

From: Susan Jason [sjason@primeengineering.org]
Sent: Tuesday, June 16, 2015 4:13 PM
To: Locke, Paul (DEP)
Subject: COMMENTS - Interim Policy on the Re-use of Soil for Large Reclamation Projects Policy # COMM-15-01
Attachments: draft-interim-soil-policy-comm-15-01-may-27-2015.doc

Hello Paul,

Several comments on the Draft Policy follow.

Comments

The Interim Policy States: In determining whether to issue an Administrative Consent Order for a specific quarry, gravel pit or sand pit reclamation project, MassDEP will review data describing the OHM contained in the excavated soil proposed to be used for reclamation, data describing the relevant characteristics of the location proposed to receive this soil and the surrounding area, proposed soil management plans, and any other information necessary to ensure the proper handling of the fill material. In addition, MassDEP will review documentation submitted by proponents to demonstrate that the relevant local officials are aware of the project and have been afforded the opportunity for meaningful input.

1. The Interim Policy does not provide details on what specific information the Department requires in order for a reclamation project proponent to “apply” to the Department for “approval” under an ACO. Such as:
 - In regard to data describing the OHM contained in the excavated soil, will MassDEP be developing and issuing any guidance on how soil proposed for reuse should be characterized? Such as: sample collection procedures, number and type of samples, soil characterization parameters, sample collection frequency etc. Will there be any standardized approach?
 - Also In regard to data describing the OHM contained in the excavated soil, the MassDEP has voiced some concern regarding prohibiting fill soil from containing PCBs and VOCs however the Interim Policy does not identify prohibited contaminants. Will MassDEP be developing and issuing any guidance identifying any prohibited contaminants and the intended limiting concentrations of these compounds (i.e. 1/10 of the MCP RCS-1 Reportable Concentration)?
 - In regard to data describing the relevant characteristics of the location proposed to receive this soil will MassDEP be developing and issuing any guidance defining the what the Department thinks the “potential relevant characteristics” of a proposed fill/reclamation site are and if possible the minimum data needs? This is a wide-ranging statement with potential wide-ranging interpretation.
 - In regard to proposed soil management plans, will MassDEP be providing guidance on the minimum content of a proposed Soil Management Plan?

- Will the ACO application require an evaluation of the 5 bullets regarding potential human health and environmental effects currently found in the Authority section of the Draft Policy?
2. In regard to the need to *demonstrate that the relevant local officials are aware of the project*; the Interim Policy provides reasonable detail on how to make this “demonstration”. The question is the timing. Would MassDEP undertake an review of a proposed soil fill/reclamation project prior to the “local process” being initiated? It is conceivable in many communities that the local officials would not consider the “review or approval” or would “reject” a proposed reclamation project until they have confidence that MassDEP has reviewed the project and is at least receptive to its implementation. The “local process” would conceivably benefit greatly from some level of preceding MassDEP review, even given that a MassDEP ACO approval would not be granted until the “local process” was complete.

Additional Comments

3. Has the Department accepted any “submittals” to date and approved any subsequent ACO’s for sand pits, gravel pits, and/or quarries that can be used as a “guide” for a proposed fill site? Can the Department provide an indication of the amount of review time needed to obtain the final ACO?
4. Little is stated about the documentation of the intended end use of the reclamation facilities. Is the MassDEP contemplating requiring facilities to implement any type of deed restriction or deed notice as part of the ACO approval process?
5. Does the Department have an intent to require a reclamation facilities to demonstrate financial ability to address environmental concerns in the ACO process?
6. Does the Department envision any ACO requirement for the project proponent to track the location where soil streams are placed within the reclamation site?
7. Does the Department envision specifying the “total approved” soil volume for a proposed reclamation site? Does the Department envision an ACO requirement to provide existing conditions (pre-filling) and as-built (post-filling) survey plans at any juncture of the project to document grades, drainage patterns, soil volumes received, remaining “approved” soil volumes etc?
8. Will an ACO require any periodic or interim “reporting” by the reclamation site to the Department? If yes, what will this reporting entail?
9. Will there be any MassDEP fee associated with the ACO or the long term, operation of an “ACO approved” fill site?
10. The Interim Policy does not provide details on how is the ACO process is to be administered? Who should be contacted at MassDEP? Does it vary by region?

Thank you for the opportunity to comment.

Susan

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