

Ontario's New Regulation for Excess Soil

December 18, 2020

By Jeff Scorgie, Janet Bobechko

On January 1, 2021, the *On-Site and Excess Soil Management Regulation* 406/19 passed by the Province of Ontario under the *Environmental Protection Act* will come into force in addition to the *Rules for Soil Management and Excess Soil Quality Standards*.

The new regulation forms part of a broader regulatory framework the Province is putting in place to govern the management and reuse of excess soil excavated from large construction and development sites.

Among other things, the regulation is intended to ensure that excavated soil is beneficially reused (if possible) and that contaminated soil does not find its way onto otherwise clean sites.

The regulation will have significant implications for Ontario's construction, infrastructure and development industry as it introduces a new legal framework related to soil testing, transportation, temporary storage, data tracking and ultimate reuse sites. Project owners, engineers, contractors, subcontractors, estimators, project managers, consultants, haulers, and others engaged in construction projects that involve excavated soil need to become familiar with the regulatory requirements and understand their roles and responsibilities under the new legislative regime.

To help navigate the new regulation and breakdown its implications for the various participants in construction projects, Janet Bobechko and Jeff Scorgie of WeirFoulds together with Krista Barfoot of Stantec, will be hosting a webinar on January 14, 2021 from 1:00 – 2:00pm. Topics that will be covered include:

- an overview of the regulation's requirements and the procedures that will need to be undertaken or considered including the waste designation, understanding soil quality and quantity issues, environmental soil testing, preparation of planning documents, identification of reuse sites, registry filings, data tracking and record keeping, what legal instruments and approvals are required and more
- an explanation of the roles and responsibilities of the various parties under the new regulatory regime, including "Project Leaders" and "Qualified Persons"
- what requirements apply as of January 1, 2021 and what requirements will be phased-in at later dates
- which projects the regulation applies to and which projects benefit from certain exemptions
- what project owners and those advising them need to consider during the preliminary stages of project structuring and planning in order to successfully navigate the regulation's requirements and avoid project delays and additional costs during construction
- how to incorporate the new regulatory requirements into contract and procurement documents as well as other practical considerations

We will also be returning to host a second webinar on March 25, 2021 from 1:00pm to 2:00pm where we will discuss how the industry has adapted to the introduction of the new regulation and rules and what lessons have been learned since January 1, 2021.

We will also discuss in greater detail the aspects of the regulation that will be coming into force on January 1, 2022 and what you need to know.

We hope to see you there!

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

For more information or inquiries:



Jeff Scorgie

Toronto
416.619.6288

Email:
jscorgie@weirfoulds.com

Jeff Scorgie is a Partner in the Construction Practice Group at WeirFoulds. His practice focuses on drafting and negotiating contracts and advising on other “front end” aspects of construction projects.



Janet Bobechko

Toronto
416.947.5073

Email:
jbobechko@weirfoulds.com

Janet Bobechko is a Certified Specialist in Environmental Law and a nationally recognized senior practitioner with extensive experience in all aspects of environmental law, climate change and sustainability, including supply chain transparency.

WeirFouldsLLP

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035