

May 26, 2010

**CHANGES TO SOLID WASTE SITING LAW MAY BE IMMINENT:
DEP PROPOSES TO ELIMINATE SITE SUITABILITY REPORT AND
PLACE PERMITTING OF SMALL TRANSFER STATIONS IN THE HANDS
OF LOCAL BOARDS OF HEALTH**

In an effort to cut costs in a tight fiscal climate, the MassDEP has proposed two significant changes to the Solid Waste Act that would alter the way solid waste facilities are permitted. The changes are contained in an outside section of the Fiscal Year 2011 budget prepared by the Senate Ways and Means Committee to be debated by the State Senate this week.

The first proposed change to M.G.L. c. 111, § 150A would eliminate the fifth paragraph, which currently requires MassDEP to issue a site suitability report within 60 days of receiving a site assignment application. The suitability report states whether a proposed site meets the siting criteria established under section 150A½. In the past the reports have been used by project applicants and local boards of health as evidence in site assignment hearings, but in most cases the boards are not bound by MassDEP's determinations. Site assignment hearings would commence within 60 days of a board's receipt of an application rather than within 30 days of receipt of a site suitability report.

The MassDEP also proposes to shift the permitting of refuse transfer stations handling not greater than 50 tons per day onto local boards of health. The proposed statutory change suggests that MassDEP will establish performance standards for such facilities.

Because the changes were proposed in a budget document there has been no public hearing on them. The language was not included in the version of the FY2011 budget passed by the House of Representatives. If the Senate approves the changes in its budget document, the language will be referred to a conference committee, along with other differences in the two versions of the budget. If the language survives that process and is in the final FY2011 budget signed by the governor, it will become effective. The MassDEP would then have to amend its regulations to comport with the statutory changes.

Comments or concerns about the proposed changes should be brought to the attention of state senators immediately.

For more information contact Michelle O'Brien.