

Annex A

Title 25. Environmental Protection
Part I. Department of Environmental Protection
Subpart D. Environmental Health and Safety
Article VIII. Municipal Waste Management
Chapter 271. Municipal Waste Management—General Provisions

Subchapter A. General

§ 271.1. Definitions.

* * * * *

[Clean fill] – delete this term.

Construction/demolition waste – delete references to “clean fill.”

Safe [Clean] fill – add this term.

* * * * *

§ 271.2. Scope – make conforming changes to manage safe fill under Article IX.

§ 271.101. Permit requirements – amend this section to conform with § 287.101.

Article IX. Residual Waste Management
Chapter 287. Residual Waste Management—General Provisions

Subchapter A. General

§ 287.1. Definitions.

* * * * *

[Clean fill]

* * * * *

HISTORIC FILL - HISTORICALLY CONTAMINATED MATERIAL (EXCLUDING LANDFILLS, WASTE PILES AND IMPOUNDMENTS) THAT IS A CONGLOMERATION OF SOIL AND RESIDUALS, SUCH AS SLAG, FLY ASH, DREDGED MATERIAL AND INCINERATOR ASH, USED TO BRING AN AREA TO GRADE PRIOR TO 1980 AND UP TO 1992.

* * * * *

KNOWN AREAS OF CONTAMINATION - KNOWN AREAS OF SOIL IMPACTED BY AUTHORIZED AGRICULTURAL PRACTICES RESULTING IN LEAD, ARSENIC AND PESTICIDE CONTAMINATION.

* * * * *

SAFE FILL—

(a) UNCONTAMINATED SOIL, INCLUDING ROCK, STONE, AND UNCONTAMINATED DREDGED MATERIAL THAT MEETS THE NUMERICAL STANDARDS REFERENCED IN § 287.11 (RELATING TO SAFE FILL NUMERICAL STANDARDS), THE NUMERICAL STANDARDS LISTED IN TABLES 1 AND 2 OF APPENDIX A AND THE FOLLOWING REQUIREMENTS:

(1) THERE IS NO KNOWLEDGE OR PAST ACTIVITY THAT INDICATES THAT THE SOIL OR DREDGED MATERIAL HAS BEEN SUBJECT TO A SPILL OR RELEASE.

(2) THERE IS NO VISIBLE STAINING, ODORS OR OTHER SENSORY NUISANCES RESULTING FROM CHEMICAL CONTAMINANTS OR BIOLOGICAL DECOMPOSITION ASSOCIATED WITH THE SOIL OR DREDGED MATERIAL.

(b) THE TERM INCLUDES THE FOLLOWING SOILS THAT MAY EXCEED THE NUMERICAL LIMITS IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER IF THE CRITERIA IN SUBSECTIONS (a)(1) and (2) ARE MET:

(1) SOIL MOVED WITHIN A RIGHT-OF-WAY.

(2) SOIL MOVED OFFSITE FROM RESIDENTIAL PROPERTIES.

(3) SOIL MOVED WITHIN A PROPERTY.

(c) THE TERM ALSO INCLUDES SOIL MOVED ONSITE AT A FRUIT ORCHARD WHERE PESTICIDES WERE APPLIED IN A MANNER CONSISTENT WITH STANDARD HORTICULTURAL PRACTICES. THE SOIL MAY EXCEED THE NUMERICAL LIMITS FOR PESTICIDES IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER IF ONE OF THE FOLLOWING CONDITIONS IS MET:

(1) THE SOIL IS PLACED ON LAND AT A LOCATION USED FOR COMMERCIAL OR INDUSTRIAL PURPOSES.

(2) THE SOIL IS BLENDED WITH OTHER SOIL TO MEET THE NUMERICAL LIMITS FOR PESTICIDES IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER AND PLACED ON LAND AT A LOCATION USED FOR RESIDENTIAL PURPOSES.

(d) THE TERM ALSO INCLUDES DREDGED MATERIAL DIRECTLY PLACED ON LAND ADJACENT TO THE DREDGING OPERATION FOR BEACH NOURISHMENT OR AS A SOIL ADDITIVE OR SOIL SUBSTITUTE. THE DREDGED MATERIAL MAY EXCEED THE NUMERICAL LIMITS IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER IF ONE OF THE FOLLOWING CONDITIONS IS MET:

(1) THE DREDGED MATERIAL IS PLACED ON LAND AT A LOCATION USED FOR COMMERCIAL OR INDUSTRIAL PURPOSES.

(2) THE DREDGED MATERIAL IS BLENDED WITH OTHER SOIL OR OTHER DREDGED MATERIAL TO MEET THE NUMERICAL LIMITS IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER AND PLACED ON LAND AT A LOCATION USED FOR RESIDENTIAL PURPOSES.

(e) THE TERM DOES NOT INCLUDE SOIL OR DREDGED MATERIAL PLACED INTO OR ON WATERS OF THE COMMONWEALTH.

* * * * *

SEDIMENT- BOTTOM MATERIALS OVERLAIN BY WATER IN RIVERS, LAKES, PONDS OR TIDAL STREAMS THAT CONSIST OF HETEROGENEOUS MIXTURES OF SAND, SILT, CLAY, GRAVEL AND ORGANIC MATERIAL DEPOSITED THROUGH EROSION OR BY LAKE OR RIVER CURRENTS.

* * * * *

§ 287.11. SAFE FILL NUMERICAL STANDARDS.

(a) IN ADDITION TO MEETING THE CONDITIONS OF THE DEFINITION OF “SAFE FILL” IN §287.1 (RELATING TO DEFINITIONS), SAFE FILL NUMERICAL STANDARDS SHALL BE MET THAT ARE CALCULATED AS FOLLOWS:

(1) FOR SOIL AND DREDGED MATERIAL CONTAINING SUBSTANCES OTHER THAN COPPER AND ZINC, THE LOWER OF THE FOLLOWING:

(i) THE RESIDENTIAL GENERIC VALUE OF THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUE CALCULATED IN ACCORDANCE WITH THE METHODOLOGY IN §250.308 (a)(2)(i), (3), (4)(i) AND (5) (RELATING TO SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUES).

(ii) THE LOWEST RESIDENTIAL DIRECT CONTACT NUMERIC VALUES CALCULATED IN ACCORDANCE WITH THE METHODOLOGIES IN §§250.306 (RELATING TO INGESTION NUMERIC VALUES) AND 250.307 (RELATING TO INHALATION NUMERIC VALUES).

(2) FOR SOIL AND DREDGED MATERIAL CONTAINING COPPER AND ZINC, NUMERICAL LIMITS WHICH TAKE PLANT TOXICITY INTO CONSIDERATION AND THAT DO NOT EXCEED CONCENTRATIONS IN § 271.914(b)(3) (RELATING TO POLLUTANT LIMITS).

(3) WHEN CALCULATING NUMERICAL STANDARDS UNDER PARAGRAPH (1), THE FOLLOWING ADDITIONAL REQUIREMENTS APPLY:

(i) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(ii) WHEN CALCULATING THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUE, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(4) DREDGED MATERIAL SHALL BE DRAINED PRIOR TO PLACEMENT ON LAND AS SAFE FILL. IN ADDITION, DREDGED MATERIAL FROM TIDAL STREAMS SHALL BE ANALYZED FOR CHLORIDES, AND SHALL MEET ONE OF THE FOLLOWING:

(i) A LEACH TEST THAT DEMONSTRATES THAT THE DREDGED MATERIAL MEETS THE REQUIREMENTS IN §288.623(a) (RELATING TO MINIMUM REQUIREMENTS FOR ACCEPTABLE WASTE) OR

(ii) THE DREDGED MATERIAL MAY NOT PRODUCE A LEACHATE IN EXCESS OF THE MEDIUM SPECIFIC CONCENTRATION FOR GROUNDWATER, IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER, WHEN SUBJECT TO THE SYNTHETIC PRECIPITATION LEACHING PROCEDURE (METHOD 1312 OF SW-846, TEST METHODS FOR EVALUATING SOLID WASTE, PROMULGATED BY THE U.S.EPA.). THE NUMERIC CRITERIA FOR CHLORIDES IS LISTED IN TABLE 2 OF CHAPTER 250, APPENDIX A AND IS ALSO LISTED IN TABLE 5 OF APPENDIX A TO THIS CHAPTER.

(b) TO DETERMINE WHETHER SOIL AND DREDGED MATERIAL MEET THE SAFE FILL NUMERICAL STANDARDS, THE FOLLOWING SAMPLING AND ANALYSES IDENTIFIED IN (1) OR (2) SHALL APPLY:

(1) SAMPLING BASED ON VOLUME SHALL INCLUDE THE FOLLOWING:

(i) FOR VOLUMES OF SOIL AND DREDGED MATERIAL EQUAL TO OR LESS THAN 125 CUBIC YARDS, A TOTAL OF EIGHT SAMPLES SHALL BE COLLECTED AND ANALYZED AS FOLLOWS:

(A) FOR ANALYSIS OF ALL SUBSTANCES OTHER THAN VOLATILE ORGANIC COMPOUNDS (VOCs), THE SAMPLES SHALL BE ANALYZED IN TWO COMPOSITES OF FOUR SAMPLES EACH.

(B) TWO SAMPLES SHALL BE SELECTED FROM THE EIGHT SAMPLES FOR ANALYSIS OF VOCS. THE SAMPLES SHALL BE BASED ON FIELD SCREENING OF THE EIGHT SAMPLES TO SELECT THOSE SAMPLES THAT ARE MOST LIKELY TO CONTAIN THE HIGHEST CONCENTRATIONS OF VOCS.

(C) TWO GRAB SAMPLES SHALL BE TAKEN FROM THE SAME AREAS IN THE SOIL OR DREDGED MATERIAL FROM WHICH THE TWO SAMPLES USED FOR FIELD SCREENING OF VOCS WERE TAKEN, IN ACCORDANCE WITH METHOD 5035 FROM THE MOST CURRENT VERSION OF THE EPA MANUAL, SW-846 (TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS, OFFICE OF SOLID WASTE AND EMRGENCY RESPONSE).

(ii) FOR VOLUMES OF SOIL OR DREDGED MATERIAL GREATER THAN 125 CUBIC YARDS AND LESS THAN OR EQUAL TO 3,000 CUBIC YARDS, A TOTAL OF TWELVE SAMPLES SHALL BE COLLECTED AND ANALYZED AS FOLLOWS:

(A) FOR ANALYSIS OF ALL SUBSTANCES OTHER THAN VOLATILE ORGANIC COMPOUNDS (VOCS), THE SAMPLES SHALL BE ANALYZED IN THREE COMPOSITES OF FOUR SAMPLES EACH.

(B) THREE SAMPLES SHALL BE SELECTED FROM THE TWELVE SAMPLES FOR ANALYSIS OF VOCS. THE SAMPLES SHALL BE BASED ON FIELD SCREENING OF THE TWELVE SAMPLES TO SELECT THOSE SAMPLES THAT ARE MOST LIKELY TO CONTAIN THE HIGHEST CONCENTRATIONS OF VOCS.

(C) THREE GRAB SAMPLES SHALL BE TAKEN FROM THE SAME AREAS IN THE SOIL OR DREDGED MATERIAL FROM WHICH THE THREE SAMPLES USED FOR FIELD SCREENING OF VOCS WERE TAKEN, IN ACCORDANCE WITH U.S.EPA METHOD 5035, REFERENCED IN PARAGRAPH (i)(C).

(iii) FOR EACH ADDITIONAL 3,000 CUBIC YARDS OF SOIL OR DREDGED MATERIAL OR PART THEREOF OVER THE INITIAL 3,000 CUBIC YARDS, TWELVE ADDITIONAL SAMPLES SHALL BE COLLECTED AND ANALYZED AS FOLLOWS:

(A) FOR ANALYSIS OF ALL SUBSTANCES OTHER THAN VOLATILE ORGANIC COMPOUNDS (VOCS), THE SAMPLES SHALL BE ANALYZED IN THREE COMPOSITES OF FOUR SAMPLES EACH.

(B) THREE SAMPLES SHALL BE SELECTED FROM THE TWELVE SAMPLES FOR ANALYSIS OF VOCS. THE SAMPLES SHALL BE BASED ON FIELD SCREENING OF THE TWELVE SAMPLES TO SELECT THOSE SAMPLES THAT ARE MOST LIKELY TO CONTAIN THE HIGHEST CONCENTRATIONS OF VOCS.

(C) THREE GRAB SAMPLES SHALL BE TAKEN FROM THE SAME AREAS IN THE SOIL OR DREDGED MATERIAL FROM WHICH THE THREE SAMPLES

USED FOR FIELD SCREENING OF VOCS WERE TAKEN, IN ACCORDANCE WITH EPA METHOD 5035, REFERENCED IN PARAGRAPH (i)(C).

(2) SAMPLING BASED ON DISCRETE SAMPLES SHALL INCLUDE THE FOLLOWING:

(i) FOR ANALYSIS OF ALL SUBSTANCES, SAMPLING SHALL BE RANDOM AND REPRESENTATIVE OF THE SOIL OR DREDGED MATERIAL BEING SAMPLED.

(ii) SAMPLING SHALL BE IN ACCORDANCE WITH THE MOST CURRENT VERSION OF THE USEPA RCRA MANUAL, SW-846, (TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS. OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE).

(iii) FOR VOLUMES OF SOIL AND DREDGED MATERIAL EQUAL TO OR LESS THAN 125 CUBIC YARDS, A MINIMUM OF EIGHT SAMPLES SHALL BE COLLECTED AND ANALYZED. FOR VOLUMES OF SOIL OR DREDGED MATERIAL GREATER THAN 125 CUBIC YARDS AND LESS THAN OR EQUAL TO 3,000 CUBIC YARDS, A MINIMUM OF TWELVE SAMPLES SHALL BE COLLECTED AND ANALYZED. FOR EACH ADDITIONAL 3,000 CUBIC YARDS OF SOIL OR DREDGED MATERIAL OR PART THEREOF OVER THE INITIAL 3,000 CUBIC YARDS, A MINIMUM OF TWELVE ADDITIONAL SAMPLES SHALL BE COLLECTED AND ANALYZED.

(iv) FOR VOCS ANALYSES, GRAB SAMPLING PROCEDURES SHALL BE THE PROCEDURES DESCRIBED IN PARAGRAPH (1) ABOVE, FOR THE EQUIVALENT VOLUMES OF SOIL AND DREDGED MATERIAL SAMPLED.

(c) THE ANALYSES OF SAMPLES REQUIRED IN (b)(1) SHALL MEET BOTH OF THE FOLLOWING:

(1) FOR A COMPOSITE SAMPLE, THE MEASURED NUMERICAL VALUE FOR A SUBSTANCE IS EQUAL TO OR LESS THAN HALF THE SAFE FILL NUMERICAL STANDARD IN § 287.11 (RELATING TO NUMERICAL STANDARDS) FOR THAT SUBSTANCE AND AS LISTED IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER.

(2) FOR A GRAB SAMPLE, THE MEASURED NUMERICAL VALUE FOR A SUBSTANCE IS EQUAL TO THE SAFE FILL NUMERICAL STANDARD IN § 287.11 (RELATING TO NUMERICAL STANDARDS) FOR THAT SUBSTANCE AND AS LISTED IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER.

(d) THE ANALYSES OF SAMPLES REQUIRED IN (b)(2) SHALL MEET (1) AND (2) OF THE FOLLOWING:

(1) THE MEASURED NUMERICAL VALUES FOR A SUBSTANCE IN SEVENTY-FIVE PERCENT OF THE DISCRETE SAMPLES SHALL BE EQUAL TO OR LESS THAN THE SAFE FILL NUMERICAL STANDARD IN § 287.11 (RELATING TO NUMERICAL STANDARDS) FOR THAT SUBSTANCE WITH NO SINGLE SAMPLE EXCEEDING MORE THAN TWICE THE SAFE FILL NUMERICAL STANDARD FOR A SUBSTANCE.

(2) THE ARITHMETIC AVERAGE OF ALL DISCRETE SAMPLES FOR A SUBSTANCE SHALL NOT EXCEED THE SAFE FILL NUMERICAL STANDARD IN § 287.11 (RELATING TO NUMERICAL STANDARDS) FOR THAT SUBSTANCE.

(3) FOR A GRAB SAMPLE, THE MEASURED NUMERICAL VALUE FOR A SUBSTANCE IS EQUAL TO THE SAFE FILL NUMERICAL STANDARD IN § 287.11 (RELATING TO NUMERICAL STANDARDS) FOR THAT SUBSTANCE AND AS LISTED IN TABLES 1 AND 2 OF APPENDIX A TO THIS CHAPTER.

(e) TO DETERMINE WHETHER SEDIMENTS MEET THE SAFE FILL NUMERICAL STANDARDS, SAMPLING AND ANALYSES SHALL BE CONDUCTED IN ACCORDANCE WITH GUIDANCE DEVELOPED BY THE DEPARTMENT.

§ 287.101. General requirements for permit.

* * * * *

(b) A person or municipality is not required to obtain a permit under this article, comply with the bonding or insurance requirements of Subchapter E (relating to bonding and insurance requirements) or comply with Subchapter B (relating to duties of generators) for one or more of the following:

* * * * *

(6) [The use as clean fill of the materials in subparagraphs (i) and (ii) if they are separate from other waste.] THE USE OF SOIL AND DREDGED MATERIAL AS SAFE FILL IF THEY ARE SEPARATE FROM OTHER WASTE. The person using the [material] SOIL AND DREDGED MATERIAL as [clean] SAFE fill has the burden of proof to demonstrate that the [material] SOIL AND DREDGED MATERIAL ARE [is clean] SAFE fill.

[(i) The following materials, if they are uncontaminated: soil, rock, stone, gravel, brick and block, concrete and used asphalt.

(ii) Waste from landclearing, grubbing and excavation, including trees, brush, stumps and vegetative material.]

* * * * *

§ 287.102. Permit-by-rule.

* * * * *

(1) CONTAMINATED SOIL RESULTING FROM AGRICULTURAL PRACTICES. THE PLACEMENT OF SOILS FROM KNOWN AREAS OF CONTAMINATION SHALL BE DEEMED TO HAVE A RESIDUAL WASTE PERMIT WHEN USED TO BRING AN AREA TO GRADE, AS CONSTRUCTION MATERIAL, FOR CONTROL OF FIRE AND SUBSIDENCE EVENTS AND IN RECLAMATION OF ABANDONED MINES, IF THE RECLAMATION WORK IS APPROVED BY THE DEPARTMENT OR IS PERFORMED UNDER CONTRACT WITH THE DEPARTMENT, AND IF IN ADDITION TO SUBSECTION (a), THE FOLLOWING CONDITIONS ARE MET:

(1) THE SOIL FROM KNOWN AREAS OF CONTAMINATION IS ANALYZED FOR LEAD AND ARSENIC. IF THE SOIL COMES FROM A LOCATION WHERE AN ORCHARD ONCE EXISTED, THE SOIL SHALL BE ANALYZED FOR PESTICIDES INCLUDING ALDRIN, DIELDRIN, DDD, DDE AND DDT. CONTAMINATION IN SOIL SHALL NOT EXCEED THE NONRESIDENTIAL SOIL-TO GROUNDWATER PATHWAY NUMERIC VALUES BASED ON THE FOLLOWING:

(i) THE HIGHEST VALUE BETWEEN THE GENERIC VALUE AND A VALUE WHICH IS 100 TIMES THE MSC FOR GROUNDWATER, AS CALCULATED IN §250.308 (RELATING TO SOIL TO GROUNDWATER PATHWAY NUMERIC VALUES) AND LISTED IN TABLES 3B AND 4B OF CHAPTER 250, APPENDIX A, AND TABLE 3 OF APPENDIX A TO THIS CHAPTER.

(ii) WHEN CALCULATING THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUE, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(iii) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(2) TO DETERMINE WHETHER SOIL MEET THE STANDARDS IN PARAGRAPH (1), THE SOIL SHALL BE SAMPLED AND ANALYZED IN ACCORDANCE WITH § 287.11 (b) AND (c) OR (d) (RELATING TO SAFE FILL NUMERICAL STANDARDS).

(3) THE SOIL FROM KNOWN AREAS OF CONTAMINATION IS REUSED IN AN AREA WHERE THE BACKGROUND IS EQUAL TO OR GREATER THAN THE CONCENTRATION OF CONTAMINATION IN SOIL BEING BROUGHT TO THE SITE.

(4) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, DIRECT CONTACT PATHWAYS ARE PROMPTLY AND PERMANENTLY ELIMINATED BY THE PLACEMENT OF UNCONTAMINATED SOIL OR THROUGH OTHER ENGINEERING CONTROLS .

(5) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, A SEDIMENTATION AND EROSION CONTROL PLAN IS IMPLEMENTED THAT IS CONSISTENT WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 102 (RELATING TO EROSION AND SEDIMENT CONTROL).

(6) SOIL IS NOT PLACED INTO OR ON WATERS OF THE COMMONWEALTH.

(7) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, SOIL MAY NOT BE PLACED WITHIN 100 FEET OF A PERENNIAL STREAM.

(8) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, SOIL MAY NOT BE PLACED WITHIN 100 FEET OF THE EDGE OF A SINKHOLE.

(9) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, SOIL MAY NOT BE PLACED WITHIN 300 FEET OF A WATER SOURCE UNLESS THE OWNER HAS PROVIDED A WRITTEN WAIVER CONSENTING TO THE PLACEMENT OF SUCH SOIL CLOSER THAN 300 FEET.

(10) AT LOCATIONS WHERE SOIL FROM KNOWN AREAS OF CONTAMINATION IS PLACED, SOIL MAY ONLY BE USED UNDER THIS PERMIT ON PROPERTIES THAT ARE ZONED OR EXCLUSIVELY USED FOR COMMERCIAL AND INDUSTRIAL USES.

(11) SOIL FROM KNOWN AREAS OF CONTAMINATION THAT IS HAZARDOUS WASTE UNDER CHAPTER 261a (RELATING TO CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE) MAY NOT BE USED UNDER THIS PERMIT.

(12) SOIL FROM KNOWN AREAS OF CONTAMINATION MAY NOT CONTAIN ANY FREE LIQUIDS, BASED ON VISUAL INSPECTION, AND MAY NOT CREATE ANY ODORS OR OTHER PUBLIC NUISANCES RESULTING FROM CHEMICAL CONTAMINANTS OR BIOLOGICAL DECOMPOSITION ASSOCIATED WITH THE SOIL.

(13) A PERSON THAT RECEIVES AND USES SOIL FROM KNOWN AREAS OF CONTAMINATION SHALL SUBMIT A WRITTEN NOTICE TO THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

(i) THE NAME(S), ADDRESS(ES) AND PHONE NUMBER(S) OF THE PERSON(S) RECEIVING AND USING THE SOIL FROM KNOWN AREAS OF CONTAMINATION.

(ii) THE QUANTITY OF SOIL USED FROM KNOWN AREAS OF CONTAMINATION AT THE RECEIVING LOCATION.

(iii) LOCATIONS OF THE KNOWN AREAS OF CONTAMINATION WHERE SOIL WAS REMOVED FOR USE AND WHERE THE SOIL IS PLACED FOR USE.

(iv) IDENTIFICATION OF WHETHER THE KNOWN AREA OF CONTAMINATION IS THE SUBJECT OF A CORRECTIVE ACTION OR REMEDIATION ACTIVITY.

(v) A DESCRIPTION OF ENGINEERING PRACTICES AND CONSTRUCTION ACTIVITIES USED TO ELIMINATE DIRECT CONTACT PATHWAYS AND TO ASSURE THAT SITE EXCAVATION AND PLACEMENT OF SOIL DOES NOT CAUSE ONSITE OR OFFSITE CONTAMINATION.

(vi) IF SOIL IS USED FOR CONTROL OF FIRE AND SUBSIDENCE EVENTS OR IN RECLAMATION AT ABANDONED MINES, THE NOTICE SHALL INCLUDE A REFERENCE TO THE DEPARTMENT'S SEPARATE AUTHORIZATION OF THE USE IN THOSE PROJECTS.

(14) RECORDS OF ANY ANALYTICAL EVALUATIONS CONDUCTED ON THE SOIL FROM KNOWN AREAS OF CONTAMINATION SHALL BE MAINTAINED BY THE PERSON USING AND DISTRIBUTING THE SOIL AND SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR INSPECTION. THE RECORDS SHALL INCLUDE THE FOLLOWING:

(i) DATES OF TESTING

(ii) EACH PARAMETER TESTED

(iii) TEST RESULTS

(iv) LABORATORY WHERE TESTING WAS CONDUCTED

(v) SAMPLING PROCEDURES AND ANALYTICAL METHODOLOGIES USED,

(vi) THE NAME OF THE PERSON WHO COLLECTED THE SAMPLE.

(15) THIS PERMIT DOES NOT AUTHORIZE AND SHALL NOT BE CONSTRUED AS AN APPROVAL TO DISCHARGE ANY WASTE, WASTEWATER OR RUNOFF FROM THE SITE WHERE CONTAMINATED SOIL ORIGINATED OR THE SITE WHERE CONTAMINATED SOIL IS BENEFICIALLY USED, TO THE LAND OR WATERS OF THE COMMONWEALTH.

(16) SOIL FROM KNOWN AREAS OF CONTAMINATION PLACED IN ACCORDANCE WITH THIS PERMIT SHALL CEASE TO BE WASTE AS LONG AS THE SOIL REMAIN IN PLACE.

(17) FOR PURPOSES OF THIS SUBSECTION, THE TERM “KNOWN AREAS OF CONTAMINATION” MEANS KNOWN AREAS OF SOIL IMPACTED BY AUTHORIZED AGRICULTURAL PRACTICES RESULTING IN LEAD, ARSENIC AND PESTICIDE CONTAMINATION.

(m) CONTAMINATED SOIL AND DREDGED MATERIAL IMPACTED BY A SPILL OR RELEASE OR CONTAMINATED SOIL AND DREDGED MATERIAL THAT EXCEED SAFE FILL NUMERICAL STANDARDS AS A RESULT OF URBANIZATION. THE PLACEMENT OF CONTAMINATED SOIL AND DREDGED MATERIAL IMPACTED BY A SPILL OR RELEASE OR CONTAMINATED SOIL AND DREDGED MATERIAL THAT EXCEED SAFE FILL NUMERICAL STANDARDS AS A RESULT OF URBANIZATION SHALL BE DEEMED TO HAVE A RESIDUAL WASTE PERMIT WHEN USED TO BRING AN AREA TO GRADE, AS CONSTRUCTION MATERIAL, FOR CONTROL OF FIRE AND SUBSIDENCE EVENTS AND IN RECLAMATION OF ABANDONED MINES, IF THE RECLAMATION WORK IS APPROVED BY THE DEPARTMENT OR IS PERFORMED UNDER CONTRACT WITH THE DEPARTMENT AND, IF IN ADDITION TO SUBSECTION (a), THE FOLLOWING CONDITIONS ARE MET:

(1) THE CONTAMINATED SOIL AND DREDGED MATERIAL IMPACTED BY A SPILL OR RELEASE OR CONTAMINATED SOIL AND DREDGED MATERIAL THAT EXCEED SAFE FILL NUMERIC STANDARDS SHALL NOT EXCEED THE LOWEST RESIDENTIAL DIRECT CONTACT NUMERIC VALUES CALCULATED IN ACCORDANCE WITH THE METHODOLOGIES IN §§250.306 (RELATING TO INGESTION NUMERIC VALUES) AND 250.307 (RELATING TO INHALATION NUMERIC VALUES) AND LISTED IN TABLES 3A AND 3B OF CHAPTER 250, APPENDIX A. THE NUMERICAL STANDARDS ARE ALSO LISTED IN TABLES 4 AND 5 OF APPENDIX A TO THIS CHAPTER.

(i) WHEN CALCULATING THE DIRECT CONTACT NUMERIC VALUE, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(ii) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(2) CONTAMINATION IN SOIL AND DREDGED MATERIAL SHALL NOT EXCEED GROUNDWATER PROTECTION STANDARDS BASED ON EITHER OF THE FOLLOWING:

(i) A LEACH TEST THAT DEMONSTRATES THAT THE CONTAMINATED SOIL AND DREDGED MATERIAL MEET THE REQUIREMENTS IN §288.623(a) (RELATING TO MINIMUM REQUIREMENTS FOR ACCEPTABLE WASTE).

(ii) CONTAMINATED SOIL AND DREDGED MATERIAL DO NOT PRODUCE A LEACHATE IN EXCESS OF THE MEDIUM SPECIFIC CONCENTRATION FOR GROUNDWATER, IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER, WHEN SUBJECT TO THE SYNTHETIC PRECIPITATION LEACHING PROCEDURE (METHOD 1312 OF SW-846, TEST METHODS FOR EVALUATING SOLID WASTE, PROMULGATED BY THE U.S.EPA.) THE CONCENTRATIONS ARE LISTED IN TABLES 1 AND 2 OF CHAPTER 250, APPENDIX A. THE NUMERIC STANDARDS ARE LISTED IN TABLES 4 AND 5 OF APPENDIX A TO THIS CHAPTER.

(3) TO DETERMINE WHETHER SOIL OR DREDGED MATERIAL MEETS THE STANDARDS IN PARAGRAPH (1), THE SOIL OR DREDGED MATERIAL SHALL BE SAMPLED AND ANALYZED IN ACCORDANCE WITH § 287.11 (b) AND (c) OR (d) (RELATING TO SAFE FILL NUMERICAL STANDARDS).

(4) CONTAMINATED SOIL AND DREDGED MATERIAL ARE REUSED IN AN AREA WHERE THE BACKGROUND IS EQUAL TO OR GREATER THAN THE CONCENTRATION OF CONTAMINATION IN SOIL AND DREDGED MATERIAL BEING BROUGHT TO THE SITE.

(5) AT LOCATIONS WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE PLACED, A SEDIMENTATION AND EROSION CONTROL PLAN IS IMPLEMENTED THAT IS CONSISTENT WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 102 (RELATING TO EROSION AND SEDIMENT CONTROL).

(6) CONTAMINATED SOIL AND DREDGED MATERIAL ARE NOT PLACED INTO OR ON WATERS OF THE COMMONWEALTH.

(7) AT LOCATIONS WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE PLACED, SOIL AND DREDGED MATERIAL MAY NOT BE PLACED WITHIN 100 FEET OF A PERENNIAL STREAM.

(8) AT LOCATIONS WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE PLACED, SOIL AND DREDGED MATERIAL MAY NOT BE PLACED WITHIN 100 FEET OF THE EDGE OF A SINKHOLE.

(9) AT LOCATIONS WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE PLACED, SOIL AND DREDGED MATERIAL MAY NOT BE PLACED WITHIN 300 FEET OF A WATER SOURCE UNLESS THE OWNER HAS PROVIDED A WRITTEN WAIVER CONSENTING TO THE PLACEMENT OF SUCH SOIL AND DREDGED MATERIAL CLOSER THAN 300 FEET.

(10) AT LOCATIONS WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE PLACED, SOIL AND DREDGED MATERIAL MAY ONLY BE USED

UNDER THIS PERMIT ON PROPERTIES THAT ARE ZONED OR EXCLUSIVELY USED FOR COMMERCIAL AND INDUSTRIAL USES.

(11) CONTAMINATED SOIL AND DREDGED MATERIAL THAT ARE HAZARDOUS WASTE UNDER CHAPTER 261a (RELATING TO CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE) MAY NOT BE USED UNDER THIS PERMIT.

(12) CONTAMINATED SOIL AND DREDGED MATERIAL MAY NOT CONTAIN ANY FREE LIQUIDS, BASED ON VISUAL INSPECTION, AND MAY NOT CREATE ANY ODORS OR OTHER PUBLIC NUISANCES RESULTING FROM CHEMICAL CONTAMINANTS OR BIOLOGICAL DECOMPOSITION ASSOCIATED WITH THE SOIL AND DREDGED MATERIAL.

(13) A PERSON THAT RECEIVES AND USES CONTAMINATED SOIL AND DREDGED MATERIAL SHALL SUBMIT A WRITTEN NOTICE TO THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

(i) THE NAME(S), ADDRESS(ES) AND PHONE NUMBER(S) OF THE PERSON(S) RECEIVING AND USING THE CONTAMINATED SOIL AND DREDGED MATERIAL.

(ii) THE QUANTITY OF CONTAMINATED SOIL AND DREDGED MATERIAL USED AT THE RECEIVING LOCATION.

(iii) LOCATIONS OF CONTAMINATED SOIL AND DREDGED MATERIAL WHERE SOIL AND DREDGED MATERIAL WERE REMOVED FOR USE AND WHERE THE SOIL AND DREDGED MATERIAL ARE PLACED FOR USE.

(iv) IDENTIFICATION OF WHETHER THE AREA OF CONTAMINATION WHERE THE CONTAMINATED SOIL OR DREDGED MATERIAL ORIGINATED IS THE SUBJECT OF A CORRECTIVE ACTION OR REMEDIATION ACTIVITY.

(v) A DESCRIPTION OF ENGINEERING PRACTICES AND CONSTRUCTION ACTIVITIES USED TO ASSURE THAT SITE EXCAVATION AND PLACEMENT OF SOIL AND DREDGED MATERIAL DOES NOT CAUSE ONSITE OR OFFSITE CONTAMINATION.

(vi) IF SOIL AND DREDGED MATERIAL ARE USED FOR CONTROL OF FIRE AND SUBSIDENCE EVENTS OR IN RECLAMATION AT ABANDONED MINES, THE NOTICE SHALL INCLUDE A REFERENCE TO THE DEPARTMENT'S SEPARATE AUTHORIZATION OF THE USE IN THOSE PROJECTS.

(14) RECORDS OF ANY ANALYTICAL EVALUATIONS CONDUCTED ON THE CONTAMINATED SOIL AND DREDGED MATERIAL SHALL BE MAINTAINED BY THE PERSON USING AND DISTRIBUTING THE SOIL AND SHALL BE MADE AVAILABLE

TO THE DEPARTMENT FOR INSPECTION. THE RECORDS SHALL INCLUDE THE FOLLOWING:

(i) DATES OF TESTING

(ii) EACH PARAMETER TESTED

(iii) TEST RESULTS

(iv) LABORATORY WHERE TESTING WAS CONDUCTED

(v) SAMPLING PROCEDURES AND ANALYTICAL METHODOLOGIES USED

(vi) THE NAME OF THE PERSON WHO COLLECTED THE SAMPLE.

(15) THIS PERMIT DOES NOT AUTHORIZE AND SHALL NOT BE CONSTRUED AS AN APPROVAL TO DISCHARGE ANY WASTE, WASTEWATER OR RUNOFF FROM THE SITE WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ORIGINATED OR THE SITE WHERE CONTAMINATED SOIL AND DREDGED MATERIAL ARE BENEFICIALLY USED, TO THE LAND OR WATERS OF THE COMMONWEALTH.

(16) CONTAMINATED SOIL AND DREDGED MATERIAL PLACED IN ACCORDANCE WITH THIS PERMIT SHALL CEASE TO BE WASTE AS LONG AS THE CONTAMINATED SOIL AND DREDGED MATERIAL REMAIN IN PLACE.

(17) CONTAMINATED SOIL AND DREDGED MATERIAL MAY NOT BE USED AT A SITE UNDERGOING A REMEDIATION OR CORRECTIVE ACTION THAT WILL CAUSE THE RECEIVING SITE TO EXCEED THE REMEDIATION STANDARD SELECTED.

(18) PLACEMENT OF CONTAMINATED SOIL AND DREDGED MATERIAL AT A SITE UNDERGOING A REMEDIATION OR CORRECTIVE ACTION SHALL MEET THE REQUIREMENTS OF SUBSECTION (o).

(n) *HISTORIC FILL*. THE PLACEMENT OF HISTORIC FILL SHALL BE DEEMED TO HAVE A RESIDUAL WASTE PERMIT WHEN USED AS CONSTRUCTION MATERIAL IF, IN ADDITION TO SUBSECTION (a), THE FOLLOWING CONDITIONS ARE MET:

(1) THE HISTORIC FILL SHALL BE ANALYZED AND SHALL MEET THE FOLLOWING:

(i) HISTORIC FILL SHALL NOT EXCEED THE RESIDENTIAL SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUES BASED ON THE FOLLOWING PARAMETERS:

(A) THE HIGHEST VALUE BETWEEN THE GENERIC VALUE AND A VALUE WHICH IS 100 TIMES THE MSC FOR GROUNDWATER, AS CALCULATED IN §250.308 AND LISTED IN TABLES 3B AND 4B OF CHAPTER 250, APPENDIX A. THE NUMERIC STANDARDS ARE ALSO LISTED IN TABLES 4 AND 5 OF APPENDIX A TO THIS CHAPTER.

(B) WHEN CALCULATING THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUE, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(C) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(ii) THE NUMERIC VALUE IN (i) MAY BE RAISED TO THE LOWEST RESIDENTIAL DIRECT CONTACT NUMERIC VALUES CALCULATED IN ACCORDANCE WITH THE METHODOLOGIES IN §§250.306 (INGESTION NUMERIC VALUES) AND 250.307 (INHALATION NUMERIC VALUES), PROVIDED CONTAMINATION DOES NOT EXCEED GROUNDWATER PROTECTION STANDARDS BASED ON EITHER OF THE FOLLOWING:

(A) A LEACH TEST THAT DEMONSTRATES THAT THE HISTORIC FILL MEETS THE REQUIREMENTS IN §288.623(a) (RELATING TO MINIMUM REQUIREMENTS FOR ACCEPTABLE WASTE).

(B) THE HISTORIC FILL DOES NOT PRODUCE A LEACHATE IN EXCESS OF THE MEDIUM SPECIFIC CONCENTRATION FOR GROUNDWATER, IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER, WHEN SUBJECT TO THE SYNTHETIC PRECIPITATION LEACHING PROCEDURE (METHOD 1312 OF SW-846, TEST METHODS FOR EVALUATING SOLID WASTE, PROMULGATED BY THE U.S.EPA.. THE CONCENTRATIONS ARE LISTED IN TABLES 1 AND 2 OF CHAPTER 250, APPENDIX A. THE NUMERIC STANDARDS ARE ALSO LISTED IN TABLES 4 AND 5 OF APPENDIX A TO THIS CHAPTER.

(C) WHEN CALCULATING THE DIRECT CONTACT NUMERIC VALUE, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(D) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(2) TO DETERMINE WHETHER HISTORIC FILL MEETS THE STANDARDS IN PARAGRAPH (1), THE HISTORIC FILL SHALL BE SAMPLED AND ANALYZED IN ACCORDANCE WITH § 287.11 (b) AND (c) OR (d) (RELATING TO SAFE FILL NUMERICAL STANDARDS).

(3) THE HISTORIC FILL IS REUSED IN AN AREA WHERE THE BACKGROUND IS EQUAL TO OR GREATER THAN THE CONCENTRATION OF CONTAMINATION IN MATERIAL BEING BROUGHT TO THE SITE.

(4) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, DIRECT CONTACT PATHWAYS ARE PROMPTLY AND PERMANENTLY ELIMINATED BY THE PLACEMENT OF UNCONTAMINATED SOIL AND DREDGED MATERIAL OR THROUGH OTHER ENGINEERING CONTROLS .

(5) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, A SEDIMENTATION AND EROSION CONTROL PLAN IS IMPLEMENTED THAT IS CONSISTENT WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 102 (RELATING TO EROSION AND SEDIMENT CONTROL).

(6) HISTORIC FILL IS NOT PLACED INTO OR ON WATERS OF THE COMMONWEALTH.

(7) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, MATERIAL MAY NOT BE PLACED WITHIN 100 FEET OF A PERENNIAL STREAM.

(8) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, MATERIAL MAY NOT BE PLACED WITHIN 100 FEET OF THE EDGE OF A SINKHOLE.

(9) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, MATERIAL MAY NOT BE PLACED WITHIN 300 FEET OF A WATER SOURCE UNLESS THE OWNER HAS PROVIDED A WRITTEN WAIVER CONSENTING TO THE PLACEMENT OF SUCH MATERIAL CLOSER THAN 300 FEET.

(10) AT LOCATIONS WHERE HISTORIC FILL IS PLACED, MATERIAL MAY ONLY BE USED UNDER THIS PERMIT ON PROPERTIES THAT ARE ZONED OR EXCLUSIVELY USED FOR COMMERCIAL AND INDUSTRIAL USES.

(11) HISTORIC FILL THAT IS HAZARDOUS WASTE UNDER CHAPTER 261a (RELATING TO CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE) MAY NOT BE USED UNDER THIS PERMIT.

(12) HISTORIC FILL MAY NOT CONTAIN ANY FREE LIQUIDS, BASED ON VISUAL INSPECTION, AND MAY NOT CREATE ANY ODORS OR OTHER PUBLIC NUISANCES RESULTING FROM CHEMICAL CONTAMINANTS OR BIOLOGICAL DECOMPOSITION ASSOCIATED WITH THE HISTORIC FILL.

(13) A PERSON THAT RECEIVES AND USES HISTORIC FILL SHALL SUBMIT A WRITTEN NOTICE TO THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

(i) THE NAME(S), ADDRESS(ES) AND PHONE NUMBER(S) OF THE PERSON(S) RECEIVING AND USING THE HISTORIC FILL.

(ii) THE QUANTITY OF HISTORIC FILL USED AT THE RECEIVING LOCATION.

(iii) LOCATIONS OF HISTORIC FILL WHERE MATERIAL WAS REMOVED FOR USE AND WHERE THE HISTORIC FILL IS PLACED FOR USE.

(iv) IDENTIFICATION OF WHETHER THE LOCATION WHERE THE HISTORIC FILL ORIGINATED IS THE SUBJECT OF A CORRECTIVE ACTION OR REMEDIATION ACTIVITY.

(v) A DESCRIPTION OF ENGINEERING PRACTICES AND CONSTRUCTION ACTIVITIES USED TO ASSURE THAT SITE EXCAVATION AND PLACEMENT OF HISTORIC FILL DOES NOT CAUSE ONSITE OR OFFSITE CONTAMINATION.

(vi) RESULTS OF LEACH TEST OR SPLP ANALYSES IF REQUIREMENTS OF PARAGRAPH (1)(ii) ARE MET.

(14) RECORDS OF ANY ANALYTICAL EVALUATIONS CONDUCTED ON THE HISTORIC FILL SHALL BE MAINTAINED BY THE PERSON USING AND DISTRIBUTING THE SOIL AND SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR INSPECTION. THE RECORDS SHALL INCLUDE THE FOLLOWING:

(i) DATES OF TESTING

(ii) EACH PARAMETER TESTED

(iii) TEST RESULTS

(iv) LABORATORY WHERE TESTING WAS CONDUCTED

(v) SAMPLING PROCEDURES AND ANALYTICAL METHODOLOGIES USED

(vi) THE NAME OF THE PERSON WHO COLLECTED THE SAMPLE.

(15) THIS PERMIT DOES NOT AUTHORIZE AND SHALL NOT BE CONSTRUED AS AN APPROVAL TO DISCHARGE ANY WASTE, WASTEWATER OR RUNOFF FROM THE SITE WHERE HISTORIC FILL ORIGINATED OR THE SITE WHERE HISTORIC FILL IS BENEFICIALLY USED, TO THE LAND OR WATERS OF THE COMMONWEALTH.

(16) HISTORIC FILL PLACED IN ACCORDANCE WITH THIS PERMIT SHALL CEASE TO BE WASTE AS LONG AS THE MATERIAL REMAINS IN PLACE.

(18) FOR PURPOSES OF THIS SECTION, THE TERM "HISTORIC FILL" MEANS HISTORICALLY CONTAMINATED MATERIAL (EXCLUDING LANDFILLS, WASTE PILES AND IMPOUNDMENTS) THAT IS A CONGLOMERATION OF SOIL AND RESIDUALS, SUCH AS SLAG, FLY ASH, DREDGED MATERIAL AND INCINERATOR ASH, USED TO BRING AN AREA TO GRADE, PRIOR TO 1980 AND UP TO 1992.

(o) CONTAMINATED SOIL PLACED AT A SITE UNDERGOING REMEDIATION. CONTAMINATED SOIL GENERATED OFFSITE AND PLACED AT A SITE UNDERGOING REMEDIATION UNDER CHAPTER 250 AND THE LAND RECYCLING AND ENVIRONMENTAL REMEDIATION STANDARDS ACT (ACT 2) (35 P.S. §§ 6026.101-6026.909) SHALL BE DEEMED TO HAVE A RESIDUAL WASTE PERMIT WHEN USED TO BRING AN AREA TO GRADE, TO LIMIT INFILTRATION OF RAINFALL AND TO FACILITATE RUNOFF IF, IN ADDITION TO SUBSECTION (a), THE FOLLOWING CONDITIONS ARE MET:

(1) THE NOTICES OF INTENT TO REMEDIATE THE SOILS AT THE RECEIVING SITE (PURSUANT TO 35 P.S. SECTION 6026.303(h)) IDENTIFY THE STATEWIDE HEALTH STANDARDS AS THE REMEDIATION STANDARDS THAT SHALL BE ATTAINED AND THE FOLLOWING REQUIREMENTS:

(i) PRIOR TO THE PLACEMENT IN A RESIDENTIAL AREA, THE CONTAMINATED SOIL BROUGHT TO THE RESIDENTIAL SITE SHALL MEET THE RESIDENTIAL STATEWIDE HEALTH STANDARDS IN ACCORDANCE WITH §§ 250.306-250.308 AND AS LISTED IN TABLES 3A, 3B, 4A AND 4B OF CHAPTER 250, APPENDIX A.

(ii) PRIOR TO THE PLACEMENT IN A NONRESIDENTIAL AREA, THE CONTAMINATED SOIL BROUGHT TO THE NONRESIDENTIAL SITE SHALL MEET THE NONRESIDENTIAL STATEWIDE HEALTH STANDARDS IN ACCORDANCE WITH §§250.306 - 250.308 AND AS LISTED IN TABLES 3A, 3B, 4A AND 4B OF CHAPTER 250, APPENDIX A.

(iii) WHEN CALCULATING THE DIRECT CONTACT NUMERIC VALUE OR THE SOIL-TO-GROUNDWATER PATHWAY NUMERIC VALUE FOR THE STATEWIDE HEALTH STANDARDS, THE CALCULATION SHALL BE BASED ON GROUNDWATER IN AQUIFERS USED OR CURRENTLY PLANNED FOR USE WITH

NATURALLY OCCURRING BACKGROUND TOTAL DISSOLVED SOLIDS CONCENTRATIONS LESS THAN OR EQUAL TO 2,500 MILLIGRAMS PER LITER.

(iv) FORMULAS IDENTIFIED IN SUBSECTION 250.305(b) (RELATING TO MEDIUM SPECIFIC CONCENTRATIONS IN SOIL) SHALL APPLY AS LIMITS TO THE PHYSICAL CAPACITY OF THE SOIL TO CONTAIN A SUBSTANCE.

(2) TO DETERMINE WHETHER CONTAMINATED SOIL MEETS THE STANDARDS IN (1), THE SOIL SHALL BE SAMPLED AND ANALYZED IN ACCORDANCE WITH § 287.11 (b) AND (c) OR (d) (RELATING TO SAFE FILL NUMERICAL STANDARDS).

(3) THE QUANTITY, QUALITY AND DESTINATION OF THE CONTAMINATED SOIL SHALL BE IDENTIFIED IN THE FINAL REPORT (PURSUANT TO 35 P.S. SECTIONS 6026.303(h)) SUBMITTED FOR THE SOIL RECEIVING SITE UNDERGOING REMEDIATION.

(4) PLACEMENT OF THE CONTAMINATED SOIL SHALL NOT CAUSE THE RECEIVING SITE TO EXCEED THE REMEDIATION STANDARD SELECTED AND IDENTIFIED IN THE NOTICE OF INTENT TO REMEDIATE.

(5) CONTAMINATED SOIL CONTAINING REGULATED SUBSTANCES OTHER THAN THOSE IDENTIFIED IN THE NOTICE OF INTENT TO REMEDIATE OR SUBSEQUENTLY IDENTIFIED DURING SITE CHARACTERIZATION SUBMITTED FOR THE RECEIVING SITE, SHALL NOT BE PLACED AT THE RECEIVING SITE.

(6) FOR CONTAMINATED SOIL PLACED AT A SITE UNDERGOING REMEDIATION PRIOR TO THE APPROVAL OF THE FINAL REPORT, RELIEF FROM LIABILITY MAY INCLUDE THE MATERIAL BROUGHT TO THE RECEIVING SITE AND SHALL BE INCLUDED IN THE FINAL REPORT.

(7) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, A SEDIMENTATION AND EROSION CONTROL PLAN IS IMPLEMENTED THAT IS CONSISTENT WITH THE APPLICABLE REQUIREMENTS OF CHAPTER 102 (RELATING TO EROSION AND SEDIMENT CONTROL).

(8) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, SOIL MAY NOT BE PLACED INTO OR ON WATERS OF THE COMMONWEALTH.

(9) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, SOIL MAY NOT BE PLACED WITHIN 100 FEET OF A PERENNIAL STREAM.

(10) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, SOIL MAY NOT BE PLACED WITHIN 100 FEET OF THE EDGE OF A SINKHOLE.

(11) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, SOIL MAY NOT BE PLACED WITHIN 300 FEET OF A WATER SOURCE UNLESS THE OWNER HAS PROVIDED A WRITTEN WAIVER CONSENTING TO THE PLACEMENT OF SUCH SOIL CLOSER THAN 300 FEET.

(12) AT A SITE UNDERGOING REMEDIATION WHERE CONTAMINATED SOIL IS PLACED, SOIL MAY NOT BE PLACED IN A 100-YEAR FLOOD PLAIN OF WATERS OF THIS COMMONWEALTH.

(13) TO DETERMINE WHETHER CONTAMINATED SOIL PLACED AT A SITE UNDERGOING REMEDIATION MEETS THE STANDARDS IN (1), THE CONTAMINATED SOIL SHALL BE SAMPLED AND ANALYZED IN ACCORDANCE WITH § 287.11 (b) AND (c) OR (d) (RELATING TO SAFE FILL NUMERICAL STANDARDS).

(14) CONTAMINATED SOIL PLACED AT A SITE UNDERGOING REMEDIATION SHALL NOT CONTAIN ANY FREE LIQUIDS LEFT IN THE SOIL, BASED ON VISUAL INSPECTION, AND THE SOIL SHALL NOT CREATE ANY ODORS OR OTHER PUBLIC NUISANCE RESULTING FROM CHEMICAL CONTAMINANTS OR BIOLOGICAL DECOMPOSITION ASSOCIATED WITH THE CONTAMINATED SOIL.

(15) FOR KNOWN OR SUSPECTED CARCINOGENS IN REMEDIATED SOIL THAT IS PLACED IN ACCORDANCE WITH THIS PERMIT, THE CUMULATIVE EXCESS RISK TO EXPOSED POPULATIONS, INCLUDING SENSITIVE SUBGROUPS, SHALL NOT BE GREATER THAN 1 IN 100,000. FOR SYSTEMIC TOXICANTS, THE HAZARD INDEX SHALL NOT EXCEED ONE.

(16) UPON COMPLETION OF AREAS WHERE CONTAMINATED SOIL IS PLACED, THE AREAS SHALL BE PROMPTLY VEGETATED TO MINIMIZE AND CONTROL EROSION OR CAPPED TO MINIMIZE INFILTRATION.

(17) THIS PERMIT DOES NOT AUTHORIZE AND SHALL NOT BE CONSTRUED AS AN APPROVAL TO DISCHARGE ANY WASTE, WASTEWATER OR RUNOFF FROM THE SITE WHERE CONTAMINATED SOIL ORIGINATED OR THE SITE WHERE CONTAMINATED SOIL IS BENEFICIALLY USED, TO THE LAND OR WATERS OF THE COMMONWEALTH.

(18) A PERSON THAT RECEIVES AND USES CONTAMINATED SOIL AT A SITE UNDERGOING REMEDIATION SHALL SUBMIT A WRITTEN NOTICE TO THE DEPARTMENT. THE NOTICE SHALL INCLUDE THE FOLLOWING:

(i) THE NAME(S), ADDRESS(ES), AND PHONE NUMBER(S) OF THE PERSON(S) RECEIVING AND USING THE CONTAMINATED SOIL.

(ii) THE QUANTITY OF CONTAMINATED SOIL FROM A REMEDIATED SITE USED AT THE RECEIVING LOCATION.

(iii) LOCATIONS OF AREAS WHERE CONTAMINATED SOIL IS GENERATED AND LOCATIONS OF AREAS WHERE THE CONTAMINATED SOIL WILL BE PLACED.

(iv) COPIES OF RECORDED DEED NOTICES THAT IDENTIFY WHERE ON RECEIVING PROPERTIES CONTAMINATED SOIL IS PLACED IF NONRESIDENTIAL HEALTH STANDARDS ARE USED AT THE SITES AS THE REMEDIATION STANDARDS.

(v) IDENTIFICATION OF WHETHER THE LOCATION WHERE THE CONTAMINATED SOIL ORIGINATED IS THE SUBJECT OF A CORRECTIVE ACTION OR REMEDIATION ACTIVITY.

(vi) A DESCRIPTION OF ENGINEERING PRACTICES AND CONSTRUCTION ACTIVITIES USED TO ASSURE THAT SITE EXCAVATION AND PLACEMENT OF CONTAMINATED SOIL DOES NOT CAUSE ONSITE OR OFFSITE CONTAMINATION.

(19) CONTAMINATED SOILS THAT ARE HAZARDOUS WASTE UNDER CHAPTER 261a (RELATING TO CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE) MAY NOT BE USED UNDER THIS PERMIT.

(20) RECORDS OF ANY ANALYTICAL EVALUATIONS CONDUCTED ON THE CONTAMINATED SOIL SHALL BE MAINTAINED BY THE PERSON USING AND DISTRIBUTING THE SOIL AND SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR INSPECTION. THE RECORDS SHALL INCLUDE THE FOLLOWING:

(i) DATES OF TESTING

(ii) EACH PARAMETER TESTED

(iii) TEST RESULTS

(iv) LABORATORY WHERE TESTING WAS CONDUCTED

(v) SAMPLING PROCEDURES AND ANALYTICAL METHODOLOGIES USED

(vi) THE NAME OF THE PERSON WHO COLLECTED THE SAMPLE.

(21) CONTAMINATED SOIL PLACED IN ACCORDANCE WITH THIS PERMIT SHALL CEASE TO BE WASTE AS LONG AS THE CONTAMINATED SOIL REMAINS IN PLACE.