



June 16, 2015

Mr. Paul Locke  
Bureau of Waste Site Cleanup  
MassDEP  
One Winter Street  
Boston, MA 02108

**Re: NAIOP Comments on Draft Interim Policy on the Re-Use of Soil  
for Large Reclamation Projects (Policy # COMM-15-01)**

Dear Mr. Locke,

NAIOP Massachusetts, The Commercial Real Estate Development Association, appreciates the opportunity to provide comments on MassDEP's *Draft Interim Policy on the Re-Use of Soil for Large Reclamation Projects* (#COMM – 15-01).

As you are aware, the shortage of available facilities to re-use, recycle or dispose of soils from development projects has resulted in significantly higher development costs, unpredictability and delay for the past several years. NAIOP is grateful for MassDEP's commitment to addressing this serious economic development issue.

NAIOP believes the proposed Draft Interim Policy will achieve the statutory requirements of Section 277 of Chapter 165 of the Acts of 2014. We do, however, urge MassDEP to monitor how the policy is implemented before moving forward with the development of regulations. While we believe the policy is a step in the right direction, it is difficult to judge how effective it will be until there is adequate time for it to be implemented. If the policy is not used, then it will provide an opportunity for MassDEP and key stakeholders to find constructive ways to improve the concept via regulations.

With that in mind, NAIOP supports the Draft Interim Policy with the following changes:

- Under the Applicability section, the first sentence uses the word "project" (though the rest of the document uses the words "quarry, gravel pit or sand pit"). To ensure consistency and provide needed clarity, NAIOP suggests changing that sentence to, "The Interim Policy is applicable to any quarry, gravel pit or sand pit whose reclamation or fill activities..."
- In that same sentence under the Applicability section, it is unclear how the word "expanded" would be defined. We suggest clarifying it by saying "expanded by more than 50% in capacity."

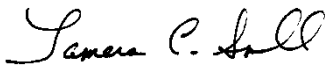
- The third bullet under Implementation uses the words “local officials” instead of “*those* local officials.” This would reference what is stated in the second bullet of this section and would avoid confusion over exactly what issues need to be addressed.
- The section on the Administrative Consent Order (ACO) approval states “unless and until all comments on project impacts related to noise, dust, odor and/or trucks have been appropriately addressed by the proponent.” In keeping with the previous bullet, we would suggest modifying it to read “until all comments *from such* officials on project impacts related to noise, dust, odor and/or trucks have been appropriately addressed.”
- In the sentence prior to the list of what should be included in ACO, we suggest replacing the existing sentence with the following language in order to clarify exactly what should be addressed and to create a timeline:

*MassDEP will finalize an Administrative Consent Order on the proposed quarry, gravel pit or sand pit reclamation project once the environmental issues raised by the CMO and BOH have been appropriately addressed by the proponent. This Administrative Consent Order will be issued within 60 days of receipt of a complete submission.*

Thank you again for the opportunity to review this and for all of your work to date on this policy. Please contact me or David Begelfer, NAIOP’s CEO, if any additional information is needed.

Sincerely,

NAIOP Massachusetts, The Commercial Real Estate Development Association



Tamara C. Small

Senior Vice President, Government Affairs