

Correspondence from the MOE's Brownfields Program Specialist

Please see highlighted area in point 6.

From: "Fernandes, Jonathan (ENE)" <Jonathan.Fernandes@ontario.ca>
To: Carmela Marshall <natureways@rogers.com>
Sent: Tue, June 21, 2011 5:17:43 PM
Subject: RE: today's discussion

Hi Carmela, It seems that from our conversation that you might have had some of the information mixed up so to make this easier I have clarified each of your points in my own words. Please see below.

1. The 2006 guidance document for sampling was never published and the Ministry does not have any immediate plans to publish such a document. APGO has a draft "Best Practices" document which will be published this year. The document will provide direction to APGO members on sampling methods for use in the field.
2. Currently for RSC properties, one can bring soils to a property as long as they meet the appropriate standards. This guidance was provided in "*Records of Site Condition: A Guide on Site Assessment, the Cleanup of Brownfield Sites and the Filing of Records of Site Condition*" October 2004. As of July 1, 2011, the MOE has put into regulation specific rules (instead of guidance) for bringing soil to an RSC property. These requirements can be found in Section 55 of the amended regulation and in the fact sheet entitled: Bringing Soil to an RSC Property.
3. The majority of soil movement in Ontario occurs with little oversight from the MOE unless the movement and management of the materials fall under MOE jurisdiction through legislation. Currently the Ministry is developing a guidance document on "best management practices" for addressing soil management at large scale fill operations and brownfield re-development projects. Once a draft has been completed it will be posted on EBR for public comment. The Ministry hopes to have the document posted sometime in the summer months.
4. The MOE becomes involved in soil management activities usually when a proponent consults with the Ministry on the proposed management activities or the MOE receives a complaint about adverse effect related to the soil.
5. In O.Reg 347 waste is considered exempt if it is inert. It has been a long standing MOE policy to consider soil material inert if it meets the standards found in Table 1 in O.Reg 153. However the Ministry also can consider other Tabled soils inert or acceptable for re-use if there was significant information provided to the Ministry about the soils on a site by site basis. If a material is deemed a waste then it should be appropriately disposed as per the requirements found in O.Reg 347. Generally, soil material can be managed

without any oversight of the Ministry if it is not deemed a waste and is not causing an adverse effect as highlighted under Ministry legislation.

6. With regards to the amended O.Reg 153, The Ministry will ensure that soils coming into the RSC property(that will remain on property), must meet the requirements found in the reg which would include the appropriate testing of the materials. Under the regulation, the Ministry does not require testing of the excavated material that has gone off of the property. The ministry does not regulate or require a record of the quality of any soil removed or where any soil excavated goes, nor does O.Reg 153 require that it be tested. It is usually up to the QP of the particular project to address if the material is a waste or if the material can be reused on another site.

7. Some of the points made here are reiterated in previous points. As for the comment on the hypothetical scenario, you would have to provide more site specific information to answer the question. It is not that cut and dry of a question to answer. Every answer would be based on site specific characteristics of the property as well as what you intended to bring to the property. So you would have to provide that before we could even start a discussion on what would be acceptable.

I hope this clarifies your inquires. If there are any further questions please let me know.

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