

Important Changes to Records of Site Condition and (yet again) Excess Soils

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On October 23rd and 24th, the Ministry of the Environment, Conservation and Parks (“MECP”) finalized significant regulatory amendments under the *Environmental Protection Act* (“EPA”) to advance Ontario’s goals of streamlining environmental approvals, enabling more cost-effective construction and redevelopment, and encouraging greater beneficial reuse of excess soil.

These changes amend two key regulations: *Ontario Regulation 153/04: Records of Site Condition (“RSC”) Regulation* and *Ontario Regulation 406/19: On-Site and Excess Soil Management* (the “**Excess Soil Regulation**”). Together, these reforms form part of the province’s broader effort to reduce regulatory burdens and accelerate the development of housing, highways, and other critical infrastructure while maintaining environmental and human health protections.

Amendments to O. Reg. 153/04 – Records of Site Condition Regulation

MECP amended the *Records of Site Condition Regulation* to reduce unnecessary filings of RSCs in low-risk circumstances and to expand an existing exemption for certain building conversions to residential or mixed use. These measures aim to accelerate brownfield redevelopment and housing construction while maintaining environmental protection. The proposed amendments were posted on the [Environmental Registry back in November 2024](#).

What's New

1. Prohibition on Submitting Certain Low-Risk RSCs

Property owners are now prohibited from submitting an RSC for filing in the Environmental Site Registry if the RSC was prepared solely on the basis of a phase one Environmental Site Assessment (“ESA”), and the RSC is not otherwise required by *EPA* or the *RSC Regulation*. In such cases, the owner must provide a written declaration to the MECP Director stating that the owner is submitting the RSC for filing voluntarily, and not to comply with a requirement imposed on the owner by another person or body.

RSCs submitted before the prohibition that require revision may still be resubmitted. A one-year transition period (until October 23, 2026) allows filing where an RSC is required under a pre-existing obligation or agreement in place before the amendments took effect, including public body instruments (e.g., draft plan of subdivision conditions) or private agreements, with a written declaration also required.

Alternatives to RSCs

The October 2025 amendments prohibit filing RSCs in specified low-risk circumstances, specifically where an RSC would be based solely on a phase one ESA and is not otherwise required under the *EPA* or the *RSC Regulation*. Following this proposed change,

stakeholders, including municipalities, requested guidance on how to maintain environmental due diligence while complying with the new prohibition. In response, the MECP issued guidance outlining permitted alternatives.

Municipalities and other parties may request phase one or phase two ESAs to evaluate a property's environmental condition, and independent peer review of existing site information or ESAs may also be used to provide assurance regarding environmental conditions. Where appropriate, additional environmental studies or assessments may be requested to ensure a property is suitable for its intended use or to support financing. These alternatives confirm that even without a mandatory RSC filing, public bodies and other stakeholders retain the ability to require environmental studies to maintain confidence in site conditions. However, as no RSC is issued, there is no statutory protection from various EPA orders and this will be a significant change in practice for many parties. There will be a ripple effect in property transactions, financing and developments that will need to consider how they will manage this change.

2. Expanded Exemption for Building Conversions

Ontario has broadened an existing RSC exemption to facilitate redevelopment of commercial or community use buildings into mixed-use developments with residential or other sensitive uses. The previous six-storey height limit has been removed, and exterior additions are now allowed above the ground floor. Ground-floor additions are permitted where necessary for fire safety, accessibility, or attached outdoor structures.

All other protective conditions remain to mitigate potential contamination risks. These amendments aim to accelerate adaptive reuse of existing buildings, particularly in urban areas.

Consultation Outcomes & Implementation

The MECP received 36 submissions, primarily supporting both amendments. Stakeholders showed broad support for the restriction, generally reacting that it is low-risk and will help achieve housing and development objectives. Stakeholders also explicitly requested guidance, clarifying the use of alternative processes (like ESAs and peer review) that municipalities could use instead of mandatory RSCs.

The ministry responded by confirming that municipalities and other parties can continue to require environmental due diligence even where an RSC is not mandatory. The MECP's guidance, "[Alternatives to Records of Site Condition When Not Mandatory](#)," outlines permissible approaches, including requesting phase one or phase two ESAs and conducting independent peer reviews of site information. These alternatives allow public bodies, financial institutions, and other stakeholders to assess a property's environmental condition and ensure it is suitable for its intended use or financing, even in the absence of a mandatory RSC filing.

All RSC amendments came into effect upon filing in October 23, 2025.

Amendments to O. Reg. 406/19 – On-Site and Excess Soil Management

In a parallel reform, the October 2025 amendments introduce a new set of reforms aimed at improving flexibility, streamlining reuse processes, and promoting the circular use of excess soil and aggregate materials across construction and infrastructure projects on October 24, 2025. These proposed changes were likewise initially published on the [Environmental Registry on December 18, 2024](#) and refine the regulatory framework to better reflect practical realities observed since full implementation of the regime, addressing challenges related to soil movement, storage, and classification. The updates are designed to reduce administrative burden for project proponents while maintaining environmental protection and traceability requirements under the updated and revised newly dated [2025 Rules for Soil Management and Excess Soil Quality Standards](#) (the "Soil Rules").

What's New

1. Exemption for Aggregate Reuse Depots

Aggregate reuse depots are now exempt from the requirement to obtain a waste Environmental Compliance Approval ("ECA"), provided they meet prescribed conditions. The regulation specifies which depots qualify for the exemption based on material type and volume, and outlines mandatory notification requirements to the MECP and relevant municipalities prior to operation. Where depots operate within pits or quarries licensed under the *Aggregate Resources Act*, oversight defers to the *Aggregate Resources Act* or instruments under it to avoid regulatory duplication.

Additional conditions now require that a qualified person oversee matters related to soil quality and develop procedures. Storage durations have been aligned with other depot categories (two years), and engineered aggregate from qualifying depots can be reused as recycled engineered aggregate if it meets specified criteria.

2. Expanded Reuse of Recycled Aggregate and Stormwater Pond Sediment

To promote reuse and reduce disposal, the regulation now allows asphalt-impacted excess soil and sediment from stormwater management ponds to be reused more broadly. Asphalt-impacted excess soil meeting certain conditions is deemed to comply with soil quality standards if it is finally placed in asphalt-pavement covered areas such as roads or parking lots. Stormwater pond sediment may be reused within a road right-of-way adjacent to asphalt roads, including medians and landscaped areas.

For excess soil or recycled engineered aggregate originating from an infrastructure project, natural excess of soil standards is permissible if concentrations fall within the local natural range and specified criteria are met. The Soil Rules also now set out procedures for determining whether elevated concentrations are due to naturally occurring conditions or asphalt contamination.

3. Reuse Between Infrastructure Projects

Excess soil transferred between project areas and reuse sites that are both infrastructure undertakings of the same type (e.g., road-to-road) will not be designated as waste, provided certain conditions are satisfied. For example, the project leader and reuse site operator must be the same entity or must both be public bodies. As well, the soil must be found not likely to be contaminated. The Soil Rules specify which infrastructure projects are considered a similar type.

Public bodies may now coordinate soil movement among themselves, even without concurrent or coordinated project timelines, enhancing efficiency across municipal infrastructure projects.

4. Reduced Reuse Planning Requirements

When soil is moved from an infrastructure project area to an infrastructure reuse site, project leaders are now exempt from most reuse planning requirements, such as past use assessments, sampling and analysis, destination assessment reports, and tracking system obligations.

A notice filing in the Excess Soil Registry remains required if triggered. This exemption applies even where the reuse site is privately owned, significantly reducing administrative burden for infrastructure proponents.

5. In-Situ Sampling for Stormwater Pond Sediment

The regulation now permits in-situ sampling of sediment directly from stormwater management ponds, eliminating the prior

requirement to sample stockpiled sediment. This change reduces handling, time, and cost. The Soil Rules set out specific frequencies and required parameters for in-situ testing. Post-dredging confirmatory sampling requirements were removed following stakeholder feedback that such measures were duplicative.

6. Development of Regional Background Concentration Mapping

MECP will develop regional mapping of naturally occurring local background concentrations to support soil reuse decisions and reduce unnecessary testing. Municipalities expressed strong support for this approach, encouraging the province to take a leadership role in creating region-level data standards. Details will be provided as the initiative progresses but we know that this will be a challenging undertaking.

7. Clarifications, Corrections, and Minor Amendments

The amendments also include several updates aimed at improving clarity and reducing regulatory uncertainty. The MECP clarified that soil reused within large, multi-area infrastructure initiatives, such as highways or transit projects, will not be designated as waste, provided the reuse occurs within contiguous project areas. Similarly, soil that is temporarily removed and later returned to the same project area will not be considered waste upon its return. The amendments also address soil handling during tunneling projects, confirming the applicable sampling requirements when substances are added during excavation.

Qualified persons are now authorized to reduce sampling frequencies for non-contaminant parameters, provided they document a supporting rationale. In addition, the regulation clarifies that excess soil placed on the bed of a water body at a reuse site is not considered waste if it does not cause an adverse effect. The MECP further confirmed that “cleaner” soil may still be sent to landfill when it is unsuitable for structural reuse due to its physicochemical characteristics. Finally, an obsolete cross-reference in *Regulation 347 General Waste Management*, has been removed to eliminate redundancy related to excess soil already excluded from the waste designation.

Consultation Outcomes & Implementation

The MECP received 79 submissions from municipalities, industry, consultants, and advocacy groups. Broad support was expressed for the regulatory flexibility and reuse provisions, with some concerns regarding oversight, soil quality verification, and public transparency. Adjustments were made accordingly, particularly around depot regulation, sampling flexibility, and coordination among public infrastructure projects.

All October 2025 amendments took effect upon filing, aside from the landfill restriction for “cleaner” soil which is scheduled for January 1, 2027. Additional implementation guidance and updated Soil Rules materials are forthcoming on the [Handling Excess Soil website](#).

Conclusion

The October 2025 amendments mark a major step in Ontario’s continuing modernization of environmental regulation for development and infrastructure. The changes to the *Records of Site Condition Regulation* and the *Excess Soil Regulation* reflect a government policy direction focused on encouraging the beneficial reuse of excess soil and aggregate to conserve landfill capacity, reducing administrative barriers to brownfield and infrastructure development, and maintaining strong environmental safeguards through updated standards, qualified professional oversight, and clearer guidance. MECP plans to provide additional education to support greater understanding and promote consistent application across municipalities and industry sectors.

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

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