

COMMENT AND RESPONSE DOCUMENT

**General Permit Application Number WMGM047
for Delta Thermo Energy A, LLC**

May 9, 2014

List of Commentators on Proposed Rulemaking

1. Pennsylvania Waste Industries Association
c/o Mark Pedersen, President
2. Albert Wurth, Ph.D.
3. Michael Ewall, Esq.
Breena Holland
Richard Fegley
Diane Teti

Comments and Responses

1. **Comment:** The version of the application available to the public includes no meaningful technical information or description of the proposed operations. (1)

Response: The original general permit application contained information identified as confidential by the applicant. The designated information was originally withheld for public review. The department subsequently denied the request for confidentiality on September 10, 2013. The department then provided the commentators the opportunity to submit comments on the full application.

2. **Comment:** The proposed project is a waste disposal project. The revenue expected to be generated from this project is almost exclusively from accepting waste for disposal, not from selling electricity. (1, 3)

Response: The criteria for approval or denial of a municipal waste general permit does not include an analysis of revenue expected.

3. **Comment:** The application for a general permit does not meet any of the conditions specified in 25 Pa. Code § 271.811. (1, 2, 3)
 - a. The wastes for processing under Delta Thermo's application are not generated by the same or substantially similar operations as required in § 271.811(a)(1). (1, 3)
 - b. The wastes do not have the same or substantially similar physical character and chemical composition as required in § 271.811 (a)(1). The applicant admits in the application that it has not analyzed the MSW for chemical composition. The application does not contain adequate information regarding the physical character and chemical composition of the WWTP sludge. (1, 2)
 - c. Delta Thermo has failed to demonstrate that the blended MSW and WWTP sludge can be consistently reproduced with the same physical character and chemical composition. The application contained only one sample of the blended MSW and sludge mix analyzed by a German lab. The data provided shows a very inconsistent BTU value. (1)
 - d. The waste processing activities proposed by Delta Thermo cannot be adequately regulated utilizing standardized conditions with harming or presenting a threat of harm to the health, safety, or welfare of the people or environment of the Commonwealth. Site-specific conditions set forth in an individual waste management permit are needed to properly regulate all 16 of the distinct solid waste unit operations being proposed in the application, the fluctuating incoming waste sources, and the various outgoing discharges to the air, water, and land. (1, 3)

Response: The department has issued beneficial use permits to allow the combination of different waste streams to be processed and beneficially used. The processing of the incoming municipal waste and sewage sludge is designed to

provide a consistent fuel. The facility accepts municipal waste from the City of Allentown. The waste has similar characteristics. The sewage sludge used in the process is obtained from the City of Allentown's Wastewater Treatment Plant. The sludge undergoes the same treatment process and remains consistent. The processing of the incoming waste streams is designed to produce a consistent fuel product that has been characterized as part of the Air Quality evaluation.

Since the initial application, the applicant has provided additional analysis of the fuel product to compare its physical and chemical characteristics with those of coal.

This is a new general permit specifically tailored to this project. Specific conditions have been included in this general permit to prevent a threat of harm to the health, safety, and welfare of the people and the environment of the Commonwealth.

4. **Comment:** The general permit should be denied because the proposed facility should be covered under the individual permitting process due to its size and potential to affect the environment adversely. The proposed facility is a resource recovery facility proposing to accept, process, burn, and dispose of a significant volume of waste. (1, 3)

Response: This is a new general permit specifically tailored to this project. Specific conditions have been included in this general permit to prevent a threat of harm to the health, safety, and welfare of the people and the environment of the Commonwealth.

5. **Comment:** Delta Thermo failed to provide documentation showing that the Standby Services Agreement complies with the Lehigh County Solid Waste Management Plan as required by the department in the 2nd technical deficiency letter. (1)

Response: The department has included a permit condition in the general permit that requires DTE to maintain inclusion and compliance with the local county plan prior to and during operations.

6. **Comment:** Delta Thermo provided inadequate information regarding an expanded sampling program and waste characterization for the wastewater being generated as required by the department in the 1st technical deficiency letter. (1)

Response: The applicant will pretreat the wastewater generated at the facility prior to discharge to the POTW. DTE is responsible for ensuring the wastewater being discharged to the POTW can be effectively treated to meet the discharge limits.

7. **Comment:** Delta Thermo has not submitted a permit application for its proposed on-site wastewater treatment plant. Based on the technology and equipment proposed, it appears that a Part II water quality permit is required. (1)

The Lehigh County Authority, responsible for the Kline Island Wastewater Treatment Plant, indicated that they have not been given any information on the amounts of wastewater DTE will send them and whether they have the capacity to treat it. Additionally, during high rain events, the LCA is forced into bypass mode which allows peak flows to be discharged directly to the Lehigh River without proper treatment. (3)

Response: Wastewater generated from the facility's production process will be pretreated prior to discharge to Allentown's WWTP. The wastewater will not be directly discharged to the waters of the Commonwealth; therefore, a Part II water quality permit is not required.

8. **Comment:** At the public meeting, Delta Thermo indicated that the primary pathway for toxic and heavy metal removal from MSW and sludge is through the Delta Thermo wastewater treatment plant. This has not been addressed at all by the applicant. (1)

Response: All waste onsite must be managed so as not to harm or present a threat of harm to the health, safety, and welfare of the people or the environment. The wastewater generated at the facility will be pretreated at the onsite treatment plant prior to discharge to the POTW. Any sludge generated in the process must be disposed of at a permitted landfill.

9. **Comment:** The full traffic impact study should be submitted to the department and PENNDOT for review and comment. (1)

Response: A full traffic impact study is not required as part of the application. However, the applicant performed a study and provided the information to the department in the initial application.

10. **Comment:** The proposed facility appears to be located in an environmental justice community, which gives rise to certain additional procedural and substantive safeguards which have not been provided. This permit involves waste and sludge incineration, an example of a "trigger permit." (1, 3)

Response: The Environmental Justice Public Participation Policy (Doc # 012-0501-002) excludes general permits from the list of required trigger permits in waste management. Nevertheless, the department held a public meeting on October 30, 2013 for the Air Quality and Waste Management permit applications. A Spanish-speaking interpreter was available at the meeting to translate questions and answers.

11. **Comment:** The application is incomplete and inaccurate. Form E-GP and Form HW-C are incorrectly filled out and information is missing. (1)

Response: The applicant corrected the information on Form E-GP and Form HW-C during the response to the technical review letter. This information was provided in the May 31, 2013 response that is part of the application.

12. **Comment:** The absence of a clear, documented model of the inputs and outputs of the process makes the claim about the nature and homogeneity of the renewable clean fuel impossible to verify. (2)

Response: The air emissions will be continuously monitored by Air Quality and must meet the requirements of the air permit. The general permit includes a condition requiring on-going testing of the final fuel product.

13. **Comment:** All relevant waste permitting documents should be translated into Spanish and made readily available in the community near the proposed incinerator at a location where files may be accessed in evening hours and weekends. (3)

Response: This comment was received after the public meeting on October 30, 2013. The Bureau of Waste Management did not receive requests for translation of the waste program general permit application and information during the public comment period. Requests for translated material should be forwarded to the department's Environmental Justice Program.

14. **Comment:** A public hearing should be held. Concerted effort should be made for outreach through English and Spanish-speaking media and postings/mailings throughout the nearby community to alert people to the hearing at least two weeks in advance with documents available, in English and Spanish, for review during this time. (3)

Response: The department is not required to hold a public hearing on applications for general permits as noted in 25 Pa. Code §271.823(c). The department may hold a meeting or hearing if significant interest is shown on the pending general permit application. An informational meeting was held on October 30, 2013. A Spanish-speaking interpreter was available at the meeting to translate questions and answers. Based upon the comments received during the public meeting and comment period, the department determined that a public hearing was not necessary.

15. **Comment:** Extend the comment deadline until 30 days after the hearing takes place. (3)

Response: A hearing is not required. Comments were accepted after the public meeting that occurred on October 30, 2013. The deadline for additional comments was November 25, 2013.

16. **Comment:** 25 Pa. Code §272 requires that Lehigh County include DTE in their Municipal Solid Waste Management Plan. (3)

Response: Delta Thermo Energy submitted a request to Lehigh County to be included in the Solid Waste Management Plan on June 28, 2013. A response was received on July 3, 2013 indicating the process for inclusion in the plan and a timeline for the approval. The department has included a permit condition in the general permit that requires DTE to maintain inclusion and compliance with the local county plan prior to and during operations.

17. **Comment:** A mercury diversion plan should be required that requires mercury containing sources to be eliminated from the incoming waste stream and limits the incinerator's acceptance of sewage sludge to sludge only from wastewater treatment plants where all dental offices served by the sewage system use amalgam separators. (3)

Response: A mercury diversion plan is not required for waste management facilities. The Pennsylvania Dental Association has a Best Management Practices guidebook for dental offices. These best management practices include proper disposal of mercury-containing amalgams. In addition, the Air Quality permit contains a mercury standard for emissions.

18. **Comment:** The PA bulletin notice was defective and must be republished. The name published as the applicant is not an existing business in PA. (3)

Response: The correct name of the company is Delta Thermo Energy A, LLC. This company is registered to do business in Pennsylvania. No further publication in the PA Bulletin is necessary.

