



*Office of Land Quality*

# **Compliance Branch Non-rule Policy Documents**

Uncontaminated Soil Policy [Waste-0064]  
Contained-In Determination Policy [Waste-0061]

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# Uncontaminated Soil Policy

- 329 IAC 10-3-1 (1) excludes from regulation disposal of uncontaminated dirt (soil)
- This policy describes what soils would qualify as uncontaminated.
- This policy does not address:
  - Other types of regulated solid waste that may be encountered during excavations and/or co-mingled with soil such as coal ash, foundry sand, C&D materials, etc.
  - Naturally occurring chemical constituents in soil (*e.g.*, arsenic).
  - Hazardous waste including listed hazardous waste.

# Uncontaminated Soil Policy

To be considered uncontaminated, the soil must be:

- Compared to the lowest of screening level of the “Migration to Groundwater” or the “Direct Contact” screening level in the 2022 Table A-6 (attached to the policy).
- If a screening level for a contaminant does not exist, a facility may develop a site-specific screening level for submittal to IDEM. IDEM staff will then review and approve or request amendments.
- Contact the Industrial Waste Compliance Section for questions concerning the policy at 317-234-6923.

# Uncontaminated Soil Policy

What can you do with the soil, if the concentration exceeds the MTG screening level?

- Send the soil for disposal in a municipal solid waste landfill permitted to accept the waste
- Obtain a legitimate use approval to use the soil. To obtain an approval, submit a request to the Industrial Waste Compliance Section via email at [legitimateuse@idem.IN.gov](mailto:legitimateuse@idem.IN.gov)
- An application checklist is available for use (State Form 52954)

Factors IDEM will consider:

- Level of contamination
- Exposure pathways
- Is there a legitimate use (*e.g.*, structural fill)

## Contained-In Determination Policy

This policy is for use when listed hazardous waste has impacted environmental media (naturally occurring soil and groundwater).

This policy does not apply to:

- Sampling wastes (e.g. PPE, disposable sampling equipment, decontamination water).
- Other solid or hazardous waste impacted by listed hazardous waste (e.g., contaminated concrete, asphalt, contaminated debris).

## Contained-In Determination Policy

Environmental media that has become mixed with “listed” hazardous wastes must be managed as hazardous waste when generated (e.g., exhumed for discard during remedial activities) because it contains “listed” hazardous waste(s).

This policy allows for the use of site-specific, media-specific health-based criteria to determine when listed hazardous waste is not “contained-in” environmental media.

Sampling must occur at the point of generation. If waste is co-mingled and one result would be hazardous then the entire container is hazardous.

## Contained-In Determination Policy

To request a contained-in determination, you must:

- Sample and analyze environmental media to determine if it has been impacted with listed hazardous wastes and/or determine if the media exhibits a hazardous characteristic. Sampling should be done in accordance with SW846.
- Identify the hazardous waste listing codes.
- Identify any hazardous waste characteristics exhibited. The presence of a hazardous waste characteristic will disallow the waste from being managed under the “contained-in” determination policy.
- Compare the results to the 2022 Table A6 screening levels.
- Submit the following information:
  - Cover letter.
  - Completed checklist.
  - Laboratory analytical results including full QA/QC.
  - Map indicating sampling locations and points of generation.

## Contained-In Determination Policy

Approval will be issued by IDEM for the waste when:

- The contaminant of concern (coc) in the waste is below the commercial/industrial levels of Table A-6.
- The waste does not exhibit a hazardous characteristic.
- The waste meets the land disposal restriction requirements (if applicable).
- The waste will be disposed of in a permitted disposal facility.
- The waste will be disposed of in a Clean Water Act regulated unit.



# Contained-In Determination Policy

Live Loading Supplemental Guidance requires:

- Limited space at the site or immediately adjacent to the site is not adequate to hold a working number of containers
- New sampling that meets the following requirements:
  - Area of excavation divided into 10 ft. x 10 ft. grid.
  - Samples from each grid segment.
  - Samples collected at 2.5 foot intervals extending from the surface to the bottom of the proposed excavation.
  - Sample locations consistent within each grid (*i.e.*, in the center of the grid).
  - Sample locations recorded in a way to allow location to be found during later site activities (GPS preferred).
  - Confirmatory samples at a rate of 10% of the volume excavated must be sampled at the point of generation.
- Analytical data provided with the request must be recent (within six months of submittal) and relevant.
- Live loading activities must be completed within 6 months of approval.

## Reference Documents

- Uncontaminated Soil Policy:  
[idem.IN.gov/resources/nonrule-policies/effective-nonrule-policies](https://www.idem.in.gov/resources/nonrule-policies/effective-nonrule-policies)
- Legitimate Use Application Checklist [SF 52594]:  
[idem.IN.gov/forms/idem-agency-forms/#olq\\_legitimate](https://www.idem.in.gov/forms/idem-agency-forms/#olq_legitimate)
- Engineering Controls – Covers:  
[idem.IN.gov/cleanups/files/engineering\\_controls\\_covers.pdf](https://www.idem.in.gov/cleanups/files/engineering_controls_covers.pdf)
- Solid and Hazardous Waste Programs – Analytical Data Deliverable Requirements: Supplemental Guidance:  
[idem.IN.gov/waste/files/resource\\_sw\\_data\\_deliverable\\_reqs.pdf](https://www.idem.in.gov/waste/files/resource_sw_data_deliverable_reqs.pdf)
- Contained-In Determination Policy [Waste-0061]:  
[idem.IN.gov/resources/nonrule-policies/effective-nonrule-policies](https://www.idem.in.gov/resources/nonrule-policies/effective-nonrule-policies)
- Live Loading Guidance:  
[idem.IN.gov/cleanups/files/tech\\_guidance\\_soil\\_criteria.pdf](https://www.idem.in.gov/cleanups/files/tech_guidance_soil_criteria.pdf)



# Questions?

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Contained-In Determinations

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Legitimate Use Approvals



Office of Land Quality

Compliance Branch

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