

Page/Section	Comment Number	Comments/Edits	Source	Response
		<b>Facts About Fill</b>		
<b>General Comments</b>				
General	1	The headings and terminology throughout the Guidance document are not consistent with the Guidance Document title, which may cause confusion. "Fill Material and Soil Management" versus "Soil and Fill Material" may create confusion depending on the final definitions of these terms. It is recommended that these be clarified.	Clean Earth - Trevan J Houser [May 26, 2017] email letter	The headings and title of the document have been made consistent throughout.
General	2	Coordination between Programs and how the new guidance documents will be interpreted in relation to other existing regulatory programs should be clearly explained? For example, Oil Operations Permits and other Department-issued permits set forth requirements for use of treated oil contaminated soils or end product materials. Do these meet the definition of fill material? (See above comment [comment ] The sampling requirements and standards may differ from those set forth in the Guidance. Which program will control or how will differing standards be interpreted or coordinated to ensure the regulated entity has clarity?	Clean Earth - Trevan J Houser [May 26, 2017] email letter	Where the screening criteria or permissible uses of a material are established under an existing Department permit or regulation, nothing in the Guidance Document or <i>Fill Material and Soil Management Fact Sheet</i> is intended to supersede those requirements. The <i>Fill Material and Soil Management Fact Sheet</i> is intended as a tool to assist prospective users in evaluating possible end uses for a variety of materials. If you have further questions regarding a specific material, permit, or end use, the Department can assist.
<b>Italics Section under Title</b>				
p. 1	3	MDOT SHA suggests clarifying for consistency whether the document is guidance or policy as it is referred to as both in the document.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The documents have been revised for consistency. The guidance document uses the term "guidance" and the <i>Fill Material and Soil Management Fact Sheet</i> uses the term "fact sheet."
p. 1	4	MDOT SHA suggests including in this portion what soils and fill material are subject to the guidance.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	This information is stated on the first page: "The guidance applies to soil and fill material that is impacted or potentially impacted by polluting substances such as petroleum substances or hazardous substances..."
p. 1	5	WHAT SOILS AND FILL MATERIAL ARE SUBJECT TO THE POLICY? MDOT SHA recommends revisions in order to provide greater clarity as to what the guidance document applies to. Suggested language: "This guidance document applies to soil and fill material that is impacted or potentially impacted by polluting substances. These pollutants may include petroleum or hazardous substances listed in the current Maryland Department of the Environment (MDE) Soil and Groundwater Cleanup Standards (Cleanup Standards) document or the current US Environmental Protection Agency (EPA) Regional Screening Levels (RSL) table."	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The suggested language retains the language in the draft, except to split one sentence into two. This change will be made for clarity.
<b>Definitions</b>				
p. 2	6	For continuity, MDOT SHA recommends presenting the definition section in the same format as the dredge material guidance document.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The only difference in formatting between the two documents is that the Guidance Document uses two columns with the term in one column and the definition in the other, while the fact sheet does not use columns. The format in the fact sheet was chosen to save space given that the fact sheet contains a few longer definitions than those listed in the Guidance Document.
p. 2	7	For clarity, MDOT SHA suggests presenting the definition of the categories in order one through four rather than alphabetical order in order to better understand the differences.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The definitions have been reordered by revising the defined terms to put the category first, for example: "Category 1 - Residential Unrestricted Use Soil and Fill Material"
p. 2	8	The definition of Hazardous Substance be revised to read "any substance that is defined under 101(14) of the Federal act..." in order to remove the word from its definition.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The definition is taken from the statute at Environment Article, Section 7-201(l) and will be retained.
GD p. 2 of 7 General - Definitions	9	Several of the definitions are overly restrictive and do not enhance the opportunities to use or reuse dredged material or soil or fill material for beneficial purposes. It is recommended that all the definitions be reviewed and the language amended to ensure that the use or reuse of materials is maximized, while remaining protective. Because the definitions are so important to the remainder of the guidance, the Department is strongly encouraged to pay particular attention to the definitions. I.e. – Definition of "Fill Material" – the definition restricts the use to foundation material for construction or reclamation of land lost to erosion. What about simply raising a low site to promote development? What about use of the material to amend another soil material to improve its physical properties? What about use as landfill cover? Definitions should be very general and not overly restrictive. Also see definition of "Soil". The definition restricts soil to unconsolidated geologic and organic materials that support plant growth. Why must it support plant growth? If it is being used as foundation materials supporting plant growth is unnecessary.	Clean Earth - Trevan J Houser [May 26, 2017] email letter	The definitions have been changed accordingly. The definition of "fill material" has been changed to "soil or dewatered dredged material used to create a foundation for the construction of a structure, such as a road or building, to reclaim lost land such as gullies or mines, to raise the grade on a property, or to provide final cover material for a property."
p. 2 "Dredged Material Containment Facility"	10	Replace "separation" with "dewatering"	Walt Dinicola	This change has been made.
p. 2-3	11	MDOT SHA suggests adding the following definitions for terms used in the guidance: <ul style="list-style-type: none"> <li>• Hazard Quotient</li> <li>• Residential and non-Residential risk assessment</li> <li>• Engineering Controls</li> <li>• Institutional Controls</li> <li>• Engineered Cap</li> </ul>	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	The following definitions have been added:  Hazard Quotient means the ratio of a single substance exposure level over a specified time period to a reference dose for that substance derived from a similar exposure period.  Risk Assessment means the process to estimate the nature and probability of adverse health effects in humans who may be exposed to chemicals in contaminated environmental media, now or in the future. Human health risk assessments are based on the populations and land uses of the property in question and may include residential and non-residential scenarios.  Engineered cap means a system composed of a layer or several layers of natural and synthetic materials used to reduce the infiltration of water into the subsurface and/or to limit the possibility of human exposure to buried materials. A typical cap may consist of a vegetated or otherwise stabilized protective layer of clean soil on the surface, which overlies one or more additional layers that are intended to act as a barrier to infiltration of water; a drainage layer; a capillary break; a gas collection layer; a load dispersion layer; or other purpose depending on the design and intended purpose for the cap. Maryland and federal regulations include specific design requirements for caps depending on the purpose (e.g., solid waste or hazardous waste landfills, etc.).  Engineering controls and institutional controls were defined on p.4. These definitions have been moved to the definitions section.

p. 2-3	12	<b>RESIDENTIAL UNRESTRICTED USE SOIL AND FILL MATERIAL (CATEGORY 1)</b> MDOT SHA suggests the following revision for clarity to ensure the quantity and category of dredge material used in the product that the producer is supplying: "Two forms of documentation may be required by LMA prior to placement of category 1 material if applicable: • Written acknowledgement from the material producer/supplier of the receiving site regarding the volume and nature of the soil/fill material; and/or • Documentation from the party transporting or placing the material."	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	Pages 4 and 5 of the <i>Fill Material and Soil Management Fact Sheet</i> describe the documentation that may be requested by the Land and Materials Administration (LMA) for the use of Categories 1 through 4 material. This information is also stated on pp. 38-39 of the Guidance Document. The specific form and content of documentation would depend on whether the material will be used at a site under LMA oversight, such as a site that is in the Voluntary Cleanup Program or that is under Controlled Hazardous Substance Enforcement oversight.
p. 2-3	13	<b>RESIDENTIAL USE SOIL AND FILL MATERIAL, CAP REQUIRED (CATEGORY 2)</b> MDOT SHA suggests the same revisions regarding offsite locations as well as the following regarding the receiving site: "The receiving site and the program regulating the site may have documentation requirements including: • Receiving Site: o Written Acknowledgement from the material producer/supplier regarding the volume and nature of the soil/fill material; and o Agree to encumber the property with Land Use Controls ensuring exposure is appropriately managed. • Parties Transporting or Placing Material: o Additional Documentation may be required by LMA program."	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	See response to Comment 12.
p. 2-3	14	<b>RESTRICTED USE SOIL AND FILL MATERIAL, CAP REQUIRED (CATEGORY 3)</b> MDOT SHA requests definition or reference defining "engineered cap" and suggests the same revisions as above regarding offsite locations as well as the receiving site: "The receiving site and the program regulating the site may have documentation requirements including: • Receiving Site: o Written Acknowledgement from the material producer/supplier regarding the volume and nature of the soil/fill material; and o Agree to encumber the property with Land Use Controls ensuring exposure is appropriately managed. • Parties Transporting or Placing Material:	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	See response to Comment 12.
GD p. 3 of 7 General - Definitions	15	We suggest the inclusion of a definition for " <b>Recycled Soil</b> " or " <b>Processed Contaminated Soil</b> " - that is, material that was contaminated but has been treated and rendered reusable under permit issued by MDE. Maryland DOT has definitions for recycled materials. These materials should meet the definition of soil or fill material by definition and should be considered reusable if they meet the requirements of their individual permit or the requirements of the permit should be made consistent with the Guidance.	Clean Earth - Trevan J Houser [May 26, 2017] email letter	Recycled soil or "processed contaminated soil" that meets the criteria for one of the categories defined in the <i>Fill Material and Soil Management Fact Sheet</i> is acceptable for the uses listed for that category. Since each of the categories is defined, and those definitions drive the appropriateness of potential uses, the Department does not consider it necessary to separately define recycled soil or processed contaminated soil.
<b>Soil and Fill Material Management Guidelines</b>				
p. 4 bullet #1	16	I see that use of the material "must be placed at least three feet above the maximum expected groundwater level". When spreading topsoil this is not something that is typically determined. We cover all exposed soil where vegetation will be established with topsoil, including swales / ditches. There are places on the eastern shore where the ground water is less than three feet below the surface. Figure 1 does state that the soil may be placed where the groundwater is less than three feet from the surface but that it "may be subject to additional environmental measures and evaluations". That statement is of concern due to its vagueness.	MDOT SHA - Gregory Slater [June 1, 2017] emailed letter	As stated, placement at least 3 feet above the maximum expected groundwater level is the general guideline provided, but there may be situations in which a smaller distance would be protective. Your scenario provides one example of this. In an application like the one you have described where the material would be placed in a thin layer (12 inches or less) as topsoil or a soil amendment, the total amount of any soluble constituents would be minimal and there would not be a need to maintain the 3 foot depth to groundwater.
p. 4 Non-Residential Restricted Use Soil and Fill Material (Category 2):	17	The term "non-recreational" is used in this section of the Guidance and therefore perhaps the term "recreational" should be clearly defined.	Clean Earth - Trevan J Houser [May 26, 2017] email letter	Recreational is defined as any public area that is available for recreational use by all populations (examples: parks, playgrounds, etc.). LMA uses three recreational area exposure frequencies (High, Moderate, Low) that are dependent on accessibility and frequency of use as defined in the Department of the Environment Cleanup Standards for Soil and Groundwater, June, 2008.