

PENNSYLVANIA DEP SAFE FILL AND CONSTRUCTION EQUIPMENT AIR PERMIT UPDATE

As this RT Review went to press, the Safe Fill regulatory package, which will impact all future excavation and demolition projects in Pennsylvania, was headed to the Environmental Quality Board for approval. The regulatory package is expected to be published in the Pennsylvania Bulletin, several weeks later, likely in December. It is expected that the new proposed Safe Fill Regulations will find immediate use, as the long discredited 1996 "Clean Fill Guidance Document", is not usable as concentrations from many constituents are set below the background levels. New proposed Safe Fill Regulations were expanded to require source separation, on residential, commercial, and industrial demolition projects. In general, those not following proper separation practices will have to manage all demolition materials as wastes, which will economically force proper and complete segregation of hazardous materials prior to demolition activities.

The regulations are expected to go to final form relatively quickly, as DEP has taken the time to match the Safe Fill Numerical Standards with the Statewide Health Standards in the widely acclaimed Act 2 of 1995 Land Recycling Program. Of specific note is a new classification of "Waters of the Commonwealth" limits, wherein materials which could be in contact with surface water, or which will be placed below the groundwater table, have to meet more stringent limits than other materials. Those involved in the production of construction materials, should expect, their materials will have to meet these lower limits, so that, if the materials are excavated in the future, they will not be of environmental concern under the new regulations.

On the heavy duty diesel engine emissions side, DEP has shown some flexibility by working with industry, but suggestions that major demolition and construction projects be delayed for six to twelve months, to obtain air permits, is not being viewed as realistic or needed. In some instances, two diesel engines on a individual piece of equipment are regulated differently, but catalytic converters and alternative fuel engines are readily available which can reduce emissions. Pennsylvania's air permitting approach for this equipment, not generally used elsewhere, (considering concrete crushers, and wood tub grinders, to be "stationary sources", when, in actuality, the equipment moves between construction jobs,) doesn't make a lot of sense. Gary Brown, RT's President, recently presented testimony at an Environmental Quality Board hearing which we are pleased to reprint as follows:

HEAVY DUTY DIESEL EMISSIONS CONTROL PROGRAM

I am pleased to have the opportunity to offer comments on the Heavy Duty Diesel Emissions Control Program. Let me say that the outset that I am basically in favor of the Program. I am, however, concerned about the Pennsylvania Department of Environmental Protection's unusual approach to

regulating certain classes of construction equipment. To my knowledge, Pennsylvania is the only state that considers certain types of equipment, used commonly at construction, land clearing, and demolition sites, to be a "stationary source". Some of this equipment has one engine which powers the equipment, and a second engine which functions to chip or grind wood, or to crush or pulverize concrete. Does it make sense to regulate two engines or one piece of equipment differently? At the current time, some of this equipment is permitted, but historically, and up until recently, it was only permitted as a potential particulate air source.

At the time that Pennsylvania modified its implementation plan, to provide tighter source controls on large engines, to my knowledge, virtually nothing was done to notify this regulated community of the tightened requirements. I have attempted, working with both regional offices and the central office, to clarify what types of construction equipment, powered by diesel engines, does and does not require air permitting, and what thresholds apply. It is clear that starting at 100 to 200 horse power, individual or portable plant permits are required. If the equipment is to be operated for a long time at a site, it can be considered a "major source" potentially requiring a one year permitting delay.

Even today, ten months after I identified this important issue to DEP, very little has really been done to notify those selling and renting equipment that they should not use the equipment without the appropriate air permits. The DEP takes the position, and understandably so, that project bidders should be pre-qualified, and projects held up for 6 to 12 months, while appropriate air emissions permits are obtained. To me, this does not make a lot of sense. In the coming construction season, it can be expected that ongoing major projects in the Philadelphia region will include further Route 202 construction, I-95 reconstruction, the demolition and rubbleization of 14,000 row houses, the stadium projects and a \$425,000,000 project involving demolition and reconstruction of the Market Frankford elevated line. As no other commonly used construction equipment is subject to such individual air permitting, it make little sense as to why such commonly used equipment as tub grinders used to make mulch out of cleared trees, and crushing equipment allowing source separation and maximum recycling of concrete, has to be individually permitted.

In my opinion, both the City of Philadelphia and the Pennsylvania Department of Environmental Protection have a deficient air emissions control implementation plan, because:

- There has been no adequate notice to the regulated community.
- There has been no phase in period permitting for the further regulated sources.
- Manufacturers and construction rental equipment houses are not aware of what equipment can and can not be used in Pennsylvania.

- DEP needs to establish a basic set of emissions and control equipment criteria, which could easily be established, in a several week period. There are numerous technical solutions to the concern regarding diesel emissions, including use of alternative fuels, use of catalytic converters, and even fuel products called "biodiesel" and other fuel substitutes. Currently, because of the odd regulatory approach and an unclear implementation plan, contractors are less than willing to invest in equipment, which is commonly used throughout the United States, and which will be sorely needed here in the southeast region, by the next construction season.

In summary, I believe that the proposed Heavy Duty Emissions Control Program, has to be applied properly, and appropriately, to all classifications and types of affected equipment. If DEP would promptly establish, within the next 30 days, a clear set of criteria of engine emissions controls which are and are not necessary, and for which types and sizes of equipment, the very costly potential for significantly delayed public works projects could be avoided, and adequate environmental protection could be achieved. I would recommend that DEP take specific note, that in Texas, a poorly implemented construction equipment control Implementation Plan, did not lead to any environmental gains and was negated by the courts. I would urge DEP to deal with this issue quickly, and effectively, as the category of "not being on our list of exemptions", a fact often cited by regional and central office air resources staff, is clearly not adequate notice to the regulated community.

To assist you with this effort, I'm pleased to submit with my testimony a diesel emissions permitting guide, which was prepared based on discussions with DEP Officials, and contains important information on which types and classifications of construction equipment, used for demolition construction purposes, require air permits.

It is my hope that DEP will effectively deal with this matter, without further delay, as the regulated community is waiting to buy the right equipment to do the job in an environmentally sound manner.

Presented By:
Gary R. Brown, P.E.
President

In RT's opinion, air emissions control programs have credibility when manufacturers of equipment and users of the equipment can buy the right equipment, with minimal emissions, with reasonable certainty that it can be used for a reasonable period of time, before it has to be upgraded or replaced. The concept that sources have to be re-permitted when they move around the region, into or out of Philadelphia, or that large new equipment can't be used for six to twelve months while permits are obtained when we face such major projects as stadium reconstruction, I-95 reconstruction, and Market Frankford El reconstruction, only means that the region can't take advantage of public works dollars as they become available. We think pollution controls, varying by the size of equipment, could readily be established within 30 days, so that contractors know what equipment to buy or rent, to get the job done, to facilitate efficient use of public works dollars, and assure continued

*employment of construction workers in this time of increased economic uncertainty.
We hope this issue will be resolved shortly.*

– Gary Brown