

May 30, 2019

Mr. Sanjay Coehl, Senior Policy Analyst  
Ministry of the Environment, Conservation and Parks  
Environmental Policy Branch  
40 St Clair Avenue West, Floor 10  
Toronto, ON M4V 1M2

Email: Sanjay.coelho@ontario.ca

Dear Mr. Coehl:

**Re: Excess Soil Regulatory Proposal and Amendments to Record of Site Condition (Brownfields) Regulation #013-5000**

I am writing to provide comments on behalf of the Ontario Waste Management Association in response to the Excess Soil Regulatory Proposal and Amendments to Record of Site Condition (Brownfields) Regulation.

The Ontario Waste Management Association (OWMA) is the largest waste and resource management trade association in Canada representing more than 250 members within Ontario's private and public sectors. OWMA members manage 85% of Ontario's waste and have diverse interests and capital investments in areas such as waste and recycling collection, material recycling and resource recovery, organics processing and composting, hazardous waste recycling and safe disposal, and landfills and transfer stations. They are at the core of the green economy.

**Context**

For almost the last decade OWMA has been raising concerns to the Ontario government about the management of excess soil in the province. Including the illegal dumping and inappropriate management of impacted and contaminated soils. Large amounts of excess soil are being generated at major infrastructure projects, especially in the GTA, and being moved across the province. It is clear that fundamental problems exist with Ontario's current regulatory framework and enforcement activities related to excess soils. As a result, this proposal is of keen interest.

It is important to emphasize that the OWMA throughout this period has advocated that the following elements were necessary for a successful framework for soil management in Ontario:

- Clear, enforceable and rigorous environmental standards need to be established by the provincial government including soil definitions; how and where certain types soils can be applied; and sampling protocols.
- Proper oversight and enforcement including tracking.
- Clear roles and responsibilities.
- Maximizing the reuse of soils while ensuring environmental protections are in place.



We believe that this new regulatory proposal has successfully incorporated many of these elements, however, we do have a number of concerns.

### **Excess Soil in Landfills**

It is important to emphasize that Ontario landfills are not accepting or disposing of large volumes of clean soils, nor do they want to. Excess soil is used at most landfill sites as annual daily cover and to help cap closed landfills. These uses are requirements of Environmental Compliance Approvals issued by the Ministry and help to mitigate environmental risks (e.g. odour, methane, and blowing materials). Soil at landfills also used for other engineering uses, such as for berming and road building materials.

The data included in the Ministry's proposal that Ontario landfills are accepting 2 million tonnes of soil annually is in keeping with this – 25% of the total volume accepted at landfills. It is also only a small fraction (under 10%) of the total excess soil in province generated annually.

The research that the OWMA has undertaken over the years has shown a precipitous drop in some of the most contaminated soils and we have seen no evidence of large volumes of excess to landfills – the majority (75%) of which are owned by municipal governments and the provincial government.

The economics simply do not make sense for clean soil to be sent to landfills. It is much cheaper to reuse the material onsite or at reuse site. These sites do not have the amount of environmental protection in place which includes but not limited to leachate management, landfill gas capture systems, traffic management plans, noise, dust and odour controls, and host community agreements.

While we absolutely support the efforts in the proposal to support reuse markets, we are very concerned about creating restrictions on landfills for a problem that does not appear to exist. In many instances, landfills may be the most appropriate option for certain contaminated materials. Despite the provisions in the regulation, the concern is it will lead to the improper management for these materials.

We have developed a position paper in support of disposal bans but bans need to be properly thought through and properly implemented. We do not believe these restrictions have been properly consulted on, nor proper analysis and strongly advocate they not move forward.

OWMA does not support the Ministry's rationale for restricting the deposit of clean soil at landfill sites. It is unclear what potential nuisances these restrictions could have especially relate to more rural or remote areas. Once better data is captured within the first few years of the regulation, the government can make better decisions related to whether this initiative is required and how best to approach it.

### **Proper Oversight and Enforcement including Tracking**

The OWMA is supportive of the provisions within the proposed regulation to ensure excess soil is properly tracked and accounted for. We support empowering the Resource Productivity and Recovery Authority for the Registry given the similar work they are already doing. This would help to improve backroom efficiencies and ensure oversight and enforcement is properly resourced. The waste services sector has long expressed concerns about the lack of transparency and accountability related to the movement and transport of contaminated excess soil to reuse sites.

The Ministry should ensure the requirements in the regulation protect commercial confidential information and do not duplicate reporting requirement already required through Environmental Compliance Approvals.

Thank you again for the opportunity to provide feedback. Please contact us if you would like to discuss any of the issues above in more detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Chopowick".

Mike Chopowick  
Director of Policy and Communications