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Department of Environmental Protection Announces Revisions to Clean Fill Policy

by

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The state Department of Environmental Protection (DEP) announced revisions to Pennsylvania's Clean Fill Policy, simplifying definitions, removing complicated standards for chemical constituents and creating a new fill classification and general permit for placement of materials in residential and industrial settings.

The existing Clean Fill Policy and proposed Safe Fill regulations were widely criticized by environmental groups as being ineffective, while utilities and contractors felt the existing policy and proposed regulations' usefulness would be compromised by their complexity. DEP Secretary Kathleen McGinty described the revisions as "simplified, environmentally sound policy that addresses" such concerns. "Wasting time, money and resources with outdated and confusing regulations is in no one's interest, nor is introducing pollution to clean sites. Today's action charts a different, positive course," she said.

This new policy approach replaces proposed safe fill regulations. Environmental groups especially were concerned that those regulations would have permitted the introduction of contaminants into previously uncontaminated areas. The revised policy addresses those concerns by insisting that the fill meet the public health standards of the Land Recycling Act (otherwise known as Act 2 of 1995) and by prohibiting the introduction of chemicals of potential ecological concern above background levels at a receiving site. The simplified policy specifically defines what materials are acceptable as uncontaminated clean fill, removes restrictions on the use of those materials and does away with the complicated standards for chemical constituents used to define clean fill in the past.

The proposed policy also creates and defines a new classification of fill as "Regulated Fill", which will be available for beneficial use under a proposed General Permit for Use of Regulated Fill as a Construction Material. The general permit lists acceptable chemical and contamination levels, and allows the material to be used as a construction material to grade areas, control runoff and limit water infiltration. The general permit also sets standards for use of Regulated Fill in a residential setting under Act 2's Residential Statewide Health Standards, and the use of Regulated Fill in industrial settings under the Non-Residential Statewide Health Standards. The new policy allows trade organizations and utilities to apply for an industry-wide beneficial use general permit for the use of Regulated Fill where that industry has developed a manual of Best Management Practices outlining acceptable procedures for use of Regulated Fill under the general permit.

Notices of the revised Clean Fill Policy and general permit were published in the Nov. 8 edition of the *Pennsylvania Bulletin*. DEP will conduct a 60-day public review and comment period on both documents. The documents will also be available for review on the department's Web site. DEP will continue to enforce the February 1996 Clean Fill Policy, along with the Feb. 2, 2002, proposed safe fill numeric standards on a case-by-case basis during the comment period.

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