

SOME ITEMS ON PA DEP FILL POLICY

Check out DEP's website for more information

Thinking of bringing some fill in for your property? Listed below are some provisions of the policy:

- There is a category of material called "Regulated Fill". Regulated fill can be used under a General Permit as a construction material to grade areas. Maximum concentration standards for Regulated Fill are to be the Act 2 Statewide Health Standards (Non-Residential). The actual limits are in Table GP-1A and B of the General Permit.
- To determine if Fill is contaminated, environmental due diligence should be performed. In most cases, testing will also be required, if the quantity is ≥ 125 C.Y.
- Material which is above Regulated Fill Numeric Concentrations must be managed as waste.
- Regulated Fill materials moved to Act 2 Brownfields sites do not have to apply for General Permit applicability.
- A DEP Form must be used to document the receipt of Clean Fill which has been affected by a spill or release.

Key definitions of the Fill Policy and General Permit follow.

Clean fill - Uncontaminated, nonwater-soluble, non-decomposable inert solid material. The term includes soil, rock, stone, dredged material, used asphalt, and brick, block or concrete from construction and demolition activities that is separate from other waste and recognizable as such. (25 Pa. Code §~ 287.1, 271.1) The term does not include materials placed in or on the waters of the Commonwealth unless otherwise authorized.

Environmental due diligence - Investigative techniques, including, but not limited to, visual property inspections, electronic data base searches, review of ownership and use history of property, Sanborn maps, environmental questionnaires, transaction screens, analytical testing, environmental assessments and audits.

Historic fill - Material (excluding landfills, waste piles and impoundments) used to bring an area to grade prior to 1988 that is a conglomeration of soil and residuals, such as ashes from the residential burning of wood and coal, incinerator ash, coal ash, slag, dredged material and construction and demolition waste. The term does not include iron or steel slag that is separate from residuals if it meets the coproduct definition and the requirements of 25 Pa. Code Section 287.8. The term does not include coal ash that is separate from residuals if it is beneficially used in accordance with 25 Pa. Code sections 287.661 - 287.666.

Regulated fill - Soil, rock, stone, dredged material, used asphalt, historic fill and brick, block or concrete from construction and demolition activities that is separate from other waste and recognizable as such that has been affected by a spill or release and the concentrations of regulated substances exceed the values in Tables FP-1 A and B.

Regulated substance - The term shall include hazardous substances and contaminants regulated under the Hazardous Sites Cleanup Act, and substances covered by the Clean Streams Law, the Air Pollution Control Act, the Solid Waste Management Act, the Infectious and Chemotherapeutic Waste Law, and the Storage Tank and Spill Prevention Act.

Release - Spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a regulated substance into the environment in a manner not authorized by the Department of Environmental Protection. The term includes the abandonment or discarding of barrels, containers, vessels and other receptacles containing a regulated substance.

Uncontaminated - Unaffected by a spill or release, or if affected by a spill or release, the concentrations of regulated substances are below the concentrations specified in Tables FP-1 A and B.

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GUIDANCE

The actual language of the Technical Guidance is as follows:

Fill Documentation

- 1) To determine whether fill is clean or regulated, a person must perform environmental due diligence~ 1)
 - a) If due diligence shows no evidence of a release of a regulated substance, the material may be managed as clean fill under this policy.
 - b) If due diligence shows evidence of a release, the material must be tested to determine if it qualifies as clean fill. Testing must be performed in accordance with