

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resource and Energy to which was referred
3 House Bill No. 269 entitled “An act relating to transportation and disposal of
4 excavated development soils legally categorized as solid waste” respectfully
5 reports that it has considered the same and recommends that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. LEGISLATIVE FINDINGS

9 The General Assembly finds and declares that:

10 (1) Polycyclic aromatic hydrocarbons (PAHs), arsenic, and certain other
11 heavy metals may be considered hazardous materials under State law;

12 (2) PAHs, arsenic, and other heavy metals frequently are present in the
13 environment as a result of atmospheric deposition of exhaust products from
14 incomplete combustion of hydrocarbons, including oil, gasoline, coal, wood,
15 oil, and solid waste;

16 (3) Arsenic and other heavy metals can be present as a naturally
17 occurring element that can be found in soils;

18 (4) Soils on properties within downtowns or village centers often
19 contain PAHs, arsenic, and other heavy metal at levels that exceed the
20 Vermont soil screening standards even though there is no identifiable,
21 site-specific source of the PAHs or arsenic contamination on the property;

1 (40) “Excavated development soils” means unconsolidated mineral and
2 organic matter overlying bedrock that are contaminated by PAHs, arsenic, or
3 other heavy metals that is otherwise legally categorized as solid waste.

4 (41) “Excavated development soils concentration level” means those
5 levels of PAHs, arsenic, or other heavy metals expressed in units of mass per
6 volume, contained in the excavated development soils.

7 (42) “Growth center” shall have the meaning stated in 4 V.S.A. § 2793c.

8 (43) “Neighborhood development area” shall have the meaning stated in
9 24 V.S.A. § 2793e.

10 (44) “Origin site” means a location where excavated development soils
11 originate.

12 (45) “PAHs” means polycyclic aromatic hydrocarbons.

13 (46) “Receiving site” means a location where excavated development
14 soils are deposited.

15 (47) “Receiving site concentration level” means those levels of PAHs,
16 arsenic, or other heavy metals that exist at the receiving site.

17 (48) “TIF district” means a tax increment financing district created by a
18 municipality pursuant to 24 V.S.A. § 1892.

19 (49) “Village center” shall have the meaning stated in 24 V.S.A.
20 § 2791(10).

1 Sec. 3. 10 V.S.A. § 6604c is added to read:

2 § 6604c. MANAGEMENT OF EXCAVATED DEVELOPMENT SOILS

3 (a) The Secretary shall allow the transportation and disposal, without
4 treatment, of excavated development soils, otherwise legally categorized as
5 solid waste, from an origin site to a receiving site if:

6 (1) the soil is excavated from an origin site located in a designated
7 downtown development district, growth center, neighborhood development
8 area, TIF district, or village center;

9 (2) the origin site or the receiving site of the excavated development
10 soils is not:

11 (A) the subject of a planned or ongoing removal action under this
12 chapter or the Comprehensive Environmental, Response, Compensation, and
13 Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; or

14 (B) listed or proposed for listing as a CERCLA site under 42 U.S.C.
15 § 9605; and

16 (3) until the Secretary adopts background concentration levels by rule
17 under subsection (f) of this section, the excavated development soil may be
18 transported or disposed with completion of the certification and notice
19 requirements under subsection (c) of this section.

20 (b) The excavation or receipt of excavated development soils that satisfies
21 the requirements of subsection (a) of this section shall not be considered a

1 release under subdivision 6602(17) of this title and shall not require a
2 corrective action plan under section 6615a of this title.

3 (c) The owner of the origin site shall notify the Secretary 10 days prior to
4 commencement of construction of the intent to transport excavated
5 development soils under this section. The notice shall include:

6 (1) a certification from an environmental professional, as defined in
7 40 C.F.R. § 312.10, that the transportation and disposal of the relevant
8 excavated development soils meet the requirements of subsection (a) of this
9 section;

10 (2) a statement that the excavated soils have excavated development
11 soils concentration levels that are comparable to the soils concentration levels
12 at the receiving site;

13 (3) information related to the quantity of excavated development soils to
14 be deposited, the location of the origin site, the location of the receiving site,
15 the excavated soils' concentration level, the receiving site's concentration
16 level, a description of the isolation barrier or other remedial measures to be
17 used to manage the soils at the receiving site, and written consent by the
18 receiving site's owner for the proposed deposit of excavated development
19 soils.

20 (d) Upon receipt of notice, the Secretary shall have five days to contest
21 either the nature of the soil or its method of transportation or disposal if the

1 Secretary has a significant concern that the excavated development soils or
2 disposal methods present a threat to the public health, public safety, or
3 environment, or create a nuisance. The Secretary may require the owner of the
4 origin site to produce soils tests for the origin site or the receiving site or to
5 conduct additional testing of the origin site or the receiving site.

6 (e) The Secretary shall permit any excavated development soils stockpiled
7 on land owned by a municipality to remain at the current stockpiled location
8 for up to two years.

9 (f) On or before July 1, 2016, the Secretary:

10 (1) shall establish statewide or regional background concentration levels
11 for PAHs and arsenic that, notwithstanding levels established under subsection
12 (a) of this section, shall be used for the approval and disposal of excavated
13 development soils in the State;

14 (2) shall adopt or amend rules to clarify that excavated development
15 soils with a concentration level equal to or lower than the background
16 concentration levels established by the Secretary shall not be considered solid
17 waste; and

18 (3) may adopt by rule concentration levels of metals or other hazardous
19 material in excavated development soils that may be transported or disposed of
20 in a manner similar to excavated development soils containing PAHs or
21 arsenic.

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on passage.

3

4

5

6

7

8 (Committee vote: _____)

9

10

Representative _____

11

FOR THE COMMITTEE