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Ministry of the Environment, Conservation and Parks (MECP)

Client Services and Permissions Branch

135 St Clair Ave West, 1<sup>st</sup> Floor

Toronto, Ontario M4V 1P5

Attn: Dean Therrien, Senior Program Advisor. Sent via email: [dean.therrien@ontario.ca](mailto:dean.therrien@ontario.ca)

**RE: Environmental Registry of Ontario (ERO) #019-2551– Proposed updates to Records of Site Condition: A Guide on Site Assessment, the Cleanup of Brownfield Sites and the Filing of Records of Site Condition**

Dear Mr. Therrien,

I am writing on behalf of the member firms of the Ontario Environment Industry Association (ONEIA) to provide our response to the proposed updates to the document entitled, *A Guide on Site Assessment, the Cleanup of Brownfield Sites and the Filing of Records of Site Condition* (here after referred to as the RA Procedures Document) posted as ERO# 019-2551.

As you know, Ontario is home to Canada's largest group of environment and cleantech companies. The most recent statistics from the federal government show that Ontario's environment sector employs more than 226,000 people across a range of sub-sectors. This includes firms working in such diverse areas as materials collection and transfer, resource recovery, composting and recycling solutions, alternative energy systems, environmental consulting, brownfield remediation, and water treatment – to name just a few. These companies contribute more than \$11-billion to the provincial economy, with approximately \$4.5-billion of this amount coming from export earnings.

ONEIA would like to thank the MECP for the opportunity to review and provide comments on the proposed guide document for Records of Site Condition (RSC). ONEIA's Brownfield Committee has solicited comments from interested members and is happy to provide the high-level feedback included in Table 1.

**Table 1. ONEIA Comments on ERO# 019-2551**

No.	Section	Comment
1	General Comment	Overall, the document provides an excellent summary of the RSC process and its different elements. However, the RSC process is intricate and contains a large number of specifics, such as dates, timelines, exceptions, quantities etc. It is recommended that short and concise summary tables be included at the beginning or end of (at least) major sections, for quick reference (such as for chapters 4.0, 6.0, 7.0, 9.0 and 11.0).
2	General Comment	As most QPs know, one of the most challenging parts of submitting an RSC is ensuring a high quality package is prepared that avoids the need for a re-submission. Perhaps the guide would benefit from a short section that describes in point form the most common sources of error or insufficiencies on RSC submissions, in MECP's experience.
3	General Comment	The document contains a large amount of text in paragraphs. In sentences where examples are used or circumstances encountered are described, we recommend simplifying the text by using bullet points for quicker and easier reference.
4	Section 2.2	To increase the value of this section to the user, we recommend providing details and examples of the provisions that may relate to the RSC process.
5	Section 3	<p>p12. Footnote 1 is somewhat misleading. While the option to remediate part of a property to avoid having RMM apply across the site for that Certificate of Completion (COC) is technically permitted, it is not consistently applied or in some instances, even allowed by different District Engineers.</p> <p>If this is the approach the MECP intends to take going forward, we recommend a consistent approach be established across the province, that aligns with regulatory requirements and guidance.</p>
6	Section 3.0, Second paragraph (point 2.)	MECP may wish to consider including a reference to an RSC being based on a Remediation report, in addition to Phase One and Phase Two reports (as the document currently indicates).
7	Section 4.0	The document would benefit from a short section, where the concepts and relationships between PCAs (potentially contaminating activities), APECs (areas of potential environmental concern) and COPCs (contaminants of potential concern) are described, ideally including a schematic.

8	Section 4.1, Second paragraph	The reference to “records review” should perhaps be expanded to provide a short reference or list that defines these records.
9	Section 4.2, Third paragraph	The reference to “planning” appears vague and perhaps, should be expanded upon to reference the importance of a sampling and analysis project plan (that may include site access, contractors, field work time lines, sample collection, analysis, etc.).
10	Section 4.2.2, first paragraph	The text explains the process of a Phase Two assessment as always requiring multiple investigations to identify and delineate COC hotspots. We recommend that the text be adjusted to indicate that it may be possible, even on occasion, to achieve both hotspot identification and delineation in a single investigation, depending on the complexity of the site.
11	Section 4.2.2, Third paragraph	The MECP seems to typically require a step-out distance of about 25 m to 50 m. There does not appear to be clarity on this in the guidance document. We recommend including for the purpose of clarity.
12	Section 4.2.3.2	With regard to the 18 months period of validity for ESAs, perhaps clarity could be provided for situations where a Phase One or Phase Two update is required but no activities took place on the property from the date of the previous assessments. It would be helpful if the MECP could provide some guidance on what would be considered acceptable in terms of verifying that the historic work is still representative of the site conditions (e.g., submission of a letter verifying this by the QP vs updating and resubmitting ESA reports).
13	Section 4.3.1	The reference to the Analytical Protocol should be updated to the November 30, 2020 edition (Version 3.0).  The guidance document should indicate that, in addition to laboratory testing protocols and laboratory quality control, the Analytical Protocols document also describes and details field quality control measures.
14	Section 4.3.2	Recommend revising text on the second point to “2. Any standards for proficiency testing developed by the...”
15	Section 5.2	We recommend including in this section that remediation work also requires QP oversight in relation to RSC work.
16	Section 5.7	We recommend including a reference on the search page by which RSCs can be searched based on the QP on record, thus allowing owners identify QPs who have recently filed RSCs. Note there is no easy means by which to search for active QPRAs. The MECP could consider adding a search function for RAs that would include QPRAs.

17	Section 6.0	Recommend including a description of what constitutes an exceedance of a standard, This would include clarifying how results should be compared to the standards ( $\leq$ or $<$ than the standard), implications of analytical measurement uncertainty, and the impact of averaging 2 or more sample concentrations collected from the same soil horizon.
18	Section 6.13	For clarity: Is the naturally occurring substance in the fill present at a higher concentration “than the receiving site”? In the first paragraph "typically found in that area" is unclear what area.
19	Section 6.13, Paragraph 3	With regard to the distribution of naturally occurring substances in fill, the reference to “uniform” concentrations should perhaps indicate that a level of heterogeneity should still be expected and variability from one sample to the other on the compounds in question are likely to be evident, even if within acceptable ranges.
20	Section 7.4.2.1	We recommend that this section include clarification as to why a QP might test for a parameter that is not regulated. Normally, Phase Two COPCs are selected on the basis of what could be associated with a contaminating site activity.
21	Section 7.9	We recommend that MECP provide a description and perhaps an example of a “high quality” ESA.
22	Section 8	The beginning of this section appears to be misleading, suggesting that an RA would not be accepted until remediation is complete.
23	Section 8.0, Bottom of page 52	The bullet points should include extraction of product for disposal, as well as extraction of groundwater for treatment.
24	Section 9.1, First paragraph	The text should indicate that the Excess Soils regulation also applies to mechanically crushed rock ( $<2.0\text{mm}$ ).
25	Section 9.2.1, Last paragraph on page 56	The first sentence indicates "...placed at an RSC this is being submitted.... " We suggest that this sentence be revised to indicate “...placed at a property for which an RSC is being submitted for filing on the basis of a phase two ESA...”
26	Section 9.2.1	It is generally understood that after an RSC is filed, the requirements specific to importing soil to the property are dictated either by the CPU (if a CPU was obtained for the property through the RA process) or by O.Reg. 406/19, if a generic RSC was filed and a CPU was not put in place for the property. There is significant confusion around whether or not the requirements of Schedule E still apply to properties after an RSC has been filed. It would be helpful if this could be clarified within this text.

27	Section 9.2.1, Last paragraph	The Soil Management Rules are vague on the process of obtaining a CPU for a receiving site for which the BRAT was used. Does the site have to already have the same contaminants at the same concentrations? If so, how is that to be documented? Traditionally for sites processed via an RA under O.Reg. 153/04, only soil that met generic standards could be imported to the site. Will there be more flexibility on this now and, if so, what does this mean for sites that already have a CPU in place? Can the BRAT be used to amend the CPU to allow importation of less stringent criteria? We recommend clarifying these points.
28	Section 9.2.2, Last paragraph	Perhaps a short list of scenarios can be included, to explain where/when a sampling and analysis plan would not be triggered by the project area, for clarification.
29	Section 11.1.3	We feel that reference to "A few days..." is not sufficiently definitive. We recommend including a defined time line, in days, as to when an initial response can be expected (ex. within a week / 10 days, etc.).
30	Section 12.1.2	We recommend including these definitions at the beginning of Section 4.0, Environmental Site Assessment, as an introduction of what it applies to and an understanding of definitions prior to expanding on the assessment process.
31	Section 12.2	We suggest that this section is more appropriate at the end of Section 4.0, Environmental Site Assessment.
32	Section 12.1.2	Two sentences are duplicated in the last two paragraphs of this section.; there is a typo on page 71, 2 <sup>nd</sup> paragraph ("harvesting of agricultural commodities").
33	Table 2	Group F Division 3 appears to be cut off

We welcome the opportunity to discuss our ideas further. Please do not hesitate to contact the co-chair of our Brownfields Committee, Virgil Guran ([virgil.guran@bureauveritas.com](mailto:virgil.guran@bureauveritas.com)) should you have any questions or feel free to contact the ONEIA office directly at 416-531-7884.

Yours truly,



Alex Gill  
Executive Director