

Remaining Land Application Issues

1. Review of language summarizing discussion of land application criteria
2. How should “benefit” be considered? The draft principles include three statements on how the benefit associated with land application should factor into decisions. (Principles 1, 5, and 6). A member has further suggested that the concept of benefit be added to a fourth (Principle 9). These issues the Principles raise and the DEQ recommendation are as follows:

- a. What is an “acceptable” level of risk that justifies land application? (Principles 1 and 5)

Recommendation: In general, a bona fide benefit deriving from land application should be a prerequisite to approval. This is a low threshold designed simply to prevent disposal of material that presents some risk (even though below the inertness criteria) in the guise of land application.

- b. Is there an exception for material that presents a “low risk”? (Principle 5)

Recommendation: Some inherently low risk materials can be properly disposed of as “inert” without a corresponding beneficial reuse. This is consistent with Part 115 (e.g., fly ash when used in certain applications) and its administrative rules, (e.g., land clearing debris).

- c. Should the amount of acceptable risk (i.e., more than would otherwise be acceptable under the inertness criteria) vary with the benefit derived from land application?

Recommendation: No. It would be extremely difficult for the DEQ to administer a program that involves discretionary judgments allowing increased risk based on differences in perceived benefit.

3. Control of aesthetic impacts. The EAC had articulated a position on this issue (Principle 3), but a member has subsequently raised a concern

Recommendation: The state should protect against unacceptable aesthetic impacts. The Part 201 generic residential criteria are structured to do so. Using the Part 201 criteria as the foundation for inertness determinations will therefore protect against unacceptable aesthetic impacts.

4. Use of naturally occurring background as a decision-making criterion. The EAC had articulated a position on this issue (Principle 7), but a member has subsequently raised a concern.

Recommendation: The DEQ supports the use of the background concentration as a decision-making criterion. In most cases, reducing concentrations beyond background would not be a cost-effective means of limiting exposure to contaminant concentrations.

5. Other unresolved issues.
 - a. Policies to improve soil health: Several discussions have raised the general issue of how the land application program can advance soil health. These discussions have suggested both that additional restrictions (beyond inertness criteria) should apply if there was a potential threat to soil health and that less restrictive criteria might be appropriate if the material being land applied otherwise encourages soil health. How should this interest be addressed?

Recommendation: The DEQ recognizes the principles of sustainability that underlie the discussion of soil health. However, we do not have the capability to make fine judgments based on perceived increased benefits or threats to soil health. Therefore, the EAC's recommendations should include a statement about the long-term interest in adopting policies that foster soil health, much as the (proposed) language on inertness criteria recommends periodic review of using remedial criteria as the foundation for the land application program.

- b. Information base. Several members have expressed concerns that the DEQ does not have accurate information on the locations where waste-derived material is land applied.

Recommendation: The EAC should recommend program improvements to obtain this information.