

May 24, 2019

Environmental Policy Branch

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Toronto, ON

M4V1M2

Canada

Subject: Comment Submission for Excess Soil Regulatory Proposal and Amendments

To: Sanjay Coelho

We have reviewed the proposed regulatory changes to the management of excess construction soil (ERO number 013-5000) and are submitting the below noted comments for your consideration.

The following comments are reference to “ONTARIO REGULATION to be made under the ENVIRONMENTAL PROTECTION ACT ON-SITE AND EXCESS SOIL MANAGEMENT”:

Remove Restriction of Non-Dry Material as Waste

Repeal Section 3.(1).3

The excess soil must be dry soil and must remain dry soil until it is finally placed at the reuse site.

Explanatory Note

We are concerned that this would not promote greater reuse of excess soil in a way that helps to ensure protection of human health and the environment when it considers soil that is not dry as waste. The currently proposed approach would increase costs and complexity of soil management, which could act as a barrier and constraint to opportunities for remediation, reuse and intensification.

Remove Tracking System

Repeal Section 7.(7), Section 7.(8), Section 12.(4) , Section 12.(5), Section 12.(6) & Section 13.

7.(7) The project leader shall establish and implement a tracking system, in accordance with the Soil Rules, to track each load of excess soil during its transportation and deposit at a reuse site for final placement or at a soil bank storage site, soil processing site, landfilling site or dump, and any transportation to and from a temporary soil storage site.

7.(8) The project leader shall ensure that a notice is filed in the Registry setting out the following information:...

12.(4) A person who is transporting excess soil shall ensure that a record setting out the following information is available at all times during the transportation:...

12.(5) Upon arriving at a temporary soil storage site, a soil bank storage site, a soil processing site, a landfilling site, a dump or a reuse site, the person who is transporting the excess soil shall ensure that the record mentioned in subsection (4) sets out the following:...

12.(6) The person who is transporting the excess soil shall ensure that the individual mentioned in paragraph 2 of subsection (5) is given a copy of the record containing the information mentioned in that subsection.

13. Operation of reuse site. 13.(1) This section applies to the operator of a reuse site at which at least 10,000 cubic metres of excess soil is expected to be delivered for final placement in respect of an undertaking.

Explanatory Note

The implementation of a tracking system would require a designated representative, at both the export and receiving sites, to record truck movement for this requirement to be fulfilled.

Below is a cost analysis for a type medium side greenfield development:

- The average cost of a designated representative would be on average \$75/hour.
- Using the average export / import quantity noted below (55,000m³) and an average export / import rate of 1,000m³/day.
- It would cost approximately \$82,500 (55 days x \$75/hour x 10 hours/day x 2 representatives)

We are concerned that the currently proposed approach would increase costs and complexity of soil management, which could act as a barrier and constraint to opportunities for remediation, reuse and intensification

The following comments are reference to “Rules for On-Site and Excess Soil Management”:

Changes to the Frequency of Material Sampling:

Change Part III Section 2.2.(viii) & Part III Section 2.2.(ix)

2.2.(viii) For an in-situ sampling approach, the following rules apply (in relation to the area identified where sampling is required):

1. a minimum of three soil samples must be analyzed if less than 600 cubic metres of soil will be excavated;
2. At least one soil sample shall be analyzed for each 200 cubic metres of soil for the first 10,000 cubic metres of soil to be excavated; and
3. At least one sample for each additional 450 cubic metres after the first 10,000 cubic metres of soil to be excavated, shall be analyzed;

2.2.(ix) For a stockpile sampling approach, the sampling frequencies specified in Table 1 of this Document shall be followed. [Excerpt from Table 1: If volume of stockpile (m³) > 5000, number of samples based upon the following formula: $N = 32 + (\text{volume} - 5000) / 300$.]

Explanatory Note

A sampling and analysis plan is required as a component of excess soil management planning (ESMP). An ESMP is required for project larger than 2,000m³ of excess soil. Almost all low-rise residential subdivisions will require the movement of more than 2,000m³ of excess soil (whether import or export or both).

Below is a cost analysis for a type medium side greenfield development:

- An average price of sampling and analysis is: \$500/ea
- An average export / import operation is: 55,000m³
- For an in-situ sampling approach: 150 samples
- For a stockpile sampling approach: ~200 samples
- Total cost of \$75,000 - \$100,000

We are concerned with the following:

- 1) The sampling requirements are onerous and we recommend that the MECP identify areas for which the administrative burden can be alleviated without compromising broader objectives.
- 2) The preparation of an ESMP may take several weeks or even a few months as it may involve intrusive soil testing and analysis amongst other information that may be made necessary from consultants and associated laboratory costs.

Overall, the proposed requirements include new costs and potentially extended timelines for completing and implementing a sampling and analysis plan, assessing results and completing an excess soil characterization report.

Testing Parameters

Agree Appendix I, Table 1 (footer notes).

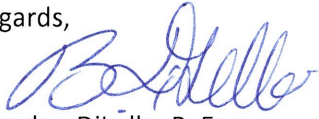
[Table 1] standards are the same as those in Table 2 of Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act, dated April 15, 2011, providing site condition standards applicable under O. Reg. 153/04 and that are set for coarse textured soils.

Explanatory Note

We would agree with the currently proposed approach to increase the allowable amount of salt within soils, including adjustment of Table 1 requirements to meet Table 2 requirements.

Thank you for your time and consideration.

Regards,



Brandon DiLollo, P. Eng.
Project Manager