ONEIA
Ontario Environment Industry Association

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ONEIA's Excess Soil Seminar:

Province drafts framework to ensure "soils get to where they should go"

According to its recently released draft framework for excess soils, Ontario will impose greater responsibility on developers and other source sites, create new regulatory "linkages" to improve administrative consistency, and place greater attention on local soil re-use options.

Future regulations will require large source sites to prepare and implement excess soil management plans under the direction of a Qualified Person (QP). The province will also provide guidance on fill quality standards, develop protocols for small and "less risky" sites, and amend the current definition of "inert fill" in the its waste regulation.

The draft framework was posted to the Environmental Registry on January 26, 2016, with a deadline for public comment of March 26. The Ministry of the Environment and Climate Change (MOECC) will also establish a multi-stakeholder and multi-ministry working group to provide input and advice on the implementation of the framework.

"Approaches should consider, and integrate with, existing business practices ... and should support development of industry-led programs for sustainable re-use of excess soil."

– Chris Lompart, Acting Manager, Land Use Policy Division, MOECC

The basics of the policy framework were discussed with attendees at ONEIA's **Meeting the Soil Management Challenge.** Although the event was held November 26, 2015 — two months before the framework was finalized — much of the eventual content had already been completed and was only waiting final government approval.

As well as an early look at the MOECC's hotly anticipated excess soil management framework, attendees were brought up to date on recent research on soils movement and an expert panel debated how far we've come since the Ministry released its Best Management Practices (BMPs) two years ago. Finally, luncheon speaker **Dr. Krista Barfoot** of CH2M discussed some of the successes, challenges and lessons learned in excess soil management.

More than 100 industry and municipal representatives gather for a half-day of detailed discussions and networking.

"The high turnout reflects the consistent interest in the excess soils issue," said **Grant Walsom**, a Partner with XCG Consultants and co-chair of ONEIA's Excess Soils Management

Upcoming ONEIA Events

Tuesday, Feb. 23, 2016
Meet the Commissioner
Join us for the first annual address to ONEIA by Ontario's new Environmental Commissioner Dianne Saxe. Registration opens at 4:00 PM, with her presentation at 4:30 PM, followed by a cocktail reception. To be held in the Whiskey Room of Norton Rose Fulbright Canada LLP, Suite 3800, 200 Bay Street, Toronto.

Tuesday, March 8, 2016
Break the Ice on the Ice: Guelph Bonspiel
Our second curling bonspiel of 2016 will be held at the Guelph Curling Club (816 Woolwich St., Guelph). We kick things off with a pizza lunch at 2:00 PM, followed by a short curling clinic and a three-game bonspiel (two ends each) from 3:00-5:00, and end with food, drinks and networking in the club lounge till 6:30 PM.

Tuesday, May 17, 2016
The Ontario Environment and Cleantech Business and Policy Forum

Stay tuned for updates on these and other upcoming ONEIA meetings and special events. For details, contact **Marjan Lahuis** at the ONEIA office at 416-531-7884 or by e-mail at mlahuis@oneia.ca

Working Group. "There was also a tremendous buzz about the event on social media." Even before lunch was served, a flurry of tags and tweets had shared the morning's discussions with more than 17,000 on-line followers across Canada and 67,000 worldwide.

"While the Ministry was not quite ready to reveal all the details of its new policy framework," said Walsom, "the commitment to 'do it right' is certainly there. And they are continuing to consult to ensure everybody's point of view is heard."

Ministry believes it is on "the right track"

In response to a formal request filed under the *Environmental Bill of Rights* (EBR), the MOECC announced in April 2014 that it would review the need for a new, province-wide policy to address compromised soil and "to ensure that fill being dumped onto sites is safe."

"We are now at a point where we are ready to move on from that multi-ministry EBR review," said **Chris Lompart**, Acting Manager of the MOECC's Land Use Policy Division.

The Ministry undertook extensive consultations in the fall of 2014 and through 2015, including 13 "listening sessions" to verify needs and identify gaps. It also looked at approaches used in other jurisdictions. "We believe we are on the right track," said Lompart.

> ***"Strong regulations are most needed to clarify source site responsibilities, to drive the hunt for suitable sites for soil, to help match sources with receiving sites, and to ensure that appropriate tracking and record keeping are implemented."***
>
> – Chris Lompart,
> Acting Manager, Land Use Policy Division, MOECC

Source sites to be given more responsibility

The current policy concentrates on receiving sites, with less attention paid to the sources of excess soils. "These are largely unregulated," said Lompart. "We think that the generators of excess soil should be responsible for the appropriate management of that soil."

A focus on source sites would improve re-use planning, characterization and testing requirements, tracking shipments, and matching soils with appropriate receiving sites

The Ministry is considering a number of "linked tools" to increase formal oversight and ensure greater source site responsibility, said Lompart. For example, soil management linkages could be added to Building Code permits and applicable *Planning Act* approvals, while the soil-related provisions in the waste management, brownfield and aggregate resource regulations

Expert panel discussion featured (left to right) **Alan Durand** (SOiiL), **J.P. Marini** (Terra Nova Environmental Services), **Chris Lompart** (MOECC), **Janet Bobechko** (Norton Rose Fulbright) and moderator **Cecile Willert** (Pinchin Limited).

Breakfast was hosted by **Walker Environmental** and a full lunch by **AGAT Laboratories**. Other major sponsors included **Pinchin Limited** and **Environmental Risk Information Services** (ERIS). ONEIA also appreciated the support of **KG Services**.

should be clarified. There are a multitude of different policies, guidelines and standards that relate to excess soils," Lompart said.

"More thought should be given to what can be done with excess soil earlier in the development process," said Lompart. However, the final requirements for the excess soil management plans, which large source sites will have to prepare, "won't vary too drastically" from what was set out in the Best Management Practices (BMPs) the Ministry released in January 2014.

Interim sites to support soil re-use locally

Stakeholders can also expect more consistent requirements across the various types of receiving sites, some basic tracking and verification provisions, and a greater reliance on interim storage sites.

"We don't want soil to be moved great distances if it can be used locally,"

Study reveals project savings can be achieved through soil reuse

Steven Rose (OSPE) and **Andy Manahan** (RCCAO) with **Grant Walsom** (XCG Consultants).

A joint study on soil movement, prepared by the Ontario Society of Professional Engineers (OSPE) and the Residential and Civil Construction Alliance of Ontario (RCCAO), provides a snapshot'of current practices in the Greater Toronto Area. The study tracked 29 major projects, including water and sewer mains, roads, bridges, low and high rise buildings, and other projects, which generated excess soil requiring off-site re-use or disposal. The preliminary results were shared at ONEIA's excess soil seminar by OSPE's **Steven Rose** and RCCAO's **Andy Manahan**.

The survey found that soil removal costs, including sampling and testing, could account for up to 20 per cent of total project management costs. Typically, soil was hauled about 70 kilometres (one way) for disposal and almost all projects involved more than 100 loads. "When you include the shipments of incoming clean soil, you could reach 800,000 to 900,000 kilometres," said Manahan. "That's a stunning amount of truck travel."

Many project managers are not currently taking advantage of interim storage or treatment facility options. "Lots of projects are sending everything to landfill," said Manahan. Only about 25 per cent of projects were implementing the province's 2014 Best Management Practices for excess soil, but three-quarters of those sent less than 10 per cent of their soil to landfill.

Avoiding landfill fees could save money, with 45 per cent of projects cutting soil management costs by 10 to 20 per cent. One large $50-million project was able to save $1.2 million on soil disposal costs through re-use options. "While the up-front costs can be higher, the savings come at the back end," said Manahan.

Industry panel outlines problems with current excess soil policies

An expert panel of government and industry representatives provided attendees at ONEIA's excess soils seminar with an overview of "what we've accomplished so far and where we are going next," said the panel's chair **Cecile Willert** (Pinchin Limited).

Until the MOECC works out all the details of its framework, "we won't have much clarity on the definition of what is an excess soil and what is a waste," said **Janet Bobechko** (Norton Rose Fulbright). "We also need additional clarity along the liability chain to determine what it is and where it goes." Currently, the decision comes down to the professional judgement of a Qualified Person (QP), "because we don't have a clear regulated standard of care," she said.

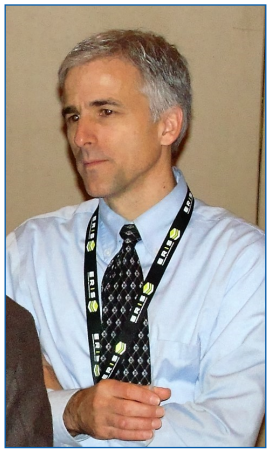
The MOECC's Best Management Practices (BMPs) should be incorporated into the procurement process, "but it will take time to get everybody on board and ensure the necessary paperwork is all in place," said **J. P. Marini** (Terra Nova Environmental Services). "If we can implement the BMPs — with some flexibility — we will have the info needed to make the system work."

However, the BMPs are designed for large projects that generate hundreds of truckloads of excess soil. "There has to be something more flexible and less onerous for projects that only generate a truckload or two," Marini said. It's clear that a 'business as usual' approach won't work any longer. "It's going to be more complicated and certainly more expensive to manage excess soil," he said.

Receiving sites sometimes get a "bad rep" because of inconsistencies in municipal policies on excess soil, said Bobechko. "There can be different standards and requirements in neighbouring regimes, sometimes based on faulty or outdated information," she said.

Municipal politicians are also under great pressure to reduce truck traffic, dust and noise-related complaints. In response, many "are implementing strict by-laws to control and eliminate these problems," said **Al Durand** (SOiiL Inc.).

Municipalities need a model by-law to help them create consistent excess soil policies, said Durand. There is also a need for better education, training and certification of QPs.



Lompart said. "Interim sites can play a part in that."

Municipalities will be encouraged to identify appropriate areas for excess soil storage and processing, and to develop soil re-use strategies as part of their growth planning. "Excess soil should be considered as a resource, not a waste," Lompart said.

The Ministry will likely boost enforcement efforts to eliminate illegal dumping. "We have to make sure soil is getting to where it's supposed to go," said Lompart. "And if it doesn't, track it back to where it came from."

Municipalities and conservation authorities could also be given greater powers under the *Municipal Act* and *Conservation Authorities Act* — both of which are currently under review — to better manage excess soils.

No model by-law expected

A number of commenters have urged the province to develop a "model by-law" to govern excess soil, similar to the current model sewer or noise by-laws that many municipalities have adopted. Instead, the Ministry will issue "technical directions to provide consistency across departments, while incorporating some flexibility to accommodate local conditions."

"We heard from municipalities that they don't want us to regulate 'on top of them,' but to provide additional information and tools to help them," Lompart said. Technical directions would:

- set standards for the re-use of excess soils;
- provide clear rules for testing and sampling;
- protect sensitive sites;
- permit use of background conditions in certain circumstances; and
- allow for the use of generic or specific risk-based approaches, depending on conditions.

ONEIA Advocacy Update

ONEIA's advocacy committees continue to seek new members to broaden their perspective, share the workload, provide greater opportunities to ONEIA members to have their voices heard. If you want to play a more active role on any of ONEIA's advocacy committees, contact Marjan Lahuis at 416-531-7884 or e-mail her at mlahuis@oneia.ca.

Climate Change

ONEIA's ad hoc Climate Change Task Force completed its review of the province's proposed cap and trade options for reducing greenhouse gas emissions and submitted its recommendations by the December 15, 2015 deadline (see story page 6). A number of ONEIA members have since joined the expanded Task Force. In the months ahead, the Task Force will continue to track the evolving policies in this area and will provide information to the government on how Ontario's environment and cleantech companies can contribute to its climate change mitigation and adaptation strategy.

Waste and Organics

Following release of Bill 151, the *Waste-Free Ontario Act, 2015*, the committee is gathering comments and pulling together a position paper for submission by the EBR deadline of February 24, 2016. Several members have also attended pre-consultation meetings hosted by the MOECC. This is just the beginning of a long process over the next two years, as the province winds down Waste Diversion Ontario, sets up the new Waste Reduction Authority, amends the Blue Box program, and addresses waste reduction in the IC&I sector. In addition, an organics action plan is being developed by the Ministry for release in late 2016/early 2017, and the committee certainly wants 'a seat at the table' for that initiative.

Brownfields and Excess Soils

There has been a lot of positive feedback on the excess soils seminar in late November (see story on page 1). Another session will be needed now that the MOECC has finally released its policy review and the committee begins to prepare its formal response to the MOECC proposals. In addition, the upcoming review of the waste management regulations (Reg. 347) will provide another opportunity to update some outdated definitions that better reflect current practices.

Water

With the government's focus on climate change and to a lesser extent on waste management, there has not been much movement on water-related issues. The committee is currently updating its water strategies and approaches, improving the consistency in its key messaging, and continuing to respond to government initiatives. Alignment with the climate change file will offer an opportunity to influence government policy and integrate water-related business opportunities with greenhouse gas reduction.

ONEIA is celebrating its 25th anniversary in 2016

To help us prepare, we are asking current and past members to comb through their files for any ONEIA-related memorabilia. We are looking for pictures, newspaper clippings, press releases, copies of ONEIA reports, even minutes of those early meetings. We would also love to talk with members from years' past so that we can share some of your stories and reminiscences on our website and upcoming issues of the newsletter. Please help us fill the gaps in our "institutional memory" as we celebrate the campaigns, camaraderie, challenges and successes of ONEIA's first 25 years.

Our 25th Anniversary Subcommittee has begun planning. If you have any ideas for ways we can commemorate ONEIA's 25th birthday, please give Marjan Lahuis a call at the ONEIA offices at 416-531-7884, or send her an e-mail at mlahuis@oneia.ca.

Latest listings from the Environmental Registry

EBR Registry #012-3915
The hazardous waste fees set out under Regulation 347 have been increased from $10 per tonne to $20/t as of Jan. 1, 2016, and from $20 to $30/t as of Jan. 1, 2017.

EBR Registry #012-4164, #012-4167, and #012-4168
MOECC has proposed updates to the *Air Dispersion Modelling Guideline for Ontario*, the *Procedure for Preparing an Emission Summary and Dispersion Modelling Report*, and the *Guideline for the Implementation of Air Standards in Ontario*. The deadline for comments on all three postings is Feb. 16, 2016.

EBR Registry #012-4213
Final regulatory amendments to update the *Ontario Drinking Water Quality Standards*, as well as certain testing and reporting requirements were posted Dec. 11, 2015. New standards are set for chlorate, chlorite, MCPA and haloacetic acids, and revised standards for arsenic, benzene, carbon tetrachloride and vinyl chloride.

EBR Registry #012-6393
A draft *Pollinator Health Action Plan* to enhance the state of health of Ontario's pollinators (both managed and wild) and to strengthen their populations was posted with a deadline for comments of March 22, 2016.

Cleantech sector has a key role to play in Ontario's proposed 'cap-and-trade' program

ONEIA and its member firms have pledged to work closely with the Ministry of the Environment and Climate Change (MOECC) in developing a practical and effective cap-and-trade system that builds on the expertise of Ontario's environment and cleantech companies.

On November 16, 2015, the MOECC posted its proposed cap and trade design options on the Environmental Registry, with a tight, 30-day deadline for public review and comment. ONEIA reassembled the nucleus of the Task Force that responded to the province's previous discussion paper on climate change, released last March, to prepare its submission to the *EBR* posting.

> ***"The Association and its members strongly support measures that harness the power of markets and the private sector to provide environmental and economic benefits."***
>
> – ONEIA's Comments on Cap-and-Trade Program Design Options, December 15, 2015

"We had some very good discussions and were able pull together a detailed, formal submission by the deadline," said ONEIA's Executive Director Alex Gill. The full text is posted on the ONEIA website.

ONEIA's primary message is that the proposed program "should recognize and foster the role of environment and cleantech companies in Ontario's future carbon economy."

"We've reiterated some of the key recommendations we made in our climate change position paper last March," said Gill. "We also responded to a number of the questions the government posed in its *EBR* posting that tied directly to ONEIA's mandate or a number of our existing policy statements."

In its submission, ONEIA recommends that:

- The province should unambiguously allocate 100 per cent of cap-and-trades revenues to measures to reduce carbon emissions and mitigate the effects of climate change
- Accelerated capital cost allowances and tax exemptions are needed to encourage technology uptake.
- The province should designate 5 per cent of future infrastructure allocations to fund pilot projects and other approaches to climate change mitigation and adaptation.
- Targeted programs, tax write-offs and other measures are needed to support private sector research that leads to commercially viable climate change technologies and services.

The ONEIA response also contained a number of specific recommendations related to questions raised in the *EBR* posting.

Is a January 1, 2017, start date for a cap-and-trade program feasible?

This date seems aggressive, particularly given the lack of formal guidance and specifics given to date, and does not give sufficient time for industry and businesses to prepare for a cap-and-trade program.

ONEIA also recommends a separate (and early) stakeholder consultation process for environment and cleantech firms to better en-

gage them as champions of the transition to a low-carbon economy

What can Ontario do to support industry?

ONEIA recommends the province play a proactive role in helping Ontario companies demonstrate their technologies (through pilot projects with flexible enforcement, for example) and then disseminating their solutions (through government "market-making" purchasing, third-party validation and funding to expand marketing efforts).

ONEIA also notes that the vast majority of firms in the environment and cleantech sector have fewer than 50 employees and cannot be expected to complete onerous, bureaucratic processes to access such incentive programs.

How should Ontario's program treat energy from waste (EFW) facilities?

ONEIA has long supported measures that encourage the innovative reuse and repurposing of organics. The cap-and-trade program should also include a role for recovering energy from waste, where feasible.

Would the "opting in" option be supported?

Providing an opt-in option would generate support from non-regulated entities that wish to contribute to a low-carbon economy and perhaps gain some advance experience.

However, facilities that opt-in should be allowed to opt-out as long as they maintain their annual greenhouse gas emissions below the required regulatory threshold.

What other measures would help meet the 2020 target?

The MOECC should consider using cap-and-trade revenues to fund Ontario consulting firms in the air field to do complementary tracking and independent analyses.

ONEIA also recommends that the MOECC consider developing a Cleantech Climate Change Fund to which regulated facilities could contribute as an option for compliance. Prosecution-related fines could also be directed to the fund, which would be used to promote made-in-Ontario cleantech solutions.

In the coming months, the ONEIA task force will continue to liaise with the province to ensure that the voice of Ontario's environment and cleantech companies is heard.

ONEIA Member Profile: Englobe Corp.

Since its corporate beginnings in Quebec in the early 1960s, Englobe has become a world leader in soil management and environmental engineering. Previously operating as separate divisions under a variety of names (including LVM, Tanknology, Biogenie, etc.), in June 2015, the company began operating under one name worldwide — Englobe Corp.

The company currently maintains more than 60 offices across Canada, the United Kingdom and France; 20 soil treatment facilities around the world; 30 materials testing labs in Canada; and two regional biomass organic centers in Quebec. Englobe operates nine offices in Ontario, as well as a soil treatment facility in Sudbury.

"We are closely monitoring the evolving regulatory framework related to excess soils in Ontario," says vice president Marc Trudell. The company is also positioning itself to take on some of the new infrastructure-related opportunities that are expected to arise over the next several years. Englobe anticipates these two factors will "trigger tremendous market demand for soil engineering, handling and treatment services," Trudell says.

Whether it's greenfield development or brownfield remediation services, Englobe certainly 'ticks all the boxes.' Its professional services include soil and materials engineering, environmental engineering (site assessment and remediation, biotreatment and hazardous materials management), building science, supply chain quality, and precision leak testing of fuel storage tanks. Its soil treatment services include treatment of both hazardous and non-hazardous contaminated soils at soil decontamination facilities in Québec and Ontario.

Depending on the circumstances, Englobe can provide either on-site soil decontamination — eliminating all the cost and environmental expense of transport — or have soils shipped to one of its licensed treatment facilities.

"When it comes to excess soils, we don't just provide cradle-to-grave services, but cradle-to-treatment-to-reuse services," says Trudell. "We treat soil as a resource not a waste."

ONEIA welcomes the following new members

Biodiversity Institute of Ontario
Located on the campus of the University of Guelph, BIO is dedicated to the study of biodiversity at multiple levels of biological organization. Its four research divisions are: the Centre for Biodiversity Genomics, the BIO Herbarium, Experimental Ecosystems, and the OAC Insect Collection

Build Toronto Inc.
This arm's length real estate corporation was established by the City of Toronto in 2010. Build Toronto's mission is to develop surplus and underused City-owned property in order to attract commercial development, create jobs and improve liveability.

EnviroBlu Solutions Inc.
Manufacturers of EnviroBlu, a water-based, solvent-free industrial cleaner and degreaser, developed as a nontoxic alternative to Varsol. Originally formulated for the Canadian military, EnviroBlu is now available for use by industrial customers through regional offices across Canada.

Emerald Energy from Waste Inc.
Located in Brampton, Emerald's five gasification units recover thermal energy from solid non-hazardous municipal and IC&I wastes. In operation since 1992, the EFW facility has a total capacity of 500 tonnes per day. The recovered energy is converted to electricity and steam.

Lynn Mitchell Law
A litigator and corporate advisor specializing in environmental and energy matters, Lynn Mitchell is an effective advocate in civil disputes, criminal prosecutions and regulatory hearings. She also draws on her business background in managing environmental risk, advising on transactions, assisting with permitting and compliance, and responding to crisis events.

Maat Environmental Engineering Corp.
Established in 1994, MAAT's engineers specialize in wastewater treatment, site assessment and permitting, and environmental compliance approval services. The firm provides full service engineering designs for wastewater treatment plants as well as project and construction management.

MANTECH Inc.
MANTECH designs and manufactures automated multi-parameter water, soil and petrochemical analysis systems for institutional, municipal and industrial laboratories around the world. The firm offers a range of software and instrumentation for titration, BOD, COD and other analyses.

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