Wastes that are not listed in Condition A of the general permit may not be accepted for composting and beneficial use activities authorized under this permit.

25. Comment: How many different types of materials need to be composted at once? In other words, is it permissible to compost only one type of material? Or is it necessary to mix at least X number of other items on the list of allowable feedstocks? (9)

Response: The permit does not require a minimum number of allowable feedstock types to be composted at any one time. Thus, it is permissible to compost only one type of material.

26. Comment: The commentator questions the need for DEP and other governmental agencies to suggest that consolidation and streamlining are good things. What good is including the public in decision making and rushing around moving pollution from one place to another and calling it “beneficial”. Commentator believes that this proposed general permit is a cheap, sloppy, lazy solution regarding the management of polluted materials and other materials that may be polluted, and that public health and the safety of the food supply are thereby threatened. (9)

Response: The Department respectfully disagrees.

B. Determination of Applicability Requirements:

27. Comment: "Determination of Applicability Requirements", it should be noted that anyone previously running a facility that has had any previous violations should not be granted the general permit. There should be a designated party that is going to inspect the facility at least every 6 months. Anyone not complying with the guidelines should be ordered to cease operation and come into compliance. (12)

Response: The Department performs a compliance history check of each applicant before issuing a permit, Determination of Applicability or Registration. Ordering a facility to cease operations and permit revocation are two of the enforcement tools available. Inspection frequency is an enforcement issue outside the scope of the general permit. However, Section 287.421 of the residual waste regulations requires that general permit facilities be inspected at least once a year. In addition, the inspection frequencies for composting facilities are determined by complaints by the public and priorities set by the Department and its regional offices.

28. Comment: The commentator questions the general permitting process as the best avenue for regulating applicants for WMGR025 as well as the other composting general permits. Besides being a huge burden on DEP staff members, the complexity of the issues is enormous. I believe that the only answer is to have individual permits under stringent regulations – especially when the eventual result of the composting process is that all contributing feedstocks will be dewasted. Should the present regulations be inadequate, amendments should be made to protect the public and the environment. (13)

Response: The Department believes that the general permitting process is an effective and efficient approach to regulate the size and nature of the composting and beneficial use activities approved under this permit.

29. Comment: The permittee must be required to allow the staff of the Departments of Agriculture, Fish, Game, Health, Soil Conservation District, and other county and local government agencies onto the site to collect whatever information (including samples of air, leachate, groundwater, compost etc.) that they require in order to investigate the permittee. (9)

Response: An applicant for Registration under the general permit must provide a Form E-GP, "Contractual Consent of Landowner". This allows the Department and its agents to enter the site for inspection and site evaluation as necessary. Other agencies may access the facility with DEP personnel, seek permission from the landowner, or utilize any other legal authority that may be available to them.

30. Comment: The proposed general permit states that DEP “may” modify or re-issue the permit if it deems it necessary. Commentator states that in the event the permit is modified or re-issued the public should again have the opportunity to offer comment. (9)

Response: If the general permit is reissued or a major permit modification is initiated, public notice will be provided in the *Pennsylvania Bulletin* and a public comment period will be provided.

31. Comment: The public should be made aware of all past citations, fines, arrests, and criminal records of the owners, operators, suppliers, marketers, etc., associated with each composting facility. (9)

Response: The registration application requires a copy of Form HW-C (Compliance History) be submitted by the composting facility operator. This is public information and may be reviewed by the public through a file review.

32. Comment: GPs prevent public participation and pre-empt local government’s right to participate in the decision making process. (9)

Response: The Department disagrees with the commentator. All new general permits undergo a 60-day public comment period. Applications received are also published in the *Pennsylvania Bulletin*. In addition, applicants are required to provide written notice to the host municipality and county in which they intend to operate.

C. Facility Construction and Management:

33. Comment: There are regulations for landfills regarding design, liners, leachates, air pollution, gas management, monitoring, etc. With this compost, there don’t appear to be such rules. If there are, what are they? (9)

Response: The concepts of landfilling and composting are significantly different. Landfills are designed for the long-term containment of waste. The composting process rapidly converts organic material into a product that can be beneficially used. The final general permit includes conditions or restrictions to address issues that may be common to both types of facilities. For example, there are conditions in the general permit relating to leachate collection and treatment, setback distances, compliance with air quality regulations and testing of the finished compost.

34. Comment: Would the provision include a stream that ultimately enters a waterway used as a drinking water source? (11)

Response: No. The isolation distance applies to the actual site or location of a water supply intake used as a drinking water source.

35. Comment: The permit states that a composting facility shall not be located within 300 feet of a water source unless the owner has provided a written waiver consenting to the facility being closer than 300 feet. Why does one landowner have so much power over the groundwater? What about those parties who utilize the groundwater but do not own it? (9)

Response: The waiver does not deal with groundwater ownership. The waiver allows the facility to be operated closer to the water source but does not allow the operator to impact the groundwater, regardless of who uses it.

36. Comment: Under this proposed general permit, the distance of 300 yards to a building owned by a school district, park, playground should be changed to 1 mile as there will be odors coming from the facility and some children may have asthma or other health issues. Allowing a facility to be located as close as 300 feet to an occupied dwelling should be changed to a distance of 1 mile. It appears the required separation distance is to be measured from the dwelling itself. May we submit that a 500-foot buffer from the structure be more appropriate? Alternatively, a 300-foot separation from the residential lot line could be considered. Section “i” considers a 300-yard separation. Is this by design? Under the proposed permit, the facility may not be located within 300 feet of an occupied dwelling unless the owner has provided a written waiver of consent. I would propose that a 3-mile requirement be instituted. (4)(11)(12)

Response: The isolation distance of 300 yards to a building owned by a school district, park, or playground is statutory language as specified in the Municipal Waste Planning, Recycling and Waste Reduction Act. The isolation distance of 300 feet to an occupied dwelling is a regulatory standard contained in the residual waste regulations. The Department believes that the setbacks required are appropriate and protective of human health and safety for this type of facility.

37. Comment: The permit states that a composting facility shall not be located within 300 feet of a parochial school, park, or playground. What about a non-parochial private school? Also, what about outside buildings, e.g., a shed for outdoor toys—is that considered “instructional” included within the isolation distance restriction? What about a college? Are recreational/playing fields considered playgrounds? What about a trail? The locations of exclusion where composting facilities cannot be located is too restrictive, as many small towns have no place where materials can be composted. (8) (9)

Response: This isolation distance requirement is statutory language as specified in the Municipal Waste Planning, Recycling and Waste Reduction Act. Buildings are limited to those used for instructional purposes. Parks are a parcel of land that is preserved for public recreation or an area maintained in its natural state as a public property administered by federal, state, county or local government. Sports fields and trails may be considered parks if they fall within that criteria.

38. Comment: Except where there would be violations of other environmental permits or statutes or unless other permits are required, the location restrictions should be waivable with municipal consent. (8)

Response: The isolation distances contained in the general permit are considered necessary to ensure proper operation and provide for protection of public health and the environment. Waiver provisions have already been included in the general permit as appropriate.

39. Comment: The minimum 2% pad slope may prove to be restrictive in some cases. Consider providing the latitude to allow less than 2% slope, provided sheet flow of water can be demonstrated. (10)

Response: The 2% minimum slope requirement has been deleted. The final general permit requires the composting pad be sloped to prevent the ponding of liquids.

40. Comment: The first sentence should include an allowance for controlling depth to the water table with sub-surface drainage. (1)

Response: The Department disagrees with the commentator. Artificially lowering the water table introduces engineering and geotechnical considerations outside the scope of this permit.

41. Comment: The specific compost pad construction materials listing should be eliminated and replaced with language specifying that the construction material must have a permeability no greater than 1×10^{-6} cm/sec. (1)

Response: The Department disagrees with the commentator. The Department has experience with the compost pads made of the man made materials listed and believes they will meet the performance standard of being able to collect all liquids generated by the process. Where the pad construction material may be more variable as in the case of earthen pads, the general permit continues to maintain the permeability standard and requires verification testing.

42. Comment: The existing standards refer only to uncovered composting facilities and do not provide standards for permanently covered composting facilities. It is recommended that the following language be added to account for permanently covered composting facilities:

“Permanently covered composting facilities with construction and practices designed and certified by a licensed professional engineer as controlling leachate and runoff according to Department of Environmental Protection standards will not have to meet the construction standards provided within the general permit for uncovered composting facilities unless directed by the Department.” (1)

Response: The Department disagrees. The general permit conditions apply to both uncovered and enclosed facilities to the extent applicable.

43. Comment: References to within vessel composting standards must be separate from the compost pad standards. (1)

Response: The Department agrees and added design criteria for the composting vessel.

44. Comment: Allowances for groundwater monitoring based on the use of specific compost pad construction materials should be removed. (1)

Response: The Department agrees with the commentator and has removed the groundwater monitoring requirements from the permit.

45. Comment: Most composting facilities, if properly operated, do not require the costly construction of paved or concrete pads and runoff collection ponds. Requiring the construction of expensive pads and stormwater controls is likely to discourage future leaf composting facilities. We recommend that compacted soil also be permitted. (8)

Response: Facilities that only compost leaf waste are not required to apply for coverage under this permit. Additionally, the permit construction standards are not as restrictive as described by the commentator. The permit does not require the use of asphalt or concrete pads. Earthen pads may be used if they are no more permeable than 1×10^{-6} cm/sec.

46. Comment: The proposed general permit allows earthen pads as composting pads. Earthen pads are unacceptable. The small, uniform size of materials being composted will increase the surface contact area and create a tea-bag effect for rain/snow or liquids already included in the composting materials. These liquids will percolate down through piles placed on bare earth or through contact with surface/groundwater and create point source toxic leachates that must be individually permitted, monitored and disposed of in a licensed facility for processing. Placement of composting materials on bare ground is a plan for water contamination. The provision that allows the site surface to be "an earthen pad that is no more permeable than 1×10^{-6} based on field testing" has the potential to open the door to poor site maintenance due to freeze/thaw cycles in Pennsylvania weather and to allow soil to be mixed with the compost inappropriately during the active composting phase. A qualifier might need to be added assuring that this pad is of a certain depth and checked regularly. (6) (3) (9)

Response: The Department has found that earthen pads are acceptable provided that they achieve 1×10^{-6} cm/sec. permeability. In addition, the pad must be sloped to prevent ponding. The Department has amended the general permit to

reflect the suggested change, adding that the permeability requirement refers to the uppermost six inches of the pad.

47. Comment: The proposed general permit states that the composting pad must be capable of containing all liquids and solids generated by the composting process. What about those liquids and solids that were brought to the site with the wastes that make up the compost? What happens to all these liquids and solids? What is their fate? (9)

Response: The construction of compost pad is required to contain all liquids and solids generated by the composting process. In addition, the pad is required to address the permeability and to eliminate or prevent ponding, and excessive wetting of the processing, curing and storage areas from storm water run-on at the facility, leachate, and all liquids and solids generated during the production of compost.

48. Comment: Groundwater monitoring must be mandatory. In the event of a release to groundwater, who is supposed to remediate the problem? (9)

Response: When composting operations are conducted in accordance with the conditions and provisions of the general permit, groundwater monitoring will not be required. However, the Department maintains its regulatory discretion to require a water quality monitoring plan, including groundwater monitoring wells, if it is determined that the facility operation poses a threat to surface and groundwater resources in the area.

49. Comment: I think it is important for the facility to have a gate or barrier to block unauthorized access to the site when the facility is not operating. (4)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

50. Comment: The proposed general permit may be desirable to specify the road be compacted. (11)

Response: The Department agrees with the commentator. The word "compacted" will be added to this condition for the access road construction.

51. Comment: What will happen to leachate that is collected? Will leachate be tested? Can leachate be generated from the storage of the finished product? If so, must such leachate be managed in the same way as leachate generated by the composting? (9)

Response: The collected leachate may be stored for reuse or treatment on-site or transported off-site for treatment or disposal. The leachate may be tested if required by the receiving wastewater treatment plant. Leachate, if generated, from

the staging, storage, curing, and processing areas of the waste materials intended for beneficial use in the production of compost will be managed the same way.

52. Comment: The proposed general permit states that leachate may be managed by an alternate method approved by the Department. Commentator is opposed to adding things like this into a general permit without public input. If there are alternatives, the Department should spell them out. (9)

Response: The permit was revised to clarify the Department's intention as follows: storm water runoff and leachate, if generated, from the staging, storage, curing, and processing areas of the waste materials intended for beneficial use in the production of compost shall be managed in accordance with The Clean Streams Law and regulations promulgated thereunder. All necessary permits for the management of leachate at the facility must be obtained prior to beginning composting operations.

53. Comment: The distribution of leachate to a vegetative filter should be considered an acceptable method of treatment. (10)

Response: Distribution of leachate to a vegetative filter may be considered an alternative management method if determined acceptable by the Department.

54. Comment: The stormwater language needs to be clarified to indicate that storm water discharges need to be managed according to a stormwater management permit. (1)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

55. Comment: The stormwater language needs to be replaced with the following language.

"Surface water controls shall be based on a 25 year 24 hour storm." (1)

Response: The Department disagrees that the specific storm frequency needs to be stated in the permit. The general permit requires that stormwater be managed in accordance with the Department's Bureau of Water Management stormwater management program.

56. Comment: The surface water and engineering controls in the permit need strengthening. In Conshohocken, I have already lived through several storms that were supposed to happen once every 500 years. Using a 25-year storm requirement is preposterous. (13)

Response: The final permit now indicates that Best Management Practices shall be implemented to divert storm water run-on from the facility. Storm water runoff

shall be managed in accordance with The Clean Streams Law and regulations promulgated thereunder. Prior to beginning construction at the facility, the operator must obtain all the necessary storm water management permits.

57. Comment: According to your permit, incoming waste must be incorporated into the composting process within 72 hours. If this is true, why do you not require that the facility have on hand required equipment (i.e. screener) and manpower to ensure compliance before granting any such permit? (4)

Response: The facility is required to incorporate any waste material, other than land clearing and grubbing material and yard waste, in the composting process within 72 hours of receipt. If the facility fails to meet this condition then it would be in violation of their permit and subject to enforcement actions. Accordingly, the facility must have on hand all necessary equipment to meet this requirement.

58. Comment: All storage under the permit should be in an enclosed building, not just under roof. (9)

Response: Not all waste needs to be stored in an enclosed building at composting facilities. For example, yard waste and clearing and grubbing waste properly stored outdoors do not present a threat to public health, safety or the environment. Some of the waste types approved for acceptance in the general permit have special storage requirements, such as storage in tanks or incorporation into the composting process within 24 to 72 hours.

59. Comment: Leaves need to be added to the list of materials excluded from processing within 72 hours requirement. Leaves are a stable and valuable carbon source that can be successfully stockpiled. (10)

Response: The Department agrees with the commentator. The final permit has been revised to exclude leaf waste from the 72-hour rule.

60. Comment: The management requirement of pre and post consumer food residual and butcher wastes needs to provide the latitude to have materials dumped into a receiving area that is constructed of an impervious surface but not a closed container. If the materials are received in an open area, the feedstocks must be incorporated by the end of business of the day delivered. (10)

Response: The Department agrees. Under the permit, the storage requirements of 25 Pa. Code §§299.121-122 (relating to containers and storage tanks) do not apply if the waste is to be incorporated into the compost pile by the end of the business day in which it was delivered.

61. Comment: There is concern that regional offices will not apply consistent standards in the operation plan development. Plan development must be

consistent in all Department regions; therefore, the content and purpose of the plan needs to be specified in the permit. (1)

Response: The permit condition is written in a manner that allows for the Department to review each application independently while applying consistent criteria.

62. Comment: The operation plan should be reviewed to ensure that this item is not requiring a formal document that may require review. (1)

Response: The operation plan will be reviewed by the Department to ensure that permit conditions will be fulfilled.

63. Comment: The reference to “odors” needs to be changed to “malodors”. (1)

Response: The Department disagrees because the nuisance control plan needs to address all odors generated at the facility.

64. Comment: The reference to “other public nuisances” is too broad and should be either eliminated or be qualified as those other public nuisances identified as part of an on-site visit. (1)

Response: The Department disagrees with the commentator. The Department maintains this language to ensure that the public is protected from any other type of nuisance issues that may arise in addition to those specifically listed in the permit.

65. Comment: Is it possible to require or establish mitigation plans for these nuisances? (11)

Response: The permittee must develop and implement a nuisance minimization plan in order to control and minimize nuisances.

66. Comment: What are proper methods of vector control that will be allowed under the permit? (9)

Response: There are no prescribed methods of vector control in the permit. Vector control requirements are dependent upon the characteristics of the composting site as well as the feedstocks that are used. Vector control may include fencing, covering the piles, use of pesticides, etc.

D. Operating Conditions:

67. Comment: This permit and WMGM030 deal with windrows' size specifications. While WMGM030 requires windrows to not be higher than 8 feet or wider than 16

feet, this permit does not include width or height requirements. A permit regulation would better prevent accidents from occurring. (5)

Response: The windrow design, construction and operation will be reviewed and approved during the application process. The size, construction and maintenance of compost windrows is dictated by the size and type of equipment employed at the facility.

68. Comment: In Section II (2) of WMGM030, the special conditions require the facility to employ a certified compost operator. Why does the permit not include compost certification? Having a compost specialist onsite would not only assist in the technological demands of the operation, it might solidify enforcement action and court cases if a situation arises. (5)

Response: The Department does not offer a composter certification program. There are various certification programs available to composters. The Department encourages operators of composting operations to avail themselves to those opportunities.

69. Comment: Genetically modified organisms (GMO) in certain feedstocks could potentially contaminate fields where non-GMO farming is desired, resulting in a farmer losing his/her livelihood. Genetically modified organisms in food and feed may be inherently hazardous to health, regardless of the plant species or the genetic modification involved. This permit only authorizes the composting of materials that are historically considered safe for human exposure. (13)

Response: Any non-GMO farmer who is concerned about the use of GMO feedstocks in compost always has the option to not use compost generated under this general permit. While the Department understands such concerns, we are confident that the use of product generated in accordance with the terms and conditions of the permit will not present any undue risk.

70. Comment: Conventional farming waste needs to be segregated from organic farming waste. Conventional farming waste used as a feedstock in compost that is utilized by an organic farmer could possibly result in the farmer's fields being declared unfit, thus depriving the farmer of his/her livelihood. (13)

Response: The use of compost generated by a facility operating under this permit is the personal choice of the farmer. It is the responsibility of each farmer to make every effort to educate himself as to the properties and the provenance of the soil amendments that he chooses to utilize.

71. Comment: Feedstocks contaminated with pesticides and/or herbicides should be kept out of the compost waste stream. Clopyralid and picloram have been found in grass clippings, hay and manure. The testing protocol should be widened to test for additional contaminants. (13)

Response: Contaminated feedstocks may not be accepted by a permitted composting facility. It is the responsibility of the permittee to ensure that the feedstocks they utilize are not adulterated and will not present any risk to human health or the environment in the finished product.

72. Comment: Nanoparticles inserted into certain feedstocks for a beneficial effect could have an entirely different effect when added to a compost mixture. RFID technology is also an emerging technology. When inserted into various feedstocks ramifications are unknown, thus necessitating exclusion in compost feedstocks. Synthetic viruses and bacteria, even with government approval, may present a hazard when composted, and therefore must be excluded. (13)

Response: Nanoparticles and RFID technology have not been identified as public health concerns. If such information does come to light, the Department will address those concerns in a future modification of the permit. Also, feedstocks that have been contaminated with synthetic viruses and bacteria may not be accepted for composting under the permit.

73. Comment: The Draft should include the importance of CO and O₂. The Draft should mention the proper control of methane formation. The Draft should include the importance of aerating the pile to maintain constant moisture, an appropriate C/N ratio and proper O₂ levels. The Draft should include the too much/too little difficulty of proper oxygen levels. (5)

Response: CO and O₂ are important control aspects of composting that are to be described in the facility's composting registration. Also, the operator of the facility must develop and implement a nuisance minimization plan that will manage any circumstances that are harmful to the environment or public health. The operator must control and minimize conditions that will attract, harbor, or breed vectors, create safety hazards, odors, dust, noise, and unsightliness and other public nuisances. In addition, the temperature controls required in the permit should adequately manage the methane formation.

74. Comment: Another gas of concern is CO₂. In Cabanas-Vargas and Stentiford's study of gas emissions during composting, they reiterate that CO₂ is produced and reused in the process. They state that "CO₂ is formed principally as a direct result of the consumption of incoming oxygen" and "CO₂ also could come from methanotrophic bacteria when they consume methane". Therefore, the draft permit should mention the proper control of methane formation. Methane will still exist in mature composting, but the released amounts will be much smaller if operated correctly. (5)

Response: See the Department's response to comment 73 above.

75. Comment: Ammonia (NH₄) can cause bothersome odor problems for residents if not maintained correctly. The Draft should add odor controls through mentioning of NH₄. (5)

Response: The permittee must develop and implement a nuisance minimization plan in order to control and minimize odors, which would include ammonia.

76. Comment: The permit's statement "turning of the windrows shall be consistent with currently accepted science-based composting technology" seems open to interpretation and could cause compliance complications. (5)

Response: Windrowing is one of the three basis methods used to produce compost. During the period when the compost is required to be maintained at 55°C (131°F) or higher, there will be a minimum of five (5) turnings of the windrow.

77. Comment: Temperature ranges may contain typographical errors. (11)

Response: The general permit has been revised to require a minimum composting temperature of 55°C (131 ° F) be maintained for at least 15 days when using the windrow method. For aerated or in-vessel composting, 55° C (131° F) must be maintained for at least 3 days.

78. Comment: The minimum temperature requirement is not adequate for pathogen and weed seed inactivation. Literature reviews show temperatures should be maintained at 49° – 60° C (or 120° – 140° F). The process to further reduce pathogens requires 55° C (131° F). (10) (13)

Response: The general permit has been revised to require a minimum composting temperature of 55°C (131° F) be maintained for at least 15 days when using the windrow method. For aerated or in-vessel composting, 55° C (131° F) must be maintained for at least 3 days.

79. Comment: Pennsylvania must learn from the mistakes made in California. Mixing animal manures with various constituents is risky and the proposed General Permit WMGR025 does not have provisions for testing for pathogens. (13)

Response: The composting process and composting temperature requirements are designed to ensure that the levels of pathogens in the compost are reduced to be protective of human health and the environment. When the specific operating parameters (i.e., residence time, turning, temperature) as specified in the permit are met, the level of pathogens in compost is reduced to be protective of human health and the environment.

80. Comment: Invasive species need limitation and should not become part of a bagged soil amendment that might introduce the species into a pristine area. (13)

Response: A February 2000 Washington State University study demonstrated that temperature and turning of the compost have a direct effect on seed viability. The time and temperature and turning requirements in the general permit are sufficient to kill plant seeds and eliminate any type of seed germination.

81. Comment: The proposed general permit references “currently accepted science-based composting technology.” What does this mean? Please define exactly what is this technology. (9)

Response: The Department has removed that phrase from the permit.

82. Comment: Is the public permitted to see those records that are required to be kept under the proposed general permit? What happens to these records if the composting company goes out of business? (9)

Response: Persons operating under the general permit are required to maintain records for a minimum of 5 years. This would apply even if the company goes out of business during operations under the general permit. The records are required to be made available to the Department upon request and would be available for public review.

83. Comment: To determine if compost is suitable for intended use, a maturity index should be required. Additional information about maturity index testing can be found at: Test Methods for the Examination of Composting and Compost, USDA and U.S. Composting Council. 2002. Method TMECC 5.05-A(1)

Response: The Department disagrees. The performance criteria and the curing time periods required in the permit will ensure that the compost is of an acceptable quality.

84. Comment: Why are the storage area limitations in this proposed general permit not applicable to bagged product for retail sale? (9)

Response: The Department believes that product bagged for sale falls outside the bounds of the permit, though this is not to say outside the jurisdiction of the Department. If it is determined that bagged product produced under this permit, through misuse or mishandling, detrimentally affects human health or the environment in the Commonwealth, the Department will take all necessary actions to remediate the problem.

85. Comment: Considering long-term, regionalized and economic and operationally sustainable compost sites, why has the permit remained capped at 15-acre sites? The commentator recommends the permit increase the number of allowable acres affected by the permit in anticipation of future sites being hindered by this limitation. (2)

Response: Based upon the Department's previous collective experience working with composting facilities, the 15 acre benchmark is of an appropriate and sufficient size for facilities operating within the Commonwealth. A composting facility larger than 15 acres has a greater potential to adversely affect human health and the environment, and additional controls may be necessary. In addition, larger facilities cannot be adequately regulated using standard conditions of a general permit.

86. Comment: If a facility greater than 5 acres in size can demonstrate that their environmental risk is negligible, the Department should waive their bonding requirement. (1)

Response: The Department disagrees with this suggestion and believes bonding is appropriate. The cost to clean-up a facility that has a footprint of five or more acres and for facilities that manage more 6,000 cu/yds of material per acre necessitates some form of financial surety to guarantee proper site closure.

87. Comment: The current language states that only a financial bond can be used by a composting facility as a financial guarantee. This language needs to be revised to include all forms of financial guarantee allowed under the regulations. (1)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

88. Comment: This permit leaves many questions unanswered. What is meant by removal and proper management? How will the costs be derived? Why show removal as a requirement if an economical and safe on site remedy may be practical for managing compostables? Could adding/mixing one or more bulking agents into onsite material so a stabilized compost material is achieved be a method of remediation? (2)

Response: The bond amount is based on considerations such as cost of loading/unloading, transportation, tipping fees, any other cost incurred during the removal of the waste and the cost to remediate for a post-closure use. A facility will be required to post a bond based on the above at a level no less than the minimum bond required for a compost facility, which is \$10,000. Adding/mixing one or more bulking agents into onsite material so a stabilized compost material is achieved is not considered a method of remediation.

89. Comment: The language outlining bonding requirements as set forth in the proposed general permit, the final sentence "The Department may require additional bonding for any other necessary measures to prevent adverse impacts upon public health, safety, welfare and the environment" is very subjective and could be open to multiple interpretations. Such an open-ended language does not provide the permit holder with any reasonable assurance against being the recipient of an arbitrary and overzealous interpretation. The result of which could

shut down an operation and deterring financial backers for a project if they believe that additional bonding requirements can be imposed upon a site without prescribed guidelines. (6)

Response: The Department must maintain the ability to require adequate bonding for all potential remediation scenarios. Every facility has a separate and unique bonding situation that it must be accountable for in a flexible bonding framework as opposed to a rigid system. The bond amount is determined during application review and will be established prior to the approval of any permit. This course of action would eliminate the unknown associated with the bonding requirements.

90. Comment: In the event of bond forfeiture, for what expenditures does bond money pay? (9)

Response: The bond would pay for the proper management and removal of any feedstocks and used compost. The amount of the bond is based on the total estimated cost to the Commonwealth to remove and manage wastes from the facility.

91. Comment: Bonding requirements: This area of the permit is not clear. What is meant by removal and proper management? Why show a removal as a requirement if an economical and safe on site remedy may be practical for managing compostables? Maybe the words removal and/or proper management do better. Could these materials be remediated by transport to another compost site or is a waste disposal facility (and reality of tip fees) the target? Could adding/mixing one or more bulking agents into on site material so a stabilized compost material is achieved be method of remediation? What are the specific methods of removal and proper management and how will the cost be derived? If removal means disposal at landfills and bonding is estimated on potential max loading rates we're hitting million dollar bonding requirements ... for compost. Nobody wants that ... (2)

Response: The bond forms and bonding worksheets are standardized for all waste management facilities. The completion of the bonding worksheets is the key to determining the bond amount. Only those relevant portions of the worksheets should be completed that are applicable to the proposed facility.

92. Comment: It is extremely important that the bonding form reflects only the requirements as set forth by the language on page 5 of this proposed general permit. The bonding form that was in place for the older version of General Permit WMGR025 went well beyond such requirements making it prohibitive for insurers to sign it for simple composting operations. (6)

Response: The bond forms and bonding worksheets have been developed for all types of waste management facilities. However, only those relevant and applicable portions of the worksheets should be completed for a proposed facility.

Completion of the bonding worksheets is the key to determining the correct and necessary bond amount.

93. Comment: There is great concern about the required testing parameters, the required testing parameter limits, the frequency of testing, and the required testing methods detailed in this proposed general permit. Commentators strongly suggest that the Department consider consistency in testing methods, achievable testing limits related to the compost produced using the feedstocks covered under the general permit. (1) (7) (10) (3)

Response: The Department has revised the list of required parameters and the testing frequency to reflect some of the standards used by the US Composting Council's Seal of Testing Assurance Program (USCC STA).

94. Comment: As this permit covers benign feedstocks, annual compost testing is sufficient to document the compost composition. The permit requires reporting of changes in the composting facility's waste streams. At reporting, it can be determined if an additional testing of the finished compost is needed for permit compliance. (1)

Response: As specified in the permit, the chemical analysis required is regarding the finished compost produced. Feedstocks used in the production of compost are not required to be analyzed and may vary in quality. To assure the quality of compost produced as claimed, the testing and frequency of monitoring as specified in the permit is needed.

95. Comment: Temperature is as important in the compost pile as any other factor. Another concern is leaching, especially heavy metals. The draft lists the finished compost toxicity levels, but we feel the beneficial metals balance could be included. (5)

Response: The Department is unfamiliar with the term "beneficial metals balance". The Department has included in the permit chemical analysis requirements for the finished compost for metals and concentration limits that must not be exceeded. If those limits are exceeded, the finished compost may not be marketed.

96. Comment: Of great concern are the testing values listed in Table 1 on page 6. Due to the benign nature of feedstocks allowed to be accepted, we believe testing for these limits is not reasonable. As printed these values and testing requirements would not just add unnecessary burdens and prohibitive costs on composting operations, but they could halt the advancement of organic waste diversion from landfills. (3) (6) (7) (10)

Response: The Department agrees with this comment and has revised the list of chemical parameters and the associated limits.

97. Comment: Table 1 includes many parameters not normally included in any lists of trace elements of human health or environmental concern for soil applied organic materials. Some of these are ubiquitous in the soil environment and present in soils at concentrations several orders of magnitude greater than the limit values in Table 1. (7)

Response: The Department has revised the required parameter list and the parameter limits in the final general permit.

98. Comment: Why was the upper 90% confidence level used instead of the upper 95% confidence level? (13)

Response: The Department has modified the permit to reflect the use of the 95% confidence level.

99. Comment: The permit should be re-advertised for the following reasons: In researching the WMGR025 permit, I have learned from the Department of Environmental Protection that the parameters for chemical constituents that are being publicly noticed are NOT the parameters that the Department is actually considering. The parameters that are being considered are far LESS stringent. (13)

Response: This is incorrect. The parameters and levels that were included in the draft permit were indeed considered at length. The final maximum constituent concentrations are consistent with the risk-based levels found in the Department's Waste Redux Report that was finalized and released in May, 2005. The Department encouraged public participation in the creation of that report and is confident that the parameters and concentration levels provided in the permit are protective of human health and the environment.

100. Comment: There is no testing for radiation. The use of phosphor-gypsum plasterboard and plaster cement in buildings as a substitute for natural gypsum may constitute an additional source of radiation exposure. Contaminated wallboard waste should definitely not be covered by a general permit. Testing should be done on new gypsum wallboard, construction wallboard waste and manufacturing scrap. (9)(13)

Response: The Department has determined that radiation testing is not necessary. Although it is true that certain feedstocks may exhibit naturally occurring radioactive properties, these occur at very low levels that have not been determined to represent a significant public health concern. Additionally, demolition waste, painted material, and fire retardant treated material may not be accepted for composting under the permit.

101. Comment: So-called "manufactured soil" needs to be tested prior to incorporation with the various feedstocks. Manufactured soil containing plastics and phenolics

must be banned. This soil must also be free of contaminants that are not in the WMGR025 permit, such as coal ash and/or incinerator ash. Contaminant levels must be as low as reasonably achievable. Just because some Pennsylvania soil may have high levels of certain contaminants does not mean that the finished compost should have such levels. (13)

Response: The general permit does require the facility operator to test the finished compost product. Coal ash and incinerator ash may not be accepted under the general permit. The Department agrees with the commentator that the contaminant levels in the finished compost should be kept as low as possible.

102. Comment: I will urge that the most stringent levels be required. Consider the example of beryllium. The estimated Penn State, USGS soil background level is 7 mg/kg (already high). A level, which I have learned, is a "floor." Although it has not been disclosed to me, I have been told that the level will be higher than 40 mg/kg. What could possibly be a reason to allow an inordinate amount of beryllium in a finished compost product? (13)

Response: Beryllium has been eliminated from the list of parameters to be tested for under Table 1 of the permit. Historically, beryllium has not been determined to be a constituent of concern in finished compost. If, in the future, evidence comes to light that would call into question this position, the Department will review the data at that time in order to determine if a modification to the permit is warranted.

103. Comment: DEP should consider requiring a history of the feedstock along with a chemical analysis. Unfortunately, the decision-making process will be left to regional office staffers when, in fact, materials specialists may need to be consulted. (13)

Response: It is the responsibility of the permittee to ensure that all feedstocks received at the composting facility are acceptable under the permit.

104. Comment: Through independent investigation, committee members have concluded that private testing laboratories will require \$600 - \$900 to analyze the complete suite of analyses in GP 25, causing an undue financial burden upon organics recyclers, decreasing their operational sustainability, in a business that already experiences tight profit margins. It is estimated the increases proposed in analyses under GP 25 could additionally cost an individual composting operation as much as an additional \$20,000 - \$25,000 per annum. Through interview of independent testing laboratories, it is possible the complex matrix of solids commonly found in compost would prevent a laboratory's ability to provide an analysis that is within the testing limits presented in the GP 25 table. (3)

Response: The list of analytes in Table 1 has been revised to focus on those constituents that are of primary concern to the Department. The chemical parameters outline what is necessary to ensure that the finished compost is

environmentally safe. The sampling frequency is based on the US Composting Council protocol.

105. Comment: Why aren't dioxin, radionuclides, pathogens, surfactants, and fire-retardant materials, included in the list of constituents to be monitored? (9)

Response: Based upon the various feedstocks that are approved for use under the permit, these contaminants would not be found in the finished compost in levels of concern. The final list of analytes under Table 1 of the permit will be protective of human health and environment.

106. Comment: Why was the TCLP test method chosen as one of those used in the permit? (9)

Response: The general permit has been revised to reference the Synthetic Precipitation Leaching Procedure (SPLP) test method to better reflect the potential discharge of leachate.

107. Comment: DEP should require the US Composting Council (USCC) Seal of Testing Assurance Program (STA) testing protocol. (14)

Response: The Department has incorporated some components of the USCC STA testing protocol into the permit, but does not believe that all of the testing protocol is necessary to ensure the quality of the compost.

108. Comment: The DEP should use the following as the requirement for the testing frequency. (14)

(A) *Once per quarter for a facility with an annual production of 1 to 6,250 tons of compost.*

(B) *Once per two (2) months for a facility with an annual production of 6,251 to 17,500 tons of compost.*

(C) *Once per month for a facility with an annual production of 17,500 tons of compost or above.*

Response: The commentator is referencing the testing frequencies as established in the USCC STA program. The Department has concluded that the inclusion of these testing frequencies is practical, should not be an undue burden upon permittees, and will be protective of human health and safety and the environment. Accordingly, the general permit has been amended to reflect the suggested change.

E. Special Wastes:

109. Comment: Liquid waste streams other than food wastes, specifically liquid manure, must be allowed as feedstocks under this permit. Therefore, Line 1 should be revised (see below) as well as all permit sections relevant to the use and storage of liquid waste streams.

“Food waste may be accepted at the facility as a liquid.” (1)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.

110. Comment: Liquid wastes must not be allowed into the compost. The general permit is avoiding the leachate issue. (13)

Response: The only liquid waste streams that may be accepted are residual food waste and manure. Also, butcher waste may contain liquid in the form of blood. The liquid wastes may be used to achieve the appropriate moisture content of the compost and may not be used to the extent that these liquids will discharge from the compost pile. The permit does not avoid the leachate issue. The permit has specific requirements for the management of leachate generated by the composting operation. Leachate must be held in a properly constructed holding pond or holding tank for later reuse (again, achieving proper moisture content in the compost), transported off-site, treated, or as required by the Department.

111. Comment: What is the composition of “liquid food processing waste”? (9)

Response: Residual materials in liquid and solid form generated in the slaughtering of poultry and livestock, or in processing and converting fish, seafood, milk, meat and eggs into food products. The term includes residual materials generated in the processing, converting or manufacturing of fruits, vegetables, crops and other commodities into marketable food items. The term also includes vegetative residuals from food processing activities that usually recognizable as part of a plant or vegetable, including cabbage leaves, bean snips, onion skins, apple pomace and grape pomace.

112. Comment: Will you count the gypsum that could be in mushroom substrate towards the total allowable amount of gypsum? Why is gypsum allowed to be composted? (9)

Response: No, the small amount of gypsum that might be contained in mushroom substrate will not be counted towards the 10% gypsum limitation. Typically, gypsum has no liming value; however, it does act as a good soil conditioner.

113. Comment: Paper mill sludges have constituents that are not addressed in the testing protocol. Dioxins and furans, as well as other constituents, should be included. (13)

Response: Only virgin wood paper mill sludges using non-chlorine based bleaching systems may be accepted under the general permit. Dioxins/furans are not found in virgin wood paper mill sludges.

F. Record Keeping:

114. Comment: There are business confidentiality concerns with information and records required in these items. It needs to be stated that Department procedures for confidentiality will be followed for record inspection and submission. (1)

Response: 25 Pa. Code Section 271.5 (relating to public records and confidential information) provides procedures to raise and address confidentiality concerns.

115. Comment: Why does the permit only require the recording of “types” of waste rather than specific kinds of waste? Also, why not require that both weight *and* volume be recorded rather than just weight *or* volume? (9)

Response: “Types of waste” refers to “Section A. Description” where the “types” are specified (i.e., food processing waste, yard waste, untreated wood, etc.). These waste types are the “kinds” of waste that may be accepted. The Department considers this adequate for reporting purposes. In addition, weight or volume is considered acceptable. In some cases, a facility may not have a scale.

G. Standard Operating Conditions:

116. Comment: Comparing this permit to WMGM017 the difference includes a paragraph in WMGM017, Section I(10) that prohibits “hazardous waste, municipal waste, special handling waste and other waste” from being mixed with the authorized wastes of the permit. Why does this permit not include a similar statement? Section G(1) forbidding hazardous waste should be reiterated in the general permit conditions. (5)

Response: This permit identifies only those materials that are allowed to be composted at this type of facility. If a material is not identified, it may not be processed at the facility in accordance with the terms and conditions of the permit.

117. Comment: This permit should not supercede any township ordinances. If a township does not allow this type of facility the GP should not be issued. Would “marketing and distribution” allow for retail sales regardless of local zoning requirements? (11) (12)

Response: General permits do not supersede local ordinances. All applicants under a general permit must comply with any local zoning laws, ordinances, or siting restrictions.

118. Comment: Do the general permittees have to follow any Air Quality regs? (13)

Response: This general permit does not relieve the applicant from complying with any other applicable environmental laws or regulations.

119. Comment: The proposed permit must specifically include language referencing Pennsylvania's Air Pollution Control Act and Title 25, Subchapter C, Article III. Language in the general permit should indicate that the permit does not authorize the discharge of emissions (both fugitive and odor). (13)

Response: This permit currently requires compliance with Pennsylvania's Air Pollution Control Act. The Department has amended the permit to specifically require compliance with the regulations promulgated under the Air Pollution Control Act.

120. Comment: Such facilities as those regulated by the proposed permit should be inspected at least every 6 months, by either the state or the county. (12)

Response: Inspection frequency is an enforcement issue outside the scope of the general permit. 25 Pa Code Section 287.421 (relating to administrative inspections) requires that general permit facilities be inspected at least once per year. Additional inspection frequencies for composting facilities are determined by complaints from the public and priorities set by the Department and its regional offices.

121. Comment: I would like the permit to include a clause that indicates that a facility that has had its permit revoked should not be approved for any type of permit relating to the housing of waste. (4)

Response: The Department has the ability to revoke, suspend or deny a permit based upon the applicant's compliance or operator's compliance history. The Department reviews the compliance history of the applicant prior to approving the use of the permit. Based upon that review, the Department may deny a permit or coverage under a general permit.

122. Comment: The history of a proposed feedstock must be assessed. The DEP must be cognizant of the fact that certain waste streams may already contain hazardous constituents due to the fact that the manufacturer of the product allowed "reuse" of hazardous materials as a beneficial use. (13)

Response: This general permit does not allow the composting of hazardous materials. It is the responsibility of persons operating under this general permit to

be aware of the sources of the waste streams they are utilizing, and to be able to make a determination that such waste streams are safe for the manufacture of a composting product. In addition, product testing and record keeping required in the general permit will ensure a quality product.

123. Comment: The permit requires that if there are any changes at the facility, the permittee is required to notify the Department of such changes. These permittees should be required to re-apply for the permit, and a fee must be associated for any changes made to the facility. (9)

Response: The permit authorizes certain activities to be conducted at the facility. The permittee must comply with the terms and conditions of the permit at all times. Any change made at the facility may violate the terms and conditions of the permit and notification to DEP is necessary. The DEP will not modify the terms and conditions of a general permit issued to an operator except through formal procedures outlined in the regulations.

124. Comment: The proposed general permit requires that upon cessation of operations at the composting facilities, the operator must clean up any materials that contain or have been contaminated with waste. How can there be contamination from wastes that are used as fertilizers? What wastes might be generated? (9)

Response: All materials specified in "Section A. Description" of the general permit are classified as "wastes", and the finished compost is also considered "waste" unless the finished compost has satisfied the conditions of the permit and is ready for use as a soil conditioner, soil amendment, fertilizer, mulch or for erosion control. Upon cessation of operations at a facility, all remaining "wastes" must be removed and used or disposed of properly. In addition, the materials specified in Section A, as received, may contain unusable items or residue that will require proper disposal.

125. Comment: The wording of section G.8 needs to be changed to clarify the intention that structures be cleaned and not necessarily removed. Existing structures may have value to future owners or operators, and the permit should not require their removal (see below; changes are underlined).

"Upon cessation of operations at the composting facilities, the operator shall remove any residual and municipal waste and clean structures or other materials that contain residual and municipal waste and shall provide for the processing and disposal of the waste or material in accordance with The Solid Waste Management Act, other environmental protection acts and the regulations promulgated thereunder." (1)

Response: The Department agrees with this comment and has amended the general permit to reflect the suggested change.