Delaware Department of Natural Resources & Environmental Control
Site Investigation and Restoration Branch
Policy and Procedures

Subject: Soil Reuse Policy at Hazardous Substance Cleanup Act (HSCA) Sites

Issued: May 4, 2006

The Department of Natural Resources and Environmental Control Division – Site Investigation and Restoration Branch (DNREC-SIRB) adopts this policy to guide the reuse of excess soil at cleanup sites under its jurisdiction. The intent of the policy is to provide for the efficient use of suitable materials yet prevent the spread of contamination or the creation of unacceptable risks to human health or the environment.

Reuse of excess soil from a HSCA site or at a HSCA site is subject to approval by the DNREC-SIRB and must meet all of the following seven conditions:

1. The reuse of the material at the source site and the destination site is consistent with any Final (or Interim) Plan of Remedial Action that exists for both the origin and destination site.
2. The material is not a hazardous waste as defined in the **Delaware Regulations Governing Hazardous Waste**, Part 261. (Soil material reused on the same site within a contiguously contaminated area is exempt from this condition.)
3. The material does not contain trash, debris, or solid waste.
4. The owners of both sites acknowledge in writing that they are aware of the quality of the material proposed for reuse and are responsible for any potential liability.
5. The soil material does not introduce contaminants to the destination site that were not already present, and the contaminant concentrations of the soil material are not significantly greater than those already present at the destination site.
6. The proposed material does not contribute to ground water contamination or increased risk to the environment at the destination site.
7. A quantitative risk assessment consistent with the **Regulations Governing Site Cleanup under HSCA** shows that reuse of the proposed material at a particular site does not create an unacceptable risk inconsistent with the risk management plan developed in the plan for the site and maintained through DNREC's long term stewardship program, the site operations and maintenance plan and the Uniform Environmental Covenant Act controls as defined therein, OR, in lieu of a risk assessment, individuals proposing the reuse may apply the default contaminant concentration values shown on **Table 1** of this policy to demonstrate that reuse does not create an unacceptable risk.

In all cases, it shall be the responsibility of the party proposing the reuse of the soil material to document that the activity meets the seven conditions and to obtain written approval from DNREC-SIRB prior to the transport of the soil.

Table 1. Default soil use by contaminant concentration

Notes:

Contaminant concentration [1] in soil	Soil use		
	Reuse soils on the same site	*Reuse soils on a restricted use HSCA site*	*Reuse soils on a unrestricted use HSCA site or non-HSCA site*[4]
Soils that have concentrations of COC[2] below unrestricted use URS[3]	- Acceptable	- Acceptable	- Acceptable
Soils that have concentrations of COC above unrestricted URS but below restricted use URS	- Acceptable on restricted use sites - Unacceptable on unrestricted use sites	- Acceptable	-Unacceptable
Soils that have concentrations of COC above the URS listed for restricted use	- Acceptable on restricted use sites if capped or covered with clean fill	- Acceptable if capped or covered with clean fill	-Unacceptable

1. 95 % UCL of the mean concentration OR meeting the 75/10 rule as given in *Remediation Standards Guidance under the Delaware Hazardous Substance Cleanup Act, Section 6.2*
2. COC-Contaminants of Concern as determined in the investigation and risk assessment
3. URS-Uniform Risk-based Standard from *Remediation Standards Guidance under the Delaware Hazardous Substance Cleanup Act, Attachment 3.* The URS for protection of the environment will apply at the discretion of DNREC.
4. For disposal or reuse of soil from a HSCA site at a Delaware Solid Waste Authority (DSWA) facility, see the memorandum of understanding between DNREC and the DSWA, November 2002.

The party proposing the soil reuse is responsible for presenting analytical data that shows the reuse meets all of the conditions listed above. Data obtained in the investigation may be adequate or may be supplemented with additional samples. In lieu of a site specific sampling plan, the individuals proposing the reuse may elect to use the default sampling frequency shown in **Table 2**. DNREC-SIRB should be notified in advance of any field work

Table 2. Default sampling frequency

Volume of soils (Yd^3)	Sampling Frequency	Total # of Samples
0-500	1 sample per 100 yd^3.	1-5
501-5,000	5 samples plus 1 sample per 250 yd^3 >500.	5-23
>5,000	23 samples plus 1 sample per 500 yd^3 >5,000.	>23

The written proposal to reuse soil from a HSCA site should be submitted to the DNREC-SIRB a minimum of two weeks prior to transportation of the material. The proposal shall include documentation supporting the claim that the reuse meets the seven conditions including letters from the site owners.

An approval granted by the SIRB for soil reuse is not to be construed as a substitute for any other permit or permission required by other agencies for the activity. Examples include but are not limited to: a wetlands permit from the US Army Corp of Engineers, city or county building permits, a storm water and erosion control permit, DelDOT provisions for transportation on public highways or traffic control at the construction site.

This policy replaces "Policy for Presumptive Soil Reuse" dated September 21, 2004.

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