



MEMBER BULLETIN

December 19, 2019

New Rules Governing Excess Soil

After a number of years in development, the Ministry of Environment, Conservation and Parks (MECP) have announced that the government is moving forward with its excess soil management regulation. The new regulation – Ontario Regulation (O. Reg) 406/19, *On-site and Excess Soil Management* – puts in place significant changes to current operating rules, including several not directly related to excess soil management. The intent of the changes are to update the rules around soil management and reuse, including site-specific, risk-based standards to provide guidance on safe reuse, as well as to put in place new tools to work with municipalities and other enforcement agencies to strengthen enforcement of illegal dumping of excess soil.

The regulation will be implemented in phases over the next five years, as follows:

- Beginning **immediately**, the rules around brownfield redevelopments requiring the filing of a record of site condition (RSC) prior to launching redevelopment (under O.Reg 153/04) will be modified. Changes to these rules include reduced requirements for filing a RSC, such as: greater flexibility on meeting site-specific standards; removing the requirement for a RSC for low risk redevelopment situations; and, a diminished need to fully outline contaminants for properties going through the Risk Assessment process.
- As of **July 1, 2020**, the rules around excess soil will change to bring greater clarity to the reuse and management process. These changes will include: new risk-based standards for reuse; clarity for when excess soil is designated as a waste product and the consequent rules around movement and disposal; and, a simplified process for waste-related approvals with regulatory rules for low-risk soil management activities. The changes include more lenient rules around the reuse and placement of soil contaminated with salt.
- As of **January 1, 2022**, clarity around where responsibilities lay in the reuse and management process will be put in place. Specifically, prior to any excess soil leaving a project area, new rules dictate that the *project leader* – defined as the person(s) ultimately responsible for the overall planning and implementation of a project – will be required to identify disposal or reuse sites, characterize the soil



in the project area to determine the concentrations of contaminants; and, identify excess soil tracking mechanisms for the project. Much of this information will be required to be posted on a public registry.

- As of **January 1, 2025**, new rules will restrict the placement of clean soil at landfill sites, unless the soil is needed for cover or functions beneficial to the functioning of the landfill.

If you have any questions about the new excess soil regulation, please contact Patrick McManus (905-629-7766 ext. 222 or patrick.mcmanus@oswca.org).