

# PLANNING AND COMMUNITY DEVELOPMENT

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August 20, 2012

Michelle Ferguson  
Regional Planning & Recycling Coordinator  
Office of Pollution Prevention & Energy Assistance

Re: Regional Municipal Waste Management Plan

Dear Ms. Ferguson:

In response to your letter dated June 28, 2012, we are providing an updated Draft, including the main body text of the Plan and those appendices and exhibits that have been changed, and the following information. For clarity, I have included your comment as well as our response. We have endeavored to satisfy your requests and concerns to the fullest extent possible with available information and resources.

Generally speaking, where the DEP comment letter indicates that specific information was considered to be not required, we moved this material to the appendices. This allows us to document the work and retain the information for future reference, while removing it from the main body of the Plan. As discussed during our meeting on July 31, 2012, we understood that this approach would be acceptable to DEP.

The Plan has been updated to reflect the Responses shown below:

1. *Overall format of the Plan: 25 Pa. Code § 272.204 (d), states as follows: "A Plan shall be organized and formatted to correspond to § 272.222-272.233. A Plan shall have a separate section for each of these sections." Also, Paragraph C of the Guidance sets forth the format to be followed and indicates what the numbered chapters of the Plan should be. The overall format of the Plan does not follow the format set forth in the regulations, in that some sections were combined into one chapter, and information was found, and repeated, in more than one section. It is requested and recommended that the Plan be formatted according to the regulations.*

**Response:** We have modified the existing Plan document to reflect this change in format. It should be noted that the format presented in the Regulations differs somewhat from that recommended in the Guidance Document. Based on email communication from you to Megan Lehman on August 9, 2012, the revised format follows that described in the Guidance Document.

2. *Page 15 and chart on page 16: Refer to the recycling rate increasing to 30 percent. While the Commonwealth no longer publishes new recycling rate goals, the goal of 35 percent is still a regulatory requirement under 25 Pa. Code, § 272.223(d) (3). It is requested and recommended that the Counties indicate how they are planning to reach the 35 percent recycling goal.*

**Response:** During a meeting with the DEP as part of this Plan development process, Larry Holley was asked how we should calculate the recycling percentage (i.e., based on the total waste generated, or just as a percentage of the landfilled MSW & C&D material). Larry indicated at that time that DEP had stopped requiring a discussion of the 35% recycling rate, due to the complications of evaluating trend data based on comparison of light-weight recyclables (plastic) to other materials (glass). With that in mind, reference to the Act 101 35% goal was not previously included in the Plan. However, given the above comment, section 1.4 (now changed to 3.1 in the revised format) has been

modified. The revised text is based on the current average recycling tons/capita (0.24) divided by the average landfilled MSW & C&D (0.77 tons/capita) = 31%. This was then compared to a recycling increase to 35% (or to roughly 0.27 tons/capita recycled). A discussion of proposed methods for increasing recycling rates is included in new format Chapter 5.

3. *Pages 18, 20, 25, 26, and 27: While these sections on the background of the environmental benefits of recycling are interesting, they are not specific to the planning area. 25 Pa. Code § 272.204 (e) states that a plan shall be specific to the planning area. Please indicate whether the benefits on the pages noted are specific to the planning area. If not, it is requested and recommended that these sections be deleted.*

**Response:** This information has been relocated to a new Appendix (I), where it will still be accessible. We feel it is important to retain the discussion of recycling benefits somewhere within the Plan, because the individuals who will be in charge of implementing this Plan will be required to communicate the intent to the general public within the Region. An understanding of the benefits of recycling is critical to their ability to communicate, and any generalized benefits to society realized through recycling will also benefit those within the planning area.

Section II.E of the DEP Guidance Document requires use of the NERC Environmental Benefits Calculator (or similar) as a means of identifying the historic benefits achieved by recycling. In addition, § 272.226(a)(2) requires that the Plan include a discussion of the "potential benefits of waste reduction or recycling..." The discussion previously located on page 20 provides specific definitions of the various recyclable materials, which we feel is important in communicating to the public. Previous pages 25-27 discuss the types and percentages of recyclables that are typically found across the Commonwealth (using a study funded by the PADEP), and provides important information for external communication.

4. *Page 36, Section 2.7: States that there is currently no cost data on existing municipal programs. 25 Pa. Code §272.226 (a) (10) and Section 502(e)(1)(x) of Act 101, 53 P.S. §4000.502(e)(1)(x) state that the costs of the recycling program should be evaluated. Section 502(e)(1)(x) of Act 101, 53 P.S. § 4000.502(e)(1)(x), states that "the plan shall describe and evaluate: estimated costs of operating and maintaining a recycling program, estimated revenue from the sale or use of materials and avoided costs of processing or disposal. This estimate shall be based on a comparison of public and private operation of some or all parts of the recycling program." It is requested and recommended that the recycling program costs and revenues be detailed in this section for each county program, not municipal programs, as was set forth in the Plan Solicitation of Interest.*

**Response:** The section referenced was modified to discuss available cost and revenue data. Costs and revenues were estimated based on the best available information as part of the Solicitation of Interest, and summarized in a table used to generate a list of anticipated Sustainability Needs for the Region. As stated in Section 2.7 (now new format Section 4.5), more detailed information regarding costs associated with collection of recyclables is not readily available despite significant attempts on the part of the Consultant Team to attain this information.

5. *Page 37, Section 2.8: It is requested and recommended that the 35 percent recycling goal be mentioned.*

**Response:** Section 2.8 (new format Section 4.6) has been modified to reference historic and future recycling percentages and the 35% goal. As discussed in the response to Comment 2, above, the complications of evaluating trend data based on comparison of light-weight recyclables (plastic) to other materials (glass) makes the 35% goal less meaningful than had been originally hoped. For instance, a dramatic increase in the collection of plastic bottles will not offset the tonnage values lost by a reduction in the use of glass bottles, due to the huge unit weight differential. With this in mind, we had previously attempted to avoid reference to overall recycling percentages in the Plan.

6. *Recycling information is found in three different chapters in the Plan. Chapter 2 and Section 3.3 contain information about recycling, and then recommendations are found in a separate chapter, Chapter 5. As set forth in 25 Pa. Code, § 272.204 (d), and Paragraph C of the Guidance, it is requested and recommended that these chapters be combined into one chapter in the Plan.*

**Response:** Section 3.3 of the Plan discussed the collection and transportation of waste and recycling materials. This section has now been moved to new format Chapter 5 (*Selection and Justification of Municipal Waste Management Program – per §272.226*). The remaining sections of original Chapter 2, which described the types and amounts of material recycled, have been relocated to new format Chapter 4 (*Description of Recycling Program per §272.226*). Old Chapter 5 (*Waste and Recycling System Recommendations*) has also been moved to new format Chapter 5, which

appears to be the best location to discuss recommendations using the format per the Guidance Document (which differs slightly than that in the Regulations).

7. *Page 50: In order to be consistent with 25 Pa. Code § 272.227(c) (3), it is requested and recommended that the costs of collection and transportation of municipal waste be included.*

**Response:** Other than Lewisburg Borough, none of the other municipalities within the 5-County Region, and none of the Counties, operate a municipal collection program. As such, costs associated with collection and transportation of municipal waste are paid directly by individual residential, industrial and commercial customers as subscription fees to the hauler. These fees vary by hauler and by location/type of waste, and the Region has no control over the costs or fees charged. At several of the Haulers Stakeholder Meetings, an attempt was made to obtain cost and fee information from private haulers, but the haulers were reluctant to share any information since the other Stakeholder members represent their primary competition. Since the Region opted to adopt a "menu plan" for the development of Capacity Assurance, the Region and the individual Counties have no control over which designated disposal facility is selected by the haulers, and the transportation costs associated with each facility were not a factor in selection for the Capacity Assurance list. As such, collection and transportation costs are not discussed in detail in Section 3.3 (new format Section 5.3).

8. *Rural Transfer Stations are mentioned several times throughout the Plan, including Pages 50, 52, 55, 56, 57, 58, 63, 65, 89, 90, 93, 106, 107, 108, and Exhibit 2. Because rural transfer stations are not a component of county planning, and it is the Department that has the authority to address these types of facilities, it is requested and recommended that these references be deleted.*

**Response:** Based on the above recommendation, we have eliminated reference to rural transfer stations and convenience centers throughout. This change is also being made on Exhibit 2 (the updated map is not yet available, but it will be forwarded to you upon completion). We do feel that rural transfer stations are a component of county planning, given that they represent a significant part of the methodology used to collect and transport residential waste to disposal facilities. While we have complied with DEP's request in removing this information, we are concerned that elimination of these facilities from the Plan may result in a less thorough consideration of the needs of residents of the most rural areas of the Region with respect to collection of MSW.

9. *Pages 66-77, Section 3.6: As previously noted after the Department reviewed the December 2010 Plan draft, the majority of this section, and its discussion of waste processing technologies primarily occurring in countries such as Europe, Japan, Australia and Israel, seem to be extraneous. Are any of these technologies actively being considered and studied in the 5-County Region? Pursuant to 25 Pa. Code § 272.227, is requested and recommended that the Plan only include technologies that are actually actively being considered and studied within the 5-County Region.*

**Response:** This information has been relocated from the main text of the Plan to a new Appendix (I), where it will still be accessible for reference if needed. Part of any Planning document is the assessment of alternative technologies that may be considered over the planning period. While it is unlikely that many of these technologies will be implemented within the next 10 years, we felt it was still valuable to discuss alternatives. Since the Region is not in charge of implementing waste disposal methods (just designating disposal facilities to be part of the Plan) it is difficult for the Region to concretely identify those technologies that will affect the Region over the next 10 years.

10. *Pages 91 and 92 include a Department email which was sent to the Regional Steering Committee representatives about a collection program for recyclables by private haulers. It appears that the underlying issue is found at the bottom of page 92 and the top of page 93 of the Plan, which is that the Department would review the manner in which collection of recyclables in mandated communities would occur. Consistent with 25 Pa. Code § 272.204 (e), this information only needs to be included if there are current plans for setting up private hauler collection systems. If not, and because there is no regulatory requirement to include this information, the Department believes that it is not relevant or needed. If that is the case, it is requested and recommended that the language be excluded.*

**Response:** Given the above comment, this information has been relocated to a new Appendix (I). The rationale for including the PADEP comments specific to the collection of recyclables in mandated communities is that the Region has considered recommending a subscription-based program for recycling collection, which may well be implemented in some areas over the next 10-year period. Since the PADEP took considerable effort to document their concerns

regarding this approach for mandated municipalities, the language was included for clarification in the event that this approach is implemented in the future.

11. *Page 95: The first full paragraph notes that "on an interim basis," it is recognized that the Lycoming County Landfill, as currently permitted, can meet the disposal capacity needs for the region for the next ten years. Please explain what is meant by "an interim basis".*

**Response:** This paragraph was prepared prior to the completion of the Solicitation of Interest. Since that process has now been completed, reference to the Lycoming County Landfill being technically capable of meeting the disposal capacity needs for the 10-year planning period is no longer necessary. This paragraph has been removed.

12. *Page 95: Discusses that "during the next year, LCRMS would like to accept dual-stream recyclables". DEP corresponded with LCRMS on May 24, 2012, and was informed that this statement is not accurate, and that likely, dual stream recycling will not be offered in the next year due to the major changes that are needed to their processing facility in order to accept dual stream recycling. Given this background, the Department requests and recommends that this sentence be re-worded such that it accurately reflects the status of the acceptance of dual-stream recycling. The Department's understanding is that this is a long-term goal, but not something to happen imminently at LCRMS.*

**Response:** This was a true statement at the time that it was written; however, since that time the LCRMS has reevaluated the potential for dual stream and delayed the process. With that in mind, the paragraph has been modified. Changes at a MRF are continuous, fluctuating with recycling commodity pricing and budgetary considerations; so it is quite likely that the status of the dual stream option will also change with time.

13. *Page 99, 1st paragraph: Mentions an Act 101 HHW grant. Please note that these are Act 190, not Act 101, grants, and it is requested and recommended that the correct citation be used.*

**Response:** The correction was made.

14. *Pages 106-108, Sections 6.3, 6.4, 6.5, and 6.6: It is requested and recommended that these sections be included in the chapter that is now Chapter 3, Section 272.227, entitled Selection and Justification of Municipal Waste Management Program. It is also recommended that the content from the February 15, 2012 memo from Terry Keene to the Regional Steering Committee representatives be incorporated into this section, as the Department believes that the February 15, 2012 memorandum appears to layout in detail how the planning process worked.*

**Response:** Given the change in formatting, former Sections 6.3, 6.4, 6.5, and 6.6 have been relocated to new Chapter 5 (*Selection and Justification of Municipal Waste Management Program* per § 272.227), and they are now Sections 5.22 through 5.25.

15. *Page 109: This discusses adding a landfill or other disposal site to the Plan. The Department recommends that the Plan identify the mechanism through which the Counties would review the Plan on a regular basis to evaluate whether the Plan should be modified to include additional facilities that could receive waste in order to be consistent with Harvey and. Harvey, 68 F.3d 788,806 (1995).*

**Response:** New Section 5.26 has been modified to include a recommendation for annual review of the list of Designated Disposal Facilities to determine whether the needs of the Region are being met, and that adequate disposal capacity is available for the remaining life of the Plan.

16. *Page 116: How were the RSWAC meetings advertised? 25 Pa. Code § 272.204 (b) states that "[a] plan shall be developed and implemented in an open and public manner." Please describe how the requirements of 25 Pa. Code § 272.204 (b) were met, and also how the public was notified of the RSWAC meetings.*

**Response:** New format Section 13.3 was modified to include a discussion of the methods used to notify the RSWAC members and the general public of the meetings.

*The Department also offers the following recommendations and suggestions for improving the overall Plan readability while eliminating several questions and inaccuracies:*

17. Page 5: It is requested and recommended that the date on be amended from December 2010. The disk that was submitted says the Plan is from March 30, 2012.

**Response:** Since the Plan is schedule to be adopted in December of 2012, we have changed the date accordingly at the beginning of the Introduction section and on the cover page. Any version up to that date will be considered a Draft.

18. Page 14, Table 1.4-3: It is the Department's experience that changes in waste generation typically correlate to changes in population. With that as background, it is requested and recommended that the Plan explain the reason that the "5 waste streams tonnage" did not vary, but stayed the same over the 20 year period, since the population is projected to increase over the same 20 year period. Please clarify, or modify this table if the "5 waste stream tonnage" will vary.

**Response:** The "5 waste streams" discussed in Table 1.4-3 (now Table 3.1-3) were referring to *residual, sewage sludge, ICW, ash and asbestos wastes*. Although we would agree that MSW and C&D waste tonnages tend to increase with population growth, the data collected between 2005 and 2009 did not show a correlation to population for these other 5 waste streams. Each of these waste streams (other than *sewage sludge*) are more closely linked to industrial activities than municipal, so are not so closely linked to population changes. While *sewage sludge* would seem to be linked to population, the data showed a steady decline in tonnage (from 33,513 tons in 2005 to 19,762 tons in 2009) which does not correspond to the 1.7% increase in population over the 4 year data period. With that in mind, it was conservatively assumed that the average total of these 5 waste streams will continue for the next 20 years, in spite of the data which shows a steady drop.

19. Page 21, *Plastics*: States that plastics No.3-No.7 "can be added to the list of recyclable products as demand increases". Please indicate whether there is consideration of collecting plastics No.3-No.7 under this Plan. Consistent with 25 Pa. Code § 272.204 (e), it is suggested that this statement be made specifically with regard to the planning area.

**Response:** The decision to add or remove recyclable commodities is made by the various recycling facilities, based on a variety of considerations, including commodity price, recovery costs, and storage, processing and delivery issues. With that in mind, it is quite possible that Bloomsburg may choose to add plastics No. 3-7, whereas Lycoming may not (or vice versa). At this point, there are no set plans by any of the facilities to change their current recycling methods, although it is believed that all are considering it. In addition, this section of the Plan narrative was moved to Appendix I, as discussed in the response to Comment 3, above. With that in mind, we feel that the statement made currently in the Plan is correct and any further statement would be speculative.

20. Page 22: Although tires, used motor oil, and automotive batteries are listed in 25 Pa. Code § 271.2(c), these waste streams are not to be managed as municipal waste, but rather residual waste. It is recommended that the authority under which these waste streams are managed be described accurately as residual waste, and it is requested that the Plan indicate whether recycling and alternative disposal is being planned for these wastes under this Plan.

**Response:** This section of the original narrative was moved to Appendix I, as discussed in the response to Comment 3, above. The statements regarding recycling of tires, used motor oil, and automotive batteries were intended for educational purposes, not to indicate a recommended plan to implement collection of these items into a recycling program. The narrative description of how recycled streams of these products could be used is true, regardless of whether they are defined as *residual* or *municipal* wastes. As such, the language was kept as originally prepared (but moved to Appendix I), and the word "municipal" was removed from the first sentence.

21. Page 28, last paragraph, and Page 55: It is suggested that the Plan indicate why administrative fees are no longer available as a result of two Commonwealth Court cases, *IESI PA Bethlehem Landfill Corporation v. County of Lehigh*, 887 A.2d 1289 (Fa. Cmwlth. 2005) and *Pennsylvania Independent Waste Haulers Association v. County of Northumberland*, 885 A.2d 1106 (Fa. Cmwlth. 2005). This would clarify for the reader the reasons that the fees were dropped.

**Response:** Since Section 3.2 (new format Section 5.2) discusses the court cases in some detail, a sentence was added to reference that discussion. In addition, a note was added to show the net loss in fee in 2003 and 2004, and the impact of this loss on the recycling program.

A reference to Team Green was included in Section 2.4 (new format Section 4.4).

22. *Page 29 and Page 58, Table 3.3.-1: The Columbia County discussion fails to mention Team Green Recycling, a recycling processor in Berwick, Columbia County, which was mentioned earlier in the Plan, on page 23. It is recommended that Team Green Recycling be added.*

**Response:** A reference to Team Green was included in Section 2.4 (new format Section 4.4).

23. *Page 31, 3rd paragraph: Discusses that Snyder County "has contracted to offer a HHW collection in 2011." It is suggested that the HHW collection information be updated.*

**Response:** This sentence was modified to indicate that "Snyder County completed another HHW event in the fall of 2011."

24. *Pages 34 and 97: Discussion on the Covered Device Recycling Act. This was previously discussed on page 21, and seems redundant. It is suggested that the Plan combine this information with what is set for the on page 21.*

**Response:** The reference to the *Covered Device Recycling Act* on page 21 has been relocated to Appendix I, along with the other recyclables definitions. That which had been on page 34 is now in Section 4.4 (*Changes in Act 101 and Impact of These Changes to the Region*) and from page 97 is now in Section 5.12 (*Electronics Recycling*). To avoid redundancy, reference to this Act was removed from new Section 4.4.

25. *Page 35: The information appears to be redundant and overlaps the information regarding Bloomsburg Recycling (can be moved to page 29); the Lycoming County MRF (can be moved to page 29); and JAWS (can be moved to page 30).*

**Response:** With the new format, the information previously contained on page 35 has now been relocated to Chapter 6, which is dedicated to a discussion of the Recycling Facilities. As such, the information from original pages 29 and 30 has been removed and a reference to Chapter 6 added. This will make both Chapters more concise.

26. *Page 40 and 41 discuss Marcellus Shale. Page 41 states that the Lycoming County Landfill currently does not accept residual waste generated from the Marcellus Shale industry. It is recommended that the Plan confirm and/or clarify whether there is any expectation within the next 10 years that residual waste from the Marcellus Shale industry will be accepted at the Lycoming County Landfill. Also, what, if anything, is considered to be the impact, population wise, as a result of the Marcellus Shale industry to the five-county area? The rationale for suggesting these comments is to indicate whether municipal waste capacity may be impacted or affected by Marcellus Shale waste disposal at disposal facilities in the region or being used by the five counties.*

**Response:** This discussion is now relocated to Section 5.1 (new format). This section was modified to state that the Lycoming County Landfill has indicated that it does not intend to accept Marcellus Shale waste products during the 10-year period covered by the Plan. A more detailed discussion of the potential impacts of Marcellus Shale exploration on landfill disposal capacity is now included in Section 5.16. The disposal facilities that responded to the SOI have indicated that they will have much more than sufficient capacity to meet the MSW disposal needs of the Region for the next 10 years, regardless of additional Marcellus Shale residual materials.

27. *Page 46 and 111, Open Burning: This section states that PADEP generally does not support the burning of recyclables. It is suggested that the Plan include language indicating that the burning of solid waste is illegal under Act 97, the Solid Waste Management Act. Section 601(3) of the Solid Waste Management Act, 35 P.S. § 6018.610(3), provides that it shall be unlawful for any person or municipality to burn solid wastes without a permit from the Department. The burning of recyclables is unlawful under Section 1501 of Act 101. Also, to make this pertinent to the planning area, the Plan could list those municipalities that have burning ordinances.*

**Response:** The sections in former pages 46 and 111 (now in new format Sections 5.1 and 7.2) were modified to state that the burning of solid waste is illegal under Act 97, the Solid Waste Management Act. Section 601(3) of the Solid Waste Management Act, 35 P.S. § 6018.610(3), provides that it shall be unlawful for any person or municipality to burn solid wastes without a permit from the Department. The burning of recyclables is unlawful under Section 1501 of Act 101. A list of municipalities with burning ordinances is included in new format Section 7.2.

28. Pages 61 and 62: Tables 3.4-1 and 3.4-2: These tables state that "no responses" on fees were obtained from Heaps Transfer Station and Waste Management Transfer Station after calls were made to them in December 2010. The table also discusses PA Waste Transfer and the permit status as of March 2011. It is suggested that this information be updated.

**Response:** No additional information has been received from the Heaps Transfer Station, Waste Management Transfer Station or the PA Waste Transfer Station, so these tables were updated accordingly (now Tables 5.4-1 and 5.4-2).

29. Page 83 and page 99, Section 5.7: It is suggested that both the pharmaceutical collections by EPA and those sponsored by DEA be included together. It is also suggested that the section concerning DEA collections be updated, since DEA collections have occurred since the listed date of September 2010. It is suggested that the 2011 and 2012 events be included.

**Response:** This section has now been moved to new format Section 5.15, and the information was updated to reflect the current website and additional events.

30. Page 102: It is suggested that the definition of yard waste be explained.

**Response:** The definitions of various recyclable materials were moved to Appendix I, and a reference to that location was included in new format Section 5.19.

31. Table A.3. Hospital Surveys: Were Jersey Shore Hospital (Lycoming County), Evangelical Hospital (Union County), and Berwick Hospital (Columbia County) sent surveys? If yes, please include the results. If not, it is suggested that these three hospitals be included as part of the table, and surveys sent to them.

**Response:** Surveys were submitted to these facilities but no replies were received. We will submit another copy of the form to them, but suggest that the process move forward while awaiting a response, and we will supplement the Plan with the revised form if responses are received.

32. Table B.2. Please remove the footnote (lists wrong County). The table states that Scott Township is not mandated. Scott Township is mandated under the 2010 census.

**Response:** The footnote has been removed and a note was added regarding Scott Township.

33. Appendices C: Refer to text highlighted in light blue. The Department's copies did not show any text highlighted in light blue, so it is unclear as to what text was highlighted.

**Response:** References to the highlighted text were deleted.

Thank you for providing an opportunity to obtain additional DEP feedback on these changes prior to County adoption and Municipal adoption of the Plan. We are currently scheduling a steering Committee meeting for the first week of September and the five Counties are planning to adopt the revised Plan, pending DEP's positive feedback, by September 13, or sixty days following the completion of the public comment period.

Sincerely,



Megan Lehman  
Environmental Planner

Enclosures

