

Understanding the Permitting Process: Solid Waste Management Permit for a Commercial Hazardous Waste Treatment Facility

Below is a summary of the solid waste permitting process for new commercial hazardous waste treatment or disposal facilities.

Step 1: Pre-Application Process

- Applicant submits pre-application materials to Pennsylvania Department of Environmental Protection (DEP).
 - This includes scaled maps for proposed facility and site, a brief narrative, and other hydrologic/geologic data.
- Applicant has a pre-application meeting and field visit of proposed site within 45 days of receipt of the pre-application submittal.
 - The pre-application meeting is intended to provide developers with an understanding of the hazardous waste treatment/disposal permitting process and to establish a meaningful dialogue between the developer, the local community and DEP.

The Hazardous Sites Cleanup Act (HSCA) requires DEP to establish a **Hazardous Waste Facilities Siting Team (Siting Team)** to ensure prompt and consistent actions on such permitting activities. Members are appointed by the Secretary and consist of department personnel with particular areas of expertise (legal, technical, advisory).

Step 2: Exclusionary Criteria Review (PHASE I)

HSCA requires DEP to determine whether the proposed site conforms to the Phase I exclusionary criteria established pursuant to the Pennsylvania Code (25 Pa. Code §§ 269a.21-269a.29) within 5 months of receipt of an administratively complete Exclusionary Criteria application.

- Applicant submits the completed Phase 1 application to DEP.
- Siting Team reviews the Phase I application for administrative completeness.
 - If the application is determined to be administratively incomplete, the applicant will receive a Notice of Deficiency indicating the missing information.
 - If the application is deemed complete, notice of receipt of the application is published in the PA Bulletin and the 5 month technical review begins.
- DEP provides notice of a public meeting and public hearing to be held during the 5 month technical review.
- DEP holds a public meeting within 60 days of acceptance of complete application.
 - The meeting is intended to inform the public of the hazardous waste siting process, discuss the application under review, discuss environmental impacts, answer questions on the review and permit process and provide the public with the information they need to prepare comments or testimony for the later public hearing.
- DEP holds a public hearing after the acceptance of the application and receives comments from the public for an additional 15 days after the hearing.
 - Comments are limited to the Phase I Exclusionary Criteria application.
- The Siting Team prepares a comment/response document on all comments received as part of the public hearing process and completes review of the application. If the Phase I application complies with the exclusionary criteria, the applicant will be notified to submit the Phase II application (Part B). If the Phase I application does not comply with the exclusionary criteria, the application will be denied and returned to the applicant with no further action by DEP. Depending on the reasons for the denial of a Phase I application, the applicant may be able to redress deficiencies and resubmit the Phase I application, in which case the Phase I process repeats.

Step 3: Operations and Design Application Process (PHASE II)

The Phase II application includes the detailed design and operational information required to demonstrate compliance with the applicable permitting requirements found in 25 Pa. Code Chapters 264a and 270a. In addition, the Phase II application includes information to address the proposed facility's overall compliance with the Phase II criteria (25 Pa. Code §§ 269a.41-50). Failure to initially meet all of these Phase II criteria does not necessarily prohibit the siting of a facility if the applicant provides for the mitigation of such impacts.

- Applicant provides 30 days public notice and holds an informational pre-application public meeting prior to the submission of the remainder of their RCRA Part B application to DEP.
 - At the meeting, the applicant should: provide information to the public of the types of activities proposed at the facility and; the types of waste to be accepted; discuss environmental impacts; listen to citizens' concerns and solicit questions from the community.
- Applicant will submit their full application to DEP, which includes facility design and operation, non-exclusionary (Phase II) criteria and appropriate application fees.
- DEP has 90 days to determine if the application is considered 'administratively complete.'
 - If the application is incomplete, the application is returned to the applicant with a letter of deficiencies. The applicant may resubmit the application, restarting the 90 day administrative review process.
 - If the application is complete, DEP will place a notice of receipt of the application in the Pennsylvania Bulletin that the application has been accepted for technical review.
- Once the application is determined administratively complete, DEP begins a 10 month technical review. Once the 10 month technical review process begins, the clock will not stop regardless of deficiencies
- During the technical review, DEP will also be looking at environmental, social and economic factors which may affect the suitability of a location for a proposed facility. A public meeting(s) may be held by DEP during the technical review.
- Within 30 days of receiving the recommendation, the Secretary will publish in the Pennsylvania Bulletin a draft permit or notice of intent to deny the permit application.

Typical schedule of the 10 month review process:

- Month 1-2: Technical review of application commences.
- Month 3-4: Notice of deficiency (NOD) letter issued, if necessary; applicant's response received.
- Month 5-6: DEP holds public meeting (if requested) and continues with the technical review.
- Month 6-7: DEP completes second technical review and issues NOD if necessary.
- Month 8: Applicant submits response and host municipality commences formal 60 day review.
- Month 9: DEP reviews applicant's response and host municipality review comments.
- Month 10: DEP completes technical review and makes recommendation to the Secretary to publish draft permit or intent to deny.

Step 4: Permit Decision

Regulatory information regarding public notice and comment requirements, and public hearings are described in 25 Pa. Code §§ 270a.10 and 270a.80-81

- DEP provides public notice of draft permit or intent to deny. The notice provides at least 45 days for public comment.
- If a hearing is to be held, DEP gives notice of a public hearing at least 30 days before the hearing. Public notice of the hearing may be given at the same time of the public notice of the draft action, or may be provided after the 45 day draft notice public comment period in response to comments received. During the hearing, DEP will take verbal comments and accept written public comments on the draft permit or notice of intent to deny. Details for the public hearing will be included in the public notice provided in the Pennsylvania Bulletin and local newspapers.
- Following the hearing, the public hearing comment period will remain open for at least 15 days, or a longer timeframe if specified in the hearing notice, to receive additional written comments.
- A comment-response document for comments received as part of the 45 day draft notice public comment period, and separate public hearing if one is held, will be prepared and shared with the Secretary for a final recommendation.
- Secretary issues or denies the permit; notice will be placed in the Pennsylvania Bulletin.