



Citizens Advisory Council

to the Department of Environmental Protection

P.O. Box 8459 ■ Rachel Carson State Office Building
Harrisburg, PA 17105-8459 ■ 717-787-4527 ■ Fax 717-772-2291
Please Note: Our New Fax Number is 717-772-5748

June 6, 2001

The Honorable David E. Hess
Secretary of Environmental Protection
PO Box 2063
Harrisburg, PA 17105

Dear Secretary Hess:

Council received a presentation on and has reviewed the proposed Safe Fill amendments to the Residual Waste Regulations. We recognize that the package in its current form is the result of a lengthy process, and we commend the department for its perseverance in resolving the many difficulties posed. The current package contains significant improvements, including the addition of a de minimus threshold fill volume below which testing is not required, the recognition of knowledge of the conditions of a site as an appropriate evaluation criteria and the addition of a somewhat abbreviated list of testing parameters for certain types of fill. These changes add a level of practicality to the regulations and will limit the expenditure of large amounts of time and money in appropriate and well-defined situations. We support going forward with the regulatory package and raise several cautions and concerns for consideration as we move towards implementation.

1. CAC has long been concerned that the more relaxed standards justified by Act 2's premise of restoring already contaminated sites to productive use would become the default standards for other environmental protection programs. This approach is justifiable in most cases involving the movement of fill to already impacted sites. However, we caution that in cases involving the movement of fill to new sites (i.e. greenfields), we may simply be spreading low levels of contamination to new sites instead of protecting them at their existing background level.
2. We have also had concerns that the standards established under Act 2 may not be adequately protective of human health since they are based on the risk for each compound independent of any synergies or accumulations. We have also had concerns that they may not be adequately protective of ecosystem health, due to the focus on human health risk factors. We therefore raise the following questions about the approach taken in the Safe Fill regulatory package.

Standards

- Act 2 standards are designed specifically for already contaminated sites. If we amend Act 2 standards, will this automatically change standards for Safe Fill?
- One of the shortcomings of the Act 2 approach is that it doesn't address synergistic effects among compounds or other contaminants that might be on the site either naturally or through other programs (e.g. sludge).



- Act 2 requires ecosystem protection as well as human health protection. Are the standards protective of the ecosystem if they are based primarily on impacts on human health?
- Meeting the standards is based on the results of a testing procedure that was not designed for this use and that has no relation to human health toxicity.
- Are there any bioindicators that can be used to ensure we are being adequately protective?

Oversight and management of program

- How will DEP oversee and manage this program? Self-monitoring leaves much to the discretion of the individuals involved. While many will proceed in good faith, there are those who will use any loophole provided to avoid scrutiny. There are numerous examples in DEP's history of how inadequate oversight and a lack of accountability have resulted in problems; how will we avoid this concern here?
- How will this program be incorporated into the department's Environmental Futures approach? What indicators will be used to measure the environmental outcomes of this package?

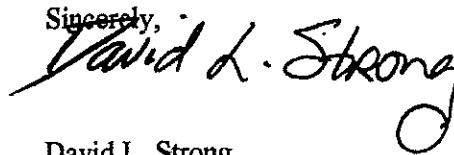
Outreach and education

- DEP needs to develop outreach and education approaches both for those who will utilize the program and those impacted by such activities.
- The primary impact of such activities will be water impacts; this program should be factored into a comprehensive approach to water resources management.

We recommend that the standards be reviewed on a regular basis and updated as improved information becomes available. We recommend that "understanding the effects of toxic substances on human health and the environment" should be maintained as one of the cutting edge issues for the Pennsylvania Consortium for Interdisciplinary Environmental Policy. We also recommend that DEP and the Department of Health establish a periodic review protocol to incorporate new information about health effects and synergistic effects, to be sure that public and environmental health are adequately protected.

Council may comment further on this package as it moves through the regulatory process and requests that department staff meet with us again to discuss the above questions and issues. We thank you for your attention to these matters and look forward to continued interaction with the department on this package.

Sincerely,



David L. Strong
Chairperson

cc: Bill Pounds
SWAC

Department of Environmental Protection

Identification of Boards, Commissions and Councils

*provided
6/7/01*

Department of Environmental Protection
Solid Waste Advisory Committee
Pennsylvania Solid Waste Management Act (Act 97 of 1980) Section 104, Paragraph 12, Section 507 (b)
Members
Donald Berman
Ronald J. Buchanan
Charles A. Cole
Peter Dalby
Jack Fugett
John Harney
Paul Hess
Pat Imperato
Tanya McCoy-Caretti
Kevin Peter
John T. Ravert
Sue Wiseman
Contact: Gayle Leader
Phone: 717-787-9871

Date last modified: 09/14/00

Questions and Comments can be e-mailed to
Miller.Lisa@dep.state.pa.us