



# Citizens Advisory Council

to the Department of Environmental Protection

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April 21, 2009

Mr. Thomas Fidler  
Deputy Secretary for Air, Waste & Radiation Management  
16<sup>th</sup> Floor, RCSOB  
400 Market Street  
Harrisburg, PA 17105

Dear Tom,

Thank you and Mr. Reisinger for an excellent review of proposed changes to the waste program at our March 17, 2009 meeting. We commend the many staff-hours of dedicated work that have gone into this extensive effort; there are many positive changes that should help to promote a more sustainable approach to waste management.

Clearly, the proposed changes are very complex and far-reaching. Given the current budget situation, the impact on DEP staff and resources may be overwhelming. In order for the revisions to be effective, we need to ensure that the following have been addressed:

- Significant outreach and training for industry, local government and DEP staff will be needed. Provisions need to be made for training and guidance documents needed to educate program staff, partners, regulated community, and local government.
- Provide sufficient staff resources for implementing and enforcing the new processes.
- Develop specific metrics to assure that there is adequate oversight of the new processes and to assure that DEP is meeting its mission of environmental protection
- Clearly delineated process for evaluating shortfalls in the metrics and resolving identified problem areas

With regard to the Public Involvement Process, we generally support the concept of taking a longer-term view, as it is more reflective of the reality of the landfill's temporal and spatial footprint. This longer term view should include closure and post-closure issues. As noted above, this change creates a significant need for outreach and education for local governments and citizens regarding their new restrictions and responsibilities. We support routine and frequent communication between the landfill operator and affected municipalities (both the host municipality and others significantly affected by the operation such as those bearing the truck traffic). We also need to ensure that there are appropriate triggers to reopen the process, especially if anything significant changes and new mitigation measures are warranted. In addition, we caution that landfills will effectively become permanent features once they have been sited, raising eco-justice concerns.

CAC is generally supportive of appropriately increasing fees associated with DEP's programs, since many are inadequate to offset DEP's costs in administering its programs. In the case of waste management, increased fees may also help to promote more sustainable management of waste, such as encouraging reuse and recycling.

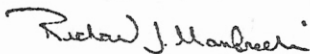
As you know, CAC supports extending the soon-to-be sunset \$2/ton waste disposal fee in order to maintain municipal recycling programs. Since the fee has not been increased since it was created in 1988, consideration should be given to increasing it in order to cover the funding of new programs coming on line, and the expanded list of materials that are scheduled to be diverted from the waste stream in the proposed regulations. The Recycling Fund is in a dire position, and an extension and increase in the fee is needed to continue the nation's most successful recycling program.

At the meeting, we also had a preliminary discussion about changes to regulations governing the beneficial use of coal ash. Council has long encouraged remediation of our legacy of coal refuse piles, abandoned minelands and mine drainage; beneficial use of ash can help to minimize the impacts and cost of each of these.

Council agrees that the *improper* use of fly ash poses a significant environmental threat as potential toxics and heavy metals may leach into ground water. However, we believe proper fly ash use can be adequately enforced by state and federal regulatory programs. Refuse coal piles may pose significantly more hazards to the environment if they are not beneficially addressed through power generation and reclamation activities. With estimates ranging between 300 million to 2 billion pounds of coal refuse in the state, the economic and environmental consequences of not remediating these piles must be taken into account if ash is deemed an environmental hazard. In short, no new requirements should be established unless and until evidence clearly indicates that society and the environment are best served by ending the obvious advantages of the beneficial use of this ash.

CAC supports efforts to promote a more sustainable and protective approach to waste management. Reducing the overall creation of waste, recycling, source reduction and public education all have roles in promoting a more sustainable approach to waste control. It is not clear that these regulatory changes do that.

Sincerely,



Richard J. Manfredi  
CAC Chair



David Strong  
Environmental Standards Committee, Chair

cc: SWAC  
MRAB