

Managing Excavated Historic Fill Material

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Road Map

- Definition
- NYSDEC's Role
- Present and Future Approach
- Proposed Part 360 Regulations
- Public Comments are Welcome



FOR ALL, WHO MAY BE HAVING A BAD DAY...



It Can Always Be Worse

NYS Department of Environmental Conservation



Definition

- Historic Fill – mixed soil and solid waste material used to create or function as useable land
- All old cities near water have significant historical fill areas
- ~20% of New York City is Historic Fill
- Development pressures in historic fill areas



Identification of Historic Fill Areas

- Review of Historic Maps and Other Historical Data (e.g. Sanborn Maps)
- Review of Site Assessments, Soil Boring or other Site Specific Information
- Review of information from National Resource Conservation Service (NRCS)



Challenges

- DEC staff have found that some soils and soil-like material from C&D registration facilities in urban areas have chemical levels above typical residential soils or have unrecognizable solid waste mixed within
- Screenings from these facilities are being marketed in areas far beyond the NYC urban area to people that want a “deal” on fill



Challenges (Cont'd)

- DEC staff have issued letters to C&D registration facilities on this issue and the appropriate regulations
- If the screenings are contaminated or have unrecognizable solid waste mixed within, they must be treated as **MSW** and not used as fill material



Challenges (Cont'd)

- An unquantified yet large amount of this material in the market that few facilities report
- No tracking requirement for registered facilities
- 225 Registered Facilities/~155 in R1,2,3
- Only 55 Reported ~ 5M Tons (2006)



Challenges (Cont'd)

- Most of the Historic Fill is still being improperly managed
- Historic Fill is ending up in the wrong homes
- Regulations are not clear
- NYSDEC staff resources needed to review on case-by-case basis
- Applicability of Part 375 SCOs



Case Studies

The Good, Bad and Really Ugly

- Ferry Point Park
- GATX
- Westchester County Schools



NYSDEC Role

- Regulatory Authority
 - Current
 - Future
- Guidance and Direction for Protection of Public Health and the Environment
- If other DEC permits required, DHSM “sign-off” is typically required



Recent Projects

- Historical Fill Material
 - Materials excavated from historic fill areas have been classified as a regulated MSW unless exclusively C&D waste
 - The presumption can be rebuked through physical examination or chemical testing



Recent Projects

- Historic Fill
 - Allowed reuse at other locations at the same site when chemical levels are similar & relocated fill is covered with clean soil or impermeable cover
 - DEC reviews such request on a case-by-case basis
 - Reuse off-site when the material is chemically acceptable



Part 375

- Ecological SCOs where necessary
- Lower of Residential and Groundwater SCOs
- Restricted-Residential ONLY applies in cases such as Landfill closures where material is placed below the membrane
- Commercial and Industrial Numbers – Not appropriate at this time



Lessons Learned

- More controls needed
 - Regulatory versus Self Controls
- BUD program is not appropriate for large fill projects - need for more oversight & other Department permits
- Significant lack of understanding by the regulated community of the program and consequences
- Need for continued communication on generation & movement of this material



Near Term Recommendations

- Regional DEC staff meet with regulated community to clarify requirements
- Allow the regulated community an opportunity to self-police
- After same, enforcement of “bad actors”
- If the industry does not self-police, then develop requirements that are incorporated into regulation



Long Term Recommendations

- Incorporate these near term solutions and the lessons learned into the new Part 360
- Development of information and handouts to the regulated community and construction industry
- Partner with the waste industry, who are already aware of the problem and is looking to DEC to develop a solution with (not against) them



Regulatory Ideas

- Require all C&D registration facilities reject non-RUCARBS (Exclusively Recognizable and Uncontaminated Concrete, Asphalt pavement, Rock, Brick, and Soil) historic fill and use tracking forms for soil products, blended materials, & aggregates.
- If Part 360 registered C&D processor accepts RUCARBS historic fill, material must be characterized prior to receipt



Regulatory Ideas

- Clearly define C&D debris to exclude historic fill that contains any non-RUCARBS C&D wastes
- Require such historic fill to be managed as MSW
- Require a waste characterization of any historic fill if it is to be used, sold or distributed for use pursuant to a DEC BUD.



Regulatory Ideas

- Menu of Reuse Possibilities for Historic Fill Sites
- Regulated Community does not require NYSDEC approval or review unless plans are beyond those listed
- Old Landfill Sites require End Use Approval
- More responsibility on waste generators



Future Issues

- Specific wording in regulation that reflect these goals and solutions
- Coordination of End Users and BUD programs to maximize potential reuse of these materials
- Clarify the requirements for submissions in exemption cases



Partnership and Education

- All parties need to be included to maximize the proper reuse of this materials including local governments, building departments, industry groups, and C&D processing facility operators
- Encourage other partners to start setting up other controls
- Education of the regulated community of the proper classification & reuse



Questions and Comments

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Public comments are welcome



Thank you

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