

COMPOST OPERATION STAKEHOLDER ADVISORY GROUP MEETING

Agricultural Services Building – Wake County Office Park

MEETING MINUTES

WEDNESDAY, DECEMBER 9, 2009

In Attendance

Allen Hardison	NCACC	Brian Rosa	DPPEA
Jon Risgaard	NCDWQ	Michael Scott	DENR - DWM
David Goodrich	NCDWQ	Bob Rubin	NCSU
Jim Lanier	NCSTA	Liz Patterson	DENR - DWM
Billy Dunham	NC Dumper Group	Jason Watkins	DENR - DWM
Scott Mouw	NCAPPEA	Sergei Chernikov	DENR - DWQ
Scott Carpenter	NCWWA-WEA	Bethany Georgoulizs	DENR - DWQ
Jennifer Jones	NCDWQ	Erin Wynia	NC League of Muni.
Frank Franciosi	NCCC	Matt Matthews	DENR - DWQ
Steve Cockman	McGill Env.	Doug Lassiter	NC Septic Tank
Bill Lord	NCSU CES	Ken Pickle	DENR - DWQ
Joe Hack	Mecklenburg County	Craig Coker	NCCC/USCC
Lindsay Roberts	NC AWWA - WEA	David Halley	Facilitator

1:00 PM WELCOME: Ken Pickle - DWQ

Welcomes group and thanks those for attending the first Compost Operation Stakeholder Advisory Group Meeting. Session Law 2009-322 (HB 1100)– Requires DENR to convene a stakeholders meeting in order to seek industry input and recommendations on how DENR should revise DWQ permitting processes to be friendlier to the regulated community.

A steering committee was formed – included Frank Franciosi, Ken Pickle, Scott Mouw, and Michael Scott. Self-formed steering committee then extended invitation to people for this stakeholder process. DWQ objective is to implement DWQ procedures that do not unfairly hinder permitting of compost facilities in NC. Want to present clear, crisp map, and how the permitting process occurs. Group has some tough problems solve. Ones in which few other people in the nation have been able to address successfully.

Ken did a quick overview of agenda. Thanked group for coming – we're committed to this process.

1:15 PM ROLE OF FACILITATOR AND INTRODUCTION OF FACILITATOR: Ken Pickle - DWQ

Introduction of Dave Halley (Facilitator with True North Organizational Development Services) Steering committee selected Dave out of four other facilitators. Dave was interviewed and judged to be the best fit for this group. He will help us through a structured process to achieve the group's objective. He will guide the meeting process so we can focus on the meeting

content. He is impartial. He will help the group stay on task, ensure everyone is heard, diffuse conflict that is harming the group's productivity, and help to create an environment that frees group to give their best.

Dave challenged the group to look for a win-win decision making process. Today's meeting is primarily focused on "why we are here" and "what has led us up to today".

1:30 PM COMPOST OPERATION HISTORY: Michael Scott - DWM

What has led us to today?

The changes in permitting requirements for compost facilities started in the Fall of 2006. A draft letter was sent from the DWQ stormwater permitting unit titled – Permitting policy for compost operations and mulch facilities. A number of compost operations were seeking stormwater permits from DWQ for their facilities. For some facilities, the DWQ stormwater permitting unit determined that the runoff would be considered wastewater and not stormwater therefore not eligible for a stormwater permit.

Specific permit requirements for DWM facilities include – a site plan, permit application, and operations manual. These documents are directly impacted by changes at facilities to treat runoff as a wastewater rather than stormwater. The Solid Waste Compost Rules require facilities to not cause a discharge of pollutants into waters of the state. As a result, significant facility changes (reflected on permitting documents) may be needed, including the possibility of obtaining a wastewater permit. The changes in the classification of the runoff from compost facilities have had a direct impact on the industry and DWM permit renewals and issuance.

Multiple DWM permits have been expired over a year while trying to figure out the appropriate type of permit for the runoff from compost facilities. New facilities have tried to utilize a zero discharge approach for stormwater and wastewater in order to make it through the current permitting process between Divisions. Numerous meetings have been held between Divisions and the regulated community to address the issues mentioned in the 2006 draft letter. A FAQ sheet was also drafted to outline what is needed from DWM and DWQ for a facility permit (remains incomplete at this time).

In July 2007 there was progress made in that specific facility types (yard waste notifications and compost demonstration approvals) were exempted from specific stormwater and wastewater permitting requirements. Establishing the exempt facility types was a positive and first step in working through this process. More progress should have been made as we look back over the previous three years. Several facilities have addressed the generation of wastewater in a variety of ways (examples – Wallace Farm, hooked into sewer; Brooks Contractors- pump and haul, land application; City of Durham, permit to construct yard waste facility, retention pond, pump and haul if necessary). Frank Franciosi and Steve Cockman represent two facilities that have been able to proceed with their DWM permit renewals while we move forward with the stakeholder process (House Bill 1100). It was noted by DWQ that these facilities may not have the correct permits in place but there are not immediate concerns related to stormwater and wastewater runoff from either facility.

DWM and DWQ have also visited facilities that have been out of compliance and both Divisions have had to address violations. These facilities are not able to pursue their DWM

permit renewal until the violations are addressed. The process of permitting composting facilities has become more defined after the passage of House Bill 1100.

Comments:

Bob Rubin- Important to look at economics according to language in House Bill 1100

1:40 PM COMPOST LEGISLATION- HOUSE BILL 1100: Ken Pickle - DWQ

What does the legislation instruct us to do and why you are here?

Directing DENR and DWQ to respond to the industry.

Overview of SL 2009-322 (HB 1100)

Directs NCDENR to revise DWQ permitting procedures for the compost industry

Directs DENR to convene a stakeholders group to provide input and assistance in this task

Specifies a schedule for DENR to accomplish the directives

Layout of schedule:

Dec. 31, 2009: report progress to legislature

Jan 1, 2010: NCDENR must request recommendations from the stakeholder group

Jan. 1, 2011: NCDENR must begin phase in of revised DWQ permitting procedures

Oct. 1, 2012: NCDENR must complete phase in revised DWQ permitting procedures.

During the interim period (from today until phase-in of the revised permitting procedures) DWQ is required:

- To extend current DWQ permit when DWM renewal comes up. (The session law provides a major caveat to these directions to DWQ on interim period permitting. For any permitted site found causing a water quality violation, DWQ may elect not to automatically extend their permit coverage).
- For facilities not holding a current DWQ permit, DWQ must review on a case-by-case basis facilities coming up for renewal with DWM.
- For new facilities holding neither a DWM nor a DWQ permit, DWQ must address new water quality permits applications on case-by-case basis.

NCDENR must:

- Establish standard storm water and wastewater treatment and volume reduction practices.
- Clarify the distinction between wastewater and storm water
- Consider economic impact of regulatory decisions
- Consider low-risk subsets that may be eligible for reduced or expedited permitting requirements.
- Evaluate the whole of the circumstances of each facility (feedstocks, method, size, quantity and quality of discharge, receiving water quality, operating and maintenance requirements)
- Consider scientifically valid information from North Carolina sites and sites in other states.
- Establish materials thresholds above which water quality permitting is required.

What is Industry's perspective on how legislation came about?

- The Composting infrastructure that exists today in NC has potential to grow 10 times its current size. EPA and NCDPPEA have estimated that 25% of the solid waste fraction is in organic waste form that can be diverted from landfills and composted.
- Composter's are stewards of the environment. We try to produce compost product in an environmentally sound manner. If we are polluting the environment in any way we want to stop.
- From Oct 2006-July 2009 there was not a lot of activity and no substantial changes. Early in 2007 the NCCC was interested early on in getting a solution to this issue. There were attempts to meet with DWQ but there was no driving force. Past three years have hit facilities economically. The industry could not get answers from DENR on new applications. Permit renewals both public and private industries were in a log jam. This was unacceptable to the industry. HB 1100 forced the issue for the industry and the divisions of DENR to come to the table and focus on constructive dialog and solutions to the issue.
- Road Map to Permitting – Clear direction, based on type of waste, volume of waste, location what the process is for permitting. Goal of the industry to get this road map. Take the time to make sure this is done right.

Comments:

Joe Hack: Municipalities are required to divert yard waste from the landfills. Achieve compliance with solid waste rules and water quality rules.

Bob Rubin: Rule prohibiting disposal of yard waste, as established in the 1989 solid waste law, S 111.

Who is part of this group?

Dave asked everyone at meeting to introduce themselves. Their name, their organization and what they like to do outside of work.

Discussion:

Dave Halley (Facilitator): Is anyone not represented?

Bob Rubin: Some of the advocacy groups – River Keeper Group, etc. Some advocacy groups were invited.

Erin Wynia: I believe there was scheduling conflict with River Keepers

Dave Halley: Maybe we should provide minutes of this meeting to those that cannot attend or post minutes for those to review and stay in the loop.

Craig Coker: Compost user groups not represented

Brian Rosa: Somebody from legislature – it is the group we have to report to

Ken Pickle: Session law directs NCDENR to report to the legislature

Dave Halley (Facilitator): We need to develop buddy system in this process for people outside this group to keep them informed.

The objective of this group is:

To provide input and recommendations to DENR on their revisions to the water quality permitting process for composting facilities.

DWM and DWQ need to take that input and create a product you can live with.

Guiding Principles for Achieving Goals

- That the compost industry thrives in NC
- That the waters of state receive protection required by existing law and rule
- That the administrative procedures of regulatory agencies encourage these two outcomes
- That Divisions within DENR work collaboratively, interdependently not independently.
- That a desired outcome is defined/mapped out permitting process

How will we work collaboratively and make decisions as a group?

Strive for Win/Win Agreement:

Not your way or my way, but a better and higher way

The belief in a third alternative

Win/Win Process:

First, see the problem from the other point of view. Really seek to understand

Second, identify key issues and concerns involved

Third, determine what results would constitute a fully acceptable solution.

And fourth, identify possible new options to achieve those results.

Ground rules to obtain Win/Win Agreement:

- Focus on interests not positions. Invent options of mutual gain
- Listen to understand, speak to be understood
- Respect speakers (Avoid side bar conversations and interrupting while they talk)
- Make sure everyone is heard
- Speak when you have something to say- be responsible for what you say.
- Confront respectfully (you can be hard on ideas as you need to be so long as your are courteous to people)
- Be creative – look for new ideas
- Don't be afraid to challenge the status quo or other authority
- No question is a dumb question – all questions have relevance
- Share info and data freely (Put all your cards on the table so that decisions are based on all the valid information available)
- Choose options that are mutually beneficially and mutually satisfying
- Support what you agree to outside the meeting

Decision Making:

- Strive for consensus
- Consensus is hard and may not be possible
- Solutions may not be easy
- May need more time before making some decisions
- Red (no – major changes needed), yellow (question or concern before moving forward), green (I support) cards

Operating Principles

- Everybody has wisdom
- The whole is greater than sum of its parts
- There are no wrong answers.
- Everyone will have a chance to be heard.

2:30 PM STAKEHOLDER INTERVIEWS: Dave Halley

Summary of pre-convening interviews

Stakeholders were asked to do a pre-convening interview to get input on the concerns, issues, and positive outcomes and provide general feedback on the process.

Twelve stakeholders participated in the interview.

Facilitator summarized the interviews and grouped similar ideas

A detailed copy of interviews was sent to participants prior to the meeting

Facilitator made presentation of the findings of the interview:

Four questions were covered in presentation:

1. What are your interests and concerns about this particular issue?

Concerns were grouped into these six areas:

- 1. Cost to Users/Affordability**
- 2. Economic Feasibility/Impact on Growth of Industry**
- 3. Flexibility**
- 4. Fair Treatment** (Needs to be uniformity about the rules)
- 5. Defining the Problem**

Interests covered:

Moving industry towards conscious and conscientious management

Ensure process not over engineered

Ensure composters held to reasonable standards

Ensure professional capacity of composters

2. What are three to five most important issues that this stakeholder group needs to resolve?

Important issues were grouped into the following categories:

Costs – revisions may increase costs

Rules may be too tight for some operations to continue

Encourage composting rather than hinder

What can industry afford to do?

Fair Treatment of Different Facility Types and Levels

- May overly restrict low level facilities
- No sliding scale for different types
- Fair treatment of different facility types
- Exemption criteria

Permitting Process

- Poor understanding of permitting requirements
- No good map of permitting process
- DWQ – tell us what you want, spell it out
- Improve renewal process
- Establish clear, consistent, predictable permitting process

Terminology

- Poor definition – process water, wastewater, storm water

Confusing Authority

- DWM should possibly have full authority over applications
- DENR needs single face on issue
- No clarity on which facilities fall under what regulatory agency

Authority Comments:

Craig Coker: NC Division of Land Quality – compost is an approved mechanism for erosion and sediment control; finished compost is a water quality issue that needs to be regulated. This could hamper the industry.

Joe Hack: Rain gardens using compost as filter media on top of drainage feature

Frank Franciosi: State Vet Office – composts mortality

Michael Scott: mortality composting – compost may be used back on the farm, most under roof. Good point they are another party that's involved here.

Training

- No best management guidebooks, training, other guidance that helps facilities operate better
- No certification of operators

Training Comments:

Craig Coker: We are in favor of training and certification process

Bob Rubin: Landfill people are certified for biosolids, animal operations people are trained and certified, some level of certification and training is important to raise the level of your profession

Billy Dunham: Could see classes rise to \$600 each when it's through private industry rather than Cooperative Extension. We need to keep training and certifications affordable.

Dave Halley (Facilitator): Should a small operator be required to be certified as well?

Frank Franciosi: just gave 2 day course for YWN operators for \$89 – safety, best practices

Craig Coker: Training very important to the industry to raise professional awareness. Trained over 180 people since training implemented in 2000.

Alternatives

- What alternatives are out there to have run-off not be considered wastewater

A list of options for retrofitting

Defining the Problem

Poor sense of the problem – not knowing whether composting is really affecting the state's water

3. Of these issues, which one is the most important?

The responses to this question were grouped into the following categories:

Cost Effectiveness/Feasibility

Authority

Defining the Problem

Regulatory Environment -Create environment that supports the industry

Permitting Process/ Improving Regulatory Parameters- Create road map that everyone can follow. What is meant by authority? Who has the authority to permit – who is the main point of contact?

Comments/Discussion:

Scott Carpenter: Do we still have to follow EPA federal standards in whatever we develop?

Group answer: Yes

Joe Hack: Air Quality group is not represented and may need to be here

Brian Rosa: On-farm composting not represented

Ken Pickle: Crux of our problem is the industrial producer. On-farm composting has been excluded.

Michael Scott: Materials brought into the farm for composting such as food waste do not meet the on-farm composting exemption. They would then need to be permitted and DWQ would be involved.

Craig Coker: Seen many states rewrite compost regulations to bring them up to current standards. North Carolina's regulations are now 16 years old

Dave Halley: Does Dept of Ag need to be at this table? Michael Scott has contact and will contact them.

Bill Lord: Would like to see some of the data that provides the basis for the discussion and regulatory decisions to date.

Scott Mouw: Would like more clarification on what data you would like to see on the table?

Bill Lord: How were these decisions made as far as classification of storm water and wastewater? Costs hard to put your hands on but would like to know what's expected as we go down that path. Would like to get more background.

Dave Halley: It is very important to define important terms – Ken Pickle will take on task of data gathering and handout of map

Craig Coker: All would benefit from what was it in the law and regulation that creates this distinction between wastewater and storm water.

Scott Carpenter: Reclaimed water trying to get definition between wastewater and storm water. Reclaimed water is treated to very high level and still classified as wastewater. Can't see how compost storm water could not be classified as wastewater.

Ken Pickle: Can put the information together on storm water and wastewater to attach to the meeting minutes in 2 to 3 days.

Frank Franciosi: Find a hosting website to post documents on rather than clog emails with the meeting minutes and documents.

Documents can be posted to the NCDENR Portal

- Post public knowledge and final documents, not draft documents

Scott Mouw: Compost has been determined to be a manufacturing process. Water flows from a manufacturing process are waste water.

Craig Coker: There are political/legal/regulatory boundaries; for example, this group cannot arbitrarily rewrite the meaning of “industrial wastewater” without legislative action to amend NCGS.

Bob Rubin: There are some things this group cannot do. We have to be careful about regulatory compliance boundaries; we can’t ignore the federal NPDES regulations.

Ken Pickle: We’re regulators and our responsibility is to know our rules and regulations inside and out.

Allen Hardison: But laws can be changed. In some cases they’re easier to change than rules.

Scott Mouw: Type I facility of some size is technically a manufacturing facility. What is a manufacturing facility and what are the waste water implications?

Ken Pickle: DWQ has already decided to exempt small Type I DWM facilities (Notification sites). Don’t have manpower to chase another 100 sites. Probably not the same type of threat that bigger facilities are. Most flexibility in how we implement our program.

4. What would you consider a successful outcome of this process?

Successful Outcomes covered the following:

- A successful outcome would be a collaborative solution that meets Department’s environmental and public health concerns without crippling the industry
- Reasonable regulations for small businesses.
- Different permitting process and parameters for facility types I-IV.
- “General” permit for Type I facilities
- All stakeholders understand why certain things were decided or chosen
- Addressing the true problem
- Map and streamline permitting process
- Preservation of growth potential for compost industry in NC
- Come up with set of reachable guidelines
- Establish clear, predictable set of rules
- Plan for increased professional development
- Reasonable approaches to stormwater management

Successful Outcomes were grouped into the following categories:

- **Viable compost industry and preservation of growth potential**
- **Clearly defined permitting process**
- **Reasonable and reachable regulations and approaches**
- **That we factor in scale of facility**
- **That we agree on the problem**
- **No more legislation**
- **Create a consensus agreement and/or memorandum of understanding.**

Comments:

Dave Halley: The group needs to take their task seriously, this is not an easy process or it would have been done already

Frank Franciosi: The product that comes out of this will likely be looked at by other states.

3:30 PM NEXT STEPS/QUESTION CARDS/CLOSING

Q Cards – David will provide Question Cards for stakeholders to write down questions they would like answered but may not have had time to be covered during the discussion. Please fill out Q Card and give to Dave at end of meeting. It will be Dave’s responsibility to assign the question to someone to answer at next meeting or write a response to the question to include in the minutes of the meeting.

NEXT STEPS

At our next meeting we need to discuss/cover:

- How does the permitting process work today (need to create a Flow Chart – **Ken Pickle will create**)
- Definitions – What is compost, process water, wastewater, runoff and stormwater (**DWQ will develop a list of definitions**)
- Types of compost facilities (**Michael Scott – DWM will make presentation on the different types of compost facilities with pictures**)
- .1400 Rules (**Michael Scott – DWM will cover the rules**)
- Demonstrated water quality impacts of current compost facilities (**DWQ will cover this topic**)
- Boundary conditions – property, hydrogeology (define boundaries where we want to measure the impact) (**Jon Risgaard – DWQ will cover this topic**)
- EPA guidelines – sufficient or do we need to exceed (Stormwater adopts the whole of the EPA program per Ken Pickle), We will need to review EPA guidelines at next meeting. **Ken will cover and provide copy of rules**
- Existing regulations from other states: EPA Region 4, Northwest and Northeast (North Carolina Composting Council – **Craig Coker has already researched and will present at next meeting**)

*Will try to provide as much of this information as possible prior to the next meeting so folks can be prepared

* Meeting minutes from this meeting and documents to be posted on public side of NCDENR Portal (**Liz Patterson to set up**)

Other Items we need to discuss at next several meeting:

What are the problems and root causes of those problems

What are potential improvements to the process?

What is the priority of those improvements?

Michael Scott: Need to be aware of sludge facilities are permitted through DWQ. We also need to work on contacts for State Vet.

Next Meetings schedule:

January 20, 2010 1:00PM

February 17, 2010 1:00PM

(Start planning on 3rd Wednesday of each month at 1:00 pm)

Field trips to compost facilities of benefit – possibly

Meeting will be held in same location but possibly in larger meeting room.

Frank to check the availability of Commons Building next door.

Minutes compiled and submitted by:

Liz Patterson, DENR-DWM

David Halley, True North Organizational Develop Services