

ATTACHMENT 1

SWAC Briefing

Monday, March 27, 2017

BWM Staffing

- DEP's complement was reduced again in December 2016.
- Executive staff prioritize positions to be filled as people leave or retire.
- WM had 7 vacancies when the complement was lowered. Because interviews had already been scheduled or completed for 3 of those vacancies we were allowed to proceed.
- The 4 remaining vacancies include 1 in the DHWM; 1 in the DMRW; 1 in the DRFC; and 1 in Fiscal & Administrative Support.
- Currently 41 staff in the bureau with 36% eligible to retire in 4 years or less:
 - 8 eligible to retire now (20%)
 - 1 eligible to retire in a year (2%)
 - 2 eligible to retire in 2 years (5%)
 - 1 eligible to retire in 3 years (2%)
 - 3 eligible to retire in 4 years (7%)

Division of Hazardous Waste Management

Nulife Glass

DEP denied Nulife's request for a variance from classifying as a solid waste millions of pounds of processed or used cathode ray tubes currently stored at warehouses in the Northwest Region. Since May 2014 Nulife transported approximately 17 million pounds of CRT material to 5 warehouses while they were in the process of obtaining a permit from the New York Department of Conservation to construct and operate a lead smelter to recycle the CRT glass in Dunkirk, NY. DEP has since learned that Nulife will cease its lead smelting operations at the Dunkirk facility and surrender its Title V air permit.

DEP denied the variance request because Nulife failed to adequately address the criteria for a variance under the federal CRT Rule which includes the manner of recycling the CRT materials, when the material would be recycled, and the reason the stored CRT material had accumulated without being recycled. Nulife also failed to provide adequate assurances of its financial ability to properly dispose of the speculatively accumulated CRT materials.

In conjunction with the denial of the variance request, DEP issued an Order that requires Nulife to remove all 17 million pounds of stored CRT material from all 5 warehouses within a year by removing 5 million pounds by June 30th and continuing to remove CRT material within a designated timeframe until everything is removed no later than February 28, 2018.

- Began accumulating whole and broken CRT materials as early as May 2014 in warehouses in Erie.
- After numerous inspections a compliance notice was sent to Nulife on 11/25/15 asking them to cease transportation of CRT material to PA, remove all existing CRT material from PA, and provide documentation

of proper removal, or cease transportation of CRT material to PA, submit a written request for a variance in accordance with 260.31 (variance from classifying as a solid waste materials accumulated speculatively without sufficient amounts being recycled), and if a variance is granted negotiate a CO&A inclusive of financial assurance.

- Nulife submitted a variance request on 12/2/15 and the department responded on 12/30/15 noting multiple deficiencies.
- A second variance request was received on 2/24/16 and the department responded on 5/16/16 with a second deficiency letter, along with a notice of intent to deny.
- Concurrent with the second deficiency letter, DEP counsel sent a letter to Nulife counsel with an invitation to negotiate a CO&A, which Nulife rejected on 7/15/16.
- The department will be issuing a denial of the variance request, along with an Order requiring Nulife to remove the material from warehouses in PA.

Elcon

- Proposed hazardous waste treatment facility located in Falls Twp., Bucks County, in the U.S. Steel Keystone Industrial Port Complex.
- Facility will process between 150,000 and 210,000 tons of pharmaceutical and chemical waste per year (17 to 25 truckloads of hazardous waste daily)
- On 6/19/15 the department determined that the Phase I siting application was administratively complete and on 11/12/15 the department determined that the Phase I application was in conformance with requirements allowing Elcon to move forward with the remainder of their application (Part B).
- Elcon submitted their Part B application on 3/1/17 and in accordance with our guidance we have up to 90 days to determine if the application is complete. If complete, a 10-month review period begins.

Hazardous Waste Generator Improvements Rule

- The final rule was signed by the EPA Administrator on 10/28/16 and becomes effective 6 months after the date it's published in the Federal Register. It will also become effective on that date in PA, since we are an incorporation by reference state.
- The final rule includes approximately 60 changes to the hazardous waste generator regulations that clarify existing requirements, increase flexibility, and improve environmental protection.

Division of Municipal and Residual Waste

Permits section EGM

- Scott Walters retired on 1/20/17 and to date we have not received approval to fill his position. Scott was working with consultants and applicants on various pending projects for the last several years and was responsible for developing many of the analytical requirements and chemical limits which apply to the placement of waste materials in the environment. Scott's work with applicants on their pending permit applications and the development of analytical requirements and limits represents significant investigative and technical work that, many times, had been discussed in detail with applicants and consultants to be incorporated into the pending permits once they are finalized, so we're obviously faced with a big challenge in filling this void.

Management of Fill Policy

- Division staff are working to address the issues with this policy and once they are resolved the policy will be published for public comment and brought to this committee for input later this year.

Coal Combustion Residuals Rule (CCR)

- PA can't request approval of the CCR program yet as EPA has no process in place for making that request. Implementation of the CCR Rule could be by a rulemaking or by guidance. EPA is working to figure that out.
- ASTWMO is planning to suggest an EZ form for those states who have Subtitle D or C approval already (PA), with the hope to just show the difference between the programs, and either allow approval as equivalent or partial approval.
- We are confident that PA doesn't have to do anything and that we can maintain our current permit program. The only benefit to seeking approval from EPA is to prevent dual regulation of permittees like Talen and First Energy.

Division of Waste Minimization & Planning

Covered Device Recycling Act (CDRA) – Act 108

Michele Nestor and Bob Bylone met with Senator Alloway's office last week to discuss a proposed electronics waste recycling bill that is meant to repeal the existing Covered Device Recycling Act. DEP will be reviewing the proposed bill and providing comments in the next 2 weeks.

Due to implementation challenges of Act 108 DEP is committed to working with external stakeholders and members of the General Assembly to achieve three fundamental provisions to address the current problems:

- Ensure PA residents have access to collection and recycling opportunities. This would include extending the current 85% coverage to the entire Commonwealth and providing for permanent collection sites with a minimum operating schedule.
- Ensure that all material returned can be recycled. This provision will require a return or convenience share designed so that collection sites are not left with covered devices that a manufacturer's program won't cover. It might also require eliminating current ambiguity in the act so that manufacturers are responsible for all types of devices covered in the Act, and not just their devices.
- Ensure that recycling of devices is accomplished, not allowing disposal in landfills or stockpiling.

Municipal Waste Planning, Recycling & Waste Reduction Act (Act 101)

- DEP provides funding for a variety of recycling-related activities: Recycling Coordinators; Municipal Inspectors; Host Municipality Permit Application Reviews; Administration of the Recycling Program; County Planning; Municipal Recycling; Municipal Recycling Program Performance; and Public Education/Technical Assistance.
- This effort is funded by a \$2/ton fee imposed on every ton of municipal waste that is accepted for disposal or processing at landfills and resource recovery facilities in PA. This fund represents the authorization for spending, but not necessarily the amount to be spent, in the fiscal year. The fee is in effect until January 1, 2020.

- The current revenues from the \$2-per-ton fee yield approximately \$38 million annually. Revenues have steadily decreased from a high \$49.3 million in FY01/02. The recent transfer of \$9 million to the General Fund caused DEP to initiate its shutdown strategy earlier than expected. DEP is currently unable to offer Section 902 Recycling Grants based on the sunset date of the fee and the current funds available. Unless the sunset date is eliminated or extended, DEP will continue to phase out other grant programs over the next 2 years.

Grant Program or Expenditure Category	Last Calendar Yr. of Reimbursable Expenses	Last Date for Applications
§ 901 Planning Grants	N/A	6/30/17
§ 902 Recycling Program Grant	N/A	11/20/15
§ 903 County Recycling Coord. Grant	2018	4/30/19
§ 904 Recycling Performance Grant	2016	9/30/17
§ 1102 Host Municipal Inspector Grant	2018	4/30/19
§ 1110 Municipal Permit Review Grant	2019	12/31/19

Division of Reporting & Fee Collection

Overweight vehicles

In April 2016, the Bureau of Waste Management formally requested that municipal and residual landfills and resource recovery facilities provide a monthly report on overweight vehicles. This action was taken to obtain more timely and accurate information on the number of overweight vehicles, with the ultimate goal to reduce the number of overweight vehicles.

- The municipal and residual landfills and resource recovery facilities have been very cooperative in providing this information in a timely manner and in the format requested.
- Most facilities have an effective nuisance minimization and control plan in place to reduce the overweight vehicles, based on the overall number of overweight vehicles and the number of overweight vehicles per 1,000 tons of waste received.
- Some facilities have made measurable reductions in the number of overweight vehicles and the number of overweight vehicles per 1,000 tons of waste received.
- There has also been a reduction in the number of vehicles greater than 3% overweight.
- In some cases, DEP has requested permitted facilities to modify their nuisance minimization control plan to further reduce the number of overweight vehicles.

Program Development & Technical Support

Act 45 Leachate hauling

- DEP is finalizing revisions to the Program Clarification Memos in response to discussions with Regional staff and industry on the permitting mechanisms being utilized to implement the provisions of Act 45. After these revisions are complete, DEP will begin the process of converting the information in these memos into a Technical Guidance Document.

Settlement Accommodation Plan

- DEP is in the beginning stages of converting the Plan into a Technical Guidance Document.

TENORM

- Bureau Radiation Protection is revising the radiation monitoring guidance to include O & G provisions and is also looking into the issue of DOT non-compliant material being transported.