

July 7, 2010

**CHANGES TO SOLID WASTE LAW ENACTED:
SITE SUITABILITY REPORT ELIMINATED FROM SITING PROCESS
AND SMALL TRANSFER STATIONS TO GET PERMITS LOCALLY**

The Solid Waste Disposal Act; G.L. c. 111, § 150A, has been amended as part of the Fiscal Year 2011 state budget, effectuating two significant changes in the way solid waste facilities are permitted. The changes were proposed by MassDEP in the budget process, presumably as cost-saving measures. The language included in the final budget is the same as that proposed in the Senate version of the budget, as reported in our May 25, 2010 Client Advisory.

MassDEP will no longer issue a site suitability report upon receipt of a site assignment application. The suitability report, which stated whether a proposed site met the siting criteria established under section 150A^{1/2}, had been a requirement since 1987. One of the goals of having MassDEP issue a suitability report was to provide an objective evaluation of a proposed site before a board of health conducted its hearing on the site assignment application. The use of the reports varied, however, because they were not binding on local boards. Now that the suitability report has been eliminated from the process, site assignment hearings will commence within 60 days of a board of health's receipt of a site assignment application.

The solid waste statute has also been amended to change the permitting process for small refuse transfer stations. Local boards of health will now be responsible for issuing construction and operating permits for transfer stations handling not greater than 50 tons per day. The new statutory language suggests that MassDEP will establish performance standards for such facilities.

In a more subtle change to the statutory scheme for permitting solid waste facilities, MassDEP and, where applicable, local boards of health, may restrict the types of waste at a facility to promote recycling. Previously MassDEP was authorized by statute to limit or prohibit the disposal of particular types of solid waste to extend the useful life of a facility or reduce its environmental impact. The new statutory language also allows the permitting entities to limit or prohibit certain types of waste to “promote reuse, waste reduction and recycling” and to protect public health.

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