Legitimate Use

Introduction

The Indiana Brownfields Program (Program) has compiled information for legitimate use of contaminated soil on sites with Program involvement to help facilitate redevelopment of such properties which are hindered by actual or potential environmental contamination. For sites where beneficial reuse of contaminated soil on-Site is sought, legitimate use approval must be requested through the IDEM Industrial Waste Compliance Section.

Indiana Solid Waste Rules

Indiana's environmental laws are located in Title 13 of the Indiana Code. Laws that apply to solid waste include but are not limited to Articles 18 through 25. Rules in Title 327 and Title 329 of the Indiana Administrative Code govern IDEM's solid and hazardous waste programs and outline requirements for the regulated community.

Is the use "legitimate?"

IDEM's Industrial Waste Compliance Section has a step-by-step process to approve legitimate reuse of contaminated soil at an individual property.

Step 1 - Receive Request (Legitimate Use Application Checklist – State Form 52954 (9-21))

Step 2 - Ensure that request has supporting documentation, for example: use (how it will be stored and handled), waste stream, evidence that waste does not pose a danger to human health and environment (may require testing), and evidence that waste can be used for the intended use (e.g., documentation of successful use elsewhere and/or how it meets specifications)

Step 3 - Evaluate documentation provided

Step 4 - Issue Legitimate Use Approval or Denial, which may include: continuous testing, storage, and recording keeping requirements, construction plans, project summary, an Environmental Restrictive Covenant (ERC), and/or an expiration date (if appropriate)

Will it Pose a Threat to Public Health or Environment?

Whether the soil intended for use will present a threat to human health or the environment must be determined. If required, testing should be conducted for any contaminant likely to be in the soil based on historical site use (such as total metals or organics). Use this link to view the *Uncontaminated Soil* Nonrule Policy Document (Waste-0064-NPD) which is meant to aid in determining when soil is considered uncontaminated. Foundry sand has been suitable for road building but not land reclamation; therefore, the legitimate use of foundry sand is still subject to IDEM approval under the exclusion referenced in *Storage of Type III Foundry Sands Prior to Legitimate Use* Nonrule Policy Document (Waste-0027-NPD).

Generator Responsibilities

A person who generates a solid waste must follow Rule 7.2 *Generator Responsibilities for Waste Information* (329 IAC 10-7.2-1). Nothing within the rule limits IDEM"s authority to require any information deemed necessary to grant approval for legitimate use.

At a Glance:

IDEM looks at the merits of use:

- Does it perform as an effective substitute?
- Product/material specifications
- Valid research to support
- Engineering/Project plans
- Physical/Materials testing

Program Decision-making related to legitimate use:

THE PROGRAM CANNOT GIVE A LEGITIMATE USE APPROVAL AND WILL REFER TO IDEM INDUSTRIAL WASTE COMPLIANCE SECTION IN THE EVENT THAT THE PROGRAM IS ASKED TO MAKE A DETERMINATION

FOR MORE INFORMATION ABOUT LEGITIMATE USE, CONTACT IDEM AT THE GENERIC MAILBOX EMAIL: LEGITIMATEUSE@IDEM.IN.GOV OR CALL 317-234-6923

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