



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waste Management

# Revisions to DEP's Management of Fill Policy

Solid Waste Advisory Committee

June 7, 2018

# Previously Proposed Changes

- PA DEP proposed changes to the Management of Fill Policy (MoFP) on December 20, 2014.
  - Changes predominately involved modifying numeric standards and testing procedures
  - Proposed numeric standards were based on 2011 revisions to Act 2 standards
- Extensive public comment received on proposed changes

# Previously Proposed Changes

- Act 2 standards were revised again on August 27, 2016.
- Due to the number and substance of public comments submitted on the changes proposed in 2014, DEP plans to publish a draft MoFP for public comment later this year.

# Overview of Current Policy

- Current effective version of the MoFP is dated August 7, 2010
- Defines the universe of fill materials that must be managed as wastes under the Solid Waste Management Act (SWMA) vs. fill materials that may be used in an unrestricted manner

# Overview of Current Policy

- Scope of MoFP is broad – generally covers soils, rock, stone, dredged material, used asphalt, brick, block and concrete that are excavated, moved or used to level or bring an area to grade in connection with:
  - Construction/Demolition
  - Infrastructure
  - Redevelopment
  - Remediation

# Overview of Current Policy

- Focuses on offsite movement of materials
  - Fill materials that are excavated and reused within a project area or right-of-way for a project are not subject to the policy
- Does not apply to mine land reclamation activities subject to a permit

# Overview of Current Policy

- Provides two categories of materials that may be reused:
  - Clean Fill
    - Uncontaminated (as the term is defined in the MoFP), non-water soluble, non-decomposable, inert, solid material used to level or bring an area to grade
  - Regulated fill

# Overview of Current Policy

- Definition of uncontaminated material
  - Materials unaffected by a spill or release of regulated substances; or
  - If affected by a spill or release, the concentrations of regulated substances are below specified numeric standards contained in Tables FP-1a and FP-1b.



# Overview of Current Policy

- Definition of uncontaminated material
  - With few exceptions, current numeric standards are based on the statewide health standard of Act 2 (25 Pa. Code Chapter 250) by choosing the lower of the following two values for each suspected constituent:
    - Residential direct contact numeric value
    - Generic soil-to-groundwater numeric value

# Overview of Current Policy

- Examples of fill material potentially qualifying as clean fill:
  - Soil, rock, stone
  - Dredged material
  - Used asphalt
  - Brick, block and concrete from construction and demolition activities that are separate from other wastes and recognizable as such

# Overview of Current Policy

- Regulated fill:
  - Historic fill or other fill materials that have been affected by a spill or release and do not meet the definition of “uncontaminated material.”
  - In other words, concentrations exceed the numeric values for a material to be clean fill.

# Overview of Current Policy

- Examples of fill material potentially qualifying as regulated fill:
  - Soil, rock, stone
  - Dredged material
  - Used asphalt
  - Brick, block and concrete from construction and demolition activities that are separate from other wastes and recognizable as such
  - Historic fill

# Overview of Current Policy

- Historic fill:
  - Material used to bring an area to grade prior to 1988 that is a conglomeration of soils and residuals, such as ash (wood, coal and incinerator), slag, dredged material and construction and demolition waste.

# Overview of Current Policy

- Regulated fill
  - Regulated fill may only be used pursuant to a permit under SWMA - General Permit No. WMGR096 (effective December 23, 2013).
  - Concentrations of regulated substances must be below the numeric values provided in WMGR096.

# Moving Fill from One Site to Another

1. Perform environmental due diligence
2. Evaluate findings of environmental due diligence
3. Evaluate results of analytical testing, if required

# Moving Fill from One Site to Another

1. Perform environmental due diligence
  - Visual property inspection
  - Electronic data base searches
  - Review of ownership/use of property, Sanborn maps, environmental questionnaires, transaction screens
  - Can include analytical testing, environmental assessments, or audits



# Moving Fill from One Site to Another

2. Evaluate findings of environmental due diligence
  - If no evidence of a spill or release of regulated substances, the material may be managed as clean fill
  - If evidence of a spill or release of regulated substances, the material must be tested to determine if it is clean fill

# Moving Fill from One Site to Another

3. Evaluate results of analytical testing
  - If analytical results meet the numeric standards for clean fill, the material may be managed as clean fill.
  - If the analytical results exceed the numeric standards for clean fill but meet the numeric standards for regulated fill, the material may be used as regulated fill when coverage under WMGR096 is applied for and obtained.

# Moving Fill from One Site to Another

3. Evaluate results of analytical testing (cont.)
  - If the analytical results exceed the numeric standards for regulated fill, the material must be managed as a waste.

# Changes under Consideration

- Incorporate Act 2 standards by reference
- Include a mechanism for determining that exceedances of the numeric limits may be due to background concentration
- Develop a quick reference table as a companion to the policy that provides constituent limits from Act 2

# Changes under Consideration

- Revise Appendix A to provide sampling instructions for waste piles vs. in-situ material
  - Development of a sampling plan
  - Existing sampling language for storage piles
  - New sampling language for in-situ material
  - Include SPLP as a method to determine alternative soil-to-groundwater value

# Changes under Consideration

- Clarify how the policy applies to fill that has already been placed
- Incorporate language from Form FP-001 and FAQs currently on DEP's website into the policy
- Clarify definitions and terms not defined by the policy



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# Questions?

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