

DIRTY DIRT

NJDEP

2019

A statewide issue

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DIES**

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ONE CARD, ONE SCRATCH
ONE HUNDRED GRAN LA

Play Responsibly. Don't
drink and drive. Always use seat belts.

**FREE
TOP SOIL**



Background

State of NJ Commission of Investigation Report

Dirty Dirt - *The Corrupt Recycling of Contaminated Soil and Debris*

Concluded: Under current laws, rules and regulations, New Jersey lacks the ability and authority to properly oversee its recycling industry. ... particularly in the area of Class B recycling

Recommended: Action by Legislature and Governor on the Commission's recommendations incorporated into Senate Bill S-2306. Now Bill **S-1683** for 2018-2019 Legislative Session.

At a minimum, some form of a background check requirement should be mandated immediately for any individual or entity seeking to participate in the Class B recycling arena, particularly as it applies to construction and demolition debris and related materials.

LEGISLATIVE ACTIVITY: Senate Bill No. 1683

a.k.a. A-901 Recycling Legislation

- Requires licensing of fill generators/processors, transporters and brokers
- Developed with input from DEP and Division of Law
- Current Status: passed Senate June 20, 2019 and moved to the Assembly (A-4267) and referred to Environment and Solid Waste Committee

Compliance & Enforcement Outreach

Compliance Advisory issued August 1, 2019



Soil and Fill Materials must meet NJDEP Requirements

Who is affected by this initiative?

All entities providing soil or fill material for use in New Jersey, truckers hauling soil and fill into or out of New Jersey and New Jersey property owners and development sites accepting and depositing soil or fill material.

Why is DEP concerned with fill material?

'Fill' refers to material placed on land for the purpose of filling low areas, changing the contours of an area, stabilizing existing grades and/or raising the grade of an area. Fill usually consists of soils, sands and clays, but may also include non-water-soluble, non-decomposable, inert solids, such as rock, gravel, brick, block, concrete, glass, and/or clay or ceramic products or any combination thereof, that do not meet the definition of solid waste pursuant to N.J.A.C. 7:26-1.6(a)6.

The New Jersey Department of Environmental Protection (NJDEP) is aware of a disturbing trend, wherein unacceptable and/or contaminated soil or fill is sold or provided for free as "clean fill" and being deposited at construction, development and residential sites throughout the State. Placement of unacceptable/contaminated soil or fill could pose a threat to the safety, public health, and general welfare of the community and the environment.

Unacceptable fill includes any materials containing debris (wood, metals, plastics, wire, wall board, roofing materials, insulation, carpets or padding, trash, etc.) mixed in with soils and non-decomposable, inert solids. Debris-laden fill is regulated as solid waste, cannot be used as fill, and must be disposed at an approved solid waste disposal facility. In addition, soil and fill materials determined to have concentrations of one or more hazardous contaminants that exceed the Residential Direct Contact Soil Remediation Standards (NJRDCSRS) or Non-Residential Direct Contact Soil Remediation Standards (NJRDCSRS), whichever is more stringent as set forth in N.J.A.C. 7:26D, Remediation Standards, are also considered solid waste; but with the appropriate NJDEP approvals, may be used at certain remediation sites, as close terminated landfills, as alternative daily cover material at operating landfills, or other uses as determined by NJDEP.

What is DEP doing?

As NJDEP has observed increasing instances of non-compliance regarding solid waste being transported and offered as clean fill, NJDEP has developed an informational sheet

COMPLIANCE ADVISORY

'Understanding NJDEP's Requirements for Soil and Fill Materials' which describes the general requirements and allowances regarding the use of soil and fill materials. NJDEP is also encouraging municipalities to consider adopting an ordinance to manage the importation and deposition of soil and fill in order to help prevent improper placement of unacceptable/contaminated material. The Department has developed a model ordinance, based on ordinances currently in effect in some municipalities throughout the State and has forwarded this to the various municipalities for consideration.

In the event NJDEP determines solid waste or contaminated soil or fill material has been used in a manner that violates the State's rules, the responsible party(ies) will be cited, ordered to remove and properly dispose of the unacceptable material and assessed penalties through administrative action or other means as authorized by the implementing statutes.

What should I do?

To assure regulatory compliance and avoid potential liability (including fill removal and remediation costs) and penalty exposure for violations under the Solid Waste rules and the Discharges of Petroleum and Other Hazardous Substances rules, generators, brokers and transporters of fill, and property owners receiving fill, should ensure the fill does not contain debris and that the fill is not contaminated above the NJRDCSRS or NJNRDCSRS, as applicable. These determinations should be made at the point of generation (i.e., before transport and placement).

Where can I get more information?

The following web sites can be accessed for additional information:

NJDEP's Information sheet:
<https://www.nj.gov/dep/enforcement/docs/infosheet-soilandfillmaterials.pdf>
Bureau of Solid Waste Compliance & Enforcement
<https://www.nj.gov/dep/enforcement/sw.html>
Site Remediation and Waste Management, Division of Solid & Hazardous Waste
<https://www.nj.gov/dep/dshw/>

Who should I contact with questions?

Bureau of Solid Waste Compliance and Enforcement	609-292-6305
Regarding beneficial use and/or other approvals of restricted use fill Site Remediation and Waste Management – Division of Solid and Hazardous Waste	609-633-1418

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.

Compliance Advisory Enforcement Alert

Soil and Fill Materials Must Meet NJDEP Fill Requirements

- Two page document explaining the concerns and efforts NJDEP is taking to ensure compliance with the requirements and ways to limit the risks posed by the use of unacceptable soil and fill material.
- Includes websites and contact phone numbers for additional information.

<https://www.nj.gov/dep/enforcement/advisories/2019-05.pdf>

Ongoing regulatory approach will be to handle soil/fill material cases, known to be solid waste or contaminated, as violations of SW rules and require removal.

Oct. 2019

NJDEP launched an information campaign on fill material on a dedicated website.

3 Topic Sections

Protecting Your Community:

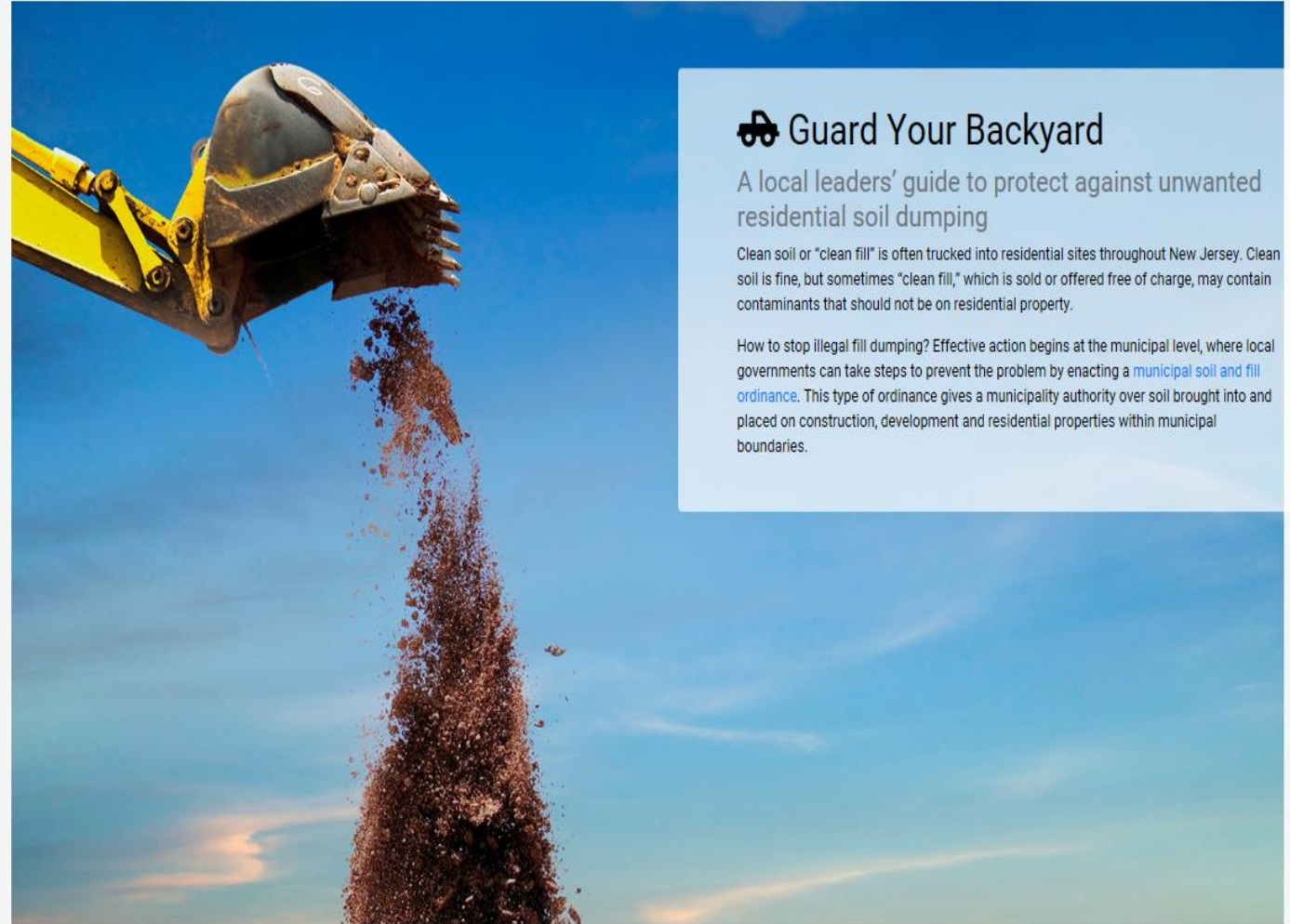
Model Ordinance, examples of Municipalities with local laws already enacted

Soil and Fill Specifics: DEP's advisory materials and informational documents

A Team Effort: Describes the groups involved or impacted by contaminated soil/fill material and gives additional information on what to be aware of and steps to take

The Department
Municipalities
NJ Residents

Industry Leaders
or Companies



Guard Your Backyard

A local leaders' guide to protect against unwanted residential soil dumping

Clean soil or "clean fill" is often trucked into residential sites throughout New Jersey. Clean soil is fine, but sometimes "clean fill," which is sold or offered free of charge, may contain contaminants that should not be on residential property.

How to stop illegal fill dumping? Effective action begins at the municipal level, where local governments can take steps to prevent the problem by enacting a [municipal soil and fill ordinance](#). This type of ordinance gives a municipality authority over soil brought into and placed on construction, development and residential properties within municipal boundaries.

Guardyourbackyard.nj.gov

Model Ordinance

IMPORTANT NOTE:

The model ordinance does not apply to site remediation sites (i.e., sites that are known to be contaminated).

SAMPLE LEGISLATION

Chapter XXXXX – SOIL/FILL IMPORTATION

- I. Purpose
- II. Definitions
- III. Permit required for acceptable soil/fill materials
- IV. Permit exemptions
- V. Responsibility for obtaining permit
- VI. Duration of permit
- VII. Permit application requirements
- VIII. Review of application
- IX. Factors to be considered in granting permit
- X. Appeals
- XI. Violations and Penalties
- XII. Permit suspension or revocation

GENERAL REFERENCES

(Town/municipality to reference pertinent ordinances here)

I. Purpose

The purpose of this chapter is to manage the importation and deposition of soil/fill to protect the safety, public health, and general welfare of the community and the environment. The adoption and enforcement of this chapter does not exempt an applicant from other required local, State or Federal approvals or local Soil Conservation District requirements and is meant to act in conjunction with all Soil Conservation District requirements and other applicable requirements with regards to acceptability and placement of soil/fill materials.

This chapter does not apply to soil/fill imported for the purposes of remediation pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS, N.J.A.C. 7:26C) and Technical Requirements for Site Remediation (N.J.A.C. 7:26E), operation and/or closure of sanitary landfills (N.J.A.C. 7:26) or dredge repository sites approved by State or Federal agencies.

Understanding DEP's Requirements for Soil and Fill Materials

Easy Read Fill Reference Document

Two pages of content followed by
Appendix 1 (8 pages total)

Describes 'fill,' solid waste, and
contaminated fill

Potential re-use of restricted use fill

- Landfills
- Remediation sites
- Non-remediation sites with
authorization (Beneficial Use
Projects)

Other authorities regulating soil/fill
activities

Generally, *'fill'* refers to material placed on land for the purpose of filling low areas, changing the contours of an area, stabilizing existing grades and/or raising the grade of an area. Fill usually consists of soils, sands and clays, but may also include non-water-soluble, non-decomposable, inert solids such as rock, gravel, brick, block, concrete, glass and/or clay or ceramic products, or any combination thereof, that do not meet the definition of solid waste pursuant to the Solid Waste Rules at N.J.A.C. 7:26-1.6(a)6. For purposes of this document, the terms "soil" and "fill" convey synonymous meaning.

As per the above rules, any fill containing debris (wood, metals, plastics, wire, wallboard, roofing materials, insulation, carpets or padding, trash, etc.), is considered solid waste, cannot be used as fill and must be disposed at an approved solid waste disposal facility.

Fill that does not contain debris, but is determined to have concentrations of one or more hazardous contaminants that exceed the New Jersey Residential Direct Contact Soil Remediation Standards (NJRDCSRS) or New Jersey Non-Residential Direct Contact Soil Remediation Standards (NJNRDCSRS) – whichever is more stringent as set forth in N.J.A.C. 7:26D, Remediation Standards – is also considered solid waste but, under certain conditions, may be used as a "restricted use" fill instead of being disposed. With the appropriate DEP approvals, restricted-use fill can be used as alternative daily cover material at operating landfills, to close terminated landfills, at certain remediation sites, or other beneficial uses as determined and approved by the DEP.

To send restricted-use material to an operating landfill for use as daily or intermediate cover, the generator of the material must contact the landfill operator for acceptability and instructions. A list of landfills operating in New Jersey can be found at www.nj.gov/dep/dshw/lrm/aocslf.htm.

Terminated landfills only may accept restricted-use fill in accordance with a DEP-approved closure and post-closure plan. To obtain information regarding New Jersey terminated landfills that may be accepting restricted-use fill, the generator of the material should contact the DEP's Division of Solid and Hazardous Waste, Bureau of Solid Waste Permitting, at (609) 292-9880.

Restricted-use fill destined for use at a site being remediated pursuant to the Site Remediation Reform Act and under the supervision of a Licensed Site Remediation Professional (LSRP) or under DEP oversight, must be managed in accordance with applicable Site Remediation rules and the most recent Fill Material Guidance for Site Remediation Program sites. For further information regarding regulatory requirements on using restricted-use fill at remediation sites, please refer to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E (www.nj.gov/dep/rules/rules/njac7_26e.pdf). Technical guidance regarding the use of restricted use fill at remediation sites can be found in the Fill Material Guidance for SRP Sites (www.nj.gov/dep/srp/guidance/srra/fill_protocol.pdf?version_3_0).

Restricted-use fill also may be beneficially used at non-remediation sites, subject to DEP review and prior written authorization. Authorization to use restricted-use fill, for beneficial use, requires submission of an application by the generator of the fill (property owner, developer, general contractor, etc. who controls the material when and where first generated) and issuance of a Certificate of Authority to Operate a Beneficial Use Determination (CAO/BUD) project by DEP. Note that any CAO/BUD must be obtained prior to transporting the fill from the generator's site. Guidance regarding Beneficial Use Projects can be found at www.nj.gov/dep/dshw/rtrtp/bud.htm.

Yellow Porch House - Buried Batteries
Addressed via SR&WMP

Consultant excavated batteries and collected post-exc. and site background samples which confirmed historical fill. Entered ARRCs process. Filled excavation with clean soil documented via discrete samples collected at frequency of one sample per 20 C.Y. per April 2015 SRP Guidance Document. Installed engineering controls for cap of clean fill, secures Deed Notice & Obtains Soil Remediation Permit. LSRP issues RAO.



White Porch House - Illegally Dumped Soil Pile
Addressed via SWC&E

No visible solid waste was present. Consultant collected one composite sample per 20 C.Y. which confirmed the pile was solid waste. Consultant removed the soil pile stopping at its base when factoring in surrounding topography and soil color. SWC&E confirms that the NOV has been resolved.

ILLEGAL DEPOSITION of FILL

