



Citizens Advisory Council

to the Department of Environmental Protection

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November 13, 2018

Chris Solloway
Group Manager, Permits Section
Division of Municipal and Residual Waste
Bureau of Waste Management
Department of Environmental Protection
P.O. Box 69170
Harrisburg, PA 17106-9170

Dear Mr. Solloway:

Thank you for the opportunity to provide the Department of Environmental Protection (DEP) comments on the proposed modifications to General Permit WMGR096: Beneficial Use of Regulated Fill. The Citizens Advisory Council (CAC) appreciates DEP's efforts to update this general permit and to provide clarity to the regulated community and the public. Additionally, CAC applauds DEP's willingness to work with the Solid Waste Advisory Committee to receive input from stakeholders during the development of this revised general permit.

On the recommendation of CAC's Policy and Regulatory Oversight Committee, CAC voted at our November 13, 2018 meeting to submit the following comments to you regarding WMGR096:

1. The formatting and reorganization of WMGR096 is a needed improvement from the current general permit. CAC applauds DEP for taking the time to make these changes as they greatly enhance the usability of WMGR096.
2. Section B—The added and revised definitions provide clarity to WMGR096 which will give the regulated community increased certainty regarding the scope of the general permit. There has in the past, however, been confusion concerning whether this general permit applies when historic fill is being moved within a single project site. Although CAC believes this draft is consistent with the understanding that such movement of historic fill within a single project site does not trigger the need to consider use of this general permit, CAC thinks it would be helpful to include the proposed definition of "*project area*" as defined in the latest draft of the Management of Fill Policy to make that point sufficiently clear. This draft general permit includes the definition of "receiving site" that reads "the area to which fill is proposed to be relocated. A receiving site is separate from a donor site and not part of a *project area* or right of way." For reference, the definition of "project area" in the draft

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Management of Fill Policy is “the extent of earth disturbance activities within a property boundary, including areas in close proximity to the earthmoving activities that are necessary for the completion of a construction project, or other human activity which disturbs the surface of the land, including land clearing and grubbing; grading; excavations; embankments; land development; agricultural plowing or tilling; operation of animal heavy use areas; timber harvesting activities; road maintenance activities; oil and gas activities; well drilling; mineral extraction; and the moving, depositing, stockpiling, or storing of soil, rock or earth materials. The term includes the boundary within which all earth disturbance activity, construction, materials storage, grading, landscaping and related activities occur.”

3. Tables GP-1a and GP1-b—these tables reference the currently applicable Act 2 standards that must be met before regulated fill may be beneficially used under this general permit. The Act 2 standards, however, may change during the life of this general permit. CAC suggests, if feasible, that DEP incorporate the Act 2 standards found in 25 Pa. Code Chapter 250 by reference to avoid the future use of outdated standards. CAC recognizes that choosing the correct standard applicable under WMGR096 from Chapter 250 is not always straight forward. To that end, CAC suggests that DEP publish the tables on DEP’s website as a quick reference guide. The web address could be added to the general permit to point applicants in the right direction and could be updated simultaneously with Chapter 250.
4. Section G Paragraph 2—this provision directs permittees to report certain changes in operations to DEP within 30 days. While those with experience in this program may be familiar with the process, it would be helpful for DEP to explain its review process regarding these reports so new applicants know what to expect in the event they are required to comply with this provision. CAC suggests adding language to the general permit to address this issue.
5. Section G paragraph 3—DEP should clarify whether a permittee needs to submit a quarterly report if no activity is conducted in the preceding quarter. This issue is not currently addressed in Section G paragraph 3.

CAC again thanks DEP for the opportunity to comment on the proposed modifications to WMGR096 and for DEP’s efforts in working with its stakeholders to get meaningful input during the development of this general permit. If you have any questions regarding the above comments and recommendations, please contact me at 717.787.8171 or by email at ksalador@pa.gov.

Sincerely,



Keith J. Salador
Executive Director
Citizens Advisory Council