

Interim Policy

Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan Policy # COMM-25-

I. INTRODUCTION

A. Purpose of Interim Policy

This *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan, 310 CMR 40.0000* (including all appendices and other attachments, “Interim Policy”) provides notice that the Massachusetts Department of Environmental Protection (“MassDEP” or the “Department”) may issue a limited number of administrative consent orders (including all attachments, “COMM-25 ACOs”) to persons who (a) are performing Response Actions at a Disposal Site (“Soil Receiving Site”) and (b) intend to import large quantities of contaminated soil from one or more Disposal Sites or other locations (“Soil Donor Sites”) for re-use at the Soil Receiving Site (“Soil Re-Use Project”).

To achieve this purpose, this Interim Policy describes:

- the process that will govern the request for, and issuance of, a COMM-25 ACO (Section II of this Interim Policy);
- minimum terms and conditions to be contained in a COMM-25 ACO, including criteria governing what soils may be accepted at the Soil Receiving Site (Section III of this Interim Policy); and
- public involvement requirements associated with a COMM-25 ACO (Section IV of this Interim Policy).

Capitalized terms not otherwise defined in this Interim Policy shall have the meaning given to such terms in M.G.L. c. 21E (“Chapter 21E”) and the Massachusetts Contingency Plan at 310 CMR 40.0000 (“MCP”).

The term “Environmental Justice Population” in this Interim Policy shall have the meaning given to that term in the *Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs*, dated June 24, 2021, and as further modified

after the effective date of this Interim Policy.

B. Potential Impacts of Soil Re-Use Projects

Both statewide and site-specific benefits may be associated with the importation and re-use of excess soil at a Soil Receiving Site. These may include:

- establishing reliable outlets in Massachusetts to manage excess soil and minimize project costs;
- reducing greenhouse gas emissions associated with the transport of excess soil across and out-of-state;
- providing a source of material to enhance resilience and to protect against rising sea levels;
- preparing the Soil Receiving Site for redevelopment, conservation, preservation, or some other enhanced use; and
- achieving a condition of No Significant Risk at the Soil Receiving Site by expediting the closure of the Site with a Permanent Solution under the MCP.

The importation of large volumes of contaminated soil to a Soil Receiving Site may also, if not properly managed, have negative impacts on human health, safety, public welfare or the environment. Examples of such impacts may include:

- contamination of groundwater, including current and potential drinking water sources, through the leaching of Oil and/or Hazardous Materials;
- human exposure to Oil and/or Hazardous Materials in soil, fugitive dust, or vapors;
- degradation of nearby wetlands, waterways, wildlife habitat and other natural resources;
- fugitive dust, noise, vibrations and other nuisance conditions;
- increased traffic, visual impacts, and other negative impacts to abutters and nearby communities resulting from an incompatibility of the proposed Soil Re-Use Project with surrounding land uses; and
- negative impacts to Environmental Justice Populations.

This Interim Policy is intended to facilitate appropriate Soil Re-Use Projects in a manner that maximizes the above-referenced statewide and site-specific benefits and minimizes, to the extent possible and as required by law, the above-referenced negative impacts or burdens on human health, safety, public welfare and the environment.

C. COMM-25 ACO Framework

Each COMM-25 ACO shall require the proponent of a Soil Re-Use Project ("Project Proponent") to: (i) achieve and maintain a Permanent Solution and a condition of No

Significant Risk at the Soil Receiving Site consistent with the requirements of Chapter 21E and the MCP, (ii) adhere to such requirements as are deemed reasonable by the Department to minimize negative impacts to human health, safety, public welfare and the environment, and (iii) ensure adequate public involvement in the review and implementation of the Soil Re-Use Project, in each case as further described in this Interim Policy.

As deemed necessary and appropriate by the Department, COMM-25 ACOs may also contain one or more of the approvals referenced in 310 CMR 40.0031(2) and 310 CMR 40.0317(13).

The issuance of this Interim Policy does not have any effect on any administrative consent order issued under the *Interim Policy on the Re-Use of Soil for Large Reclamation Projects (Policy # COMM-15-01)* ("COMM-15 ACO"), provided, however, that nothing in this Interim Policy limits the Department's authority to amend any COMM-15 ACO.

D. Effectiveness and Termination of Interim Policy

This Interim Policy shall become effective on _____, 2025.

MassDEP may terminate or amend this Interim Policy at any time without notice, including as and when it is superseded by regulations promulgated by MassDEP governing soil re-use and disposal.

E. Authority

This Interim Policy has been issued, after public notice and comment, pursuant to:

- M.G.L. c. 21E and 310 CMR 40.0000, including without limitation M.G.L. c. 21E, § 6, M.G.L. c. 21E, § 9, 310 CMR 40.0031(2), 310 CMR 40.0170(8), 310 CMR 40.0317(13), 310 CMR 40.0370, and 310 CMR 40.0850;
- M.G.L. c. 111, §§ 150A and 150A1/2 and the associated solid waste regulations at 310 CMR 19.000;
- M.G.L. c. 111, §§ 142A-142O and the associated air pollution control regulations at 310 CMR 6.00, 310 CMR 7.00, and 310 CMR 8.00;
- M.G.L. c. 131, § 40 and the associated wetlands regulations at 310 CMR 10.00; and
- M.G.L. c. 30, §§ 62J-62L.

II. ISSUANCE OF COMM-25 ACOs

A. Minimum Pre-Conditions for Issuance of a COMM-25 ACO

The Department will issue a COMM-25 ACO with respect to a proposed Soil Re-Use Project only where the Project Proponent has demonstrated to the Department's satisfaction, pursuant to a satisfactory and complete written request for a COMM-25 ACO ("COMM-25 Request"), that the following minimum pre-conditions have been satisfied:

1. Size of Project. The proposed Soil Re-Use Project must involve the importation and re-use of more than 250,000 cubic yards of soil.
2. Re-Use, Not Disposal. The purpose of the proposed Soil Re-Use Project must be re-use and not disposal. Acceptable re-uses include importing soil to provide essential support to *bona fide* development, conservation or preservation goals, including the restoration or replacement of natural resources or the management of floodwaters in a manner that is consistent with federal, State and local law and State policy. The mere generation of income, whether monetary or in-kind, in return for accepting unwanted soils is not a re-use for the purposes of this Interim Policy.
3. Project Proponent Controls Soil Receiving Site. The Project Proponent must have adequate control over the Soil Receiving Site for the purpose of implementing the proposed Soil Re-Use Project and complying with the COMM-25 ACO. Such control may be demonstrated by providing evidence of unencumbered fee simple ownership or of other adequate, recorded interests in land.
4. Soil Receiving Site is a Disposal Site. The Soil Receiving Site must be a Disposal Site at which the Project Proponent is conducting Response Actions pursuant to, and in compliance with, Chapter 21E and the MCP. The Disposal Site must be the result of one or more Releases that have been assigned one or more linked Release Tracking Numbers (RTNs).
5. Phase I, Phase II and Phase III Response Actions at Soil Receiving Site. One or more satisfactory Phase I Reports and Phase II Reports must have been submitted to the Department pursuant to the MCP with respect to the Soil Receiving Site. As to MCP Phase III activities:
 - *Proposed Phase III Remedial Action Plan*. A proposed Phase III Remedial Action Plan, prepared pursuant to 310 CMR 40.0850, must be submitted to the Department simultaneously with, or prior to, the submittal of any COMM-25 Request to the Department.
 - *Final Phase III Remedial Action Plan and Phase III Completion Statement*. Both: (a) a final, satisfactory Phase III Remedial Action Plan, prepared pursuant to 310 CMR 40.0850; and (b) a final Phase III Completion Statement must be submitted to the Department pursuant to 310 CMR

40.0862. Notwithstanding the first sentence of this Section II.A, final Phase III documents may be submitted after the submittal of any COMM-25 Request to the Department but prior to the effectiveness of the applicable COMM-25 ACO.

- *Nature of Selected Comprehensive Remedial Alternative.* The proposed Soil Re-Use Project must be incorporated into, and part of, the selected Comprehensive Remedial Alternative described in the Phase III Remedial Action Plan. The Comprehensive Remedial Alternative must be designed to achieve a Permanent Solution at the Soil Receiving Site.
6. Not a GW-1 Area. No part of the proposed Soil Re-use Project may be in an area where the groundwater is categorized as GW-1, as that term is used in the MCP.
7. Public Involvement. The Project Proponent must have performed all public involvement activities that are required to be performed prior to the effectiveness of the COMM-25 ACO pursuant to Section IV and, if applicable, Appendix C: Public Involvement Requirements for Soil Re-Use Projects within one mile of an Environmental Justice Population of this Interim Policy. Notwithstanding the first sentence of this Section II.A, these public involvement activities may occur after the submittal of the COMM-25 Request and before the effectiveness of the COMM-25 ACO to the extent required or permitted by Section IV and Appendix C of this Interim Policy.

B. Criteria for Issuance of a COMM-25 ACO if Minimum Preconditions Satisfied

If the Department determines that the Project Proponent has submitted a satisfactory and complete COMM-25 Request that demonstrates that all of the minimum preconditions for the issuance of a COMM-25 ACO described in Section II.A of this Interim Policy have been satisfied, the Department may exercise its discretion to issue or not to issue a COMM-25 ACO based on its evaluation of the state-wide and site-specific benefits of the proposed Soil Re-Use Project and the potential impact of such project on human health, safety, public welfare and the environment (collectively, "Criteria for Issuance"). In conducting such evaluation, the Department may consider, without the limitation, any of the potential benefits and negative impacts described in Section I.B. of this Interim Policy.

C. Process for Requesting a COMM-25 ACO

Any person wishing to enter into a COMM-25 ACO pursuant to this Interim Policy must submit a COMM-25 Request to the Regional Director for the MassDEP Region in which the proposed Soil Receiving Site is located, with copies to MassDEP's Assistant Commissioner for the Bureau of Waste Site Cleanup, Assistant Commissioner for the Bureau of Air and Waste, Assistant Commissioner for the Bureau of Water Resources,

and, if the proposed Soil Re-Use Project is within one mile of an Environmental Justice Population, MassDEP's Director of Environmental Justice. Such person must also submit copies of the COMM-25 Request to (a) the chief municipal officer, board of health, and conservation commission of each municipality in which any portion of the proposed Soil Re-Use Project or Soil Receiving Site is located, (b) the chief municipal officer, board of health, and conservation commission of each municipality that is within 0.5 miles of any portion of the proposed Soil Re-Use Project or Soil Receiving Site, and (c) owners and operators of any parcel of land that includes, or abuts any other parcel of land that includes, any portion of the proposed Soil Re-Use Project or Soil Receiving Site.

The COMM-25 Request shall be completed using any forms developed for that purpose by the Department. The COMM-25 Request shall contain sufficient data, information and analysis to allow the Department to determine (a) whether the proposed Soil Re-Use Project and Soil Receiving Site is suitable for a COMM-25 ACO and (b) what terms and conditions should be included in any COMM-25 ACO. The amount of information and level of analysis in a COMM-25 Request shall be commensurate with the nature and complexity of the proposed Soil Re-Use Project, and shall include, without limitation, the matters described in Items (1) through (9), below, of this Section II.C.

The COMM-25 Request shall be prepared under the supervision of the Licensed Site Professional-of-Record ("LSP") for the Soil Receiving Site ("Receiving Site LSP") and shall bear the seal and signature of the Receiving Site LSP and the signature of the Project Proponent. Where appropriate, the COMM-25 Request shall also include materials prepared by such additional environmental professionals, engineers, and other qualified persons as may be needed to demonstrate technical and other matters that are relevant to the issuance of a COMM-25 ACO.

The COMM-25 Request must include, without limitation, the following:

1. Demonstration that Minimum Preconditions are Satisfied. The COMM-25 Request must include a demonstration that the minimum preconditions for the issuance of a COMM-25 ACO described in Section II.A of this Interim Policy have been satisfied, including without limitation the public involvement activities described in Section II.A.7 of this Interim Policy.
2. Response Actions at Soil Receiving Site. The COMM-25 Request must include or identify the Phase I Report and Phase II Report prepared with respect to the Soil Receiving Site, as required by Section II.A.5 of this Interim Policy. The COMM-25 Request must also contain a proposed Phase III Remedial Action Plan, as required by Section II.A.5 of this Interim Policy.
3. Proposed Soil Acceptance Criteria. The COMM-25 Request must include proposed criteria governing what soils may be accepted at the Soil Receiving

Site ("Soil Acceptance Criteria"), such criteria to be developed and justified in accordance with this Interim Policy, including Appendix B: *Soil Acceptance Criteria*. Without limiting the foregoing, the COMM-25 Request must also include a completed and satisfactory Soil Acceptance Criteria Table, as defined below.

4. Demonstration that a Permanent Solution can be Achieved and Maintained at Soil Receiving Site. The COMM-25 Request must include a demonstration by the Receiving Site LSP that the proposed Soil Re-Use Project is consistent with achieving and maintaining a Permanent Solution and a condition of No Significant Risk at the Soil Receiving Site. Such demonstration may be contained in the above-referenced proposed Phase III Remedial Action Plan for the Soil Receiving Site.
5. Schedule. The COMM-25 Request must propose a reasonably detailed proposed schedule ("Project Schedule"), including dates by which the Project Proponent will have (a) completed the Soil Re-Use Project, (b) achieved a Permanent Solution with respect to the Soil Receiving Site, and (c) reached other major MCP and project milestones.
6. Discussion of Viability of Proposed Soil Re-Use Project. The COMM-25 Request must demonstrate to MassDEP's satisfaction that the Project Proponent is able to complete the proposed Soil Re-Use Project and achieve a Permanent Solution in accordance with the Project Schedule proposed in the COMM-25 Request. Such demonstration must include a reasonably detailed discussion of matters related to project financing, permitting requirements, and the applicability of other laws, including zoning and environmental requirements.
7. Plans. The COMM-25 Request must include detailed maps or plans. Such maps or plans must show the boundaries of the proposed Soil Re-Use Project, including elevations and grades, the boundaries of the Soil Receiving Site, property boundaries of any parcel of land that includes any portion of the proposed Soil Re-Use Project or Soil Receiving Site, a bar scale, and such other information as may be necessary for MassDEP to perform the evaluation described in the second paragraph of this Section II.C. All or portions of such maps or plan may be included in the proposed Fill Management Plan, as defined in Section III.10 of this Interim Policy.
8. Proposed Fill Management Plan. The COMM-25 Request must include a proposed Fill Management Plan, as defined in Section III.10 of this Interim Policy.
9. COMM-25 FAM. The COMM-25 Request must demonstrate how the Project Proponent will comply with the financial assurance requirements described in Section III.19 of this Interim Policy.

The COMM-25 Request may include the following:

10. Request for a Waiver with respect to Waste Oil Pursuant to 310 CMR 30.1100.
The COMM-25 Request may include a request for a waiver under 310 CMR 30.1100 with respect to the importation of Waste Oil, as that term is defined in 310 CMR 30.010, if the Project Proponent intends to import Waste Oil mixed with soil that is not eligible for a “contained in” determination by an LSP pursuant to MassDEP’s *Technical Update: Considerations for Managing Contaminated Soil: RCRA Land Disposal Restrictions and Contained-In Determinations*, August, 2010. Such request shall be made consistent with the requirements of 310 CMR 30.1102.

An abbreviated, step-by-step guide to requesting a COMM-25 ACO is contained in Appendix A: *Step-by-Step Guide to Requesting a COMM-25 ACO*, attached to this Interim Policy.

D. Discretion of Department to Issue or not to Issue a COMM-25 ACO

The Department’s determination to issue or not to issue a COMM-25 ACO shall be based on its analysis of the totality of the circumstances surrounding the proposed Soil Re-Use Project consistent with this Interim Policy and applicable law. Such determination is an exercise of the Department’s enforcement discretion and is not an adjudicatory proceeding pursuant to M.G.L. c. 30A. Any COMM-25 ACO shall contain a waiver by the Project Proponent of any right to an adjudicatory proceeding before MassDEP on, and judicial review of, the issuance and terms of the COMM-25 ACO and to notice of such rights of review.

III. TERMS AND CONDITIONS OF A COMM-25 ACO

Any COMM-25 ACO issued pursuant to this Interim Policy shall include terms and conditions deemed necessary and appropriate by the Department to implement this Interim Policy and applicable law. Without limitation, each COMM-25 ACO shall contain the following terms and conditions:

1. Maximum Elevation and Volume. The Project Proponent shall not accept soils in greater quantities or allow such soils to exceed such elevations as are permitted in the COMM-25 ACO.
2. Soil Acceptance Criteria. The Project Proponent shall not accept soils containing Oil or Hazardous Material inconsistent with the Soil Acceptance Criteria developed with respect to the Soil Receiving Site in accordance with Appendix B: *Soil Acceptance Criteria*. The COMM-25 ACO shall include a table (“Soil Acceptance Criteria Table”), also developed in accordance with Appendix B: *Soil Acceptance Criteria*.

3. Special Restrictions. The Project Proponent shall not accept any of the following materials, in each case in kind or in amounts or concentrations different from or greater than those permitted under Appendix B: *Soil Acceptance Criteria* (collectively, "Special Restrictions"):
- a. hazardous waste, as that term is defined in 310 CMR 30.010;
 - b. solid waste, as that term is defined in 310 CMR 19.006;
 - c. visible asbestos or asbestos-containing materials;
 - d. polychlorinated biphenyls ("PCBs");
 - e. soils with a pH below 5 or above 9 standard units;
 - f. soils with a conductivity above 8,000 umhos/cm, or
 - g. soils containing readily leachable Oil or Hazardous Materials.

The Special Restrictions shall be considered part of the Soil Acceptance Criteria for the Soil Receiving Site and shall be included in Soil Acceptance Criteria Table or elsewhere in the COMM-25 ACO, as the Department determines.

4. Donor Site Pre-Characterization. The Project Proponent shall ensure that (a) the soils of each Soil Donor Site are adequately characterized ("Donor Site Pre-Characterization") and (b) the results of such characterization are adequately documented in a report ("Pre-Characterization Report"), in each case consistent with Section III.5 of this Interim Policy, below, and Appendix B: *Soil Acceptance Criteria*.
5. Prohibition of Importation of Soils Prior to Donor Site Pre-Characterization and Demonstration of Consistency with Soil Acceptance Criteria. The Project Proponent shall not accept any soils from a proposed Soil Donor Site unless the Pre-Characterization Report for such proposed Soil Donor Site demonstrates that soils from such Site are consistent with the Soil Acceptance Criteria for the Soil Receiving Site.
- a. *Proposed Soil Donor Site is a Disposal Site*. If the proposed Soil Donor Site is a Disposal Site, no such demonstration will be deemed to have made until, consistent with Appendix B: *Soil Acceptance Criteria* (i) the LSP-of-Record for the proposed Soil Donor Site ("Donor Site LSP") has prepared an adequate Pre-Characterization Report with respect to the proposed Donor Site that demonstrates that soils from the proposed Soil Donor Site are consistent with the Soil Acceptance Criteria for the Soil Receiving Site, (ii) the Receiving Site LSP has reviewed such Pre-Characterization Report and confirmed in writing that it demonstrates that soils from the proposed Soil Donor Site are consistent with the Soil Acceptance Criteria for the Soil Receiving Site ("Receiving Site LSP Approval"), and (iii) no fewer than 30 days have passed since the Project Proponent submitted the Pre-Characterization Report and Receiving Site LSP Approval to MassDEP.
 - b. *Proposed Soil Donor Site is not a Disposal Site*. If the proposed Soil Donor Site is not a Disposal Site, no such demonstration will be deemed to have made until, consistent with Appendix B: *Soil Acceptance Criteria* (i) the Receiving Site LSP has

prepared an adequate Pre-Characterization Report with respect to the proposed Donor Site that demonstrates that soils from the proposed Soil Donor Site are consistent with the Soil Acceptance Criteria for the Soil Receiving Site and (ii) no fewer than 30 days have passed since the Project Proponent submitted the Pre-Characterization Report and Receiving Site LSP Approval to MassDEP.

6. Soil Load Assessment. The Project Proponent shall ensure that (a) soil shipments from Soil Donor Sites to the Soil Receiving Site are sampled ("Soil Load Assessment") and (b) the results of each Soil Load Assessment are adequately documented ("Soil Load Documentation"), in each case consistently with Appendix B: *Soil Acceptance Criteria*. Soil Load Assessment with respect to any Soil Donor Site is in addition to, and shall occur after, the Donor Site Pre-Characterization described in Sections III.4 and III.5 of this Interim Policy, above.
7. Bill of Lading. Any soil imported to the Soil Receiving Site that is Remediation Waste must be managed under the Bill of Lading process described in 310 CMR 40.0034.
8. Receiving Agent. The Project Proponent shall ensure that one or more qualified and authorized representatives of the Project Proponent ("Receiving Agent") are present at the Soil Receiving Site at any time soils are being delivered to the Soil Receiving Site for the duration of the Soil Re-Use Project. The Receiving Agent shall act under the overall supervision of the Receiving Site LSP. The Project Proponent shall ensure that the Receiving Agent reviews any Bill of Lading required pursuant to Section III.7 of this Interim Policy, above, and shall confirm that all imported soil has been imported from a Soil Donor Site consistent with this Interim Policy and the applicable COMM-25 ACO.
9. Disqualification of Soil Donor Sites.
 - a. *Automatic Disqualification*. The Project Proponent shall immediately cease accepting soil from a Soil Donor Site if one or more Soil Load Assessments of soil shipments from such Soil Donor Site demonstrate, as further described in Section E.2 of Appendix B: *Soil Acceptance Criteria*, that the continued importation of soils from the Soil Donor Site to the Soil Receiving Site is inconsistent with the applicable Soil Acceptance Criteria, the COMM-25 ACO, or this Interim Policy.
 - b. *Disqualification by Department*. The COMM-25 ACO will provide the Department with the authority to disallow soil shipments from any Soil Donor Site to the Soil Receiving Site at any time the Department determines, in its sole discretion, that the relevant Donor Site Pre-Characterization is inadequate or that the continued importation of soils from the Soil Donor Site to the Soil Receiving Site may be inconsistent with applicable Soil Acceptance Criteria, the COMM-25 ACO, or this Interim Policy.
10. Fill Management Plan. The COMM-25 ACO will include a soil management plan and, to the extent deemed necessary by the Department to implement Chapter 21E, the MCP and this Interim Policy, a stormwater management plan, a site groundwater monitoring plan, plans showing elevations and grades, plans showing wetlands resources, and such other plans (such soil management plan, together with any other such plans, the

“Fill Management Plan” or “FMP”) imposing such additional operational and technical requirements related to the management and monitoring of, and reporting on, the Soil Re-Use Project. The FMP will be attached to, and be part of, the COMM-25 ACO. Without limitation, the FMP may, consistent with this Interim Policy, address matters related to:

- a. soil storage locations, duration of soil storage, and methods for securing and stabilizing imported soil pending, and subsequent to, final placement at the Soil Receiving Site;
- b. encapsulating agents, misting cannons, run-off controls, and temporary or permanent caps;
- c. dust control, including methods of dust suppression and the location and frequency of dust monitoring;
- d. maximum allowable elevations and grades at the Soil Receiving Site;
- e. operating hours and days of operation of the Soil Re-Use Project;
- f. traffic control plan;
- g. the avoidance of nuisance conditions (including noise pollution);
- h. soil and groundwater monitoring requirements at the Soil Receiving Site; and
- i. additional, site-specific requirements regarding Donor Site Pre-Characterization and Soil Load Assessment not inconsistent with this Interim Policy.

11. Permanent Solution. The Project Proponent shall achieve and maintain a Permanent Solution at the Soil Receiving Site by a date set forth in the COMM-25 ACO (the “Permanent Solution Deadline”). Deadlines that would otherwise apply to Response Actions at the Soil Receiving Site under the MCP, including the deadline to submit a Permanent Solution Statement, may be reasonably extended in the COMM-25 ACO to accommodate the Soil Re-Use Project. The Permanent Solution Deadline must be within a reasonable period after the Soil Re-Use Project is terminated, as established by the Department in the COMM-25 ACO. The demonstration of No Significant Risk in the Permanent Solution Statement must consider all soils imported to the Soil Receiving Site prior to achieving a Permanent Solution. The Project Proponent’s obligation to achieve a Permanent Solution under the COMM-25 ACO shall not be affected by the sale or transfer of the Soil Receiving Site or any interest therein.

12. Notification Obligations.

- a. *Prior to Permanent Solution Deadline*. Prior to the Permanent Solution Deadline, the Project Proponent shall ensure that no Oil or Hazardous Materials are imported to the Soil Receiving Site that are of such a nature and are in such quantities or concentrations as would require notification under 310 CMR 40.0300, taking into account the applicability of 310 CMR 40.0317(13), as may be specified in the relevant COMM-25 ACO.
- b. *After the Permanent Solution Deadline*. Notwithstanding the previous paragraph, the notification exemption of 310 CMR 40.0317(13) shall not apply to any releases or

threats of release of Oil or Hazardous Materials that are discovered after the Permanent Solution Deadline. Nothing in this Interim Policy or any COMM-25 ACO shall limit the applicability of the notification exemption contained in 310 CMR 40.0317(17) after achieving a Permanent Solution.

13. Removal of Soils from Soil Receiving Site. Except for soil loads quarantined or rejected as inconsistent with the applicable Soil Acceptance Criteria, the Project Proponent shall ensure that no person removes soils imported to the Soil Receiving Site as part of the Soil Re-Use Project prior to achieving a Permanent Solution at the Soil Receiving Site. After achieving a Permanent Solution at the Soil Receiving Site, the Project Proponent shall comply with all applicable Activity and Use Limitations.
14. COMM-25 Status Reports. The Project Proponent shall submit status reports regarding the Soil Re-Use Project ("COMM-25 Status Reports") to the Department 30 days after the effectiveness of the COMM-25 ACO and every three months thereafter. Each such COMM-25 Status Report shall provide a reasonably comprehensive summary of activities conducted under the COMM-25 ACO in the previous one- or three-month period, as applicable. Without limiting the foregoing, each COMM-25 Status Report shall include, as it pertains to the relevant one- or three-month period:
 - a summary of all Soil Load Documentation submitted to the Department;
 - identification of all Soil Donor Sites from which soils have been imported, including total quantities from each Soil Donor Site;
 - a summary of total volume of soil imported and total volume of soils remaining to be imported;
 - any discrepancies from the requirements of the COMM-25 ACO and actions taken to correct such discrepancies; and
 - such other matters as required by the COMM-25 ACO or the Department.

As far as possible, each COMM-25 Status Report shall present the information described above in concise, table format. Each COMM-25 Status Report shall be prepared under the supervision, and shall bear the seal and signature of, the Receiving Site LSP.

15. Voluntary Termination of Soil Re-Use Project. The Project Proponent shall provide 14 days prior written notice to the Department, with a copy to the chief municipal officer, board of health and conservation commission for the municipality in which the proposed Soil Receiving Site is located, if the Project Proponent intends voluntarily to terminate the Soil Re-Use Project prior to achieving the maximum elevations or volumes permitted in the COMM-25 ACO.
16. Involuntary Termination of Soil Re-Use Project. Should the Department determine in its sole discretion that (a) the Project Proponent is in violation of Chapter 21E, the MCP or the COMM-25 ACO, or (b) the Project Proponent has failed to make substantial

progress towards the completion of the Soil Re-Use Project for a contiguous six-month period, the COMM-25 ACO will provide the Department with the authority, without limitation to (i) terminate the Soil Re-Use Project and (ii) revoke any approvals issued pursuant to 310 CMR 40.0031(2) and 310 CMR 40.0317(13) contained in the COMM-25 ACO with respect to any soils imported subsequent to the date of such revocation. Such authority shall be without limitation to any other authority the Department may have under Chapter 21E, the MCP, and other applicable law with respect to the Soil Receiving Site, any Soil Donor Site, and the Soil Re-Use Project.

17. Resumption of Response Actions Subsequent to Termination of Soil Re-Use Project. In the case of a voluntary or involuntary termination of the Soil Re-Use Project, the Project Proponent shall immediately cease importing soils pursuant to the COMM-25 ACO and perform such activities as are required to achieve a Permanent Solution at the Soil Receiving Site pursuant to the COMM-25 ACO. The Project Proponent shall immediately stabilize the Soil Receiving Site to ensure that no slope failure, erosion or other adverse effects occur at the Soil Receiving Site. The COMM-25 ACO will provide the Department with the authority to establish new deadlines for taking such actions, including performing Response Actions and achieving a Permanent Solution for the Soil Receiving Site consistent with Chapter 21E and the MCP.
18. Stipulated Penalties. The COMM-25 ACO will provide the Department with the authority to require the Project Proponent to pay stipulated civil administrative penalties to the Commonwealth in accordance with the schedule set forth in the COMM-25 ACO should the Department determine that the Project Proponent has violated any provision of the COMM-25 ACO.
19. COMM-25 Financial Assurance Mechanism. The Project Proponent shall maintain one or more financial assurance mechanisms consistent with the specifications in 310 CMR 30.906 ("COMM-25 FAM"). The COMM-25 FAM must adequately provide for the achievement of a Permanent Solution at the Soil Receiving Site and must be in place prior to the effectiveness of the COMM-25 ACO until such date after the Permanent Solution has been achieved as is provided in the COMM-25 ACO.
20. Public Involvement During Soil Re-Use Project. The Project Proponent shall comply with all applicable public involvement activities described in Section IV of this Interim Policy.
21. Filing of Records.
 - *Soil Receiving Site.* The Project Proponent shall submit all records that are related to the Soil Re-Use Project or required by the COMM-25 ACO electronically to e-DEP under the release tracking number of the Soil Receiving Site. Such records shall include all proposed COMM-25 Requests, final COMM-25 Requests, Public Notices, Responses to Comments, Pre-Characterization Reports, Soil Load Documentation, and COMM-25 Status Reports.

- *Soil Donor Sites.* The Project Proponent shall ensure that all records required by the COMM-25 ACO that are related to the Soil Re-Use Project and any Soil Donor Site(s) that is a Disposal Site are submitted electronically to e-DEP under the release tracking number of such Soil Donor Site.
 - *Other Records Required under MCP.* This Section III.21 shall not limit in any way the obligation of the Project Proponent, any person performing response actions at a Soil Donor Site, or any other person to make such submittals with respect to the Soil Receiving Site or any Soil Donor Site as are required by Chapter 21E or the MCP.
22. Overall Supervision of Receiving Site LSP. Without limiting the obligations of the Receiving Site LSP under Chapter 21E, the MCP, M.G.L. c. 21A, §§ 19 through 19J, and 309 CMR 1.00 – 9.00, the COMM-25 ACO will require the Project Proponent to ensure, by contractual and other appropriate means, that the Soil Re-Use Project is conducted under the overall supervision of the Receiving Site LSP consistently with this Interim Policy and the applicable COMM-25 ACO.
23. Compliance with Law. The Project Proponent shall perform all activities related to the Soil Re-Use Project in compliance with Chapter 21E, the MCP, and other applicable federal, State and local law, including all applicable federal, State and local permits, licenses and approvals. Without limiting the foregoing, the Project Proponent shall ensure that no activities related to the Soil Re-Use Project result in:
- a. a Condition of Air Pollution with respect to dust, noise, or odors, as provided in 310 CMR 7.01; or
 - b. the alteration of any Areas Subject to Protection under M.G.L. c. 131, sec. 40, as such term is defined in 310 CMR 10.02(1), except as approved pursuant to applicable law, including, without limitation, local wetland bylaws and ordinances.
24. No Limitation on MCP Obligations. Nothing in this Interim Policy or any COMM-25 ACO shall in any way limit the obligation of any Responsible Party, Potential Responsible Party or Other Person to perform Response Actions at any Soil Receiving Site or Soil Donor Site consistent with Chapter 21E and the MCP.
25. Waiver Pursuant to 310 CMR 30.1100. If the Project Proponent has, pursuant to Section II.C.10 of this Interim Policy, included in its COMM-25 Request a request for a waiver with respect to Waste Oil under 310 CMR 30.1100, MassDEP may include such waiver in the COMM-25 ACO. Such waiver shall be subject to 310 CMR 30.1100 and such terms and conditions as MassDEP deems appropriate consistent with 310 CMR 30.1100.

IV. PUBLIC INVOLVEMENT REQUIREMENTS

The Project Proponent must notify, engage with, and respond to the community and members of the public interested in the proposed or approved Soil Re-Use Project

consistent with this Section IV and, if applicable, the attached Appendix C: *Public Involvement Requirements that Apply to Soil Re-Use Projects within one mile of an Environmental Justice Population*.

A. Public Involvement Requirements Associated with a Request for a COMM-25 ACO

1. Public Involvement Requirements that Apply to all COMM-25 Requests and COMM-25 ACOs.

Prior to the submission of a COMM-25 Request to the Department, the Project Proponent shall (a) prepare a proposed COMM-25 Request ("Proposed COMM-25 Request"), containing all of the information and materials described in Section II.C of this Interim Policy, (b) prepare a notice of the proposed Soil Re-Use Project containing the information described below ("Public Notice"), (c) publish the Public Notice in a newspaper of general circulation that is published daily in the community in which the proposed Soil Re-Use Project would be located, or, if not possible, weekly that circulates in the community in which the proposed Soil Re-Use Project would be located, (d) post a copy of the Public Notice on a project website created and maintained by the Project Proponent for the duration of the Soil Re-Use Project, (e) provide a copy of the Public Notice to the chief municipal officer, board of health and conservation commission for the municipality in which the proposed Soil Re-Use Project or Soil Receiving Site would be located, and (f) provide a copy of the Public Notice to all owners and operators of land that abuts any parcel of land includes any portion of the proposed Soil Re-Use Project or Soil Receiving Site.

The Public Notice shall provide a description of the proposed Soil Re-Use Project, in plain language and simple terms, including (a) the location of the proposed Soil Receiving Site, (b) why the Soil Re-Use Project is necessary to support a *bona fide* development, conservation or preservation project, (d) the number of tons of soils proposed to be imported to the proposed Soil Receiving Site, (e) the duration of the proposed Soil-Re-Use Project, (f) the proposed days and hours of operation, (g) the identity and mailing address of the Project Proponent along with a project point of contact for questions concerns and complaints and preferred method of contact, (i) the online or physical location where the Proposed COMM-25 Request may be reviewed and the time period for written comment on the Proposed COMM-25 Request, which shall not be less than thirty (30) days from the date of publication, and (j) the address to which comments must be mailed or emailed.

After the above-referenced thirty-day period, the Project Proponent shall prepare a written summary of all comments received during such period and a description of the ways in which these comments have been (or will be) addressed ("Response to Comments"). Such Response to Comments, including copies of all submitted written comments, must be included in any final COMM-25 Request submitted to the

Department.

All public involvement requirements described in this Interim Policy or required in a COMM-25 ACO shall be in addition to any public involvement requirements under 310 CMR 40.1400.

2. Public Involvement Requirements that Apply to COMM-25 Requests for a proposed Soil Re-Use Project within one mile of an Environmental Justice Population.

In addition to the public involvement requirements described in Section IV.A.1 of this Interim Policy, above, the Project Proponent of a Soil Re-Use Project that is within one mile of an Environmental Justice Population must develop and implement an Environmental Justice Public Involvement Plan with respect to the proposed Soil Re-Use Project ("EJ Soils PIP") consistent with Appendix C: *Public Involvement Requirements that Apply to Soil Re-Use Projects within one mile of an Environmental Justice Population*.

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B. Public Involvement Requirements Subsequent to the Issuance of a COMM-25 ACO

For any Soil Re-Use Project for which a COMM-25 ACO has been issued that is not within one mile of an Environmental Justice Population, public involvement activities shall be governed by 310 CMR 40.1400. For any Soil Re-Use Project for which a COMM-25 ACO has been issued that is within one mile of an Environmental Justice Population, public involvement activities shall be governed by both 310 CMR 40.1400 and the applicable EJ Soils PIP.

V. OTHER LAW

Nothing in this Interim Policy and no COMM-25 ACO issued under this Interim Policy eliminates, supersedes, preempts or otherwise modifies any federal, State or local law or requirements, including any federal, State or local permits or approvals necessary before placing the soil at any Soil Receiving Site or any other location. Nothing in this Interim Policy and no COMM-25 ACO issued under this Interim Policy eliminates, supersedes, preempts or otherwise modifies any federal, State or local permits or approvals related to placement of soil, fill, noise, traffic, dust control, stormwater management, wetlands, groundwater or drinking water source protection, or zoning.

Without limiting the foregoing, nothing in this Interim Policy and no COMM-25 ACO issued under this Interim Policy eliminates, supersedes, preempts or otherwise modifies any law or regulation cited in Section I.E of this Interim Policy.

This Interim Policy may not be relied upon to create rights, duties, obligations, or defenses, implied or otherwise, enforceable at law or in equity, by any person in any

administrative proceeding or other litigation with MassDEP.

APPENDIX A

Step-by-Step Guide to Requesting a COMM-25 ACO

***Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the
Massachusetts Contingency Plan***

Policy # COMM 25-_____

The following is intended as a guide. See the relevant provisions of the Interim Policy for more information. Underlined terms are defined in the Interim Policy.

A. Requesting a COMM-25 ACO that is not Within One Mile of an Environmental Justice Population.

1. Draft a Proposed COMM-25 Request.
2. Provide Public Notice.
3. Allow public comment period to pass.
4. Prepare a Response to Comments.
5. Submit a COMM-25 Request to MassDEP.

B. Requesting a COMM-25 ACO that is Within One Mile of an Environmental Justice Population

1. Engage in early, pro-active, intentional outreach to the surrounding community.
2. Prepare a proposed EJ Soils PIP.
3. Submit the proposed EJ Soils PIP to MassDEP for approval.
4. Continue public outreach consistent with the EJ Soils PIP.
5. Draft a proposed COMM-24 Request.
6. Provide Public Notice.
7. Hold a public meeting during the comment period, if requested, consistent with the EJ Soils PIP.
8. Prepare a Response to Comments.
9. Submit a COMM-25 Request to MassDEP

APPENDIX B

Soil Acceptance Criteria

Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan

Policy # COMM-25-_____

A. Overview

This Appendix B (“Appendix B”) to the *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan, Policy # COMM 25-_____, dated _____, 2025* (including all attachments, “Interim Policy”), describes the process for identifying Soil Acceptance Criteria for a given Soil Receiving Site subject to an Administrative Consent Order (“COMM-25 ACO”) issued pursuant to the Interim Policy . This Appendix B also describes the requirements for comparing contaminant concentrations in potential Soil Donor Site soil to established Soil Acceptance Criteria for a given Soil Receiving Site, both as part of Donor Site Pre-Characterization and Soil Load Assessment.

Soil Acceptance Criteria are determined in part by existing levels of contamination at the Soil Receiving Site and in part by factors that apply to all Soil Receiving Sites. The combination of these case-specific and universal considerations will result in Soil Acceptance Criteria that will vary from one Soil Receiving Site to another.

Capitalized terms not otherwise defined in this Appendix B shall have the meanings given to such terms in the main body of the Interim Policy. If such terms are not defined in the main body of the Interim Policy, such terms shall have the meanings given to them in M.G.L. c. 21E (“Chapter 21E”) and the Massachusetts Contingency Plan at 310 CMR 40.0000 (“MCP”).

B. Universal Considerations

The following considerations apply to all Soil Re-Use Projects and associated Soil Receiving Sites. Items (1) through (4) reiterate, and provide additional guidance on, requirements contained in the main body of the Interim Policy. Items (5) through (9) impose strict limitations on pH, solid waste, and certain other contaminants whose importation may pose heightened risk to human health, safety, public welfare or the environment if not properly managed (“Special Restrictions”). Item (10) imposes universal caps on other Oil and Hazardous Materials (“OHM”).

1. Soil Receiving Site is a Disposal Site Progressing to a Permanent Solution. At the time a COMM-25 Request for a COMM-25 ACO is submitted, the proposed Soil Receiving Site must be a Disposal Site at which Response Actions are occurring pursuant to, and in compliance with, Chapter 21E and the MCP. *Interim Policy*, § II.A.4. Therefore:
 - The Soil Receiving Site must, as part of the Soil Re-Use project, achieve and maintain a Permanent Solution and a level of No Significant Risk under the MCP, *including* any risk associated with soil imported pursuant to the applicable COMM-25 ACO. *Interim Policy*, § III.11.

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- The Permanent Solution for the COMM-25 Soil Receiving Site is likely to include both: (a) the capping of the material (original and imported) to prevent contact with and exposure to OHM and (b) the implementation of Activity and Use Limitations (“AULs”) pursuant to the MCP.
2. Soil Receiving Site Has Completed Phase III. The Soil Receiving Site must have progressed through Phase III Response Actions under the MCP by the time the COMM-25 ACO is effective. *Interim Policy*, § II.A.5. Therefore, at that time, the Soil Receiving Site will have been adequately characterized, contaminants of concern (“Contaminants of Concern”) at the Soil Receiving Site will have been identified, and a feasible approach to achieving a Permanent Solution incorporating the proposed Soil Re-Use Project will have been developed.
 3. Soil Receiving Site is Not in a GW-1 Area. No part of the proposed Soil Re-Use Project may in an area where the groundwater is categorized as GW-1. *Interim Policy*, § II.A.6. Therefore, a significant risk to public or private drinking water supplies is unlikely as a result of the proposed Soil Re-Use Project.
 4. Soil Donor Sites Must be Adequately Pre-Characterized. All soil being exported from a proposed Soil Donor Site must be adequately characterized and Contaminants of Concern at the proposed Soil Donor Site identified. The characterization of a Soil Donor Site may occur after the COMM-25 ACO becomes effective, but prior to the importation of any soil from such Soil Donor Site to the Soil Receiving Site. *Interim Policy*, §§ III.4 and III.5.
 5. Imported Soil Must Have Appropriate pH and conductivity. The Project Proponent must ensure that the Soil Receiving Site does not accept any soil with a pH below 5 or above 9 standard units. The Project Proponent must ensure that the Soil Receiving Site does not accept any soil with a conductivity above 8,000 umhos/cm. *Interim Policy*, § III.3.
 6. Restrictions on Hazardous Waste. The Project Proponent must ensure that the Soil Receiving Site does not accept soil that is a Hazardous Waste, as that term is defined in 310 CMR 30.010, provided, however, that the Project Proponent may accept Waste Oil, as that term is defined in 310 CMR 30.010, in soils as provided below:
 - a. Contained-In Determination by Donor Site LSP. The Project Proponent may accept Waste Oil in soils from a Donor Site if the Donor-Site LSP has made a “contained-in” determination with respect to such Waste Oil consistent with MassDEP’s *Technical Update: Considerations for Managing Contaminated Soil: RCRA Land Disposal Restrictions and Contained-In Determinations*, August, 2010.
 - b. Waiver Pursuant to 310 CMR 30.1100. The Project Proponent may accept Waste Oil in soils consistent with the terms of any waiver issued by the Department to the Project Proponent pursuant to 310 CMR 30.1100. Such waiver shall contain the Department’s determination that that the placement of such Waste Oil at the Soil Receiving Site is “insignificant as a potential hazard to public health, safety, welfare [and] the environment” and such terms and conditions as the Department deems appropriate and shall otherwise be consistent with 310 CMR 30.1100.

Nothing in this Paragraph 6 in any way limits the applicability of the Acceptance Criteria to any constituents of any Waste Oil in soil imported to the Soil Receiving Site, including petroleum constituents, metals, dioxins and chlorinated solvents. See *Interim Policy*, § III.3.

7. Restrictions on Solid Waste. The Project Proponent must ensure that the Soil Receiving Site does not accept Solid Waste, as defined in 310 CMR 19.006, other than soil containing incidental, randomly dispersed, *de minimis* quantities of Solid Waste. The Project Proponent must also ensure that Solid Waste is removed from imported soil to the greatest extent possible prior to it being placed at the Soil Receiving Site. MassDEP may establish additional, more stringent, solid waste restrictions, including quantitative limits on Solid Waste, in individual COMM-25 ACOs. *Interim Policy*, § III.2.
8. Restrictions on Asbestos. The Project Proponent must ensure that the Soil Receiving Site does not accept soil containing any visible asbestos or asbestos-containing materials.
9. Imported Soil May Not Contain Significant Amounts of Readily Leachable OHM or PCBs. The Project Proponent must ensure that the Soil Receiving Site does not accept soil containing significant amounts of readily leachable OHM or polychlorinated biphenyls (“PCBs”). Specifically, the Project Proponent must ensure that the Soil Receiving Site does accept soil with mean and maximum contaminant concentrations of readily leachable OHM or PCBs that are above the following pre-defined limits (caps), even if existing Soil Receiving Site soil concentrations exceed these limits:
 - The mean concentration of each readily leachable OHM and PCB in the imported soil is capped at a value equal to one-half the RCS-1 for that contaminant, as specified in the MCP.
 - The maximum concentration of each readily leachable OHM and PCB in the imported soil is capped at a value equal to the RCS-1 for that contaminant, as specified in the MCP.

As a result of these caps, it is unlikely that leached hazardous materials could volatilize into indoor air of foreseeable future residential buildings constructed at the Soil Receiving Site. These caps are incorporated into Table B-1, below, with respect to PCBs and all other readily leachable OHM listed in that Table. In Table B-1 these contaminants are marked with the letter “r.”

10. Universal Caps on Other OHM. In addition to the Special Restrictions described in Paragraphs 5 through 9, above, the Project Proponent must ensure that the Soil Receiving Site does not accept soil with mean and maximum concentrations of OHM that are above the following pre-defined, universal limits (caps), even if existing Soil Receiving Site soil concentrations exceed these limits. These caps must be determined for each Contaminant of Concern in the Soil Receiving Site, as described below, and included in the COMM-25 Request.

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- The mean concentration of each OHM in the imported soil is capped at a value equal to two times the MCP Method 2 Category S-3 Direct Contact Standard for that contaminant. These caps are incorporated into Table B-1, below, with respect to all OHM listed in that Table. For Contaminants of Concern in the Soil Receiving Site not listed in Table B-1, the Method 2 Category S-3 Direct Contact Soil Standard may be derived using the equations and input values described at 310 CMR 40.0984. The COMM-25 Request must provide the documentation for this derivation.
- The maximum concentration of each OHM in the imported soil is capped at a value equal to the MCP Method 3 Ceiling Limit (M3CL) for that contaminant. These caps are incorporated into Table B-1, below, with respect to all OHM listed in that Table. For Contaminants of Concern at the Soil Receiving Site not listed in Table B-1, the MCP Method 3 Ceiling Limit may be adopted or derived as described at 310 CMR 40.0996(8). The COMM-25 Request must provide the documentation for this derivation.

C. Case-Specific Considerations

As discussed above, certain “universal considerations” result in certain unvarying restrictions, or caps, on the importation of certain materials to the Soil Receiving Site.

In addition to these universal considerations, additional case-specific restrictions will apply, depending on the nature of the Soil Receiving Site. The Soil Receiving Site can only accept soil that is similar to the soil already located at that site, considering both the nature of the contamination at the Soil Receiving Site and their concentrations. Specifically:

1. Contaminant of Concern in Imported Soils Must Already Be Present. The Contaminant(s) of Concern in the imported soil must already be present in the soil at the Soil Receiving Site and included in the Soil Acceptance Criteria Table for the Soil Receiving Site.
2. Mean and Maximum Contaminants of Concern Must be Less Than or Equal to Those Already Present. The concentration(s) of the Contaminant(s) of Concern in the imported soil must be less than or equal to the contaminant concentrations already present at the Soil Receiving Site, as follows:
 - The arithmetic mean concentration of each Contaminant of Concern in the imported soil must be less than or equal to the mean concentration of that contaminant in the soil at the Soil Receiving Site.
 - The maximum concentration of each Contaminant of Concern in the imported soil must be less than or equal to the maximum concentration of each contaminant in the soil at the Soil Receiving Site.

D. Determining the Soil Acceptance Criteria

The Soil Acceptance Criteria for each Soil Receiving Site is determined by the site characterization data developed for the Soil Receiving Site and the universal limitations on contaminant concentrations identified in the Interim Policy and this Appendix B.

The form Soil Acceptance Criteria Table, below, provides the structure and format for determining the Soil Acceptance Criteria for a Soil Receiving Site. The form Soil Acceptance Criteria Table consists of seven columns:

- **Oil and/or Hazardous Material** – the list of OHM based on the MCP numerical standards in Subpart I of the MCP. If additional Contaminants of Concern are identified at the Soil Receiving Location, those contaminants must be added to this list.
- **(A) Site-Specific Mean mg/kg** – the arithmetic mean concentration of each OHM, based upon the site-wide or source-area(s) wide Comprehensive Site Assessment (contained within the Phase II submittal) from the Soil Receiving Site.
- **(B) Site-Specific Maximum mg/kg** - the maximum concentration of each OHM, based upon the Comprehensive Site Assessment from the Soil Receiving Site.
- **(C) Cap on the Mean mg/kg** – the limit on how high the Mean Acceptance Criteria may be set, based on the goals and restrictions described in this Appendix and the remainder of the Interim Policy. This cap applies to ALL Soil Receiving Sites and is not negotiable.
- **(D) Cap on the Maximum mg/kg** - the limit on how high the Maximum Acceptance Criteria may be set, based on the goals and restrictions described in this Appendix and the remainder of the Interim Policy. This cap applies to ALL Soil Receiving Sites and is not negotiable.
- **(E) Receiving Site Acceptance Criteria - Mean mg/kg** – The site-specific Mean Soil Receiving Site Acceptance Criteria, identified as the lower of: (A) the Site-Specific Mean concentration; and (C) the Universal Cap on the Mean for each contaminant. [=MIN(A,C)]
- **(F) Receiving Site Acceptance Criteria - Maximum mg/kg** – The site-specific Maximum Soil Receiving Site Acceptance Criteria, identified as the lower of (B) the Site-Specific Maximum concentration and (D) the Universal Cap on the Maximum for each contaminant. [=MIN(B,D)]

A completed Soil Acceptance Criteria Table for the Soil Receiving Site (Table B-1) must be submitted as part of a COMM-25 Request, along with supporting documentation of the completion of a Phase II and details of the site-specific inputs. Interim Policy, §§ II.C.2 and II.C.3. The form Soil Acceptance Criteria Table is also available as an Excel spreadsheet at

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TABLE B-1 – FORM SOIL ACCEPTANCE CRITERIA TABLE

Oil and/or Hazardous Material	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A) Site-Specific MEAN mg/kg	(B) Site-Specific Maximum mg/kg	(C) Cap on the Mean mg/kg	(D) Cap on the Maximum mg/kg	(E) Mean mg/kg	(F) Maximum mg/kg
	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
ACENAPHTHENE			10,000	10,000		
ACENAPHTHYLENE			10,000	10,000		
ACETONE			6,000	10,000		
ALDRIN			8	40		
ANTHRACENE			10,000	10,000		
ANTIMONY			80	400		
ARSENIC			120	600		
ASBESTOS (r)	N/A	N/A	N/A	N/A	N/A	N/A
BARIUM			10,000	10,000		
BENZENE (r)			1	2		
BENZO(a)ANTHRACENE			4,000	10,000		
BENZO(a)PYRENE			60	300		
BENZO(b)FLUORANTHENE			4,000	10,000		
BENZO(g,h,i)PERYLENE			10,000	10,000		
BENZO(k)FLUORANTHENE			10,000	10,000		
BERYLLIUM			400	2,000		
BIPHENYL, 1,1-			10,000	10,000		
BIS(2-CHLOROETHYL)ETHER			180	900		
BIS(2-CHLOROISOPROPYL)ETHER			2,000	10,000		
BIS(2-ETHYLHEXYL)PHTHALATE			4,000	10,000		
BROMODICHLOROMETHANE (r)			0.05	0.1		
BROMOFORM (r)			0.05	0.1		
BROMOMETHANE (r)			0.25	0.5		
CADMIUM			160	800		

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Oil and/or Hazardous Material	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A) Site-Specific MEAN mg/kg	(B) Site-Specific Maximum mg/kg	(C) Cap on the Mean mg/kg	(D) Cap on the Maximum mg/kg	(E) Mean mg/kg	(F) Maximum mg/kg
	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
CARBON TETRACHLORIDE (r)			2.5	5		
CHLORDANE			120	600		
CHLOROANILINE, p-			80	400		
CHLOROBENZENE (r)			0.5	1		
CHLOROFORM (r)			0.1	0.2		
CHLOROPHENOL, 2-			800	4,000		
CHROMIUM (TOTAL)			400	2,000		
CHROMIUM(III)			10,000	10,000		
CHROMIUM(VI)			400	2,000		
CHRYSENE			10,000	10,000		
CYANIDE			1,000	5,000		
DIBENZO(a,h)ANTHRACENE			400	2,000		
DIBROMOCHLOROMETHANE (r)			0.0025	0.005		
DICHLOROBENZENE, 1,2- (o-DCB) (r)			4.5	9		
DICHLOROBENZENE, 1,3- (m-DCB) (r)			1.5	3		
DICHLOROBENZENE, 1,4- (p-DCB) (r)			0.35	0.7		
DICHLOROBENZIDINE, 3,3'-			200	1,000		
DICHLORODIPHENYL DICHLOROETHANE, P,P'- (DDD)			140	700		
DICHLORODIPHENYL DICHLOROETHYLENE,P,P'-(DDE)			140	700		
DICHLORODIPHENYL TRICHLOROETHANE, P,P'- (DDT)			140	700		
DICHLOROETHANE, 1,1- (r)			0.2	0.4		
DICHLOROETHANE, 1,2- (r)			0.05	0.1		
DICHLOROETHYLENE, 1,1- (r)			1.5	3		
DICHLOROETHYLENE, CIS-1,2- (r)			0.05	0.1		
DICHLOROETHYLENE, TRANS-1,2- (r)			0.5	1		
DICHLOROMETHANE (r)			0.05	0.1		

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Oil and/or Hazardous Material	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A)	(B)	(C)	(D)	(E)	(F)
	Site-Specific MEAN mg/kg	Site-Specific Maximum mg/kg	Cap on the Mean mg/kg	Cap on the Maximum mg/kg	Mean mg/kg	Maximum mg/kg
	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
DICHLOROPHENOL, 2,4-			1,800	9,000		
DICHLOROPROPANE, 1,2- (r)			0.05	0.1		
DICHLOROPROPENE, 1,3- (r)			0.005	0.01		
DIELDRIN			8	40		
DIETHYL PHTHALATE			10,000	10,000		
DIMETHYL PHTHALATE			10,000	10,000		
DIMETHYLPHENOL, 2,4-			4,000	10,000		
DINITROPHENOL, 2,4-			1,800	9,000		
DINITROTOLUENE, 2,4-			180	900		
DIOXANE, 1,4- (r)			0.1	0.2		
ENDOSULFAN			1,000	5,000		
ENDRIN			60	300		
ETHYLBENZENE (r)			20	40		
ETHYLENE DIBROMIDE			100	500		
FLUORANTHENE			10,000	10,000		
FLUORENE			10,000	10,000		
HEPTACHLOR			20	100		
HEPTACHLOR EPOXIDE			2	10		
HEXACHLOROBENZENE			1.8	9		
HEXACHLOROBUTADIENE (r)			15	30		
HEXACHLOROCYCLOHEXANE, GAMMA (gamma-HCH)			140	700		
HEXACHLOROETHANE			600	3,000		
HMX			10,000	10,000		
INDENO(1,2,3-cd)PYRENE			4,000	10,000		
LEAD			1,200	6,000		
MERCURY			80	400		

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	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A)	(B)	(C)	(D)	(E)	(F)
	Site-Specific MEAN mg/kg	Site-Specific Maximum mg/kg	Cap on the Mean mg/kg	Cap on the Maximum mg/kg	Mean mg/kg	Maximum mg/kg
Oil and/or Hazardous Material	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
METHOXYCHLOR			800	4,000		
METHYL ETHYL KETONE (r)			2	4		
METHYL ISOBUTYL KETONE (r)			0.2	0.4		
METHYL MERCURY			18	90		
METHYL TERT BUTYL ETHER (r)			0.05	0.1		
METHYLNAPHTHALENE, 2-			1,000	5,000		
NAPHTHALENE (r)			2	4		
NICKEL			2,000	10,000		
PENTACHLOROPHENOL			160	800		
PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)						
PERFLUORODECANOIC ACID (PFDA)			0.8	4		
PERFLUOROHEPTANOIC ACID (PFHpA)			0.8	4		
PERFLUOROHXANESULFONIC ACID (PFHxS)			0.8	4		
PERFLUORONONANOIC ACID (PFNA)			0.8	4		
PERFLUOROOCTANESULFONIC ACID (PFOS)			0.8	4		
PERFLUOROOCTANOIC ACID (PFOA)			0.8	4		
PERCHLORATE			12	60		
PETROLEUM HYDROCARBONS						
TOTAL PETROLEUM HYDROCARBON			10,000	10,000		
ALIPHATIC HYDROCARBONS						
C5 through C8 Aliphatic Hydrocarbons (r)			50	100		
C9 through C12 Aliphatic Hydrocarbons (r)			500	1,000		
C9 through C18 Aliphatic Hydrocarbons			10,000	20,000		
C19 through C36 Aliphatic Hydrocarbons			10,000	20,000		
AROMATIC HYDROCARBONS						
C9 through C10 Aromatic Hydrocarbons (r)			50	100		
C11 through C22 Aromatic Hydrocarbons			10,000	10,000		

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Oil and/or Hazardous Material	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A)	(B)	(C)	(D)	(E)	(F)
	Site-Specific MEAN mg/kg	Site-Specific Maximum mg/kg	Cap on the Mean mg/kg	Cap on the Maximum mg/kg	Mean mg/kg	Maximum mg/kg
	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
PHENANTHRENE			6,000	10,000		
PHENOL			6,000	10,000		
POLYCHLORINATED BIPHENYLS (PCBs) (r)			0.5	1		
PYRENE			10,000	10,000		
RDX			800	4,000		
SELENIUM			1,600	8,000		
SILVER			400	2,000		
STYRENE (r)			1.5	3		
TETRACHLORODIBENZO-p-DIOXIN (TCDD), 2,3,7,8-(equivalents)			1.2E-04	6.E-04		
TETRACHLOROETHANE, 1,1,1,2- (r)			0.05	0.1		
TETRACHLOROETHANE, 1,1,2,2- (r)			0.0025	0.005		
TETRACHLOROETHYLENE (r)			0.5	1		
THALLIUM			180	900		
TOLUENE (r)			15	30		
TRICHLOROBENZENE, 1,2,4- (r)			1	2		
TRICHLOROETHANE, 1,1,1- (r)			15	30		
TRICHLOROETHANE, 1,1,2- (r)			0.05	0.1		
TRICHLOROETHYLENE (r)			0.15	0.3		
TRICHLOROPHENOL, 2,4,5-			10,000	10,000		
TRICHLOROPHENOL 2,4,6-			800	4,000		
VANADIUM			1,600	8,000		
VINYL CHLORIDE (r)			0.15	0.3		
XYLENES (Mixed Isomers) (r)			50	100		
ZINC			10,000	10,000		

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	Receiving Site-Specific Inputs		Caps on Concentration (Universal)		Receiving Site Acceptance Criteria	
	(A) Site-Specific MEAN mg/kg	(B) Site-Specific Maximum mg/kg	(C) Cap on the Mean mg/kg	(D) Cap on the Maximum mg/kg	(E) Mean mg/kg	(F) Maximum mg/kg
	Site-specific	Site-specific	Set by policy	Set by policy	Lower of (A) & (C)	Lower of (B) & (D)
Oil and/or Hazardous Material						
ADDITIONAL SITE CONTAMINANT OF CONCERN ³			TBD ⁴	TBD ⁵		
ADDITIONAL SITE CONTAMINANT OF CONCERN ³			TBD ⁴	TBD ⁵		
ADDITIONAL... etc...			TBD ⁴	TBD ⁵		
Other Criteria						
pH	Acceptable Range: 5.0 to 9.0					
Conductivity	Not to Exceed 8,000 umhos/cm					
<p>Notes:</p> <ol style="list-style-type: none"> (r) – “Restricted” contaminant, including readily leachable compounds and PCBs, with more stringent limits based on the RCS-1 value. A spreadsheet version of this table is available to download at https://www.mass.gov/soil-transport-re-use-and-disposal. The spreadsheet will automatically derive the Soil Acceptance Criteria when the Soil Receiving Site-Specific MEAN and MAXIMUM concentrations are entered. If additional Contaminants of Concern are identified in the Phase II Comprehensive Site Assessment for the Soil Receiving Site, they must be added to the Soil Acceptance Criteria Table for the Soil Receiving Site and submitted as part of the COMM-25 Request. The “Cap on the Mean” for additional Soil Receiving Site Contaminants of Concern without published MCP standards shall be two times the Method 2 S-3 Soil Standard derived using the equations and input values described at 310 CMR 40.0984. The COMM-25 Request must provide the documentation for this derivation. The “Cap on the Maximum” for additional Receiving Site Contaminants of Concern without published MCP standards shall be the MCP Method 3 Ceiling Limit adopted or derived as described at 310 CMR 40.0996(8). The COMM-25 Request must provide the documentation for this derivation. 						

E. Comparison of Soil Donor Site Data to the Soil Acceptance Criteria

1. Donor Site Pre-Characterization

The determination as to whether soil from a proposed Soil Donor Site may be imported to a Soil Receiving Site is based primarily on Donor Site Pre-Characterization. This involves the characterization of the soil at the proposed Soil Donor Site prior to the importation of any soils to the Soil Receiving Site and the comparison of contamination levels at the Soil Donor Site to the relevant Soil Acceptance Criteria for the Soil Receiving Site. Such characterization may occur after the relevant COMM-25 ACO for the Soil Receiving Site has become effective. See *Interim Policy*, §§ III.4 and III.5.

a. MCP Responsibilities

Donor Site Pre-Characterization at a Donor Site that is a Disposal Site will occur within the context of ongoing MCP Response Actions at the proposed Soil Donor Site. See *Interim Policy*, § III.24. The movement of soil from Soil Donor Sites to Soil Receiving Sites under a COMM-25 ACO are MCP Response Actions conducted with respect to both Soil Donor Sites that are Disposal Sites and the Soil Receiving Site. Therefore, in addition to the obligations of a Project Proponent under a COMM-25 ACO, the following MCP obligations, without limitation, apply directly to the following parties:

- *Responsibility of Donor Site LSP and Receiving Site LSP.* Both the Donor Site LSP for any Soil Donor Site that is a Disposal Site and the Receiving Site LSP must oversee and are responsible for the movement of soil from any Soil Donor Site to a Soil Receiving Site as Response Actions being conducted with respect to any Soil Donor Site that is a Disposal Site and Soil Receiving Site, respectively.
- *Responsibility of Persons Conducting Response Actions at Soil Donor Site that is a Disposal Site.* The Responsible Person (“RP”), Potentially Responsible Person (“PRP”) or Other Person(s) conducting Response Actions at a Soil Donor Site that is a Disposal Site is responsible under the MCP for ensuring that all Remediation Waste shipped from the Soil Donor Site is handled consistently with the MCP, including 310 CMR 40.0031(2). Therefore, such RP, PRP or Other Person(s) must ensure that all soil shipped from such Soil Donor Site to the Soil Receiving Site is consistent with the Soil Acceptance Criteria for the Soil Receiving Site. Failure to so ensure may constitute a violation of the MCP, including 310 CMR 40.0031(2), and may also require notification under 310 CMR 40.0317(13).
- *Responsibility of Project Proponent under MCP.* The Project Proponent conducting Response Actions at the Soil Receiving Site is responsible for ensuring that any soil imported to the Soil Receiving Site is consistent the Soil Acceptance Criteria for the Soil Receiving Site. Failure to so ensure may constitute a violation of the MCP, including a failure to transport Remediation Waste to a licensed, permitted or approved facility pursuant to 310 CMR 40.0031(2), and may also require notification under 310 CMR 40.0317(13). Such MCP violations would be in addition to any violations under the applicable COMM-25 ACO.

b. Process for Conducting Donor Site Pre-Characterization

The soil to be excavated from a proposed Soil Donor Site must be adequately characterized. If the Soil Donor Site is a Disposal Site, such characterization must occur under the supervision of the Donor Site LSP with respect to all Contaminants of Concern at the Soil Donor Site prior to

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importation of any soil from such proposed Soil Donor Site to the Soil Receiving Site in order to ensure sufficient time to compare the soil from the proposed Soil Donor Site to the Soil Acceptance Criteria for an intended Soil Receiving Site. If the Soil Donor Site is not a Disposal Site, such characterization must occur under the supervision of the Receiving Site LSP with respect to all Contaminants of Concern at the Soil Donor Site *prior* to importation of any soil from such proposed Soil Donor Site to the Soil Receiving Site in order to ensure sufficient time to compare the soil from the proposed Soil Donor Site to the Soil Acceptance Criteria for an intended Soil Receiving Site.

For each Contaminant of Concern at a proposed Soil Donor Site that is a Disposal Site, the Donor Site LSP must compare the mean and maximum concentrations of such Contaminant of Concern with the Soil Acceptance Criteria for the Soil Receiving Site. Without limiting the foregoing:

- The mean concentration of each Contaminant of Concern in soil from the Soil Donor Site must be less than or equal to the corresponding Mean Acceptance Criteria for the Soil Receiving Site.
- The maximum concentration of each Contaminant of Concern in soil from the Donor Site must be less than or equal to the corresponding Maximum Acceptance Criteria for the Soil Receiving Site.

For each Contaminant of Concern at a proposed Soil Donor Site that is not a Disposal Site, the above-referenced comparisons must be conducted by the Receiving Site LSP.

c. Pre-Characterization Report

All Donor Site Pre-Characterization, including the comparisons described above, shall be documented in a report ("Pre-Characterization Report"). If the proposed Soil Donor Site is a Disposal Site, such report must be prepared under the supervision, and bearing the seal and signature of, the Donor Site LSP. If the proposed Soil Donor Site is not a Disposal Site, such report must be prepared under the supervision, and bearing the seal and signature of, the Receiving Site LSP.

The Pre-Characterization Report may incorporate the results of acceptable Phase I and Phase II Reports prepared with respect to the Soil Donor Site, if the Soil Donor Site is a Disposal Site. If no such Phase II Report has been prepared with respect to a proposed Soil Donor Site that is a Disposal Site, the Pre-Characterization Report shall be accompanied by a Release Abatement Measure Plan ("RAM Plan") prepared in accordance with 310 CMR 40.0440 describing the proposed removal of soils from the Soil Donor Site. The Pre-Characterization Report shall demonstrate that the importation of soils from the Soil Donor Site to the Soil Receiving Site is consistent with the applicable Soil Acceptance Criteria, COMM-25 ACO and this Interim Policy.

The Receiving Site LSP must review any Pre-Characterization Report prepared by a Donor Site LSP and confirm, pursuant to a Receiving Site LSP Approval, that such report adequately demonstrates that soils from the proposed Soil Donor Site are consistent with the Soil Acceptance Criteria for the Soil Receiving Site.

The Project Proponent shall submit the Pre-Characterization Report and any required Receiving Site

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LSP Approval to the Department under the Release Tracking Number of the Soil Receiving Site no fewer than 30 days prior to importing soils from the proposed Soil Donor Site to the Soil Receiving Site. The Project Proponent shall also ensure that the person performing response actions at a Soil Donor Site that is a Disposal Site submits the Pre-Characterization Report and Receiving Site LSP Approval to the Department under the Release Tracking Number of the Soil Donor Site within the same deadline. See *Interim Policy* § III.24.

2. Soil Load Assessment

After establishing the acceptability of a Soil Donor Site pursuant to a Donor Site Pre-Characterization, the Project Proponent must continue to monitor the acceptability of soil imported from such Soil Donor Site to the Soil Receiving Site by means of the periodic sampling of soil shipments. This periodic sampling is defined in the Interim Policy as Soil Load Assessment. The Project Proponent must ensure that for each shipment of 25 yd³ of soil ("Sampled Soil Shipment"), at least one randomly selected grab sample of soil is analyzed (as specified in 310 CMR 40.0017) for each Soil Donor Site Contaminant of Concern in a timely manner. See *Interim Policy* § III.6.

The Project Proponent must ensure that the results of Soil Load Assessment are compiled and evaluated as an on-going check of the continued acceptability of the soil throughout the excavation and shipment process. The Project Proponent must ensure that adequate documentation of all Soil Load Assessment, defined in the Interim Policy as Soil Load Documentation, is prepared and submitted to MassDEP no later than 30 days after the relevant Sampled Soil Shipment has been placed at the Soil Receiving Site. All Soil Load Documentation must clearly identify, by reference to the relevant Bill(s) of Lading (included with Soil Load Documentation), what Sampled Soil Shipment it corresponds to.

The Project Proponent shall submit all Soil Load Documentation to the Department under the Release Tracking Number of the Soil Receiving Site. The Project Proponent shall also ensure that the person performing response actions at any Soil Donor Site that is a Disposal Site submits all such Soil Load Documentation to the Department under the Release Tracking Number of such Soil Donor Site within the same deadline. See *Interim Policy* § III.21.

The Project Proponent must ensure that Soil Load Documentation includes the following:

- Copies of Applicable Bills of Lading. The Soil Load Documentation must include copies of all Bills of Lading corresponding to the relevant Sampled Soil Shipment.
- Comparison of Soil Load Averages to Mean Acceptance Criteria. The results of 10 consecutive Soil Load Assessment samples shall be used to calculate an average (arithmetic mean) for each Soil Donor Site Contaminant of Concern in the soil being shipped from the Soil Donor Site to the Soil Receiving Site. This average shall be compared to the Mean Soil Acceptance Criteria that apply to each such Contaminant of Concern. If the average for any Donor Site Contaminant of Concern in any group of 10 consecutive samples approaches the Mean Soil Acceptance Criteria, shipments from the Soil Donor Site must halt until an enhanced sampling plan or other adequate measures, approved in writing by MassDEP, are implemented to ensure the Soil Acceptance Criteria are not exceeded.

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- Comparison of Grab Sample Results to Maximum Acceptance Criteria. The result of each Soil Load Assessment grab sample shall be compared to the Maximum Soil Acceptance Criteria for that apply to each Donor Site Contaminant of Concern in the soil being shipped from the Soil Donor Site to the Soil Receiving Site. If such sample result exceeds the Maximum Acceptance Criteria for any such Contaminant of Concern, shipments from the Soil Donor Site must halt until an enhanced sampling plan or other adequate measures, approved in writing by MassDEP, are implemented to ensure the Soil Acceptance Criteria are not exceeded again.

APPENDIX C

Public Involvement Requirements that Apply to Soil Re-Use Projects within one mile of an Environmental Justice Population

Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan

Policy # COMM-25-_____

1. Overview

This Appendix C ("Appendix C") to the *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the Massachusetts Contingency Plan*, Policy # COMM 25-_____, dated _____, 2025 (including all attachments, "Interim Policy") describes the public involvement requirements that apply to a Project Proponent of a Soil Re-Use Project that is within one mile of an Environmental Justice Population. These requirements are in addition to those described in Section IV.A.1 of the Interim Policy.

By the time any final MassDEP decisions are made as to whether to issue a COMM-25 ACO with respect to such Soil Re-Use Project, the surrounding community should (a) have been provided sufficient information to develop an understanding of the Soil Re-Use Project and any environmental burdens and benefits associated with it, and (b) have had a robust opportunity to provide input on any environmental burdens that the Soil Re-Use Project may impose on their community.

2. Early Engagement Prior to the Development of an EJ Soils PIP.

Without limiting the following, the Project Proponent should engage in early, pro-active, and intentional outreach to the surrounding community and its leaders as early as feasible in the development of a COMM-25 Request. This will likely occur prior to the development and approval of an EJ Soils PIP, as defined below.

3. EJ Soils PIP.

The Project Proponent must submit to the Regional Director for the MassDEP Region in which the proposed Soil Re-Use Project would occur, MassDEP's Director of Environmental Justice and the Bureau of Waste Site Cleanup Assistant Commissioner a proposed EJ Soils PIP prior to making the Public Notice described in Section IV.A.1 of the Interim Policy. The proposed EJ Soils PIP must incorporate the public involvement requirements described in Section

IV.A.1 of the Interim Policy, which apply to all proposed Soil Re-Use Projects, as well as the requirements described in Section 4 of this Appendix C. The EJ Soils PIP must be approved by the Department prior to the Project Proponent making the Public Notice described in Section IV.A.1 of the Interim Policy.

4. *Content of EJ Soils PIP.*

An EJ Soils PIP must include:

- a. a plan and schedule for public involvement activities, including issuance of public notice, circulation of a fact sheet and project information, scheduling of public comment periods, scheduling of public meetings, if public meetings are requested, and a schedule for response to comments;
- b. a list of community participants ("Soils PIP Circulation List"), compiled after consultation with the Regional Director for MassDEP Region where the Soil Receiving Site is located and MassDEP's Director of Environmental Justice, indicating to whom all written communications about the proposed Soil Re-Use Project (e.g. facts sheets, technical reports, permit and license applications, agency draft and final approvals, invitations to public meetings, and notices of opportunities for public comment) must be sent;
- c. a list identifying the languages spoken by 5% or more of the population in each impacted Census Block in any Environmental Justice Populations within one mile of the proposed Soils Re-Use Project and a list of significant disabled population(s), such as hearing or visually impaired persons, in any Impacted Census Block;
- d. a language access plan describing the process for (a) language translation of all vital documents for languages spoken by 5% or more of the population in each impacted Census Block in any Environmental Justice Populations within one mile of the proposed Project and (b) interpretation services, to be provided during the required public comment period and any public meetings;
- e. language describing the location and timing of at least one public meeting, if requested by the community, prior to the development of the Proposed COMM-25 Request at locations and times convenient for the community¹;
- f. a concise fact sheet describing (a) the proposed Soil Re-Use Project in plain language that is understandable to a non-technical audience to be distributed to community members and/or participants, (b) a description of the benefits and burdens as defined in the An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, Mass. Acts, c. 8, § 56 (2021), (c) a description of the public comment period described in Section IV.A.1 of the Interim Policy, and (d) a schedule and process for responding to public comments and incorporating such input into the final design and implementation of the proposed Soil Re-Use Project; and

¹ For best practices to ensure successful public meetings on a proposed Soil Re-Use Project, a Project Proponent should consult the guidance provided in *MassDEP's Environmental Justice Public Involvement Plan and Community Engagement Guidance*, dated December, 2022, as amended, including pages 12 to 15.

- g. language identifying the location of repositories of the final EJ Soils PIP and other information related to the Soil Re-Use Project that are accessible to the public, including project websites and locations in the community such as town/city hall, libraries, Houses of Worship, and cultural/community centers.

5. *Modification of Process to Reflect Prior or Parallel Public Involvement*

If a Project Proponent has already engaged in public involvement activities with respect to a proposed Soil Re-Use Project within one mile of an Environmental Justice Population that has adequately addressed all of the requirements of this Appendix C, the Project Proponent may request that the requirements of this Appendix C be modified to reflect such involvement in order to avoid duplicative efforts. MassDEP, in its sole discretion, will make a determination as to whether the prior public involvement has adequately addressed the need for robust and transparent public communication and participation in the project as required under Appendix C. In providing an exception for Project Proponents from the requirements of Appendix C, MassDEP shall take into consideration any concerns raised by citizens in the EJ Population area or their representatives about the past public involvement process and about environmental burdens that may be posed by the Project. In making any such request the Project Proponent shall demonstrate that the requirements of the second paragraph of Section 1 of this Appendix have been reasonably satisfied with respect to the proposed Soils Reuse Project.