

**BOE-General-P-03 Beneficial Use 080619**

**Beneficial Use of Soils Memorandum of Understanding, Division of Remediation and Division of Solid Waste Management**

**DISCLAIMER:** This document is policy only and does not create legal rights or obligations. It is intended to provide division staff guidance on how to apply decisions, procedures and practices pertaining to the internal operation or actions of the division. Decisions affecting the public, including the regulated community, in any particular case will be made applying applicable laws and regulations to the specific facts.

**EFFECTIVE DATE:** Date of signed by the Director, Division of Remediation (or designee) and by the Director, Division of Solid Waste Management (or designee).

**SIGNATURES:**

  
\_\_\_\_\_  
Division of Remediation, Director

  
\_\_\_\_\_  
Division of Solid Waste Management, Director

  
\_\_\_\_\_  
Preparer

\_\_\_\_\_  
Reviewer (optional)

**PURPOSE:**

The Tennessee Department of Environment and Conservation (Department) has a public obligation to maintain a coordinated regulatory program for all regulated functions in the State, and the standards by which programs are administered should be consistent. The Division of Solid Waste Management (DSWM) and the Division of Remediation (DoR) strive to achieve comparable levels of protection of human health, safety, and the environment. This Memorandum of Understanding (MOU) is not intended to define the authority of either Division. It will be used solely to inform the Divisions' process whenever a petition for beneficial use determination for soil is received from a site enrolled in the Voluntary Oversight and Assistance Program.

**SCOPE:**

To the extent allowed by federal and state statutes, DoR and DSWM will strive to:

- 1) Achieve comparable levels of protection of human health and the environment when remedial and corrective actions are performed or overseen by the two Divisions.
- 2) Promote remedial and corrective actions at sites and facilities to levels which comply with Part 1 and Part 2 of the Hazardous Waste Management Act (HWMA), the Solid Waste Management Act, and the regulations adopted pursuant to these Acts.
- 3) Use the procedures established in DSWM's policy on Beneficial Use of a Solid Waste (PN028).

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This MOU shall only apply to a site which is enrolled in the Voluntary Oversight and Assistance Program and which intends to petition the Department for a beneficial use determination for soil generated at that same site.

**PROCEDURE:**

Once a petition for a beneficial use determination for soil is received by the Department, the following steps will be followed:

- 1) DoR shall review the petition for beneficial use determination and supporting analytical data to determine if the proposed use would be detrimental to public health, safety, or the environment. DoR will provide either concurrence or comments to be addressed by the petitioner. If the DoR agrees that the proposed beneficial use would not be detrimental to public health, safety, or the environment, the DoR shall provide written communication to the DSWM Field Office Manager providing this determination.
- 2) DSWM shall rely on DoR's determination whether the proposed beneficial use, along with handling and storage of the soil before use, would be detrimental to public health, safety, or the environment. Additionally, DSWM will determine if the petition is consistent with the Beneficial Use of a Solid Waste Policy (PN028) and provide either concurrence or comments to be addressed by the petitioner.
- 3) The divisions will jointly provide a concurrence letter to the generator of the soil proposed for beneficial use stating that the solid waste proposed for beneficial use complies with policy PN028. Additionally, the divisions will jointly provide a letter to the facility receiving the soil approved for beneficial use that approves the use of the soil and details any conditions on the use of the soil, including handling and storage of the soil before use). The divisions agree that these letters of concurrence shall be signed by the Field Office Managers for each respective division.
- 4) DSWM shall perform all other appropriate actions under the Solid Waste Management Act, Part 1 of the HWMA.
- 5) DoR shall perform all other appropriate actions under Part 2 of the HWMA, including requesting or ordering the recording of land use restrictions if required.

**AGREEMENT REVIEW AND MODIFICATION**

The division directors will review this memorandum of understanding as necessary. Changes to this memorandum of understanding must be signed by both division directors.

**AGREED to this date, August 6, 2019, and subject to change in writing upon assessment of the need.**



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**REFERENCES:**

TDEC Bureau of Environment, *BOE-P-01-Developing Policy-080717, Developing Policy or Guidance Documents*

**TRAINING, RECOMMENDED OR REQUIRED:**

Policy review

**REVISION HISTORY:**

<b>Revision Number</b>	<b>Date</b>	<b>Brief Summary of Change</b>
0	8.06.2019	Developed