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**BUILDERS**  
ASSOCIATION

600 N. Twelfth Street • Lemoyne, Pennsylvania 17043  
717-730-4380 • 800-692-7339 • 717-730-4396 (Fax) • Internet—www.pahomes.org

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REVIEW COMMISSION  
MAY 11 2000  
8:35 AM

Ms. Khatija Swaroop  
Pennsylvania Department of Environmental Protection  
Bureau Of Land Recycling and Waste Management  
P.O. Box 8472  
Harrisburg, PA 17105-8472

Dear Ms. Swaroop:

The Pennsylvania Builders Association (PBA) has reviewed the draft safe fill policy/regulatory package proposed by the Department of Environmental Protection (the Department). We offer the following comments for your consideration.

1. The proposed package places significant and onerous regulatory and operational burdens on the public without DEP demonstrating or hypothesizing any attendant benefit to public health or the environment.
2. Although DEP will not require the testing of fill material in the proposed policy/regulation, the establishment of a "bright-line" standard will create a situation where such testing will be required by most private entities (i.e. bankers, insurers, and attorneys)
3. Since the proposed package provides no relief from liability, There are no benefits to the regulated public to offset the operational burdens associated with its promulgation.

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4. The costs of testing for the array of compounds enumerated in the safe fill package are prohibitive. Although the list of compounds is somewhat truncated from the universe of potentially hazardous compounds, the same battery of testing will be required. Costs of such testing have an approximate minimum of ten-thousand dollars per site tested. If sampling at potential receiving site(s) is needed, the costs will at least double. The costs of testing and relatively high potential for failing to qualify as "safe" fill (see comment 6 below) will result many situations where it is more economical to landfill excavated native soil rather than relocate it.
5. The sampling methodology should allow for compositing of samples in accordance with industry standards.
6. The establishment of EQL levels (the limits of detection by laboratory tests) as the threshold for "safe" fill is overly restrictive. Rigorous scientific efforts have established a residential direct contact threshold for use in Pennsylvania that is protective of human health, anywhere in the state, under extreme conditions. For some compounds, DEP proposes "safe" fill to have concentrations of compounds 20,000 times less than the concentration determined to be protective of human health. Promotion of the EQL as the limit for "safe" fill undercuts the integrity of, and public confidence in, the residential direct contact standards developed in support of Act 2.
7. In regards to the "on-site" movement of soils (not related to Act 2 sites), the proposed package needs to provide a definition that delineate a "site" in terms of geographic and temporal boundaries.
8. The proposal inconsistently reference tables in the text. These discrepancies need to be corrected.

The Pennsylvania Builders Association requests the Department address these concerns before finalizing this proposal. If you wish to discuss this matter further, or if you have any questions or concerns regarding these comments, please feel free to contact me at the address or telephone number above, or by e-mail at [mmaurer@pahomes.org](mailto:mmaurer@pahomes.org).

Sincerely,



Mark Maurer  
Assistant Director of Governmental Affairs

cc: Senator Mary Jo White  
Senator Raphael J. Musto  
Representative Arthur D. Hershey  
Representative Camille George  
Mr. Robert Nyce, Executive Director, IRRC