

September 26, 2000

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2000 OCT 10 PH 2: 12

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REVIEW COMMISSION

Original: 1974

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RE: MUNICIPAL AND RESIDUAL WASTE REGULATIONS REVISIONS

Dear Mr. Pounds:

I appreciated receiving the detailed comment/response documents on the municipal and residual waste regulations. I believe that the Department made a good decision, as recently discussed with Deputy Secretary Chamberlain, to take more time to evaluate the "Clean Fill/Safe Fill" policy and regulatory revisions, in an effort to arrive at a more workable program.

One aspect of the regulations submitted to the Environmental Quality Board however troubles me. Regulation of "land clearing waste" has been added without the opportunity for public comment. The Department apparently believes a Permit by Rule can apply to these facilities, which appears to be the same approach used for scrap recycling yards.

The late addition of this provision to the regulations is troubling to me for several reasons:

- The regulated community was not given an opportunity to comment.
- "Land clearing waste", as distinguished from recycled wood materials, is not defined.
- The DEP, on one hand, does not regulate municipal recycling facilities, but apparently feels it appropriate to regulate chipping and grinding of trees into wood chips as "waste". I understand DEP believes mulch yards are "waste processing" because they are an interim "processing" point between the site where the timber is harvested and the retail outlets or commercial centers where it is sold. Under this rationale, saw mills would also be waste processing centers, as the interim stopping point for timber between the site where it is harvested and the retail and commercial lumberyards where dimensional lumber is sold. Mulch development is a legitimate primary use of timber products, for which there is a well defined market. Yet the regional solid waste staffs appear to believe that any timber harvested during land clearing is, automatically, a waste. That is an over-reading of the existing regulations and will be a matter on which many affected groups will want to comment.



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- Also, In this instance, the regulated community is very different than scrap recycling yards, which operate at fixed locations. This particular industry, has several types of operations, some of which involve utilities and maintenance and clearing of utility right-of-ways, and others of which involve individual processing operations at job sites, using mobile equipment. The most typical product is mulch, which obviously has seasonal use, so there is a need for recycled products storage sites. Also, mulch development requires "aging" making use of "mulch yards" a necessity.

The regulated community actually consists of three sectors:

- utilities and their right-of-way clearing and trimming contractors;
- those involved in the land clearing and grubbing business, who process wood for recycling;
- the wood and forest products industry repurchase wood for manufacturing purposes.

I do not believe it is appropriate for the Department to suddenly regulate an industry without the opportunity for comment, and in a fashion that is a response to perceived problems at individual sites. The simple act of "processing" does not, by itself, make a material a "waste", if that material presents little or no threat to human health or the environment. Pennsylvania's definitions regarding what is and what is not waste become even more confused as a result of this change.

As I have indicated to the Department on numerous previous occasions, the Department should decide clearly whether it does or does not want to regulate recycling facilities, and if it wishes to do so, there must be clear delineations of what is and what is not waste. Piecemeal approaches to regulating classes of industries such are being followed here only serve to confuse the regulatory community, and do little to help achieve higher levels of sound waste management and environmental compliance.

Very truly yours,

RT ENVIRONMENTAL SERVICES, INC.



Gary R. Brown, P.E.
President

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cc: Independent Regulatory Review Commission