

00:00:00.000 --> 00:00:00.880

Keith Prince

Good morning, Anna Maria.

00:00:08.650 --> 00:00:11.360

Neil Rivers

Good morning, everyone or good afternoon, I should say.

00:00:12.830 --> 00:00:13.620

Jordan, Tyrone [DEP]

Good afternoon.

00:00:14.010 --> 00:00:16.080

Morris, David

Good afternoon.

00:00:16.150 --> 00:00:16.760

Penaherrera, AnnaMaria [DEP]

Afternoon.

00:01:59.080 --> 00:11:20.080

Andrejko, Judith [DEP]

Welcome everyone. We're going to be giving it probably about another 30 seconds to a minute as I see people keep popping in. Hang in there and we'll be with you in a couple minutes. Thank you for your patience. Please mute your mic. We're going to start with first, a general disclaimer for this presentation. The information within this presentation is intended to facilitate discussions on various existing and potential regulatory mechanisms. No final decision regarding this information is expressed or implied by the Department.

And with that I would like to welcome all of you this afternoon. My name is Judith Andrejko, the regulatory officer for the Site Remediation and Waste Management Program. I'd like to welcome you to the first meeting of our stakeholder meeting series for P.L. 2019, Chapter 397, known as The Dirty Dirt Law. I'm your moderator for today's presentation. I would ask that you please keep your microphone muted throughout the presentation.

I would like to discuss a little bit of the Microsoft Teams logistics. We ask that you only use the chat function if you're experiencing technical issues--if you're having issues with your audio, with your video or if you can't see the presentation, something like that. We are not going to be handling any chats or discussions in the chat function. Today, we'd like to have everyone participate verbally so that we can make sure that everyone is engaged in the main conversation.

We would ask that you use the raise your hand function at certain parts of the presentation this afternoon. We're going to have designated times when we're going to have back and forth. We would ask that you raise your hand if you have a comment or a question.

After each particular presentation concludes, I'll be selecting a person to speak. When that person is selected to speak, we would ask that you unmute your microphone and lower your hand when you're called upon, in the interest of time. A DEP staff member may interject in the discussion with a cue to keep us on schedule. As of right now, we're scheduled from 1:00 o'clock until 4:00. We would like to make sure that we wrap up discussion points and move on to next presentations, so that we can make sure that we cover everything that we set out to do for this particular meeting.

Also, we're going to be having poll questions. For those of you that have been through some of our stakeholder meetings before, this might ring familiar throughout the presentation. We want to keep track of your opinions, because the reason that we're meeting is we want to know what you think. This will appear as a link to each poll question. You'll be directed to a main question sheet that is what our chat function is going to be used for today. You'll be able to access the poll questions through the links that will be added in that chat.

We ask that in your responses you type your name and affiliation before making any comment within the Q&A to ensure accurate notes. We want to make sure that we know who you are, who you're representing and who you're here for. You can vote by selecting an option at that link and selecting submit vote. You can change your vote as many times as you like, but only your final choice will be recorded, because there's a decent amount of questions.

We'd like information from you to make sure that we're learning all of your opinions and just want to let you know that the poll questions will be open for answering for the next 24 hours. If you feel like you're a little bit rushed if you're only given about a minute and you'd like to add more later, you can feel free to click on the link for this meeting, go into the chat function and click on the links for the poll questions and you'll be right back in the point where you can give us your opinions and thoughts.

At this time, I would like to introduce our team members who are working on the rule making this time around. There's myself, from the Assistant Commissioner 's Office, Judith Andrejko. There's our rule manager, Anna Maria Penaherrera, from our Division of Solid and Hazardous Waste. We have Deputy Director Scott Brubaker, Bureau Chief Seth Hackman, Section Chief Jill Aspinwall, A-901 Supervisor Roxanne Feasel, and Environmental Engineer Dan Murray.

From our Division of Waste Enforcement, we have our director, Mike Hastry, Bureau Chief Bob Gomez, Bureau Chief Tom Farrell, Transportation Oversight Unit Supervisor, Lawrence Lewis and from the Division of Law, we have Deputy Attorney General Dave Tuason and Jacob Umoke as well as Investigator and A-901 Administrator, Steve Hulse.

Now, today, we have a few goals for this meeting and they're relatively simple. We want to hear from you--the industry experts, our local and county partners and our regulated community on how we can improve our roles. Our experience is that the final product is often far superior if inputs are received from individuals with diverse perspectives. This is where you all come in. As our moderator, I will provide direction to ensure that all of you present have an opportunity to provide input and comment and to keep us on track.

We're going to be meeting more. This stakeholder process will facilitate the development of a regulatory proposal or a rule proposal that will eventually be published in the New Jersey Register at the time of the new New Jersey Register publication.

We will then have 60 days for a formal comment period within that comment period. We're going to most likely have a public hearing so that you would be able to verbalize your concerns and questions for the Department in a formal manner. Throughout that 60-day comment period you'll provide us your comments on the proposal. After that period, in time, we will work on our response to comments which will then be published as a rule adoption within one year of the date of proposal and this is all in conformance with the Administrative Procedures Act. At this point in time, I'd like to introduce Division Director Michael Hastry, who's going to go to a discussion about our FAQ.

00:11:22.360 --> 00:25:59.490

Hastry, Mike [DEP]

How are you folks?

Well, I'll back up a second here, before we get into the FAQ, let's talk about when the rule came into play. We're getting a lot of questions on it, so we put together A-901 guidance as well as responses to some potential questions that we have and our interpretation of the Law to begin with and we will talk about some of the specific aspects of that a little later on. But before we get there, I really want to just take a step back and kind of put this rule in perspective with what's going on in the big picture.

And the reality is here for some time DEP has been struggling with the issues of quality fill being placed and reuse throughout the state. The number of complaints we are getting has been increasing dramatically over the last few years and the last thing we want to do is to create additional remediation sites that have to be addressed just because someone thought they were getting some kind of quality product.

And there's a lot of reasons why; there's a lot of focus and why there's a lot of complaints regarding soil and fill materials. One is just it's much easier to get materials. The solicitation process, I can go on Craigslist, I can go here, I can go wherever I want cheap, I want free fill and lo and behold within 3 hours, a dump truck is at your property dropping material.

There's the financial aspect for misuse. I may be involved in the business. I get hired to remove material. From here, instead of disposing of it, I said, you know, I can clean this up a little bit and I'll sell it off as a recyclable material. I can either get it let it go for a cheap price or let it go for free and I've really made more money.

The other aspect is both DEP'S and the public's developing knowledge of the contamination issues that that these materials can have. DEP has been working in that aspect so we're kind of the victims of our own success with regards to that piece of it but the reality this all boils down to a lack of oversight and control regarding these types of materials and the industry in general. DEP has been working on this problem and the reality is, it's our job to ensure that if you're going to have soil, if you're going to reuse soils or recycled soils or you going to use fill materials throughout the state, it's incumbent on us to make sure that these materials are not contaminated and or the other, that not loaded with solid waste and debris, and rebar and broken glass and all the things that could be wrong with it.

And it follows then that the entities that are involved in handling materials have the requisite reliability, expertise and competency. In that reliability, expertise, and competency is really a catch phrase that's in the existing A-901 licensing. Rules of which this particular rule is the amendment to those existing rules. We got a tremendous amount of help from the State Commission of Investigation regarding our efforts here and they actually had 2 separate investigations. One followed the other, they came out with 2 major reports back in 2017 and the second one came out in 2019. These reports were really instrumental in helping us point out the concerns to the legislature that prompted this particular amendment, the soil and fill amendments to the A-901 rules.

We just have some quips from their reports-- unscrupulous operators profit by covertly dumping contaminated soil and construction debris. You could read the rest yourself. New Jersey lacks the

authority to properly oversee elements of its recycling industry. Unscrupulous individual's criminal records or ties to organized crime and they undermined the business interests of legitimate recycling enterprises that are trying to do the right thing and without a doubt, rings very true to us.

What that helps us to do was to create, to address, at least part of our overall picture which was to address not necessarily the quality of the material, but to address the entities involved in the businesses that deal with these materials. The A-901 program (901 was the original assembly bill number), A- 901 is a licensing background regulatory scheme. So, before you're allowed to enter or engage in these businesses, and the traditional businesses were hazardous waste and solid waste, this amendment now brings in soil and fill materials. So, if you're engaged in the business of soil and fill materials, you will now need an A-901 license and you'll have to go through the background procedures to get it.

And that's really looking at your fitness to be in the industry and that you have no major disqualifiers. The expertise, reliability, and competency to get into the business. In these amendments, though, since we had to open the statute and it's not like every day, we open statutes, particularly this one, which is longstanding. I think the original statute came out in the early 90s or late 80s. The Legislature allowed us to tweak a few items that we had that were not necessarily related just to soil and fill but to the A-901 scheme in general. We're able to clarify some definitions and do a few other things, and we're going to talk about some of those things later.

But again, they apply to all the regulatory scheme of the A-901 program, not just soil and fill materials. So, as I mentioned previously, DEP has been working on this on many fronts. We had already done a what we call it, it's an easy read Plain Reading, Fill guidance that we put together that's on our webpage identifying what is clean material, what is not clean, what is solid waste.

We put together a model ordinance--the soil and fill ordinance that we supply to the mayor of every municipality. One of the things that prompted this also was that when the SCI was doing their investigation. They noticed that for municipalities that had these ordinances in place the dumping didn't occur as frequently. We took a hint from that naturally and we decided to create a model ordinance which the municipalities could use and basically it requires that if you or if I'm going to import soil into the municipality, that I have to get a permit for it. But I also have to make sure that the material meets certain specs, particularly with regard to contamination levels and the quality. It's not just ground up construction and demolition debris, that it's clean material and it's not contaminated.

We also put together a major initiative called Guard Your Backyard which kind of took the easy read guidance that we had put out, and the model ordinance that we had put out, it kind of put it all together into this initiative that we did. We had Micro Web pages that also went out to all the municipalities explaining the difficulties that we're all having, identifying the need to ensure that the materials are clean and methodologies to help, too. Basically, have the municipalities help themselves in addressing some of these issues.

But we're also doing again, these particular amendments to A-901 are really just part and parcel to the big picture. But we're also considering, and we're pursuing these additional amendments to the change in the rules. And these don't require opening up the statutes themselves, they're just regulatory changes that we're going to make. And some of them may be to consider putting some kind of quality control assurance mechanism for our recycling centers. Right now, that's very limited, particularly for construction type materials that are sourced separately, that come into a recycling center, concrete brick block. Another some soils mixed in there right now. There are no controls as to what has to come in.

At what levels of contaminants can come into these facilities and there's no controls about what level of contaminants can leave the facilities. And to be fair to the industry, some of the facilities are smart, they

have already implemented some kind of controls of their own to reduce their liability. I'm sure they have customers that say look I need fill material, but I don't need it to be above the standards that it's going to be a problem for me. Some of them have been very good at doing this. The reality is that we have to make sure that everybody is good at doing this.

We're also considering soil blenders and soil manufacturers. They take soil, little bit of this, a little bit of that, mix it all together and they have a soil product that they sell. Right now, there's no regulatory requirements on these, at least from the waste perspective, there may be some water requirements. We're potentially considering making soil a regulated recyclable material. Whether it's a Class B or Class C to you know, depending on how we figured this out, but if we do that, then that brings all these folks into the regulatory mix. They'd be regulated as some type of recycling center and at that point we could also put some kind of quality assurance and quality controls on these facilities.

We're trying to deal with the existing recycling infrastructure. We're also trying to deal with the folks who are on the periphery of the recycling infrastructure. That's kind of where we are. I mean that's kind of the big picture of where we are, and what we're doing again. This rule is part and parcel to the overall strategy that we have to address this issue.

I've hopefully explained it enough to give everybody the big picture. What I want to do now is turn it over to Tom Farrell. We have multiple speakers coming down the line. But for this piece, I want to turn it over to Tom Farrell. Tom Farrell is the Bureau Chief for Solid Waste Enforcement. He has been the recipient of most of these complaints regarding soil and fill issues and believe me, they run the gamut from a little residential household who was dumped onto major facilities that have that have issues. Tom is involved in all aspects of it so we're going to get a little heavier into this particular rule, these particular amendments now. With that, Tom, I want you to take it away and tell everybody all the good news and what we have in store for them.

00:26:00.940 --> 00:32:41.460

Farrell, Thomas [DEP]

Alright thank you, Mike. We have been dealing with this for many years and the advent of this legislation is requiring a lot of nuances that we frankly haven't considered before so we really, really appreciate your input on this, and I want to reiterate what Judy said. We are not making final decisions here. The FAQ may have come off as if we did. But we needed something in the interim because we're getting so many questions.

We really want to formulate the final proposal after considering your input. So, unfortunately, the slides I have for you are kind of dull. I don't have any pictures here, so I'm just going to read them off, but I do expect a healthy exchange and we want to give you some time to have input. After I give you a few of these definitions, we're going to have some open discussion. And then after the open discussion, going to have some poll questions and then after the poll questions will have some open discussion again, so I think we'll have ample opportunity. We're here to 4:00 o'clock.

The definition of soil and fill recyclable material is out of the law itself. This is verbatim. It says soil and fill recyclable materials means non putrescible, aggregate substitute including but not limited to broken or crushed brick, block, concrete or other similar manufacturing materials, soil or soil that may contain aggregates substitute or other debris or material generated from land clearing excavation, demolition or redevelopment activities that would otherwise be managed as a solid waste and that may be returned to the economic mainstream in a form of raw materials or further processing or for use as fill material.

What is exempt? We have in our exemptions Class A facilities, (your glass, your paper, your plastic your metal), the Class B recyclable material--if and only if it's taken to a Class B recyclable facility. There's a

big distinction there and it says my said. We're going to try to open up the recycling rules to change the definition of soil and fill to be in concert with the Class B regulations so that we can put the QA QC requirements on the Class B facilities as well. Beneficial use material you can find the regulations for that at N.J.A.C. 7:26-1.7(g), And other material virgin quarry products like rock, stone, gravel, sand, clay, and other mined products.

From our Frequently Asked Questions, we are thinking of interpreting the Law to exclude from the requirement to obtain a registration and subsequent A-901 license for the management of clean--and when we say clean, we're talking about visually clean because then we followed by the word "uncontaminated" and when we're talking about "uncontaminated" we're referring to the definition of solid waste at N.J.A.C.7:26 -1.6(a)6. Those tie into the ingestion dermal and ingestion or and inhalation standard traveling Justin Dermal and inhalation standards for residential settings. If you are above those standards, you've triggered the definition of solid waste now you may note.

That this was changed came into being in September of 2017, but it referred to the direct Contacts or termination standards for residential settings were non-residents residential studies, whichever were more stringent. In May of 2021 N.J.A.C.7:26(d) remediation standards were revised to use the new terminology of ingestion dermal or inhalation again for residential settings. But this time, we made it so if you pass for residential you pass for all of them, but there's not that I think there's 8 compounds where the non-residential is different. It was less stringent than or were more stringent than the residential but now it's all even or anything, residential if you're above that you've triggered the definition for solid waste. OK, so we had clean uncontaminated undisturbed, virgin soil that would not otherwise be considered solid waste. This is being thought to be excluded. Also, if the person is claiming such things, they are able to demonstrate provide documentation that such determination was made based on sufficient and appropriate laboratory analysis of and proof of the source, physical and chemical properties supporting the exclusion.

Business concerns, and this is in the FAQs from 2021, business concerns dealing with excluded materials are and will be required to maintain proof that any soils or soil mixtures they haul or manage meet these criteria and do not contain concentrations of one or more contaminants that exceed the soil remediation standards or the inhalation exposure pathway and ingestion dermal exposure pathway as set forth in the immediate remediation standards and that's for their residential setting.

00:32:44.400 --> 00:33:13.860

Andrejko, Judith [DEP]

Thanks very much Tom. Right now, we just have a little extra refresher. We want to make sure that we have a back and forth with all of you and we get to hear your thoughts. Just as a reminder, please raise your hand and wait to be called upon, please remain muted until you're called upon and please, do not use the chat function for any comments--that is for technical questions and technical issues with Microsoft Teams only. Tom let's move back to you and start with the questions that we're going to discuss.

00:33:14.230 --> 00:33:34.420

Farrell, Thomas [DEP]

Sure. Should NJDEP include an exemption for businesses that deal with the minimum quantities? If so, what should be the parameters for this exemption? We love to hear from you. I see there's a hand up already so Judy, I'll let you take care of the hands.

00:33:34.520 --> 00:33:41.850

Andrejko, Judith [DEP]

Alright, you got it. First up is Rodger Ferguson, Rodger please unmute yourself and put your hand down and start talking.

00:33:43.610 --> 00:33:55.800

Rodger Ferguson

I think I can do all of that at once. One question for Mike came up in the earlier presentation. He made a statement that you don't want any additional remediation sites. Why is that?

00:33:54.620 --> 00:34:25.080

Hastry, Mike [DEP]

If we have a site that has no issues, and we bring material on there that now causes that site to be remediated we're not doing our job. I mean, the idea is to protect what's clean. We don't want to make things worse. We have enough work.

00:34:22.070 --> 00:34:22.460

Rodger Ferguson

OK.

00:34:25.700 --> 00:34:30.420

Hastry, Mike [DEP]

Sites that are already impacted we don't want to create additional impact sites.

00:34:30.590 --> 00:34:39.220

Rodger Ferguson

So, you're looking at the much broader perspective, not saying you don't want to give site remediation more cases as opposed to solid waste enforcement having the case.

00:34:39.670 --> 00:34:40.440

Hastry, Mike [DEP]

Absolutely.

00:34:40.660 --> 00:34:53.230

Rodger Ferguson

Impacted, so question for Tom. Is alternative fill material on a site remediation site given the same exemption as a beneficial use material?

00:34:56.620 --> 00:35:20.120

Farrell, Thomas [DEP]

I believe that question was addressed in the 2021 update of the soil and fill recyclable materials in my recollection, but you'd have to check that to be sure.

00:35:19.380 --> 00:35:22.700

Rodger Ferguson

It wasn't the guidance. I'm on the committee Tom.

00:35:22.430 --> 00:35:27.350

Farrell, Thomas [DEP]

OK, right so it will be consistent with the guidance. We're in or not.

00:35:26.170 --> 00:35:27.810

Rodger Ferguson

You OK, you're OK.

00:35:27.400 --> 00:35:27.810

Farrell, Thomas [DEP]

Here.

00:35:28.840 --> 00:35:34.670

Rodger Ferguson

I just you know for all the other 80 people on the group, time to consider that and--

00:35:34.490 --> 00:35:53.560

Farrell, Thomas [DEP]

I mean, my understanding is that we will try to be as consistent with the guidance as possible if there's a nuanced that you know, maybe those who put the guidance together didn't consider it with respect to this law. We may have to address it. But we're looking at all possibilities and we don't know exactly how we're going to end up at this point.

00:35:54.370 --> 00:36:18.410

Rodger Ferguson

I don't want to speak for solid waste and what they wanted to put in, but I believe it was consistent with the regulations, not the statute. Last question, are you proposing to include the new migration to groundwater soil remediation standards and what is defined as clean?

00:36:18.830 --> 00:36:30.760

Farrell, Thomas [DEP]

I'll take that. Right now, we're focused on the definition of solid waste. And as you know that definition does not include the migration to groundwater standards.

00:36:31.050 --> 00:36:36.890

Rodger Ferguson

Correct. Would be is that something that's on the table to change that definition.

00:36:37.680 --> 00:36:44.710

Farrell, Thomas [DEP]

Well, I think everything is on the table. I really can't give you a yes or no on that.

00:36:47.310 --> 00:36:48.030

Rodger Ferguson

OK, thank you.

00:36:50.720 --> 00:36:57.690

Andrejko, Judith [DEP]

Alright thank you very much. Next up is Wolfgang Skacel. I'm not sure if I pronounced your last name right.

00:36:59.420 --> 00:37:00.380

Wolfgang Skacel

Yes, you did.

00:37:00.680 --> 00:37:01.200

Andrejko, Judith [DEP]

Awesome.

00:37:02.420 --> 00:37:06.610

Wolfgang Skacel

I just don't know how to lower my hand at this point.

00:37:06.470 --> 00:37:07.610

Andrejko, Judith [DEP]

That's OK.

00:37:08.370 --> 00:38:34.610

Wolfgang Skacel

Looking at the first question, I would wonder if it would be DEP's intent to bring in like a landscaping company for example, somebody that might have relatively small quantities of topsoil available. You know in bulk would that be the intention of DEP? I would venture to guess that you know if a landscaping company had the ability to provide a source for the material and maybe receive this certification from their source that it was clean, they met the definition of what was clean that that would be acceptable. The other thing that I wonder about for example, in my own town, the town will produce topsoil for residents. I can go to my DPW yard and pick up topsoil in bulk. Are they now subject to this requirement? Will they also have to have certifications to show that their topsoil is uncontaminated?

00:38:35.940 --> 00:39:49.940

Farrell, Thomas [DEP]

You ask some very pertinent questions, which we are considering and hence the caption on this slide, should we have a de minimis? We recognize the universe of soil is incredibly large and the main focus of the SCI report was for illegal dumping of construction and demolition materials typically coming from New York and Philadelphia. We were looking at should we focus on the major problem without bringing in the little guy that you know deals with just a few cubic yards here and there of topsoil so that's really the basis of this question, is there a way we can just ferret out a smaller operator and how would we do that? We're not going to give you answers today. I'm sorry if you don't look very satisfied. But we're asking questions and we want to hear your questions.

00:39:51.230 --> 00:40:01.240

Andrejko, Judith [DEP]

And we'd like to hear your ideas on some of the answers because we found that when we meet with you and you're dealing with this basically as the boots on the ground.

00:39:53.170 --> 00:39:53.700

Farrell, Thomas [DEP]

Yes.

00:40:02.130 --> 00:40:10.810

Andrejko, Judith [DEP]

There are other issues that come up that we might not know of and what we'd like to know what your perspective is on how we can make the whole thing a little bit better and easier to use.

00:40:14.110 --> 00:40:19.780

Wolfgang Skacel

Unfortunately, I have a little bit, too much experience with this. I worked there and dealt with it as well.

00:40:22.230 --> 00:40:23.330

Farrell, Thomas [DEP]

We have not forgotten.

00:40:23.860 --> 00:40:26.280

Wolfgang Skacel

Some of them you're probably still dealing with.

00:40:30.880 --> 00:40:32.410

Andrejko, Judith [DEP]

Alright, do you have anything further?

00:40:34.740 --> 00:40:35.160

Wolfgang Skacel

No.

00:40:35.910 --> 00:40:51.900

Andrejko, Judith [DEP]

Alright, thank you very much. Next up we have Neil Rivers. Hi Neil.

00:40:51.230 --> 00:43:49.940

Neil Rivers

Thanks everyone. I really do appreciate the Department 's willingness to reach out and to listen to the regulated community on this and look forward to the continued involvement. You know in answer to the question, I do think that there ought to be a de minimis quantity exemption of some kind and I know that the Department during the site remediation advisory group meeting had representatives, some of which are on this call, talk a little bit about that idea that managing and literally trying to license every pool contractor, landscaper, etc. could be a significant effort and in the FAQ I think that the Department provided some sense of quantities that might be a good working start.

I would just add that, and I mentioned this at the SRAG meeting, I would just add that there are engineering companies who are involved in investigations, geotechnical investigations of sites, due diligence investigations of sites where small quantities of soil waste or generated their drill cuttings. Often, they're just stored in drums and ultimately disposed of, but not always. Drum quantities might go to our roll off or something like that and I would think that those smaller types of waste quantities ought to also be provided with such a similar exemption. And just to add, I think the reason that I feel like come those engineering companies and I represent one lying in engineering, you know get themselves potentially into the licensing world. In this very small quantity, setting is the idea of brokering as it's defined under the legislation.

You know, we may do that due diligence project for a client and as part of the project have an A-901 license firm come in and remove 7, 8, 10 drums from a site for proper disposal, but because that contractor comes through our invoice we read that definition as us being a broker. I think that you know what I'm looking to try to set aside his in these de minimis quantities situations. You know that the engineer is not a broker. So hopefully that makes sense.

00:43:50.710 --> 00:43:56.420

Farrell, Thomas [DEP]

You'll see that very question on one of the poll questions, so you'll have an opportunity to weigh in there.

00:43:56.810 --> 00:43:58.830

Neil Rivers

We know how to answer, thank you very much again.

00:43:59.380 --> 00:44:03.340

Andrejko, Judith [DEP]

Neil thank you for your insights. Next we have Doug Urbanp.

00:44:01.210 --> 00:44:01.640

Neil Rivers

Sure.

00:44:06.210 --> 00:44:07.080

Doug Urbanp (Guest)

Good afternoon.

00:44:07.460 --> 00:44:08.540

Andrejko, Judith [DEP]

Hi Doug, how are you?

00:44:08.550 --> 00:45:29.480

Doug Urbanp (Guest)

Alright very good thank you. One of my questions here is your de minimis quantities, do you have any idea at this present time, on what would de minimis. You're going to classify this and the reason why I'm asking this is I currently run a landscape and construction supply yard here and we actually do process various types of material. One of them happens to be topsoil. We do a large amount throughout the course of the year of 1, 2, 3, 4 yard type quantities as well as larger quantities as well.

My question here is how are you going to require somebody to be able to control this or you know what? What kind of stipulations are you going to do with this as far as I'm telling a homeowner that you know if you need to get material, you need to call so-and-so because they have material that's been tested for environmental situations or concerns, I should say. I was just kind of curious to see how you were going to regulate what we're going to do with this.

00:45:27.660 --> 00:45:29.850

Hastry, Mike [DEP]

Regulate I don't think we're going to do with this.

00:45:30.640 --> 00:45:38.450

Farrell, Thomas [DEP]

Right so we don't know how we're going to regulate it and that's part of this process we're going through right now seeking your input.

00:45:31.280 --> 00:45:33.030

Hastry, Mike [DEP]

We don't.

00:45:40.110 --> 00:45:42.790

Farrell, Thomas [DEP]

We certainly have ideas.

00:45:42.260 --> 00:45:42.600

Hastry, Mike [DEP]

Right.

00:45:43.730 --> 00:46:26.610

Farrell, Thomas [DEP]

But I expect that we'll all consider your ideas as well in order to formulate the final idea. Come and put it out there formally so that people can formally comment on it through the Administrative Procedures Act but I understand your business concern. If it's any solace, I don't know if it is or not, but whatever requirements end up being put out there, your competitors will have the same requirements. And then it's up to enforcement to ensure that people are following the requirements otherwise, they're subject to fines.

00:46:27.710 --> 00:46:28.370

Doug Urbanp (Guest)

Alright well.

00:46:27.920 --> 00:46:37.700

Farrell, Thomas [DEP]

The bottom line is the price of topsoil is probably going to go up. We recognize that's a possibility, depending on how all the rules shake out. We don't know how they're going to shake out yet.

00:46:39.820 --> 00:47:12.050

Hastry, Mike [DEP]

And Doug this is Mike Hastry and I wonder if you could help us? I don't know if you're typical of people in your industry, but what is the source of your material to begin with because that kind of plays into our thought process? So how do you generate your material? What is the initial source that you use to generate your soils and materials?

00:47:14.090 --> 00:48:28.240

Doug Urbanp (Guest)

First off, we bring in soils from different construction sites that have excess material on site and before we accept it in here, part of the protocol here is that I want to see environmental paperwork on this material before anything is brought in here just so I know that I'm not receiving contaminated material in here and then I have a problem with what do with it after the fact. All our soil I get tested on a yearly basis just to make sure that it that it does pass all the environmental concerns. I mean, I do supply a lot of the different types of environmental companies with material all the time for small quantities. Sometimes 50, 100, 500, 1000 yards in other words for them doing a remediation project. So for me to bring in contaminated material just doesn't help me out at all. These are some of the things that I'd make sure what comes in here is clean, so that I can turn around and also sell it as clean material as well.

00:48:31.670 --> 00:48:32.560

Hastry, Mike [DEP]

OK, thank you.

00:48:34.200 --> 00:48:37.220

Andrejko, Judith [DEP]

Thanks very much Doug. Do you have anything further at this time?

00:48:35.410 --> 00:48:38.480

Doug Urbanp (Guest)

Correct. No, I do not thank you.

00:48:38.630 --> 00:48:44.540

Andrejko, Judith [DEP]

Alright thanks. Next up is Tracy Straka. Hi Tracy, how are you doing this afternoon?

00:48:45.130 --> 00:50:15.310

Tracy Straka

Doing well. Thank you for doing this everybody on this call in the industry as a whole. I'm sure we all really appreciate your efforts to try and hear us out before just unilaterally doing things to answer the question. Yes, I do believe there should be some sort of a de minimis quantity. One of the things also that concerns me is in the proposed de minimis issue is the size of a truck and I don't think that should matter. Some people are small businesses and only owned one type of truck and whether they put the de minimis quantity or under it, even if it's in a bigger truck, it shouldn't matter. I think that's a low hanging fruit that can easily be addressed and then following up on what Neil River said about the de minimis quantities and generating drill cuttings and other such things, I guess the bigger question that I have is if you don't own trucks. If you're going to appropriate facilities or you're purchasing from the appropriate material suppliers just to do that as part of a larger contract, why should you need an A-901 to hire all of the night. No ones and I'm still wrestling trying to get my arms around that and I haven't heard about the thought process is because I'm a construction site, you have subcontractors. Then you have subcontractor's subcontractors, and you could be forcing 3, 4, 5 entities that don't own trucks, don't own disposal facilities, don't own fill sources to go out and go through this whole licensing project process just to finish a project.

00:50:20.970 --> 00:51:15.310

Farrell, Thomas [DEP]

Yeah, those are some good comments. I believe the concern with the capacity of the truck versus what's inside that truck is an enforcement facilitation issue. Where you know staff is driving along and they see a certain sized truck, they don't really need to be concerned with how much of that is filled with material so it's just an enforceability question. I think that's why that went that way. Whether it stays that way, of course, I don't know.

With regard to the multitude of contracts, requires more thought for us, I think. Now we talked a lot about it, but you know, I think if you wouldn't mind writing us a letter with your concerns laying out some scenarios. I think that could be very helpful.

00:51:16.420 --> 00:51:21.080

Tracy Straka

OK, who or which entity would you like addressed to or just go to this general website?

00:51:21.370 --> 00:51:35.750

Farrell, Thomas [DEP]

There's an email address we can give you at the end, if you can just send it there that would be very helpful.

00:51:37.520 --> 00:52:03.400

Andrejko, Judith [DEP]

And Tracy just to let you know that address is in the chat for us and it's soilandfill@dep.nj.gov, so, you

can either copy it from the chat or wait until the last slide and see it again there. Tracy, do you have anything else for us this afternoon on this point?

00:52:03.820 --> 00:52:06.860

Tracy Straka

Not on this particular topic. We'll see what the other slides are but thank you.

00:52:07.070 -->00:52:12.560

Andrejko, Judith [DEP]

Alright thanks, so much. Next is Shannon Burke from the Ocean County Health Department.

00:52:15.460 --> 00:52:16.260

Shannon Burk, OCHD (Guest)

Hi how are you?

00:52:16.620 --> 00:52:17.440

Andrejko, Judith [DEP]

Good how are you?

00:52:16.910 --> 00:53:18.460

Shannon Burk, OCHD (Guest)

I'm good just a question. We do enforcement on some of these complaints are smaller residential buildings where there may be soil piles. One of the sources that I hear often is from pool companies. You know they go to dig out a pool that's where the soil comes from. It doesn't seem like that's the type of soil that we're trying to regulate here, but in discussing minimum quantity, I've heard 20 cubic yards thrown around but I'm pretty sure a built-in swimming pool is going to be more than 20 cubic yards of dirt coming out of a residential property. I don't know if we could maybe go based on something sort of like what the average swimming pool would be as far as how you would decide on a de minimis quantity. I feel like a swimming pool sized amount would be reasonable. I don't know.

00:53:18.810 --> 00:53:49.030

Farrell, Thomas [DEP]

Well, you, you bring up an interesting thought I suppose it may be feasible. We'd have to explore it to have certain categories. For example, you know swimming pool demolition, here's your de minimis. Building destruction, here's your de minimis. You know that kind of thing because there are different concerns for those different sources. We have not really considered that. And I think we should talk about it more so thank you for that.

00:53:49.770 --> 00:53:50.230

Shannon Burk, OCHD (Guest)

Thank you.

00:53:51.970 --> 00:53:57.730

Andrejko, Judith [DEP]

Thanks Shannon. Next is Pauline Young. Hi Pauline, how are you?

00:54:07.420 --> 00:55:51.060

Pauline Young

Awesome. OK, so just give you a sort of background. I'm an attorney. I help a lot of companies with their A-901 applications. I know a lot of names and faces today so that's nice. I was sort of thinking of from an enforcement standpoint, how would an enforcement agent determine if they were pulling over a truck

that had a de minimis quantity or otherwise if you were thinking of--I almost think you have to look at de minimis on a one-on-one long-term basis. It might have to be like a yearly basis--I moved this many tonnage per year. Then the question I guess is you know why I pulled over. This guy, he doesn't have any A-901, there's no way to determine... he could say this is the only one I've done all year so it shouldn't be held against me. So I was sort of thinking on the same lines of a self-generator registration.

Obviously isn't it may or may not be self-generated so it might not be the same definition, but sort of the that short registration process as opposed to the 30 page A-901. A shorter registration process where you get almost like a de minimis decal for your vehicles and then perhaps do a just a very simple yearly update: This is my gross tonnage so I'm still under the exemption. That was sort of my thought process for it.

00:55:52.300 --> 00:55:56.070

Andrejko, Judith [DEP]

Kind of like a mini route, depending on the volume.

00:55:56.500 --> 00:56:39.130

Pauline Young

Right, it's something to make it faster and easier to get some compliance so that these people are out there, and that they're hauling some sort of soil and fill, but they don't need to go necessarily through the whole process, so they stay on your radar. And if one year they jump over the de minimis, then you can say you have to get back on it, you have to do the full A-901.

I don't know, it seems like some decal or something to get them/ to keep them recording their tonnages. Otherwise, there's no registration for decals. There's no CPCN. Small businesses aren't really keeping track of their tonnage if they're not required to.

00:56:39.300 --> 00:56:58.810

Andrejko, Judith [DEP]

So, you're looking for a similar registration system. But like a mini A-901 type of process where they would still be recording and tracking but maybe not as extensive because it's a smaller volume, is that where you're going?

00:56:44.670 --> 00:57:09.050

Pauline Young

Yes. Right. That's sort of what I'm thinking and the application processes exceeding a year so I'd like to fast track some people if you can for small amounts.

00:57:09.830 --> 00:57:11.800

Andrejko, Judith [DEP]

That's an interesting idea, thank you for that.

00:57:12.260 --> 00:57:13.340

Pauline Young

Sure, thank you.

00:57:12.870 --> 00:57:22.500

Andrejko, Judith [DEP]

Please, if you'd like to write down your ideas, email us to the soilandfill@dep.nj.gov.

00:57:22.960 --> 00:57:23.520

Pauline Young

Alright, you got it.

00:57:23.800 --> 00:57:28.600

Andrejko, Judith [DEP]

Alright. Next up, we have Bill Roberts. Hi Bill, how are you?

00:57:33.320 --> 00:58:16.280

Bill Roberts (Guest)

Hi. For the exemption for de minimis quantities, you're talking about strictly the A-901 license or are you talking about everything else downstream, including the testing and analytical 's and that kind of stuff? In other words, with somebody generating a few drums of material at a homeowner site wanting to bring it into a regulated facility. They would be exempt from the A-901 but they would not be exempt from the analytical requirements on that material, would they?

00:58:20.550 --> 00:58:26.640

Farrell, Thomas [DEP]

This is a point of discussion that hasn't been finalized yet. What do you think?

00:58:28.260 --> 00:59:32.510

Bill Roberts (Guest)

Well, being in the regulated community with whether it be a Class B or a beneficial use site, we require that all material coming in be subject to analysis. We do have small quantity generator. Say there's 50 tons coming from a swimming pool job it would be subject to a lot less analytical work than something coming from an industrial site. But it still would be required to be tested. I think that you know that that idea that it's de minimis and therefore exempt could still be subject to come? Cheating. I guess you might want to call it. I say the things that that The Dirty Dirt Law is trying to stop. And I am also very much in favor of a de minimis ruling, but the devil is going to be in the details.

00:59:35.570 --> 00:59:37.110

Andrejko, Judith [DEP]

the devil is always there.

00:59:35.570 --> 00:59:36.120

Farrell, Thomas [DEP]

Good point.

00:59:37.510 --> 01:00:18.680

Bill Roberts (Guest)

We believe that basically anything that gets excavated should be sampled and analyzed after the fact after excavation, not just based on what was sampled in the ground. There's a lot of cases where it's not the same kind of material depending on how they excavate, how they've gridded the material out, somebody scheduling trucks. There's a lot of room for error and so we believe that everything should be tested prior to being placed whether it be processed around process. I think that the testing has to be there, but unfortunately that's what I believe.

01:00:21.200 --> 01:00:21.960

Farrell, Thomas [DEP]

Good points.

01:00:22.720 --> 01:00:28.330

Andrejko, Judith [DEP]

Alright thank you very much Bill. Next up is David Morris, Hi David, how are you doing today?

01:00:32.230 --> 01:03:29.360

Morris, David

Very good, thank you very much, appreciate it. Good afternoon, everyone and thanks very much for obviously doing this and presenting this forum just to keep it tight. My answer to providing a de minimis quantity exemption would be yes. We do understand how getting the municipalities to self-regulate and self-deputize and regulating the container in which things are moved is very critical. It intervenes at critical aspects. It's very carefully crafted it's kind of like a recent state law that people find creative and objectionable. That's hitting the news headlines. But I would just mention how we were told Bill A153, having authority to establish this model ordinance for soil and fill material has yet to be authorized so it always raised an eyebrow that it had been released and established before it had gone through the Assembly and Senate.

The fill guidance is applicable to remediation sites, and it says it in the front. But everyone has been informally expanding it with what we're talking about here and the linkage of the definition. The guidance does have testing embedded in it, and inherent with it. I would suggest that you go along with this careful de minimis quantity exemption carve out. Really what would we do about a limited or abridged testing requirement. Would that be a presumption of clean if it's minimum quantity exemptions.

I'm not sure about whether I agree for a blanket municipal exemption or presumption of cleanliness for material. I have professional skepticism on that point. I can see if you take a lot of material from a municipal source, and it tests bad later. Then there's going to be some heartache. You can have many small bad loads representing a chronic exposure or chronic spread, but be careful regulating all these small lawn mowers, not cars or larger. You know issues of larger quantities being very acute issues that do hit the headlines.

The last thing I would say is possibly there should be more than 2 categories. It shouldn't just be de minimis and fully regulated. Maybe there's an interim kind of a statement because it really comes down to how do you prove in testing and certify that something is possibly clean? And lastly, I would make a suggestion that excludes drum materials. Mass quantities of dirty unregulated dirt are not being made into a mountain in 208-liter aliquots.

01:03:32.710 --> 01:03:33.320

Farrell, Thomas [DEP]

Some could.

01:03:32.860 --> 01:03:33.310

Morris, David

Thank you.

01:03:34.130 --> 01:03:35.130

Farrell, Thomas [DEP]

Thank you, that was good.

01:03:44.480 --> 01:03:50.430

Andrejko, Judith [DEP]

Next up is Michelle Zolezi. Is that how you pronounce your last name?

01:03:51.100 --> 01:03:53.510

Michele Zolezi

Yes, perfect job. Thank you so much.

01:03:53.690 --> 01:03:54.700

Andrejko, Judith [DEP]

Awesome, how are you?

01:03:54.960 --> 01:04:53.740

Michele Zolezi

Very good, how are you today and thank you. For those of you who don't know me I have been in the environmental industry for a long time. I am the general manager for Pure Soil, which is a materials management company, which owns a Class B facility and I also do a lot of work. I have worked with the Department on model ordinance and things like that, so most of us here have worked previously so for simplicity to answer your question. Yes, I think that there should be at the minimum quantity. I think the launch of us complete industry has stuff in some of like whether it's Commerce and Industry or UTC or there's...Association. We kind of came up with a very simple just to put numbers in there. Is it nice to have 100 cubic yards? Which typically are creates 250 times give or take or maybe one difference? Now I realize that everybody is getting into the detail the 10,000--

01:04:52.230 --> 01:04:55.300

Andrejko, Judith [DEP]

Your audio keeps going in and out a little bit. I'm sorry.

01:04:54.450 --> 01:05:17.340

Michele Zolezi

These products or those in any industry there doing work. We're also talking on every single level, or you may have owners or things like company like that. Just individuals that are looking to move material, do at home project and things like that. I don't think it's natural talent but realize that when you start to focus--

01:05:18.310 --> 01:05:22.550

Andrejko, Judith [DEP]

Michelle, your audio keeps going in and out a little bit.

01:05:23.150 --> 01:05:24.990

Michele Zolezi

Oh no, I apologize, how's that?

01:05:24.590 --> 01:05:32.810

Jordan, Tyrone [DEP]

I'm sorry, Michelle, you may have to turn your camera off but leave your audio on and that might help the buffering issue.

01:05:33.210 --> 01:05:34.230

Michele Zolezi

How's that working?

01:05:34.050 --> 01:05:35.360

Jordan, Tyrone [DEP]

That sounds good. Thank you.

01:05:35.450 --> 01:05:36.530

Michele Zolezi

Oh, I apologize.

01:05:36.670 --> 01:05:37.170

Andrejko, Judith [DEP]

OK.

01:05:38.500 --> 01:06:22.470

Michele Zolezi

I'm not sure where I cut off that or where I broke up and I apologize for the bad connection. But just simply overall I think that there should be a number. I think a bunch of us in the industry had kind of commented on 100 cubic yards typically from one particular source realize that more often than not. There are some projects that are from owners and municipalities, and things like that, so there may not be a need to do something significant sample. I think that best professional judgment used as well. Of gases question do we think they're in a spot. I would say yeah, and I would drop their cubic yards.

01:06:23.470 --> 01:06:32.500

Andrejko, Judith [DEP]

OK, 100 cubic yards, got it. Alright, thank you very much. Next, we have Robert Lippencott. Hi, Robert how are you?

01:06:34.080 --> 01:06:36.210

Lippencott, Robert

Hello, how is everyone today?

01:06:36.670 --> 01:06:37.970

Andrejko, Judith [DEP]

As well as can be expected.

01:06:36.920 --> 01:11:26.450

Lippencott, Robert

I know you can't all answer, but I'm sure everybody is doing fine thanks. Thank you so much for doing this. It's a very great way to provide input and share information and I appreciate it. Some people gave background, I'll give a quick background. I've been in this industry for almost 34 years in New Jersey doing site remediation primarily, but I focused on hazardous waste disposal and hazardous waste and waste disposal in general. And I've got a PhD from NJIT and Rutgers and I am on the Science Advisory Board for 10 years working on different statewide issues for the Commissioner's Office.

I think there's a lot to talk about here. I don't want to get off topic and I want to be very quick, so I just want to mention the to answer the question. Yes, I do agree that there should be some de minimis quantities identified and from the different comments that I've heard I would say I'm not sure that they would tie necessarily just to the volume of material. It would be more where it's from and I think that there are some examples that we have, I feel in some ways like I'm reliving history with RCRA and some of the issues that we went through with the solid and hazardous waste amendments and having to define the environmental media rule and the contained-in policy, and some of these things to get around some of the unintended consequences that the regulation made.

And it impacted remediation as a result and so I think that those are considerations and some of the history is valuable to understand how we might want to look at this--for one thing generator knowledge and the expense of sampling that was considered as part of record and that's why you don't have to

sample for every ounce of material or every batch of material. You can understand your material from a source and so residential property without development, for instance, is a source definition and so I think that versus an industry industrial site. And I think some of you haven't indicated those types of differences. I think that's important. I think to consider in the mix, as well as de minimis. I think overall de minimis quantities are a good idea across the board considering also the whole intent of this law in the first place. I think we want to be cautious about trying to turn it into regulating every ounce of material from every site. I don't think that's the intent of the law.

The other the other thing I would say is that there's a difference between the right now, we're prospectively thinking about future regulations and then there's the retrospective and right now. We have or at least the current the interim I should say and right now, we have interim Q&A answers that seemed to me to be focused on some relatively minor issues and it is a little unsettling for us in the engineering and sciences and consulting business. One of the Q&A answers regards an engineer with rock cores, and we'd be subject that. I know we're talking about prospective rulemaking, but maybe the interim guidance can consider this de minimis issue a little more carefully because I'm not sure that that's really the issue in the state, rock cores from an investigation site. I mean, I just think that's it's granular for the rule and for the intent. I think in general the idea would be that while we're talking about future, the interim conditions and especially since the Department is moving ahead apparently with enforcement under the law before rules come out, that maybe these Q&A answers can consider these de minimis issues a little more carefully because the rulemaking will take some time.

Finally, I would just say there was a comment earlier about engineers being brokers. I think maybe we'll tackle that question here in a little while, but I don't interpret it that way in the rule. The statute defines it as being that I'm not sure that was the intent. I'd like to hear and hopefully discuss that a little bit more. Thank you.

01:11:28.020 --> 01:11:37.180

Andrejko, Judith [DEP]

Alright Robert, thank you very much. Next is Caleb Janho.

01:11:41.890 --> 01:12:18.050

Caleb Janho (Guest)

Hi. We work in the soil and topsoil blending industry, move fill dirt around the state of New Jersey, produce and sell topsoil also. One of the questions that we had is the intention of this, to shift the assumption that all dirt is clean into something where all dirt is dirty and has to be proven clean. I know it's not really an answer time, but it seems like it's going that way. And that kind of shapes how everything else will be viewed going forward as different rules are being made.

01:12:22.870 --> 01:12:26.150

Farrell, Thomas [DEP]

Mike, do you want to take that one or I can jump in if you'd rather?

01:12:30.190 --> 01:16:11.580

Hastay, Mike [DEP]

No and yeah, there's a few components to that because I understand that this amendment doesn't necessarily deal with particular material. It's dealing with entities engaged in these businesses. You are engaged if you recycle/reuse this material. If I sell it, if I broker it, if I transport it, if I process it. If I do all these things or any one of them, theoretically, this law applies to me, it's a very expansive rule. It has some limitations based on the definition of the material, but that's not where we're really going to ultimately clean up and make sure that soil and fill materials meet all the standards. It's difficult to try

and have this one rule accomplish all those things, so it's different pieces. This is just a piece of the big puzzle, but the premise here is that it's not really looking at whether the material is clean. It's dirty meaning the material was a solid waste to begin with.

This rule doesn't really apply because the existing solid waste A-901 requirements apply. If you were handling solid waste material, you need a solid waste A-901 license. This rule is geared to recycling of the material, so if I'm recycling this material, I need this license. Doesn't really talk about contamination perception, that's what we ultimately have to define but this, where we're trying to bring in the expansiveness of this rule. Don't get too caught up with regards to is the material clean, is it uncontaminated, is it below residential, is it above commercial or industrial standards. That's not really the focus here, the focus is, I am in the recycling business in some form or another and I deal with soils and I deal with fill material. If I'm a small entity, do I really need to go through this whole background process? That's really what this rule is. And it's difficult not to go down that rabbit hole and say it's clean. It's not clean. It's this. It's that it's this--but that's not what this rule was really designed for. This rule is designed for if you're in this type of business, you're in. We're trying to figure out who should be out.

01:16:13.480 --> 01:16:38.430

Caleb Janho (Guest)

So, it's more geared towards regulating the entities themselves then? Taking care of dirty dirt per say, because, you could have a trucker that just gets hired to move dirt around the state, which I know in North Jersey was a major issue and they just dumped it. Somewhere, there probably wasn't anybody who would qualify under what I'm now understanding was the intention.

01:16:24.270 --> 01:16:25.090

Hastry, Mike [DEP]

Absolutely.

01:16:39.430 --> 01:17:06.420

Caleb Janho (Guest)

Of handling material because nobody recycled, they got taken somewhere, just got dumped, that made a huge issue for a lot of people. Nobody took it in, recycled it, and then shipped it out. Which I feel like just being in the industry is where most of the Dirty material that doesn't go where it should get handled. It doesn't really accomplish helping to clean up the State or stop dirty material from moving around if it's not really about the dirt, it's more about the entities.

01:17:06.760 --> 01:17:07.240

Hastry, Mike [DEP]

Yes.

01:17:11.700 --> 01:17:14.310

Andrejko, Judith [DEP]

All right, Caleb do you have anything further at this point?

01:17:15.650 --> 01:18:19.240

Caleb Janho (Guest)

I guess on the de minimis quantities, if there is a de minimis quantity that's carved out and you have these soil recyclers/dirt recyclers taking material in and they handle 1000 yards at a time. Let's say you say anything under 100 doesn't need to be tested. Why would the recycler want to take that risk now of taking in untested material when everything else that they take in is tested? Is that going to start pushing these smaller quantities out into small markets that could be farms? It could be small mom and

pop places. And then that material starting to get moved around with no regulation. Nobody is keeping an eye on I guess that would be my concern where that de minimis is set. But we don't want to be overbearing on a pool contractor, but is that pool contractor digging in Hunterdon County or are they digging in Jersey City? Your risk is very different between those 2 but if it's a flat blanket rule, you may be missing a lot.

01:18:19.520 --> 01:18:56.950

Andrejko, Judith [DEP]

Well, what, if we were to do something like that? What kind of documentation do you think would help, what information do you think would be defining in a separation of different kinds of material from based upon location, like basically what kind of paperwork or record keeping do you think would work to help delineate that?

01:18:57.870 --> 01:19:20.900

Caleb Janho (Guest)

Well, the answer to that is going to be built on the answer to the first question so if you don't have a soil or recycler that's in the loop, there then it's just an excavator and a pool company and wherever they're taking it so whatever we set doesn't matter if none of them are held to this new A-901 or whatever it gets turned into when it's final. None of them are required to have any of this so.

01:19:21.420 --> 01:19:24.930

Andrejko, Judith [DEP]

Well, what information would you want to have from them?

01:19:25.920 --> 01:20:29.070

Caleb Janho (Guest)

There had to be a testing criterion set. I don't know if it's a sliding scale like the clean fill guidance has but you have to go back to pretty much presuming every all material over a certain quantity is contaminated, you have to show me that it's not. Test it at a certain quantity tests per cubic yards and then they would have to present that documentation, which is going to become really—I don't want to say overbearing but it's a big layer to put on top of most of these smaller guys that outsources small quantity. Coming out somebody might do 500 pools in a year. Well, there might be 50 cubic yards per pool. Still, a lot of material but. How is that set? Well, this is hard to give that answer, well this is still in the formulation prospect because it gets really overruled sell/tell somebody one test per load. That's a lot of money if you're only taking out 3 or 4 loads for a pool, but if you're taking 1000 loads off at job site now that's more than it's going to cost to get rid of the dirt.

01:20:30.010 --> 01:20:30.460

Andrejko, Judith [DEP]

OK.

01:20:30.100 --> 01:20:34.530

Caleb Janho (Guest)

It's a tough answer without understanding the premise of "we're not really regulating dirt here."

01:20:30.170 --> 01:20:30.440

Farrell, Thomas [DEP]

Right.

01:20:35.150 --> 01:20:37.740

Caleb Janho (Guest)

For regulating the entities.

01:20:39.260 --> 01:21:06.750

Farrell, Thomas [DEP]

Right but if you were excluded, question 11 of the FAQ states that business concerns dealing with excluded materials are and will be required to maintain proof that any soils or soil mixtures they had or managed meet the criteria and do not contain concentrations of one or more contaminants that exceed the site remediation standards, so you know, right now you know at least with the FAQs out there were-

-

01:20:39.440 --> 01:20:39.780

Andrejko, Judith [DEP]

OK.

01:21:07.450 --> 01:21:15.880

Farrell, Thomas [DEP]

Cognizant of the need to have some proofs out there, so how we define that in regulation is what we're trying to come up with.

01:21:20.420 --> 01:21:47.460

Andrejko, Judith [DEP]

And if you have any particular ideas on what you think some of that information might be even if you go down to a really granular level. Please email us that information because we love to know your viewpoint on it, because that gives us more to consider and it gives us more information to think about to see what would work better in the regulated community while we also protect the environment.

01:21:45.940 --> 01:21:47.460

Andrejko, Judith [DEP]

Do you have anything further on this point?

01:21:48.610 --> 01:21:50.050

Caleb Janho (Guest)

No, that's all thank you.

01:21:50.180 --> 01:21:55.330

Andrejko, Judith [DEP]

Alright thanks, so much. And next we have Anthony Russo. Hi Anthony, how are you?

01:21:57.090 --> 01:22:14.520

Anthony Russo

Good afternoon, everyone thanks for the opportunity. Before I share my views with the de minimis, just a question for I guess Mike and Tom and you Judy? How many registrations did Department receive. Does anybody have an idea of what the universe is?

01:22:15.420 --> 01:22:17.860

Andrejko, Judith [DEP]

Yeah, I was going to toss to either Mike or Anna.

01:22:22.100 --> 01:22:26.990

Penaherrera, AnnaMaria [DEP]

Hi, this is Anna, so we received a little bit over 700 registrations.

01:22:27.440 --> 01:22:47.550

Anthony Russo

OK, just a question and I'll get into the de minimis views, but I got a couple calls last week from a couple of members that relate to the registration process and they were wondering if they submitted their registrations. Now would there be any consequences--is the window still open to submit a registration?

01:22:48.840 --> 01:23:15.730

Penaherrera, AnnaMaria [DEP]

The registration period is over for the soil and fill registration application. That document was posted on our website. However, it was taken down because the deadline had reached up until the October 14th period. People who are engaged in the soil and fill industry are no longer able to apply for the soil and fill registration so at that point they would have to determine whether or not an A-901 license is applicable to them.

01:23:17.640 --> 01:23:21.350

Anthony Russo

OK, so as far as they can submit the registration, we get simplicity.

01:23:23.170 --> 01:23:23.660

Penaherrera, AnnaMaria [DEP]

Correct.

01:23:23.580 --> 01:23:39.350

Farrell, Thomas [DEP]

But they should also be aware there's a grace period. I think it's as of January 14th of 2022. They cannot continue that business without the A-901 so you know they have some work to do.

01:23:40.150 --> 01:23:53.920

Anthony Russo

Yeah, and that was another question that I had. I was looking at the FAQs that basically says come the middle of January, you need to either have the A-901 or the registration so if they missed the registration deadline, they wouldn't be able to operate, correct?

01:23:54.350 --> 01:24:02.000

Farrell, Thomas [DEP]

They would have to subcontract to an A-901 transporter/processor/broker whatever they're doing.

01:23:57.670 --> 01:24:32.640

Anthony Russo

OK. No that's helpful thanks. I guess the on the de minimis side and needless to say this is and maybe I could speak for most of the Association reps on here. I know from CIANJs perspective, this has been an issue that definitely got quite a lot of people's attention. Few of our members are landscapers and one of the things that we went through is that 100 cubic yards number that's in the FAQs. I know a lot of them would be comfortable with 200 so for whatever that's worth.

01:24:03.250 --> 01:24:03.690

Farrell, Thomas [DEP]

Yes.

01:24:32.700 --> 01:24:39.350

Anthony Russo

I mean that's not to say that all of them would be happy with 200 but that's different feedback from them.

01:24:38.630 --> 01:24:44.110

Andrejko, Judith [DEP]

Anthony what would be the basis for the 200 thought--this is just Judy asking.

01:24:45.280 --> 01:25:11.260

Anthony Russo

You know what Judy I don't know if other landscapers are on the call right now, but I can deal with Gail Wolcott, who runs the New Jersey Landscape Contractors Association, so she's not on your stakeholder list. She should be. It comes from her, and I could follow up with her to get more specifics on that, but again when we were going through the FAQs, that was one of the things that she brought up is if we could increase it to 200.

01:24:45.850 --> 01:25:12.880

Andrejko, Judith [DEP]

OK. Great. Good to know.

01:25:13.240 --> 01:25:31.640

Farrell, Thomas [DEP]

Great so Anthony if you have more than one member with that opinion that would be helpful. There's always going to be outliers that we can't make everybody happy, but you know if there's a consensus of a bunch of people that feel that way that would have more sway in our consideration.

01:25:32.100 --> 01:26:01.280

Anthony Russo

No, I appreciate that, and I will definitely share that with you. If there's still a lot of confusion out there with this whole issue and again full transparency here, you're probably aware and I don't know if Mark Pedersen is on, but I did speak with the commissioner; I did engage Senator Smith to try to maybe do a couple of amendments to clean this up. We're going to be subject to this and I know that kind of runs on a parallel front here from the stakeholder process, but I just wanted to make you guys aware.

01:25:33.580 --> 01:25:33.950

Farrell, Thomas [DEP]

Yeah.

01:26:01.600 --> 01:26:47.590

Anthony Russo

That whether we can get it done through lame duck or maybe, as soon as the new legislature is sworn in. I know Senator Smith is anxious to kind of help clear up a lot of things here because again we were talking about the de minimis and I'm sure you're going to cover some other things later, but you know everything from due diligence to attorneys, engineers, you know companies that really don't get that involved in the whole term with broker consultant. It's created a lot of confusion. I think what you're going to see happen is people, submitting information there--maybe they're not subject to the

requirements, so that's why I wanted to get a sense of...700 does not seem like a lot. I don't know if the Department has an opinion on that. That doesn't seem like a lot of registrations. But I don't know again what you guys think.

01:26:49.680 --> 01:26:52.390

Andrejko, Judith [DEP]

Alright thank you for your points, it's very helpful.

01:26:51.280 --> 01:26:51.630

Anthony Russo

Yeah.

01:26:53.370 --> 01:26:55.120

Andrejko, Judith [DEP]

Do you have anything further right now?

01:26:55.490 --> 01:26:59.590

Anthony Russo

No, just again, I appreciate the opportunity going forward working with everybody on it.

01:27:00.100 --> 01:27:05.210

Andrejko, Judith [DEP]

Sure, same here. Next up Neil, welcome back Neil Rivers.

01:27:08.250 --> 01:28:42.770

Neil Rivers

Thank you and I promise to keep this quick, but you know, Robert Lippincott's comments caused me to clarify a couple of things and, really Mike Hastry, I think you did it for me, but I just want to re-emphasize my concern and I am not a lawyer, and I don't want to practice law, but as attorneys, we had to look at the legislation. You know the definition of broker is broad. In my experience with the Department in the past that I think during recent discussions. I have heard essentially if you are in the money trail, you could be subject to these rules, these requirements and by that, I mean in my case that I used earlier, several drums of drill cuttings. Perhaps that you know, I hire an A-901 licensed contractor to remove on behalf of my client. Whether I marked their charge up, whether I make a profit on that or not, if that bill flows through me the interpretation is that you know our firm is being a broker and so that's why I think the idea behind the de minimis quantity exemption for these you know very small cases makes great sense that's all I had.

01:28:41.890 --> 01:28:42.320

Farrell, Thomas [DEP]

Right.

01:28:42.820 --> 01:28:43.310

Neil Rivers

Thank you.

01:28:44.270 --> 01:28:48.950

Andrejko, Judith [DEP]

Alright, thanks Neil. Next, we have David Morris. David, welcome back.

01:28:51.270 --> 01:30:37.950

Morris, David

Yes, thank you very much. Sorry about that. I didn't introduce myself before, I work for trust for tectonic engineering and I'm a trustee of the LSRPA Association. In a prior lifetime I used to work for a larger entity and was very engaged in soil and fill. It's interesting to hear this you know; I'm very concerned about the practicalities of doing this whereas what I'm hearing from regulators. It's about following the larger loads. Following the revenue and where people do harm in acres rather than cubic feet and you know for me the way that I suppose that I'm hearing now a question is this driven by the emphasis on significant quantities, and I would say no it isn't not yet, and it's also focused on test levels in. And no not really from what I'm hearing we're looking to deemphasize that. So really, it's an emphasis on people based upon what they do, and how much they move so how can we emphasize the testing and make it a little easier? I would propose maybe the focus on the capture of the business units bindings material quantities for it's the big quantities that are the primary concerns that we know about. Why don't we change the focus and maybe while we can look at excluding the little fish, but maybe looking towards how do you capture the biggest ones, the biggest quantities? Because those are the things that have created the headlines and kind of the unlicensed landfills have happened and I see, there's this long, shallow, but slippery slope about starting to track all loads of soil around the state, which would be another unintended inadvertent consequence, which would have you know far reaching issues? Thank you.

01:30:41.410 --> 01:30:49.770

Andrejko, Judith [DEP]

David, thank you very much we appreciate your input. Next, Caleb. Welcome back, Caleb Janho.

01:30:50.600 --> 01:31:08.720

Caleb Janho (Guest)

Just add one more follow up when it came to landscapers and buying material if they're not in the recycling business. They're not doing the recycling so how/where did they fit into this as far as being regulated at all? If they're buying a finished product like topsoil.

01:31:21.190 --> 01:31:23.680

Andrejko, Judith [DEP]

I was going to toss to either Tom or Mike on that one.

01:31:27.260 --> 01:31:52.870

Farrell, Thomas [DEP]

Well, all I can say is in the law language in the definition of soil and fill recyclable materials includes the word soil by itself without any reference to how you got that soil. So, I'd imagine that's how that came to that conclusion that that's just part of it.

01:31:54.670 --> 01:32:21.060

Caleb Janho (Guest)

It seems like it really is driving at the dirt itself, not excluding the entities. But the dirt is really the driver of this, whether it is the recyclers taking it in, whether it's a finished product going back out. That's kind of where my first question was based off of before and the confusion after because it does really seem to be focused on the dirt, which is where the problem is going to generate from if there is an issue.

01:32:21.440 --> 01:32:32.240

Andrejko, Judith [DEP]

And Caleb when you had looked at the statute, where did you see that responsibility landing? With the material or with the entities, what do you think?

01:32:32.690 --> 01:33:02.550

Caleb Janho (Guest)

That's what kind of what we did, and I don't have any clarification on that and that's when my first question was is all dirt being viewed as dirty because if it is then it's a dirt issue, if it's not then it's really the recyclers that are taking it in or the entities that are dealing with it is where the targeted enforcement would come in. I know this is still early on, so there really isn't any clarity. But it seems kind of like it's going both ways and that's where my confusion is.

01:33:02.660 --> 01:33:18.360

Andrejko, Judith [DEP]

Well, I was just wondering do you do you have an opinion? Either way, because we'd like to hear that too because it may be an issue that's up for debate and interpretation, and we'd like to know what you think about it because we would like to factor that into.

01:33:20.810 --> 01:33:57.790

Caleb Janho (Guest)

We could as we start to understand more, and we get a little bit more feedback. We could probably put something together. We're just trying to figure out hey, what's the driving source behind this? And there'll be a lot of dirt that moves outside of the entities that seem like they're being targeted so at the end of the day if it's going to be enforced or whatever is going to be enforced, we just want it to make sense and accomplish its goal without being onerous on everyone. Otherwise, you just end up with certain industries or certain companies or whoever being targeted. Other ones are not, and it tips the scales one way or another.

01:33:58.950 --> 01:33:59.270

Farrell, Thomas [DEP]

Yeah.

01:33:59.060 --> 01:33:59.350

Andrejko, Judith [DEP]

Sorry.

01:34:00.600 --> 01:34:23.110

Penaherrera, AnnaMaria [DEP]

I just wanted to add really quickly. This is Anna. One of the things that is important to understand is that this is an amendment to the A-901 law so the A-901 law itself serves as a vetting process for entities that are engaged in a certain industry so originally, the solid and hazardous waste industry.

01:34:00.620 --> 01:34:01.150

Andrejko, Judith [DEP]

Makes sense.

01:34:23.360 --> 01:34:59.220

Penaherrera, AnnaMaria [DEP]

I understand your question, it makes sense. It's not necessarily like you can point to one specific source of where this is coming from. It's like this is also being incorporated into the A-901, so that way, the entities themselves can be vetted. You know the personnel and the people behind it. But then we also come into the issue that we're addressing currently is dealing with the material itself and the material being used and return into the economic mainstream so that there's a bunch of different factors in which you're mentioning.

01:34:59.930 --> 01:35:44.090

Caleb Janho (Guest)

Yeah, with A-901 and the material that's handled there has already been classified so I guess that was kind of the genesis of my question was how do we figure out what materials we're talking about? Are we talking about all dirt or we really just talking about the people that handle that dirt? A-901 it's pretty clear once you pass a certain line. Then you're here, we don't view everything that way. It's only certain dirt. That's got contaminants over certain levels. Then it's very easy because that has to go to certain places. This amendment or law isn't clear yet so it's kind of hard to tell where it's going because we're not sure where it's coming from yet.

01:35:45.840 --> 01:35:52.950

Andrejko, Judith [DEP]

Alright, thank you very much for your thoughts, we appreciate that. Next up, we have Robert Lippencott. Welcome back, Robert.

01:35:54.430 --> 01:38:38.200

Lippencott, Robert

I figured that in the spirit of returning since everyone else is I thought I'd take one more bite at the apple. No, I just this is a great process by the way. I really appreciate the Department doing this. I'll be quick, just a note. I mean, this is the question is to de minimis quantity and at that question, I understand is, is something hopefully this feedback is helping the Department answer that question. I think that there was an earlier comment about location and one thing I would suggest is looking at historic fill material areas that's on the GIS sites because that gives you an idea of soil quality in areas where it's mapped and where it isn't, it's not, it's just part of an analysis to consider. As for the pool contractor question just to get back to a comment and I don't mean to go tit-for-tat with anyone, but I wanted to clarify something with the definition of broker and consultant in the Law consultant means a person who performs functions for business concern engaged in the collection, transportation, treatment, storage...I guess what someone said before and that these definitions very broad and so what I'm concerned with, I think what's contributing to uncertainty among us in the industry from my discussions with the number of people is how broad that broad of a definition is subject to interpretation. It's very subjective and for example, a person who performs functions for a business concern, what functions? There's a lot to be said for that and I can tell you that I'm sure I can speak for a lot of consultants that have been in this business for a long time, that we know data a lot better than a lot of you know, no offense to anyone. But the contractors and sampling, sample parameters, sample procedures, and we deal with this stuff as an LSRP and state and doing this for a number of years and I know that stuff inside and out and so, A-901's registration doesn't give you the quality necessarily that somebody with that background does and so I would hate to see a brain drain of people who say well it doesn't. That's not what I'm doing. I'm going to be forced into this, I can't do that.

01:38:39.530 --> 01:38:48.150

Andrejko, Judith [DEP]

Robert, may I interrupt for a second because I think you've been probably sitting right behind me looking over my shoulder because we're going to be getting to that point.

01:38:41.480 --> 01:38:51.610

Lippencott, Robert

Sure. OK, good well, then I'll stop there.

01:38:48.650 --> 01:38:53.610

Andrejko, Judith [DEP]

After some of the questions OK, because we could

01:38:52.630 --> 01:38:55.670

Lippencott, Robert

I'll stop there.

01:38:55.110 --> 01:38:56.440

Andrejko, Judith [DEP]

bring you back.

01:38:56.710 --> 01:38:57.410

Lippencott, Robert

OK, good.

01:38:57.440 --> 01:38:57.970

Andrejko, Judith [DEP]

OK.

01:38:58.230 --> 01:38:59.740

Lippencott, Robert

I'm going to wait with bated breath.

01:39:00.050 --> 01:39:05.620

Andrejko, Judith [DEP]

OK sounds good. Let's hear from Jennifer Solewski.

01:39:01.200 --> 01:39:02.540

Lippencott, Robert

Alright thanks.

01:39:07.520 --> 01:39:09.620

Andrejko, Judith [DEP]

Good afternoon. How are you?

01:39:14.430 --> 01:42:57.110

Jennifer Solewski

Hi and my name is Jennifer Solewski. I'm with Bayshore Recycling and I also sit on the board of the Association of New Jersey Recyclers. I'm also on the LSRP committee and we've been heavily involved in this situation. Gary Sundermeyer works with me at Bayshore, and he was involved with the SCI investigation. We really have a good handle on the intent and appreciate the Department's attempt to get this into a place that everybody can kind of live with but keep everyone in compliance at the same time. I just wanted to add before when you were asking what the issues should be, is it the entity or the material, I think it's a combination of both. And I think that--what's the gentleman who was previously talking and I'm sorry was saying-- that you know about the material itself. I guess it's like when the generator of the material loses control of the soil itself wherever it's coming from who's responsible for that and then handing it off to the entity who's actually arranging for that disposal and the language is already in the statute in many ways. But then it's all the people in between, the sampler, the person that you know, the professional that went out to take the sampling, the samples of the soil and characterize it. They may make recommendations to where the material might go based on their knowledge of what

material fits that bill but at the end of the day if they don't make that determination and control where it's going, and I'm not sure that that's the Department's intention to capture them within the chain of command say with a chain of custody almost for where that dirt went, so I think that if there's a more refined about just focusing on who controls the decision-making on where the material is going to end up that would clarify a lot of things for a lot of people.

We're a Class B that can take soil. Still, we see a lot, where we get a person that comes in and says, we have this dirt. We asked for the data. Sometimes they won't/don't want to give us the data. Sometimes they give us data and then they get sticker shocked and then we're not doing this, and then you never hear from them again and God knows where they dumped and so and in solid waste. And I feel like the people in between also wouldn't have been captured so to speak as long as they hire A-901 entities. I think that if all the facilities that take soil like where you guys were going initially. There's a whole unregulated community of like mine reclamation and things like that, or where it's clean if you demonstrate that it's clean, but what are those parameters? What do the sampling frequencies that are associated with that? Do they follow the SRP guidance so as not to create another contaminated site like we were talking about in the beginning? I think all those things would just help to clarify applicability and then achieve the Department goals.

And I had a question about what the reporting requirements were going to be, how many people in between are going to have to report on the same?

01:42:54.860 --> 01:42:59.120

Andrejko, Judith [DEP]

Yep. OK, I have a question.

01:42:59.400 --> 01:43:00.200

Jennifer Solewski

Yeah. Sorry.

01:43:00.370 --> 01:43:03.920

Andrejko, Judith [DEP]

And where you were going with the reporting that's going to be our next question.

01:43:04.260 --> 01:43:04.540

Jennifer Solewski

Sorry.

01:43:04.590 --> 01:43:41.420

Andrejko, Judith [DEP]

That we will be getting there, you guys you're like, you're in my brain. It's a wonderful thing, and I just wanted to try and dispel your thought on the control and the material. Am I correct in stating that it's more your view of that controlling party from where it came from and the controlling party for where it goes that would be the key, not necessarily what's in between, but basically the origination zone and the destination and those ultimate controlling parties? Is that what I'm trying to dispel?

01:43:39.510 --> 01:44:10.260

Jennifer Solewski

Yeah, and it might be a direct relationship but there might be someone in between who would be the broker to make the arrangements, so the generator says I don't know what to do with this. I'm hiring a broker to find a home for this and then that's the ultimate chain of custody, like who and if, but if there's another broker who hires another broker then they're both in that chain, but then--

01:44:03.960 --> 01:44:04.430

Andrejko, Judith [DEP]

OK.

01:44:10.310 --> 01:44:26.550

Jennifer Solewski

Figuring out how that gets reported back and so the Department not seeing like the same 3 or 4 I guess reports for the same pile of dirt if there's that many people involved in between.

01:44:27.880 --> 01:44:42.230

Andrejko, Judith [DEP]

OK, I think I got it and then we're going to get to your reporting issue. Next up, so let me put you on hold until we get to the next question, we still had Wolfgang. You're making a reappearance, hello again.

01:44:43.420 --> 01:46:23.440

Wolfgang Skacel

Hello. It's been an interesting conversation this afternoon listening to everybody speak and the thought dawned on me that the problem isn't your legitimate processors. If anything, maybe you need to tighten up some of the requirements that legitimate processors are doing, but they're not the problem. They're not the ones that have created the problems that you know the DEP has been wrestling with. Most of it are illegal facilities that suddenly set themselves up and it's, believe or not, it's the small guys, the independent guys that go to New York City. They pick up a load and they're just told to get rid of it and that's really where the Department should be focusing its efforts and its regulations at the same thing with the A-901. Leave the legitimate guys alone, they're doing a good job. They're doing it the right way. Let's try to focus in and narrow the scope of this thing, so that you're reining in the folks that are hauling the dirt. I'm not on the same page as everybody about the pool guys that take out dirt or bring in fill dirt. You know the filler hole. I think you got to look closely at that activity and certainly the illegal facilities. Let's see exempt or maybe tighten up a little bit on the processors. The legitimate ones, leave them alone.

01:46:24.420 --> 01:46:39.500

Andrejko, Judith [DEP]

Alright, we'll take that into consideration, thanks for your additional input. Next, we have Keith Prince and then Robert Keane and then we're going to move on to the next slide with the reporting question. Keith, good afternoon.

01:46:41.140 --> 01:47:54.960

Keith Prince

Good afternoon. Thank you very much for having us Mister Skacel just touched on some points that I wanted to. But thanks for being eloquent and taking care of that for me. The other point I had was contractors on sites. All the construction site there, maybe 20,000 yards of topsoil that leave that site. The contractor is not necessarily an entity the way I see it, nor is he being obligated to contact an entity to receive that soil, so what happens when the contract decides, "I'm going to sell this 3rd alluded that I'm 10 loads at a time," whatever. How does he fall into the scope of this new regulation? If the material doesn't end up in an entity, how does this rule cover that material so to speak? Is there going to be some mechanism that ensures the material ends up at an entity, a legal entity so to speak--

01:47:51.690 --> 01:47:54.710

Andrejko, Judith [DEP]

Well, Keith, let the statue.

01:47:51.960 --> 01:47:54.960

Keith Prince

Well keep things the statue.

01:47:55.340 --> 01:47:57.400

Andrejko, Judith [DEP]

Gives us the parameters that we have to work from.

01:47:55.650 --> 01:48:00.250

Keith Prince

Gives us the parameters that we have to work from and when it comes to the regulation.

01:47:58.060 --> 01:48:04.000

Andrejko, Judith [DEP]

And when it comes to the regulation, this is kind of the question that I'd like to toss back at you.

01:48:01.500 --> 01:48:04.230

Keith Prince

This is kind of the question that I'd like to toss back at you.

01:48:05.540 --> 01:48:07.850

Andrejko, Judith [DEP]

You know where should we draw that line?

01:48:05.790 --> 01:48:07.940

Keith Prince

You know where should we draw that?

01:48:09.800 --> 01:48:10.860

Andrejko, Judith [DEP]

What do you think about it?

01:48:12.810 --> 01:49:10.130

Keith Prince

As an entity. We did receive our A-901 and as an entity, we'd probably like to see that regulated, and I think these type of jobs are a big part of the problem and Mister Skacel was speaking about the smaller guys and they're not really the issue as much as some of these 10 and 20 and 30,000 yard projects where there's a contractor on site that may not be A-901 licensed and therefore not regulated the same way we are. My concern is you're going to turn this into--I'm sure you're not trying to but it's turning into something that's one sided, so to speak, and how do we include either all the dirt or another dirt? I mean, what's the primary focus?

01:49:11.660 --> 01:49:15.310

Andrejko, Judith [DEP]

That's a great question that I've been asking myself for some time now.

01:49:16.850 --> 01:49:17.510

Keith Prince

I'm sorry.

01:49:18.640 --> 01:49:28.840

Farrell, Thomas [DEP]

Keith this is Tom Farrell. Would you suggest doing something like recurred as a cradle to grave at the property owners responsible for that material?

01:49:31.280 --> 01:50:06.760

Keith Prince

Something to that effect. As it is now, we require paperwork on everything that their facility receives. We've been doing that for years and it's not that way out in the real world, it's just not that way so if everybody was held to the same standard, the problem is, I don't know how you enforce this. Difficult. You can write the regulation, but moving forward, how does that regulation get enforced?

01:50:06.430 --> 01:50:08.480

Andrejko, Judith [DEP]

Keith, would you like to switch sides?

01:50:09.800 --> 01:50:22.440

Keith Prince

I mean, there's stuff popping in my mind, every minute we're talking here, and the problem is, it gets worse and not better. It either blossoms or the flowers die in here because--

01:50:17.180 --> 01:50:20.590

Andrejko, Judith [DEP]

And it blossoms into just this big thing.

01:50:23.280 --> 01:50:30.570

Keith Prince

I'm seeing some of this going the opposite direction that I think we're trying to move in, just food for thought.

01:50:31.260 --> 01:50:31.750

Andrejko, Judith [DEP]

Alright.

01:50:31.780 --> 01:50:32.200

Farrell, Thomas [DEP]

Thank you.

01:50:32.650 --> 01:50:33.700

Andrejko, Judith [DEP]

Thank you very much.

01:50:32.980 --> 01:50:34.740

Keith Prince

Thank you. Thank you very much.

01:50:35.190 --> 01:50:38.140

Andrejko, Judith [DEP]

And for our last speaker on this point, Robert Keane.

01:50:39.030 --> 01:50:39.820

Robert Keane

Hi.

01:50:39.170 --> 01:50:40.050

Andrejko, Judith [DEP]

Good afternoon.

01:50:40.430 --> 01:52:08.960

Robert Keane

Good afternoon and I guess the comments aren't really de minimis. But the comments keep going back and forth with a lot of different topics and I may have to bump off. But as Jennifer said before, from Bayshore, there's also the small guys, but there's also the big guys in the reclamation. People, and I know Mike was talking about regulating entities, but I think it's also some of the-- I work with P Park and we basically have a giant hole to fill in. We're taking in clean soil, and we've talked to Tom and you all plenty times coming down there exploring ideas for our facility.

But we're still looking for that guidance after we're already regulated. I have an A-901 and I have a Class B but not for soil, but now the A-901 lets me do soil mixed with concrete, but that's not really part of the unknown, but the soil. We're just looking for some sort of uniformity for everybody in the same sort of boat to have some sort of guidelines and then we did get a ruling from Anthony Fontana with respect to solid waste with dermal inhalation.

But then again, if we're now selling in recycling and so is somebody else and they're putting it on their ground, does migration, the groundwater comes in and they say, well, we don't make more site remediation programs and with respect to tying this A-901 into some regulatory tie back to the soil standards, which are all in for the site remediation program but again, we were talking about the migration that groundwater standard, which is now propagated. How does that sort of play into the thinking for the future? They're specially like us if we're putting some of this in our hole. We're supposed to be looking for that.

01:52:09.690 --> 01:52:10.040

Farrell, Thomas [DEP]

Yeah.

01:52:10.390 --> 01:52:51.460

Robert Keane

But then trying on a realistic side. Trying to get people to come into our facility, and I'm like OK well, here's our soil standard or soil requirements and you meet these, but you fail this, and I got to do SSL and they're going to say I don't want to go to you. I've got thousands of dollars of analytical; they try to figure out whether this can meet your requirements to put in the ground. I'm just going to bring somewhere else where they don't worry about this so again a lot of food for thought. I give you credit. I definitely appreciate this opportunity to talk. I know I might not be interned with respect to other people brought up different topics. But there's a lot to go on and I'm glad you're getting our involvement and I'm hopeful to keep going forward with this and help with anything I can or go forward.

01:52:53.380 --> 01:53:03.710

Andrejko, Judith [DEP]

Alright, thank you very much. We'd like to move on to the next slide. Ray Cantor, I see that you're there, we'll get to you after Tom does the next slide that's following.

01:53:10.080 --> 01:53:17.960

Farrell, Thomas [DEP]

What documentation should NJDEP use or require for material to avoid triggering the requirements of the Law?

01:53:19.760 --> 01:54:01.030

Andrejko, Judith [DEP]

Alright Ray, if your answer to the prior question would also answer this, please raise your hand otherwise, we can get back to you because we hope to have a little bit of a general back and forth round table of the issues we discussed closer to the end of the program. So, raising hands for documentation question.

We have one. Hi Tracy, how are you? Welcome back.

01:54:09.720 -->01:55:21.790

Tracy Straka

As far as documentation, I think there's a couple ways to look at this one. There's one whole subset of materials that are being generated by state contracts running their construction contracts whether they're being put up by entities and there's already a process where somebody has gone through the qualifications to be able to bid it, and a resident engineer or somebody that's watching and approving all that work, so that's a huge amount of the construction projects that there's already somebody from the State watching it, and may have a nice easy way to track it without getting into a giant process, the same with the Site Remediation Program. We've got LSRPs when they're doing that work. A lot of material gets generated from these site remediation projects and the LSRP is reviewing every piece of documentation in signing off on that so those are 2 really easy lifts to take some of the burden off of the people that are doing the work, whether it's material coming in or the material going off that have eyes and ears on the ground, boots on the ground that are managing that so maybe there's a way to carve those kinds of projects out.

01:55:24.050 --> 01:55:35.790

Andrejko, Judith [DEP]

That's a good idea. I don't personally know how we do that. If you have some ideas about like parameters, please send us an email.

01:55:30.980 --> 01:55:57.400

Tracy Straka

Well, you could. Ideally, you asked me to send them there. There's actually an old court decision that was done in New Jersey called the Burnt Fly Bog decision and just went through the courts years ago and it was a very limited decision. But it pretty much said that the states, they've approved it. There watching it. Why are we going through this A-901 process for this very small task in the much larger context?

01:55:47.170 -->01:56:01.270

Andrejko, Judith [DEP]

Yeah. I haven't heard Burnt Fly Bog in decades.

01:56:01.280 --> 01:56:52.780

Tracy Straka

Yes, that actually went to court over just this issue decades ago. I can actually send you that decision because years ago when I had this discussion with the AG 's office and Harley Williams, that was down there at the time, he's the one that pointed me to this decision, and our firm had an A-901 and we gave it up because we don't own trucks. We don't own facilities. We don't do anything, and he pretty much said you don't need it because within the context of the work you're doing--here's the court case that says why you don't do it. But the bigger picture is, you've got all these professionals doing it. Why are you going to create a giant paperwork burden at the end of the day? You know the data is going to sign

off on it. The LSRP is going to sign off on it on direct oversight. DEP is going to sign over it. The big chunks of material are pretty easy to manage.

01:56:53.850 --> 01:57:06.610

Andrejko, Judith [DEP]

Good perspective. Thank you very much, Tracy. I'd like to jump back to Jennifer Solewski because I remember you were talking about the issue with paperwork, and I wanted to make sure that you got back in to finish your thought from before.

01:57:08.970 --> 01:57:27.300

Jennifer Solewski

Hi yes, for things like this I'm not sure that I completely understand this question for documentation, are we talking about during transportation or characterization?

01:57:29.330 --> 01:57:30.800

Andrejko, Judith [DEP]

I will defer to Tom on that one.

01:57:31.230 --> 01:58:05.290

Farrell, Thomas [DEP]

The law states that you need an A-901 if you handle, broker, process transfer soil and fill recycled materials. We're trying to get carve outs out of that for people we don't feel need to be in that law, which is what we just discussed for the past. If the decision to get you out with based on the cleanliness of the soil, which is being discussed, how do you document that?

01:58:06.630 --> 01:59:59.370

Jennifer Solewski

Right, I think that there would have to be established protocols based on sampling frequencies or if it was a virgin site, if there's some kind of certification that can be made up. There's a clean concrete certification and then the clean fill soil for reuse--that guidance document maybe something modeling that. If there are areas of concern, shipping material from old farmland, focus on pesticides and things like that. That might be one way to do it. Does the material get tracked, or bills of lading or manifesting going to be required for the final to show like where it went to final resting place where/whoever loaded the soil signs off and then whoever received this oil signs off and then you know that gets reported back and then. Or it could be like an agent authorization form where the owner of the property fills this--we do something like this when there's multiple contractors involved on a site to ensure that the owner and generator of the material is aware that all these people in between or higher or like working on where this material is going and then that they know that it's going to end up at Bayshore, in our case or wherever else it's going to go so that there's something back to the Department showing that this is where this material moved from A to B and the subsequent place would then give a similar report so there's kind of like a like a chain of custody so to speak.

01:59:59.670 --> 02:00:10.970

Andrejko, Judith [DEP]

With that type of a paper trail would that be a heavy lift for you guys, do you think that would be a heavy requirement on the regulated community?

02:00:11.530 --> 02:00:54.630

Jennifer Solewski

I think the regulated community is using this kind of paperwork and we use it for invoicing and everything else as well. A lot of bigger generators of material require that paperwork back and so we

keep it on file for 3 years up to at least 3 years things like that, so I think the regulated community is already familiar with the process. I think that it's the unregulated community that's not currently reporting back to DEP. That's where the heavy lifting is and I mean, everything is going to be new for anybody that's not currently doing this as part of their practice.

02:00:55.730 --> 02:01:07.100

Andrejko, Judith [DEP]

Alright, thank you very much and thank you for answering and coming back online. Next up, we have Neil Rivers.

02:01:11.700 --> 02:03:57.240

Neil Rivers

I guess a couple of things in response, specifically to the question of picking up on what Tracy was talking about. I think the idea that if the work is being done by a New Jersey licensed professional, I think that form of documentation should provide some degree of protection and satisfy the requirements of the Law and so I think Tracy talked about Licensed Site Remediation Professionals. I'd add Subsurface Evaluators. It's another component of the site remediation program and New Jersey Licensed Professional Engineers who have as their responsibility the protection of the public health. I would also add that it's sort of a follow up to what Tracy had talked about earlier. If an entity is using an A-901 firm to manage the soil or fill material, that form of documentation might also be sufficient and satisfactory. Obviously, any tracking documents and things of that nature. But to the idea that, maybe I'm not an A-901 license, but we subcontract to an A-901 licensed firm and make sure that the work gets done accordingly. Those are a couple of areas that I would add I think, just getting back to sort of the idea of testing in my experience and there are other folks here from the facility side who could speak more fully to this, but in my experience, I think that the facilities themselves have permit limitations and restrictions and those facilities, if they aren't properly licensed and I would expect that they are the ones we all want them to be used, they're going to have testing requirements themselves as part of their gatekeeping process and so, perhaps it's that documentation that satisfies the receiving facilities permit. That is the documentation that we could use to determine in a material doesn't trigger the requirements of the Law.

02:03:59.300 --> 02:04:02.180

Andrejko, Judith [DEP]

Sounds good. Thank you for the detail, we appreciate that.

02:04:01.010 --> 02:04:01.490

Neil Rivers

Thank you.

02:04:07.00002:04:03.000 --> 02:04:04.270

Andrejko, Judith [DEP]

Caleb, do you have more to add?

02:04:09.280 --> 02:05:01.120

Caleb Janho (Guest)

Yeah, my question was the verbiage in the law. If I remember correctly, says if the material could be contaminated and there really isn't any clarification offered which is broad, who gets to determine if it could be contaminated. When I link that up with this question if maybe I'm misinterpreting it. But it's pretty much saying that you will be considered inside the requirements of the Law unless there is documentation to get you out of being in it. That's why I can't it kind of keeps driving back. We talked a

lot about A-901 facilities. But that's a whole different ball game, that most dirt isn't in that stream those guys know what to do as far as documentation making sure they know what's coming in, making sure that it's regulated, making sure that--

02:05:00.650 --> 02:05:02.510

Andrejko, Judith [DEP]

It's already part of the business, yeah.

02:05:02.080 --> 02:05:44.910

Caleb Janho (Guest)

Yeah, that's totally different. It's like if you brought in an engineer to build a building or you just brought in a carpenter to put up a couple beams for you, like that's 2 totally different processes--one's going to involve measurements and drawings and engineering. They're already doing that in the regular dirt side of things that's what I think this law is really trying to take care of. It's not that this dirt was known contaminated, it should have gone to Bayshore, but it went to some other place that there's already rules for that. How do we know? Like it really comes down to is the dirt all considered dirty and then we need to exempt it, or is it not unless we know that there's an issue? That's kind of what keeps driving me back to this.

02:05:44.960 --> 02:05:58.500

Andrejko, Judith [DEP]

So, it so it seems like what I'm trying to gather from what you had said, it's more of your interpretation or position, that it's more of a material focus as opposed to the business entity focus.

02:05:59.430 --> 02:06:44.300

Caleb Janho (Guest)

Yeah, we're looking for that clarification because that helps us understand which way this is going. Obviously, entities need to know how to handle this, but is it really the dirt that's driving the equation or how do we classify this dirt as an entity? Where does it go because as one of the previous people on the call said, you could have 20,000 yards on a construction site and if you just put it out there like hey come pick up topsoil, most of that's not going to go to a facility, that's going to go to a landscaper, that's going to go to a contractor, that's going to go to a wherever it never got inside the people that it seems like they're trying to regulate. No problems were solved. No contaminated dirt was taken out of the market and taking it where it was supposed to go.

02:06:44.410 --> 02:06:46.350

Andrejko, Judith [DEP]

Yeah, that's what Keith was talking about before.

02:06:46.540 --> 02:06:47.190

Caleb Janho (Guest)

Correct.

02:06:47.290 --> 02:07:21.330

Andrejko, Judith [DEP]

I'm with you. We'll be thinking about that. I mean there's a lot of different perspectives and all of you are giving us a lot of good points to chew on that we're definitely going to be considering. Caleb, I hate to cut you short, at this point we have about 6 more people that I want to have their comments in before we get to the polling questions. It's already a little after 3:00 o'clock. We've had a lot of great discussions, so far. I'd like to jump to Gwen Keeble. Hi Gwen, how are you?

02:07:22.270 --> 02:09:16.910

Keeble, Gwen

Thank you so much Judith. My name is Gwen Keeble. I work for Rockland Electric Company, one of our New Jersey utilities and I just wanted to weigh in and say, I agree with the concept that if the material that we're managing, the excavated fill, the excavated soil, if ultimately documentation is provided that those materials were managed and transported for disposal by A-901 licensed entities then potentially the initial collection of those materials might not trigger these requirements for licensing and registration. In other words, as a utility we're under the oversight of the BPU and the scrutiny of the BPU and many other agencies in our work frequently requires that we collect these fill and soil materials in locations where they can't be stored and characterized right so we have an obligation to move those materials quickly offsite before we're able to fully characterize them and so the characterization often occurs elsewhere offsite on a property under our control. Ultimately, once we know what we've got, we would hire an A-901 company to come in and transport for final disposal or for final recycling and so, perhaps there's an opportunity for that interim state to occur without triggering the full licensing and registration process.

02:09:17.540 --> 02:09:26.510

Andrejko, Judith [DEP]

That's a really good point, we're going to be thinking about that. Thank you very much up. Let's go to Bill Roberts. Hi Bill, how are you?

02:09:22.670 --> 02:09:23.110

Keeble, Gwen

Thanks.

02:09:27.190 --> 02:09:44.060

Bill Roberts (Guest)

Hi again, I'm looking at this question, and it to me, it's reading how do we get around the Law or avoid triggering the requirements of the Law? You're basically seeing how we can get around it and I think--

02:09:43.400 --> 02:09:45.820

Andrejko, Judith [DEP]

How do you want to keep yourselves out?

02:09:46.130 --> 02:11:40.930

Bill Roberts (Guest)

Yeah, so I think that Wolfgang Skacel made the comment that the big facilities are also already heavily regulated, and I think Jennifer did as well. And there is documentation that we require before it can come in and I don't see why that shouldn't apply pretty much to everybody. And then whether it's A-901 or not, it's either going to be approved or rejected so the small generator, if they comply with the documentation that the facilities require, come and whether it goes to a facility or goes to somebody's farm. I think it does it shouldn't matter that we have to be manifested. We have to be in compliance with, not just our solid waste, but also our LSRP approvals. It has to be nonhazardous, it's got to be tested for V.O.C.s, so on. All that documentation is provided, plus the address where it came from, the generator, the financial year, all the rest of it. It's all part of our program and none of that will come in unless there's an approval number so. The truck has to have that in his possession to be able to come into the facility and I don't see why that should be any different for any other receiving site. If that documentation is in the possession of the trucker, it's going to go to a facility, which is highly regulated. Then they have complied with the Law and will meet the environmental requirements that DEP is holding the rest of the community to.

02:11:42.290 --> 02:11:48.420

Andrejko, Judith [DEP]

Well, thank you very much. They were very thoughtful points and we're going to be considering those as we go forward. Thank you.

02:11:48.100 -->02:12:00.520

Bill Roberts (Guest)

And then, as far as reporting goes, we have to report all that information typically in a 50–100-page document every quarter, so DEP has that in its records.

02:12:00.660 --> 02:12:02.150

Andrejko, Judith [DEP]

OK so it's already happening.

02:12:02.460 --> 02:12:03.440

Bill Roberts (Guest)

It's already happening.

02:12:03.630 --> 02:12:04.870

Andrejko, Judith [DEP]

Good to know, thank you.

02:12:05.050 --> 02:12:05.410

Bill Roberts (Guest)

You bet.

02:12:05.630 --> 02:12:09.700

Andrejko, Judith [DEP]

Next, Franklin Boenning.

02:12:13.480 --> 02:14:58.030

Franklin W. Boenning

Yes, Frank Boenning here, thanks very much, very close. I'm an attorney and I work a lot in the environmental arena as well in the solid waste arena with A-901 licensing rules. The question here was a little confusing when you popped it up because we heard a lot in the last section that this is focused not on the materials, but it's focused on the people of the entities doing the work, so when you talk about what documentation is required or should be required for the materials to avoid triggering the requirements it does bring it back to this ultimately is geared to regulate soil and fill materials not necessarily the people and again, it brings it back to Caleb ask a couple of times do we presume all dirt and recyclable materials are contaminated and you have to demonstrate that they're clean or do we presume they're all dirty or sorry, presume they're all clean and somebody needs to tell us that they're dirty, in order to bring us into the rules and I think, that's a threshold question that needs to be considered in this.

A lot of people have talked about different standards and testing requirements and all that sort of thing, so I won't go into that further but one point I just wanted to raise quickly beyond that threshold question is, I think the Department should consider allowing much like it is in RCRA process knowledge of source material. There are a lot of materials that come out of industrial operations. Industrial byproducts that are used to make topsoil, to make compost, to make other materials, and if that is a sort of a steady state process, it's the same material. You know over and over for months or even years at a time. The Department shouldn't have a per cubic yard threshold for sampling and characterization

of that material. But if you can demonstrate what it is, and the process stays the same, it would eliminate a lot of testing costs. If you can use process knowledge, particularly where things are coming out of industrial processes or coming out of similar areas. I think that process knowledge could be very helpful to the industry to avoid a lot of costs.

02:14:59.000 --> 02:15:11.200

Andrejko, Judith [DEP]

Franklin, very much thank you. Thank you, we'll be taking that under advisement. I hope one of our note takers had written that down. I have to move on to Robert Lippincott.

02:15:14.110 --> 02:16:24.370

Lippincott, Robert

Hi again everybody. That's great point, Franklin and I think that underscores what I had suggested earlier that its source related, and I would say also like my former comment, some of this answer to this question about documentation I think comes from record. All my training in RCRA is in practice is that under the related regulations that flow into New Jersey and New Jersey rules that adopt record by reference, etc. require that let's say a generator is responsible to identify their contamination or their wastes, to ID it, and to categorize/classify it and then keep those records and they have a record retention period. But that's not something that's submitted. It's something that's kept on at the facility for review if needed.

02:16:24.010 --> 02:16:33.700

Andrejko, Judith [DEP]

So, it's a more of keep your own records if the Department or someone else asks you, did you happen to do this?

02:16:35.050 --> 02:18:38.560

Lippincott, Robert

Yeah, exactly and I think that makes sense. I mean, I don't know that Department wants all this information started to be reported and have to deal with it all. I'm not sure, that's a policy decision-- departments have to decide on how you how you want to do that, but to me, it's really documenting your compliance or documenting your noncompliance. That's one way that's a bit of an add on to the question. I understand, but it's the documentation to require for the material it would just be something that you maintain and what is it that you would maintain well. You know whatever analytical, whatever basis you're using, and in the RCRA world, of course, it's generated or knowledge of the processes, Franklin said, and it's I think in this case, LSRP and doing waste management. For years I can tell you, that it's standard practice to not only hold on to, you'll collect data, collect the appropriate number of samples, follow the guidance. That's already there. We have guidance. The fill guidance and the SRP program and other similar guidance and the regulations as an LSRP I'm required to keep documents for 10 years. A lot of these things are in place. I understand this sort of sounds like there's some carve outs in the Q&As and the policy that's put out in the interim, and probably coming in the rule for other licensed professionals like LSRPs, but these are the reasons, because these things are already established as I think we'll refer to as well earlier, so my one point on requirements, though. I want to point out and one of the reasons why this is a little bit of an uncertain issue for us is in the-

02:18:26.240 --> 02:18:26.790

Andrejko, Judith [DEP]

Alright.

02:18:38.620 --> 02:20:01.010

Lippencott, Robert

question and answer document from the Division of Solid and Hazardous Waste. It says under question 6, sorry Q 16, regarding a license at an LSRP requiring license. It said it should it says no right as the person is retained to manage it. Then it says it should be noted that if another person is subcontracted to pick your contaminated soil for or remove contaminated soil from a site remediation site, including a person employed by the same company as the LSRP, that person is required to have the license and my point is this, it's a broad brush. Or maybe we don't. I just want to make sure everybody understands here that when you say LSRPs, we can by law require, rely on professionals and when I have staff to review things that I'm going to oversee, this is telling me I think maybe I don't understand this, but the way it reads, my staff is going to have to have this license there. That's not an LSRP but that's person that works under me, I'm not sure that's it. If the Department has discretion, I think that that should be considered.

02:20:00.370 --> 02:20:27.900

Andrejko, Judith [DEP]

Well, Robert that the LSRP issue is one of the issues that we're going to be discussing at a future stakeholder meeting. That's something that we're going to be donating a lot of time to. So just wanted to let you know, rest assured, we're aware that there's questions with that and that we will be addressing it. I don't think we can fit it in the extra 42 minutes that we have today. But we will get there. Robert, thank you so much. I'd like to move on to David Morris. Hi again, David.

02:20:07.710 --> 02:20:26.080

Lippencott, Robert

OK. No, that's fine. Thanks.

02:20:28.450 --> 02:22:39.340

Morris, David

Hello, again. I know where timing is an issue. I mean, I love what I'm hearing from Franklin and Robert. We're going to have/the people are going to have to look per project. I've used that solid waste clean contract certification during my SRP retained activities. The Department could gatekeeper or prescribe it. It may be a self-held form but grant gatekeeper applicability by the source regulation known regional conditions. And the material quantity you know that we're talking about, but let's not reinvent the wheel. We can generate from these existing tools. I think Jennifer first mentioned the solid waste dump clean concrete document what could be used would be a similar, but different document, which would be per material/per source form like a more robust own O&D form that we already have. The fill guidance discussed is performing a preliminary assessment to understand the origin location history, possibly a limited review focusing on NJEMS and Geo Web could be used to design a tool for these no-go decisions, regulated/versus unregulated presumptively for that applicability. For instance, we use regulated tanks in the presence of a PI number at the origin and they already make locations subject to regulation or review by the DOH/DEP. I'm the DCA you know, and then we could do desktop reviews for mapped regional fill land use types. You know the activity and use controls glad kinetic sources. It's all then confinements due to active agricultural land. They're all at GIS map. So, we could have used variable quantities, having variable requirements and then I'm used to testing in a measured way. Right, but I think the idea of having people self-police themselves for the records because that's already being done.

02:22:41.260 --> 02:22:45.730

Andrejko, Judith [DEP]

Thank you very much, good insight. Up next Keith Prince.

02:22:50.760 --> 02:22:51.450

Keith Prince

Good afternoon.

02:22:51.130 --> 02:22:59.210

Andrejko, Judith [DEP]

And good afternoon. We'll be then, getting to both Jim and Ray and then we're going to move on to the poll questions so keep--

02:22:59.800 --> 02:24:15.840

Keith Prince

I have a very short point. Through the paperwork and the economic costs of doing all this, I'm looking at it from as an entity or facility standpoint, and I'm looking at it, saying to myself why would anybody bring material to a facility? But the cost and the burden. My concern is that even if you're going to drive a lot of fill soil and fill away from the entities that are doing it properly because of the cost and economics. I don't know how you attempt to handle that. I understand it's a daunting task because again it looks to me like most people that we do, or they're going to say, well heck. I'm just not going to take it there. I'm going to do something else and that may not be within the Law. But we all have to sit here and admit that it does happen. Then there's one other small thing is natural constituents within the state of New Jersey, and we all know that arsenic and manganese and certain things exist within our soils. Is there a way to treat them differently within the regulation.

02:24:17.640 --> 02:24:27.170

Andrejko, Judith [DEP]

That I don't know yet but if you do have a position on that. I'd ask that you, you please email that to us because we'd like to take that under consideration too.

02:24:28.690 --> 02:24:29.660

Keith Prince

I will thank you.

02:24:29.970 --> 02:24:36.000

Andrejko, Judith [DEP]

Alright Keith thanks so much. I'd like to move on to Jim Aversano. Jim how are you doing this afternoon?

02:24:30.950 --> 02:24:31.310

Keith Prince

Thank you.

02:24:36.650 --> 02:24:38.580

Jim Aversano (Guest)

I'm doing well, Judy. How are you doing?

02:24:38.720 --> 02:24:39.740

Andrejko, Judith [DEP]

Doing good, thanks.

02:24:39.950 -->02:25:46.640

Jim Aversano (Guest)

Well, I want to thank the DEP for the opportunity to participate today. My focus here is probably a little narrower and I know we've talked about the testing requirements and documentation. But I just want to make sure you know for confirmation when the rule gets adopted is that there are obviously other exemptions to the rule like for example, if the generator obtains a beneficial use approval and I think in that respect you know in terms of answering what documentation should NJDEP require it should really just be that the person would have to produce the approval because you know that approval will be issued really on a project specific basis and will be vetted accordingly, so there shouldn't be any additional sampling or documentation. You know, there really should be necessary in that regard--

02:25:48.390 --> 02:25:50.120

Andrejko, Judith [DEP]

More of a don't forget the BUD.

02:25:48.440 --> 02:27:41.770

Jim Aversano (Guest)

And I totally forgot. Right true and I guess the other point is, and this is really a point of clarification, the exemption in in the statute says beneficial use for which the generator obtained approval and I think that language is a little broader than just obtaining a what's sort of known as a BUD and one of the things I would say is for example, there's material that land closed landfills accept for their regrading projects that were there, they will bring in fill and that fill will only be brought in if it's approved in advance by DEP most of the times in a closure plan or closure plan modification or sometimes a disruption permit and whatever approval form, it is that approval typically, requires like a material acceptance protocol. Maybe that will have to be followed for the landfill to accept that material as part of its regrading project. And that that means the debt specific material is highly regulated and I don't think another layer of regulation would be necessary in that regard. I think as long as that material is in compliance with the material acceptance protocol and the closure plan approval or disruption approval, then that should also be acceptable for demonstrating that the material is exempt from the requirements.

02:27:41.920 --> 02:28:00.890

Andrejko, Judith [DEP]

So basically, if the homework is already being done, can we use some of that process that already exists and paperwork that already exists and fold that into the rule so that basically some you might end up getting like a 2 for one, so to speak because it's stuff that you already do.

02:28:01.420 --> 02:28:02.770

Jim Aversano (Guest)

Yeah, yeah.

02:28:01.580 --> 02:28:18.810

Andrejko, Judith [DEP]

With that type of information, please send us an email, send us your ideas with that because we'd like to have a good idea of what you already do that might work because if we can fold in something like that. I mean that's something that we want to consider.

02:28:14.700 --> 02:28:50.380

Jim Aversano (Guest)

Sure. OK, that's great well, we will do that, and then the other thing I would also add as part of that, I

think confirmation would be helpful that the landfill fit for regrading project such as that. Part of a closure plan, you, if you're accepting that material you wouldn't be subject and required to get an A-901 license. So that there would be also part of any exemption as well.

02:28:50.890 --> 02:29:04.020

Andrejko, Judith [DEP]

Alright. Thank you very much, Jim, much appreciate your ideas. I'd like to move on to Ray Canter and he's the last comment we're going to have for this particular issue. Ray, how are you? How's your afternoon going?

02:29:04.800 --> 02:29:15.590

Ray Cantor

Afternoons going fine. I want to apologize because I got on here late, so I missed the first hour or more of the conversation, so hopefully,

02:29:14.750 --> 02:29:20.190

Andrejko, Judith [DEP]

Well, you'll have to pull up the recording on our stakeholder web page because we'll be posting that there.

02:29:18.210 --> 02:32:26.200

Ray Cantor

Well, I hope so. I will do that, and hopefully my comments are in line with what you're looking for if not, particularly on this specific slide that is up on the screen right now. I also want to echo some of the concerns that Wolf had mentioned earlier about keeping this as simple as possible and targeting where it should be targeted. You know, there are lots of issues. You could deal with how to dispose of material, which material, where, under what conditions, with what testing for the calls and paperwork etc. I'm not going to address that; I will leave that to all the professionals who deal in this field to make those determinations. I'm going to focus on what I think the Dirty Dirt law says should be happening and I assume that that's what this is ultimately all about was that the Law, it does not set up requirements that we regulate things differently, and we should regulate things differently from a material perspective. Then the Department should take that opportunity and change its particular laws under SRP or solid waste and do so, but this law is all about who do we trust to follow the Law?

And that's why the law, it's requiring that for certain new materials soil and soil and fill recycled materials that these people have an A-901 license, but you want to make sure that the one who is going to be making those ultimate disposal decisions is responsible, is not basically a criminal as well? Which is why you know A-901 was originally meant to do and that they are following the Law. From that perspective, I think it was mentioned earlier as well, that's as long as there's someone in that chain who has direct responsibility of disposing of the material is an A-901 license material. You really don't need anyone else who's handling that material prior to that to be A-901 license be it the LSRP. So long as the person who's ultimately responsible for that material being disposed of as A-901 license. Then the Department has done its part in ensuring that a responsible person with a license is in charge of that material. You should probably again have exemptions for LSRPs, for small quantity generators, for utilities, for self-generators. But it's really focusing on who you could trust/who you could not trust and that's what this law is all about everything else. You're talking about is great if Department finds there's a need for that. But my point is that the law is not mandating you change your processes for how soil or solid waste or recyclable materials are handled.

02:32:27.210 --> 02:32:48.530

Andrejko, Judith [DEP]

Good points. Thank you very much, Ray, we'll take it under advisement. At this point, I'm going to pitch it back to Tom because we want to jump into the poll questions to be able to get some of your additional ideas and thoughts in electronic writing so back to Tom.

02:32:49.060 --> 02:34:44.860

Farrell, Thomas [DEP]

Sure, thank you, Judy. I want to remind you that this presentation is open for 24 hours, so in order to keep these 10 questions going, I'm going to move on after a minute and I'll let you know when 10 seconds is up to 52nd mark, but if you don't have enough time to answer don't worry about it, you can get back on and you can answer within the next 24 hours. OK, so what you're going to see after I ask the question, or simultaneously a message pops up, you get onto the chat, you hit on that link, and you answer the question there. Make sure you give us your name and affiliation, so we know what entities are interested in, some entities are interested in one type of thing, others are interested in another type of thing.

So, for the first question.

Transportation of soil and fill recyclable materials if a de minimis exemption was established, what should it be based on? Your choices are a) since the law does not specifically provide for such exemption, none should be established or b) an exemption should apply to certain industries for which mismanagement of soil and fill recyclable materials has historically not been found, and therefore there should be no need for de minimis quantity for such entities or c) whatever the de minimis quantity is, it should be based on the actual amount of soil and fill recyclable materials transported and not the capacity of the vehicles, slash trailers, calling same. Or d) vehicle trailer capacity combination, not to exceed 15 cubic yards or each other. Please type it in, give you one minute, and again if you can't answer in one minute, you can always access the chat later.

02:35:05.140 --> 02:35:20.830

Penaherrera, AnnaMaria [DEP]

I just want to remind people, that people who are answering in the chat, you can answer these questions following the link that Tyrone had sent, so if you go into the chat and you click on the link that Tyrone sent you can answer the questions, they are not in the chat.

02:35:21.790 --> 02:35:36.610

Farrell, Thomas [DEP]

Yep. If you answer in the chat, we won't be able to compile all the answers and figure out who wants what. And there are no wrong answers, OK?

02:35:39.330 --> 02:35:59.110

Penaherrera, AnnaMaria [DEP]

Everyone, please make sure that you do not put these answers in the chat. Please take these answers and put them into the link that Tyrone had sent there, like Tom said. We won't be able to get your answers if you put them in the chat. We want to be able to make sure that we record all your responses.

02:36:00.010 --> 02:36:00.890

Farrell, Thomas [DEP]

10 seconds

02:36:00.020 --> 02:36:00.480
Penaherrera, AnnaMaria [DEP]
Thank you.

02:36:10.970 --> 02:37:55.640
Farrell, Thomas [DEP]
OK, on to the next question.

Question 2: regarding soils or soil-like materials, what should be acceptable documentation that such materials do not trigger the applicability of the Law? a) laboratory analysis indicating that contaminants do not exceed the residential ingestion dermal or residential inhalation site remediation standards or NJAC 7:26 (d). b) generated from an undeveloped property outside of an urban area; c) generated from a virgin quarry; d) either a B or C as applicable.

02:37:56.750 --> 02:38:04.260
Penaherrera, AnnaMaria [DEP]
OK, Tyrone. It looks like a quite a few people are not able to use the link for some reason.

02:38:15.770 --> 02:38:32.180
Jordan, Tyrone [DEP]
Sorry about that, if you follow Daniel's instructions, if you right click, copy link and paste it into your new web browser window, that suggestion will work.

02:38:33.200 --> 02:38:40.920
Farrell, Thomas [DEP]
OK, for those who may not know what you just meant by web browser window could you explain that?

02:38:42.230 --> 02:39:00.110
Jordan, Tyrone [DEP]
Web browser if you use either Chrome Firefox or Internet Edge, Microsoft Edge, you can copy the link by right clicking it and pasting it into the browser.

02:39:00.710 --> 02:39:00.940
Farrell, Thomas [DEP]
OK.

02:39:01.590 --> 02:39:02.430
Jordan, Tyrone [DEP]
OK, thank you.

02:39:05.120 --> 02:39:05.860
Penaherrera, AnnaMaria [DEP]
Thanks, Tyrone.

02:39:06.200 --> 02:39:06.800
Jordan, Tyrone [DEP]
Thank you.

02:39:09.260 --> 02:39:13.050
Farrell, Thomas [DEP]
We have a message, can't paste--the first question still isn't working.

02:39:12.200 --> 02:39:19.050

Jordan, Tyrone [DEP]

OK. I will go back to the first question and re-paste that just in case for those who missed that.

02:39:17.230 --> 02:39:17.700

Farrell, Thomas [DEP]

OK.

02:39:20.410 --> 02:39:21.520

Jordan, Tyrone [DEP]

Sorry about that.

02:39:55.450 --> 02:39:58.430

Farrell, Thomas [DEP]

Tyrone, I'm going to just stop until you tell me to go ahead.

02:39:58.770 --> 02:40:33.530

Jordan, Tyrone [DEP]

OK, just one moment. I just want answer from David Morris. Also had a good suggestion if one closes out the browser tab after answering and then re-click the link it appears to work and it will open the current question. Thank you, David. We are on question 2. I'm going to adjust for those who need it. I'm going to just re-paste question 2 into the browser into the chat just in case you missed that.

02:40:34.820 --> 02:40:35.300

Penaherrera, AnnaMaria [DEP]

Thank you.

02:40:35.760 --> 02:41:42.300

Farrell, Thomas [DEP]

OK, so we give you another minute for question 2.

02:41:43.610 --> 02:56:58.900

Farrell, Thomas [DEP]

OK, Question 3. If documentation by laboratory analysis is applicable to support exclusion from the subject law, what should be the minimum analytical parameters employed? Your choices are a) target analyte list and target compound list; b) target analyte list, target compound list minus fault organics soil gas screening warrants such limitation; c) other, please type in.

Question 4. When Laboratory Analysis is used to document an activity or material excluded from the subject law, what should the minimum requirements speed to support the validity of such data? Your choices are a) in accordance with NJAC 7:26E-2.1 quality assurance requirements within the technical requirements for site remediation; b) whatever quality assurance requirements are in place for such laboratory within the state where the analysis isn't being performed; c) other, please type in.

Question 5. When Laboratory Analysis is used to document exclusion from the subject law, which should be analytical frequency being to generate data that is representative of such materials? Your choices are a) consistent with the NJDEP guidance document fill material guidance where SRP sites October 2021; b) one analysis for every 20 cubic yards of material; c) other, please type in.

Question 6. What grain size in millimeters should non soil materials be considered soil like? Your choices are, In millimeters or less a) 3; b) 4; c) 5; d) 6; e) 7; f) 8; g) other.

Question 7 with regards to fill materials that are not otherwise excluded from the subject law and are not considered soil like should laboratory analysis be required? Your choices are a) no; b) yes; c) if waste characterization indicates such fill is not a hazardous waste and volatile organics are not a concern as documented by soil gas readings taken in accordance with the most recent version of the NJDEP Field Sampling Procedures manual, a presumed approved Beneficial Use Determination if used as road base/parking lot/slab base that is sealed in place is appropriate; or d) other, please type in.

Question 8. There we go forward. None LSRP 's or LSRP 's that are not retained to remediate the site where the soil and fill was generated nor for the destination site for such soil and fill material should there be a de minimis quantity of soil and fill recyclable materials. That does not trigger the need for an A 901 license for the Journal generation of such materials during environmental due diligence for construction purposes. a) no, the law does not provide for such exemption; b) subsurface evaluators should be afforded a de minimis exemption when such materials are generated on projects, which require their certification as a subsurface evaluator; c) provided that materials are appropriately sampled and analyzed and found not to trigger the definition of solid waste an A-901 license should not be required/required regardless of the professional oversight volume or source with soil and fill materials; d) professional geologists and professional engineers should be afforded a de minimis exemption; e) subsurface evaluators, professional geologists and professional engineers should be afforded an outright A-901 exemption on projects that they are retained that generate or accept the soil and fill materials; and then f) other, please type in.

Question 9. Should there be a de minimis quantity that exempts soil processors from having to obtain and an A-901 license. a), no, the law does not specifically provide for such exemption; b) provided sufficient sampling and analysis for this performed that indicates the materials do not trigger the definition of solid waste, such facilities should not/should be exempt from the law; c) exempt facilities where the materials are stored or screen on site, no crushing or grinding were in the aggregate volume of separate piles of soils and separate piles of other recycle materials or mixtures of such materials are less than 100 cubic yards at any given time; d) other.

Last slide we have for poll questions that is if a de minimis exemption is established for the generation of soil and fill recyclable materials due to investigative techniques, we're talking about your soil borings here, what should the volume be? A) 15 cubic yards; b) 20 cubic yards; c) 1 cubic yard; D) 5 cubic yards; e) de minimis is not necessary if appropriate sampling and analysis indicates the definition of solid waste is not triggered; f) other.

OK, so that's it for all poll questions. I think we will pass it to Anna.

02:56:59.430 --> 02:57:00.900
Penaherrera, AnnaMaria [DEP]
I got it thank you, Tom.

02:57:00.340 --> 02:57:01.490
Farrell, Thomas [DEP]
Got it OK.

02:57:01.960 -->03:02:34.410
Penaherrera, AnnaMaria [DEP]

Yes, alright hi everyone, my name is Anna. Thank you for answering those poll questions. Like Tom said in the interest of time, we had scheduled time for discussion after these poll questions. However, because everybody just gave so much great feedback and we had a lot of information that we are taking

home with us, we're going to skip that discussion. However, we have another stakeholder meeting, scheduled for January 25th. The date is posted at the end of the PowerPoint.

Right, so don't worry you won't miss it and we'll be sure to cover the discussion of these poll questions in our upcoming stakeholder meeting, so I'm going to take you through the A-901 law amendment, including our favorite topic, brokers, consultants, and salespersons.

Like I said, in the interest of time, we're trying to minimize comments that aren't related to this. I just want us all to keep that in mind for the rest of the presentation. In 1983, the existing A-901 law required disclosure statements and licenses for entities engaged in the solid and hazardous waste industry in New Jersey, although the statute did not define the term broker, the rules did and the new amendment to the law now includes some new terms. Some of them are “broker,” “consultant,” and “salesperson,” in the statute text. These changes are among other amendments to the A-901 law that we will discuss in future stakeholder meetings, so this will not be your last opportunity to discuss any of the amendments to the existing A-901 law.

As defined in the Law, broker means a person who for direct or indirect compensation, arranges agreements between a business concern and its customers, for the collection, transportation, treatment, storage, processing, transfer or disposal of solid and hazardous waste or the provision of soil and fill recycling services.

You can see on this slide, we have some key words underlined: “receives compensation, either directly or indirectly,” and, “arranges agreements,” between one person and another. A consultant is defined as a person who performs functions for a business concern engaged in the collection, transportation, treatment, storage, processing, brokering, transfer or disposal of solid waste hazardous waste or the provision of soil and fill recycling services, provided that the consultant shall not include a person who performs functions for a business concern and holds a professional license from the state to perform those functions. I'm sure many of you have seen this term, especially with that last inclusion of the holding a professional license.

Then we have a salesperson, which means a person or persons that makes or arranges for sales for a business concern for the collection, transportation, treatment, storage, processing, transfer or disposal of solid waste, hazardous waste or the provision of soil and fill. recycling services. Key terms here are makes or arranges for the sales of a business concern so that is quite a lot to unpack.

And these terms are all things that we want to get feedback from you as the regulated community, as attendees of the stakeholder meeting, because this is something that we've received a lot of feedback recently. As stated previously, the terms are now officially defined in the Law, as they haven't been before, so if you or your company falls under these categories of brokers, salesperson, or consultant based off of the definition, an A-901 license is required. However, this comes with the understanding that there is discussion about these terms as it's not necessarily so cut and dry, so please, I would suggest discussion. We want to know what's the difference in these roles for you all. How does this inclusion in the law impact or not impact your business?

As a reminder, like Judy mentioned, please raise your hand and wait until you're called upon before unmuting and then lower your hand once you've finished your thoughts and comments and like I mentioned previously, please make sure that you address these comments to be related to this topic. I know that you all have so much that you want to be able to share with us and we appreciate all of that information a lot, but we want to make sure that we keep it to the topic of this slide here. If anybody wants to discuss, we'll pass it to Judy to facilitate the discussion.

03:02:34.270 --> 03:02:54.160

Andrejko, Judith [DEP]

Let's hear first from Maria Colsey Heard. Hi Maria, thanks for hanging in with us this afternoon.

03:02:55.090 --> 03:04:30.260

Maria Colsey Heard (Guest)

That's fine. Thank you and you can just say Maria Heard. I'm actually interested in the new definition of broker and there are a number of people that I can see participating that I've already had this dialogue with, but there are many others that have not and I'm an attorney representing some companies that are interested in this new definition and I appreciate that Anna Maria underlined some key terms and I'm trying to figure out exactly what this new definition means, who is captured by it, and that it's not interpreted in a way that's overly broad.

"Arranges agreements between" business concern and customers, I think is a very key term. People often arrange for hazardous waste pickup or arrange for soil and fill services. Just arranging for those things is not the same as "arranging agreements between". We think of a broker like a matchmaker and their job is to bring these 2 entities together so that they can obtain those services, and I would urge the DEP to focus on the words "arranges agreements between," and give them the meaning that the Legislature intended.

03:04:06.200 --> 03:04:08.340

Hastry, Mike [DEP]

Between, we think of.

03:04:30.880 --> 03:05:56.590

Maria Colsey Heard (Guest)

The concern is that and I heard some others today raise this, that if you're anywhere in the chain of a project that may use a licensed A-901 waste hauler, suddenly, the fact that there isn't an A-901 waste hauler involved in that chain, makes everyone in between a broker and that doesn't seem to be what the statute says, or which should be intended. For example, if you are a company that needs to hire a vendor, you have a project whereas one piece of that project you need to have some items removed from let's say the construction site. By hiring that vendor to come do that job, does that turn you into a broker? I would say that the DEP should say no, it does not turn you into a broker because you have to hire a vendor to give you those services.

That is essentially what you know, there's been some assertions that it is broader than that. But I think the wording "arranges agreements between," needs to be looked at narrowly and clearly.

03:05:57.260 --> 03:06:23.950

Andrejko, Judith [DEP]

I'm interested -- you said something that this is just queuing my mind, the word "vendor". And I was wondering, if you use that in your clarifying definition. Could you possibly email us and let us know how you would define a vendor for purposes of this statute and rule because I think that would be really helpful.

03:06:25.750 --> 03:06:46.250

Maria Colsey Heard (Guest)

Yes, absolutely I can and Judith you're not one of the people that's been involved in these conversations, so I can share with you the material that that we've submitted previously so you can see in more detail. I would take up the rest of the time if I went into all the details.

03:06:39.970 --> 03:06:58.340

Andrejko, Judith [DEP]

OK. Alright if you could just send it to our soil and fill with the email that is in the last slide and I think that either Anna or Tyrone put it in the chat form before, I'd really appreciate that.

03:06:58.790 --> 03:07:14.300

Maria Colsey Heard (Guest)

Sure, it's really about trying to focus on what is a traditional broker and my understanding of this was that the State didn't want waste haulers to skirt the need to be licensed by trying to say they were just brokers.

03:07:14.710 --> 03:07:14.970

Andrejko, Judith [DEP]

Uh-huh.

03:07:15.860 --> 03:07:33.650

Maria Colsey Heard (Guest)

But in doing, and I completely understand that, but in doing that, you shouldn't cast your nets so wide that someone who, in the course of their business is merely hiring a vendor to do a job for them, gets caught up in the definition of a solid waste broker.

03:07:34.420 --> 03:07:37.920

Andrejko, Judith [DEP]

Interesting take. Alright, thank you so much.

03:07:38.120 --> 03:09:23.930

Hastry, Mike [DEP]

Yeah, this is Mike Hastry just to respond to that a little bit and for anybody who has future questions regarding this. Your point is well taken and there's a nuance there and the biggest nuance when we apply A-901 and we determine should this person be A-901 regulated or should they not be. Part of the analysis is someone who exerts control. So yes, if I'm just a secretary and I'm arranging, I'm doing the paperwork and I put this person's name on there that person's name on there, I'm not really exerting control with regard to either a waste decision or A-901 in this new case, now recycling decision. However, if I'm anybody else, and even if I hire somebody I said, Yeah, I'm going to hire you to take this away. Sometimes I hire somebody, but I tell him I want this disposed of here.

And you know the hauler could come back and say, well, I can't bring it there. You know they've closed down; they've done that and the entity, the person who originally arranged for all this, now makes the decision says OK well, we're going to send it over here, we're going to do this, we're going to do that, that person is exerting control. They haven't left it up just to the transporter to figure out how to dispose of it, where to dispose of it or how to recycle it or where to recycle it. It depends on what degree of control is exerted in that whole equation.

03:09:27.570 --> 03:09:40.110

Andrejko, Judith [DEP]

Alright, thanks for the clarification, Mike. Alright with that I'd like to move on to Robert Lippincott. Robert, I told you we'd be getting to this issue a little bit later and here we are.

03:09:39.650 --> 03:09:41.800

Lippincott, Robert

Yes. Thanks.

03:09:41.090 --> 03:09:50.180

Andrejko, Judith [DEP]

And we're over time today and I have a feeling we're still going to be talking about this issue at our next meeting, too, so let's hear your initial thoughts.

03:09:43.830 --> 03:13:35.640

Lippencott, Robert

Sure. We'll find out who the true nerds are, we'll be here at 6:00 o'clock still talking about this. I think, I'll try to keep it brief, I understand we're late and I appreciate it was Maria that shared those thoughts on the broker, I think, and Mike the clarification. I appreciate that. I would ask to consider some aspects in thinking about their clarification regarding what the definition actually says because I totally understand where you're coming from but going back to his death definition, it doesn't necessarily say some of what you're saying specifically. It says person, who for direct or indirect compensation, arranges agreements right and so the first I guess the agreements issue is between a business concern and its customers and I guess I'm just curious. This is broadly written and so there is discretion. It's got to be applied to understand that and departments. Got to challenge there. You want our feedback, so I'll give you feedback from my perspective.

It seems to me that it's talking about arranging agreements between a business concern and its customers so as an LSRP let's lay out a scenario. I'm working for a pharmaceutical that shut down and we have to dispose of soil. I'm working as the LSRP that's a bad example because you've already carved out some for me, but I have people working under me that are not LSRP 's and they're helping because I can't do it all myself and I can rely on professionals. They go in my company organization very well studied in this and they go, and they find contractors and they come up with some bids and we come up with the final contractor to use and we go through the disposal, process, classification, everything now. And I don't know if I arrange an agreement, they're going to be subcontracted through my company. But the business concern and its customer, my business concern, my client, is not the business concern arranging for its customers. It's to me. That's where I don't see that fit. I think the way that I read this would be turned that around and say, I worked for a soil recycling facility and I'm connecting with somebody who needs to dispose of soil, then I'm arranging for its customers. But the business concern that we're talking about in the first instance is not the one that's--I'm not arranging customers for a pharmaceutical, their customers buy drugs so to me, it, it doesn't fit and so I think that this really is focused on those business concerns that do this collection, transportation, treatment, storage, etc. Not a business concern that's doing another business and happens to be needing to disposal as part of remediation obligation or some other obligations.

03:13:37.080 --> 03:13:40.090

Andrejko, Judith [DEP]

Interesting take on the definition. Thank you very much, Robert.

03:13:40.690 --> 03:13:41.170

Lippencott, Robert

You're welcome.

03:13:41.000 --> 03:13:47.670

Andrejko, Judith [DEP]

I'd like to move on to Wolfgang. Again, good afternoon, how are you?

03:13:49.010 --> 03:13:53.470

Wolfgang Skacel

I'm fine, I'm surprised you went in after 4.

03:13:53.770 --> 03:13:55.980

Andrejko, Judith [DEP]

So am I, but it's all good.

03:13:54.230 --> 03:15:36.480

Wolfgang Skacel

Good for you. I've gotten pulled into this because of the definition for consultant. After I retired from the DEP, I decided I couldn't sit still and decided to go into the consulting business. And I just find that the definition is so overly broad that it's pulled me into it, and I'll give you a couple of examples. You know if my company does permit work or say air pollution permitting or stormwater permitting, whether it's for solid waste facility or a soil and we used the LSRP. I'm pulled into this definition because I'm performing a function for a solid waste facility. If I sit in on a settlement discussion, which I've done on a number of occasions where Mister Hastry and Mister Farrell. I'm performing a function for a regulated facility.

We don't broker, we don't get involved in waste handling at all other than maybe looking at are they managing their hazardous waste for example, properly or are they in compliance with their solid waste permits or approvals. That's the extent of our involvement, yet this definition of consultant, especially the way you've posted it, "performs the function" well, we're performing functions--

03:15:38.390 --> 03:16:20.670

Andrejko, Judith [DEP]

Well, Wolfgang, what I'd like to ask of you because I'm looking to see where/what kind of language, we can use in our rules, and you would set a few times that the statutory definition of consultant is a little too expensive and it brings you in and if you would be so kind would you please email us? I would love to see how you would tailor or, more narrowly, clarify the definition of a consultant, to what your interpretation of the intent of the statute is. I would love to see those ideas.

03:16:21.900 --> 03:16:49.390

Wolfgang Skacel

Yeah, I really think that the reason why the term consultant was used is that many times to get around the broker connotation. The representatives will say I'm not a broker. I'm a consultant and there was this attempt to pull them in regardless of what they claim they were doing, but it's so broad. It's pulled people like me in as well.

03:16:49.670 --> 03:16:59.760

Andrejko, Judith [DEP]

And honestly, if you could provide some ideas, like in writing for how we could structure clarifying definition that would be great.

03:17:00.620 --> 03:17:01.140

Wolfgang Skacel

OK.

03:17:00.620 --> 03:17:01.800

Andrejko, Judith [DEP]

I think that would be really helpful.

03:17:02.730 --> 03:17:05.260

Wolfgang Skacel

I did, meanwhile, apply for my A-901.

03:17:08.010 --> 03:17:09.090

Andrejko, Judith [DEP]

Can't hurt to be safe.

03:17:10.010 --> 03:17:11.430

Wolfgang Skacel

Can't hurt, thank you.

03:17:12.110 --> 03:17:17.760

Andrejko, Judith [DEP]

Alright. Next up, we have Caleb. Caleb, thank you for joining us this afternoon and hanging in there.

03:17:18.480 --> 03:17:19.620

Caleb Janho (Guest)

Yeah, thank you for having us.

03:17:18.730 --> 03:17:20.600

Andrejko, Judith [DEP]

But let's hear your thoughts, sure.

03:17:21.330 --> 03:17:28.020

Caleb Janho (Guest)

I guess I'll keep stemming back to my original thought, what is the goal of The Dirty Dirt Law?

03:17:32.190 --> 03:17:39.010

Andrejko, Judith [DEP]

How do you read the statute? Do you see it as material focused or entity focused?

03:17:34.940 --> 03:18:11.490

Caleb Janho (Guest)

We're trying to work on this. Well, we're trying to stay out of that and just because I take this as we're trying to help you guys implement this law, but we can't seem to get directive as to what is the goal of the Law so it's hard to answer poll questions or say well, how are we going to classify or not classify or avoid getting material classified in this broad spectrum and who gets pulled into it. It would understand what the goal is because I mean, every law should have a goal.

03:18:11.790 --> 03:18:13.230

Andrejko, Judith [DEP]

Sure, sure--

03:18:12.460 --> 03:18:17.460

Caleb Janho (Guest)

And not just in theory, if it can't get there, then there shouldn't exist to begin with.

03:18:17.680 --> 03:18:25.490

Andrejko, Judith [DEP]

and like we, we all come under the statute. We all come under what the law says and at this point because there are no--

03:18:19.840 --> 03:18:21.750

Hastry, Mike [DEP]

Did we all come under with the Law says?

03:18:26.120 --> 03:19:24.210

Andrejko, Judith [DEP]

Rules put on paper, yet for it. We find that it would be very helpful to know how you would like it interpreted and how you see it because we'd like to see how the community that is going to be subject to it how you think it should be regulated by the Department so I mean, we're not at that point yet where we're going to be putting something down on paper, and saying, this is how it's going to be. The main point of the stakeholder meeting is that we'd like to know what your thoughts are on the law and how it should be implemented? I mean, at least from a rule writer perspective, I would love to see the different perspectives from the community because we're all subject to that law and I would like to see the outside the Department viewpoints because I think it's really valuable to see the different perspectives before we put pen to paper.

03:19:26.210 --> 03:19:45.540

Caleb Janho (Guest)

But I guess my question is, without knowing what this law is trying to avoid happening, it's almost impossible to figure out how to help that be implemented with the commonsense side of, listen, we do this every day, this is what we see in how you could do it. We don't even know what you're trying to do.

03:19:45.950 --> 03:20:21.490

Andrejko, Judith [DEP]

Well, I think from a commonsense standpoint like when I had looked at the law and the statute, the big thing was is that they supplemented the A-901 law as it existed, so it's just seeing that, it's kind of related to what has already been implemented and what already exists. I think maybe from that perspective again. This is just Judy looking at the statute that we all have to deal with. If you see it from that same perspective we'd like to know if you do.

03:20:23.550 --> 03:20:28.180

Caleb Janho (Guest)

Whoever helped craft the law should be here to tell us what their goal was because--

03:20:27.940 --> 03:20:29.550

Andrejko, Judith [DEP]

For the record that was not me.

03:20:29.650 --> 03:21:18.140

Caleb Janho (Guest)

I could tell that-- because it seems like what they're trying to do is create LSRPs in the A-901 field where all the dirt that moves around the state is now going to be handled or controlled by A-901 companies and A-901 facilities, which is onerous when most of the dirt that moves around the state is clean. It shouldn't all go into that stream or be handled as if the same way that an LSRP does so whoever wrote it, obviously had a goal. I mean, we can guess at what that is, but we didn't help write that, and whoever did isn't here. We don't know what the goal is, very hard to meet a goal when nobody knows what that goal is.

03:21:18.440 --> 03:21:38.510

Andrejko, Judith [DEP]

That's true and I think that when Ray Cantor had mentioned before that, OK there, there's one

viewpoint. There's a couple of different viewpoints on why that's law. Me personally, I can't make that decision. But I'd like to know what your thoughts are on it and how you see it impacting what you do.

03:21:41.980 --> 03:22:24.570

Caleb Janho (Guest)

Yeah, I mean, we were really stuck because we don't know what the goal is so it's hard for us to kind of help get to that point. Companies that have A-901s are ready to handle dirty dirt. I'm sure would love to have all the dirt moved in the state funneled through them, that their hands go on it somehow, but that's going to get really There could be moving off of a site. But if what's that going to look like if there's no OK, you got to go through this step. It's just really tough to know where to go without even an arrow, pointing in that direction.

03:22:25.090 --> 03:22:35.040

Andrejko, Judith [DEP]

Well and at this point we're still early in the stakeholder process. The hope is that we're going to be able to refine these points as we continue through the process and have more discussions.

03:22:35.770 --> 03:22:36.140

Caleb Janho (Guest)

OK.

03:22:36.880 --> 03:22:47.030

Andrejko, Judith [DEP]

Alright, thank you very much Caleb. Next up, Robert Lippincott, do you have something additional, or did I miss something?

03:22:46.250 --> 03:25:59.430

Lippincott, Robert

Hi. No, I just wanted to comment on the definition consultant and just mention I think Caleb, brought up some really good points. I think you know the Department does have an important and a big task here figuring this out. I think on the one end, Ray Cantor's comments were very good actually and I think you know, my only comment is I think about not that you try and let them micromanage the whole system, you know the whole thing. The idea is to look at the bigger picture of I think that's a good question. What the objective is but that's something I think in the bigger picture. We know what the objective is, it's starting to get into where do you draw the lines? And I think that's the challenge and with regard to these definitions, as somebody astutely pointed out, they do cause impact. This isn't just about the recycling aspects, that these definitions change the whole A-901. It's a universe when you talk about things like hazardous waste and those aspects. I mean, in fact, it doesn't even say liquid or solid and we're disposing of groundwater in containers into going to waste water treatment facility. You know this definition could include that it doesn't say that we haven't even talked about that. So those are the kind of things that create uncertainty for us that I think it would be good for the Department to clarify. Specifically on consultant. I would echo Wolfgang's comments and I agree what I would say is just to cut to the chase. Here is think about the definition consultant means a person who performs functions for a business concern, just add the word "primarily" engaged in, and think about how that focuses this away from the areas that it's not intended into the areas that it is because to me, that's what we're in a way talking about. We were dealing with businesses that are primarily engaged in these processes, etc. as I mentioned before, like in the term broker consultant for a business concern engaged in these things. Again, if I'm working for an entity that's dealing with selling widgets, they're not in the business of transportation, treatments, etc. But they have to do remediation. So if they hire someone and move some soils, that's not their business. I don't know that that's who the State wants to focus this on and so

I think that it would be a consultant for the businesses engaged in those things primarily, not for businesses that are trying to comply with I.S.R.A. or another regulation.

03:26:00.120 --> 03:26:14.480

Andrejko, Judith [DEP]

Robert those are good ideas. We're definitely going to take that under advisement like we said. We really wanted to talk about this a little bit more. We're going to be carrying this topic to our next episode. For the rest of today, you're very welcome.

03:26:12.550 --> 03:26:14.750

Lippencott, Robert

Thanks for the opportunity.

03:26:15.030 --> 03:26:30.940

Andrejko, Judith [DEP]

We have both Jennifer and Tracy up for comments and I think in the interest of time, we're probably just going to have to stop after Tracy and tie up for the day. But we're definitely going to get back together again with that. Jennifer, would you like to provide your final comments for today?

03:26:31.390 --> 03:28:23.740

Jennifer Solewski

Sure, I would like to provide some clarification as to the intention of what we're trying to regulate here, as Mike brought up in the beginning, very accurately. This is a result of the SCI investigation, mostly on illegal dumping, so regulated community Class B's that are allowed to accept soil materials that get BUDs. If you're going to a site that has some oversight, some regulation that's outside of and then for the materials that are outside of solid waste that aren't currently being reported, aren't captured in any mechanism back to DEP. Those are the materials that the rules, laws are trying to capture, so that there's more accountability. There's tracking and there's the responsibility of management of proper materials and you don't end up with illegal piles so very quickly just because I think it'll help a lot of people understand what goes on. You have all these different folks involved: brokers, salespeople, consultants, and they did do this as an amendment to A-901, in general. So now it kind of muddies it up because now we have to look at it as solid waste. But we can probably do some special carve outs in the rule which clarifies what that means for soil and fill. And then just to clarify the comment beforehand, it definitely does not include liquids because you know it's so specific to solid soil and fills, if it's not a solid waste it's outside that definition. There's like a small niche amount of material that you know, then people just improperly disposed up so that's it.

03:28:24.310 --> 03:28:37.220

Andrejko, Judith [DEP]

Alright, Jennifer. Thank you so much for your ideas in the discussion. Today we really appreciate it and now we have Tracy. Welcome back, Tracy thanks for hanging out with us this afternoon. Do you have additional comments on the definitions?

03:28:28.030 --> 03:28:28.440

Jennifer Solewski

Thank you.

03:28:37.670 --> 03:30:01.880

Tracy Straka

I did, just one is we're looking at people's primary lines of business and to reiterate, Jennifer said the goal is to make sure their dirt doesn't go into places it's not supposed to. So you're looking at all of these

different definitions and bringing in people that I guess Mike pointed out, where you're worried about if a material goes to one site that was A, and I don't want to approve site and it gets rejected and somebody is making a decision, doesn't really matter if it's going to another approved licensed A-901 site if that person, wasn't contractor or consultant that is doing other work on the site and their business is not being a broker. And I don't know the answer to that, but I think you should take a hard look at that because as long as there's somebody tracking, and monitoring it and it's going to be moved by the licensed people, going to a licensed approved facility, do you really need every hand in the middle to have that A-901? And that's where I think a lot of the relief would be appreciated by everybody on this phone call because the consultants don't need it more often for his work and we may all be engaged Incidentally. But that's not our line of business. It just happens to be something that we're doing. Somebody else is watching, approving, checking the boxes, tracking it, and I think a little bit of relief for all of those entities would go a long way.

03:30:02.830 --> 03:30:53.300

Andrejko, Judith [DEP]

And again, I'm going to toss out the general invitation. If there are particular terms that we talked about today that are defined a certain way in the statute, but there might be a way to more narrowly tailor or clarify what you believe the intent of the statute was, we would love it if you would send us some sample language. I mean, you're giving us a lot of ideas to work with and a lot of material to help flush out how we can best bring the statutory language into our regulations. So again, if you get a chance, please email us at the soil and fill email that was in the chat. At this point, I'd like first, on behalf of myself, I'd like to thank you guys for spending the afternoon with us and giving us some great information to work with. I would like to toss it to Anna for our closing remarks.

03:30:55.070 --> 03:32:22.360

Penaherrera, AnnaMaria [DEP]

Thank you. I promise I won't keep you much longer. As Judy said, thank you all so very much for participating in our first stakeholder meeting. We got a lot of wonderful information from you all and reiterating what she said, I encourage you to email that soil and fill inbox so that way we can specifically capture the language that we're trying to incorporate into our rules.

I just wanted to mention like I said, thank you so much for coming to this meeting. Summaries of the topics that we covered at the meeting and relevant information will be made available on the website that's included below. Our next stakeholder meeting will be held on January 25th, 2022. It will also be a Teams meeting. If you would like to participate, feel free to send me an email saying that you would like to. We're going to determine the topics for that discussion and then hopefully get back to everybody with respect to what we're going to discuss and then yes, just please send in any emails with any comments or any feedback that you would like to that email below. But other than that, thank you all for your input, your participation, your patience. We're doing the best that we can with the Law and we appreciate all of your assistance with it, so thank you very much.

Alright and you're free to go. Have a good night, everyone.