

June 14, 2019

Sanjay Coelho
Environmental Policy Branch
40 St Clair Avenue West
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Toronto, ON
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Dear Mr. Coelho,

RE: The City of Guelph's comments on Excess Soil Regulatory Proposal and Amendments to Record of Site Condition (Brownfields) Regulation (ERO Number 013-5000)

The City of Guelph (City) has reviewed the regulatory proposal and amendments posted on the Environmental Registry of Ontario (ERO) pertaining to the *Excess Soil Regulatory Proposal and Amendments to Record of Site Conditions (Brownfields) Regulation, ERO Number 013-5000* and would like to provide the following comments:

A. Proposed Amendments to O. Reg. 153/04 (Brownfields)

Comment 1- Horizontal Severance, 22.1: "*A phase one or phase two environmental site assessment shall take into account every property at or below the ground surface that is above or below the phase one or phase two property.*" Not sure, what this sentence is suggesting; perhaps an explanation would be helpful.

Comment 2- Standards deemed to be met, 49.1, 4: Assuming that this item is making reference to background soil concentrations of the Site or the Project Area be determined; it is recommended that the MECP develop a standard procedures and protocols (location, no. of samples etc.) to avoid back and forth between the MECP, QPs and municipalities.

Comment 3- Excess soil, phase one environmental site assessment, 55 (1), 2: Is this sentence implying that an RSC property that could accept excess soils has to complete sampling and analysis of soil and groundwater, as appropriate, albeit the RSC will be based on the phase one environmental site assessment?

Comment 4- Excess soil, phase two environmental site assessment, 55 (1), 1: What does "*...the same as or within the phase two property*" mean in this sentence?

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Comment 5- Requirements for excess soil, 31(1), 1: What does "...the same as or within the phase two property" mean in this sentence?

B. Proposed On-Site and Excess Soil Management Regulation

Comment 6- Interpretation: Since a "temporary soil storage site" will now be deemed a waste disposal site, which will likely require an ECA to construct and operate, can it be allowed to store sediments from SWM ponds (based on the quality of the sediment) with proper measures in place such as SWM pond, oil/grit of water separators, lined swales etc.?

Comment 7- Before removing soil from project area, 7 (6): The City for every infrastructure project completes a geotechnical-environmental investigation prior to going out to tender, so that the bidders are aware of the quantity and quality of soil and groundwater that could be encountered during the construction phase. Typically, the City and its contractors try to avoid stockpiling soils due to lack of storage space and/or to maintain traffic flow; so, it would be beneficial for the City's projects if the City is not made to stockpile and re-sample the soils but given the flexibility to use the pre-construction in-situ soil quality information instead for reuse or disposal purposes.

Comment 8- Before depositing specified excess soil, landfilling or dump, 11 (1) and 11 (4), 3: It appears that the "Excess Soil Management Regulation" is based on the assumptions that soil banks, reuse sites and/or temporary storage sites are in abundance, which is likely not the case. As such, putting too much restriction on avoiding taking excess soils to landfill can complicate the construction practises and work against the very intention of the regulation.

By quantity of excess soil in the load, is the regulation implying the "estimated" or "weighted" volume? To provide "weighted" soil volume is not feasible.

Comment 9- Operation of reuse site, 13, (2), 2: Is this sentence implying that phase I/one and phase II/two environmental assessments be completed for the receiving sites? If so, the regulation must clearly state that. It appears that regulation is not as stringent on the requirements for receiving or reuse sites.

Comment 10- Temporary soil storage site, exemption from ss.27, 40 and 41 of the Act, 17 (1), 3: As stated above in Comment 8 to limit the

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quantity of excess soil to 2,500 cubic meter can work against the intention of this regulation. Please note that a typical infrastructure reconstruction project (e.g. sewer upgrade/upsizing project) could easily generate more than 2,500 cubic meter of excess soil/fill. As such, it is suggested that quantity of soil storage at temporary storage site be increased to 20,000 cubic meter depending on the location and size of the site.

Thank you for the opportunity to comment on this ERO posting.

Sincerely,

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