

December 1, 2023

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Toronto, ON. M4V 1M2. Canada

(sent via email to mecp.landpolicy@ontario.ca)

Re: Proposed Regulatory Amendments to Encourage Greater Reuse of Excess Soil (019-7636)

The management of excess soils is an important part of any infrastructure project. The unforeseen ramifications of some legislation can be detrimental to the success of these projects.

The Ontario Road Builders Association (ORBA) appreciates the work that has gone into the proposed amendments to O. Reg. 406/19 and has the following comments.

Aggregate Reuse Depots

Recycled Materials

ORBA supports the concept of making it easier to reuse materials that meet the requirements of any engineered material. Some of these materials contain asphalt, concrete, glass or other allowable recycled materials. It is unclear if these materials would be allowed under an Aggregate Reuse Depot as described.

The amendments outline that mixing could be completed as a low risk process, allowing asphalt, concrete or other recyclable materials, specifically material generated during construction, renovation, and demolition of building roads and bridges, would increase the potential of additional reuse. These are materials which can be sustainably reused while conserving space at soil management sites and landfills.

Liquid Soils

Liquid Soils consisting of aggregate materials and following the “Small liquid soil depot” requirements should be allowed to be treated on site if proof can be given that they can be blended into aggregates and maintain the product standards. Treatment and processing of Liquid Soils on site will drastically reduce the amount of transportation and environmental impact resulting from hauling to and from the depots.

Direct to Site

Excess Soil which meets the requirements of any engineered material should be allowed to be shipped from its origin to another project (directly) if it meets the requirements of the site it is to be distributed on. Similar to the note above, this will reduce environmental impacts associated with hauling.

Salt-Impacted Soils

Alignment with Existing Regulations

ORBA supports the proposed enhanced reuse opportunities for salt-impacted soil; however, there remains further opportunities for harmonizing the approach to salt-impacted soil with existing regulations.

Specifically, ORBA calls on MECP to further amend the proposed enhanced reuse opportunities for salt-impacted soil to include a similar approach taken within in O.Reg.153/04, the Soil, Groundwater and Sediment Standards for use under the Environmental Protection Act and the accompanying Rationale Document (MOE, 2011) for potable groundwater scenario where a stratified soil approach can be maintained.

For greater clarity, Table 4 soil standards do not provide a value for Electrical Conductivity and Sodium Adsorption Ratio for any land use if soil is placed and maintained at a depth greater than 1.5 metres below ground surface. It is understood that this is a result of the primary driver of risk posed by EC/SAR which is outlined in the Rationale Document as being protective of soil organisms and plants. It is unclear to industry and consultants as to why the approach taken to Brownfield redevelopments is less stringent than that taken with the beneficial reuse of salt-impacted soil, especially considering its widespread use and ubiquitous presence in urban environments.

Accordingly, ORBA hereby requests that the MECP consider removing the EC/SAR standards for subsurface soils as provided by Excess Soil Quality Standards Table 4.1 and Table 5.1.

Adaptation of a Zonation Approach

We note that salt impacted soils were being permitted on agricultural properties so long as they are not used in naturalized areas, crop fields, or pasturing areas. When considering the application of stratified site condition standards, with the appropriate salt impacted soil exemptions, there is an inherent spatial zonation that occurs for the reuse site. This would ease the acceptance restrictions on large properties that may have an environmentally sensitive receptor on a small portion away from the proposed excess soil placement area.

As it stands, only sites where Excess Soils Quality Standards Table 2.1/3.1 apply are eligible to accept excess soil with quality that meets Table 4.1/5.1 as the later tables are less conservative than any other site condition standards.

We therefore request that the Ministry consider adopting a zonation approach to excess soil reuse sites, where a property can accept multiple soil qualities based on the site condition standards applicable to an area of the site, with appropriate setbacks.

We further note that under the first bullet and fourth sub-bullet of this section, there appears to be an error. The proposal indicates that the current restriction on the placement of salt impacted soil within 100 m of a surface water body would be retained. Based on Schedule D(3)1.ii a) of the Excess Soil Rules, the current restriction is 30 metres.

Sincerely,



Walid Abou-Hamde

Chief Executive Officer

c.c.

Andrew Ogilve, Manager, Resources Development Section, Ministry of Natural Resources