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## MEMORANDUM

To: House Committee on Environment  
From: Matt Chapman, Director, Waste Management and Prevention, Department of Environmental Conservation  
Date: April 22, 2025  
Re: S. 127 Comments

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The Agency of Natural Resources supports all the changes that have been included in S. 127.

### Sec. 10; Management of Development Soils

#### 1. What are development soils?

Development soils are soils that have been impacted solely by PAHs (polycyclic aromatic hydrocarbons), arsenic, and lead. PAHs are uncombusted carbon compounds coming from vehicle exhaust, soot from boiler emissions, wood ash from building fires, etc. Arsenic is naturally occurring. Lead is both naturally occurring and from historic use in leaded gasoline and paint amongst other uses.

Development soils are commonly found at redevelopment projects and has been identified as a barrier in cleanup/development.

#### 2. What are the risks from development soils?

While the specific risks differ, the exposure pathway for people and the environment related to development soils is inhalation, dermal exposure, and ingestion.

#### 3. What are the current management options?

- Manage on site. For sites with existing room, the preferred option is always to manage waste soils on site as opposed to moving material off site. For many brownfields where space is confined this is not an option.
- Landfill either as a waste or cover. NEWSVT accepts development soils both as waste material and landfill daily cover. Transportation and disposal costs make this an expensive option for redevelopment. It is also not an ideal use of limited landfill capacity.
- Categorical disposal facility. These are facilities designed to accept low risk waste streams. They are often facilities like stump dumps or asphalt, brick, and concrete disposal facilities. 10 V.S.A. § 6605c authorized the construction of a categorical disposal facility for development soils. No facility has been permitted at this time.

- Receiving site management. ANR rules authorize the use of receiving sites or other contaminated property with development soil concentrations the same or higher than the generating site for the management of development soil. This provision is not used frequently because of the coordination required between multiple developments.
- Historic fill exemption. ANR exempts historic fill from management under the cleanup requirements in 10 V.S.A. § 6615. Rules set out the requirement for what a person needs to prove for the material to be considered historic fill and how the exemption is obtained. It is unknown why the development community does not take greater advantage of the historic fill exemption.

#### 4. Proposed change in Sec. 10.

Sec. 10 creates a new management option for development soils. The new option would require that the site generating the development soil be under the supervision of ANR to ensure appropriate testing and ensure that soils do not leach. It would allow a developer to manage soil at another location that had a need for fill provided that ANR issue a Insignificant Waste Management Event Approval (IWMEA) (one time disposal event authorized by ANR) that determines: the site is suitable for the soils; that the soils are capped (either by paving or a clean soil cap); that future disturbance of the soil is managed under a soil management plan overseen by ANR; and there is a notice to the land record defining where the material is going.

#### **Sec. 11. Development Soil Report**

Sec. 11 requires that ANR report to the legislature as a part of the biennial solid waste report on the progress of managing development soils in Vermont.

#### **Sec. 12. Prioritizing Brownfields Projects with Housing**

This section would direct the Secretary to prioritize projects that have a housing component when we are conducting project reviews. This may increase the speed of reviews for housing projects but may have the potential to slow review of other developments.

#### **Sec. 13. Brownfield Process Improvement Report**

ANR is to report back by 11/15/25 on the following two issues.

This section directs ANR to survey stakeholders who participate in brownfield redevelopment feedback on process improvements and to assist in identifying pinch points in the redevelopment process.

This section also requires ANR to evaluate a licensed site professional program. This approach is used in numerous other jurisdictions, including MA. It places ANR in a position of reviewing consultants as opposed to projects on lower risk contaminated sites.

#### **Sec. 14. Moving Existing Funds to the Environmental Contingency Fund.**

Sec 14 takes \$2.5M of existing appropriated funds and moves them from a one time general fund appropriation to an existing special fund (the ECF). This is important because some of the financial management requirements surrounding one-time appropriations prevent ANR from using these funds when we need them most – during the construction season. It also would allow ANR to use these funds for remediation in addition to investigation and planning efforts. This is also important considering the uncertainty with existing federal funding sources.