

November 20, 2024

Reema Kureishy  
Environmental Policy Branch  
Ministry of the Environment, Conservation and Parks  
40 St. Clair Avenue West, 10<sup>th</sup> Floor  
Toronto, ON M4V 1M2

**Dear Ms. Kureishy:**

**RE: ERO 019-9196 Enabling greater beneficial reuse of excess soil: Niagara Region Comments**

Niagara Region is submitting the comments below in response to ERO 019-9196. We thank you for the opportunity to share our municipal perspective and look forward to engagement with the Province on this notice.

Regards,



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Catherine Habermehl  
Director, Waste Management Services

**Niagara Region Comments: “Enabling greater beneficial reuse of excess soils”**

The purpose of ERO 019-9196 is to describe proposed amendments to O. Reg. 406/19, On-Site and Excess Soil Management. O. Reg. 406/19(the Regulation) is scheduled to be in full effect as of January 1, 2025. Niagara Region (Region) provides the following comments on the proposed amendments:

**1) Change the coming into force date of the landfilling restriction for excess soil meeting Table 2.1 residential standards (Section 22 of the Regulation)**

The Region agrees with the proposed amendment which clarifies that soil meeting Table 2.1 residential standards will now be referenced in Section 22, as the current wording of Section 22(1) is difficult to interpret.

The reason for the two-year delay in the Regulation's implementation is unclear. Since the Regulation was introduced in 2019, this delay would result in an approximately eight-year implementation period, which seems excessive. To maintain focus on the importance of excess soil management, the Region recommends that the Ministry of Environment, Conservation and Parks (MECP) set the enforcement date to January 1, 2026, extending it by only one year.

Further clarification is needed regarding subsection 22(3), which permits landfilling of excess soil if a qualified person believes it would be “unsafe to finally place the excess soil at a reuse site.” If there are no associated quality standards, it is unclear why this would result in an adverse effect, as the soil quality standards are intended to prevent such impacts. Additionally, it should be specified that, even if a qualified person determines that excess soil must be landfilled, it must still meet the landfill's Environmental Compliance Approval acceptance criteria before being accepted. The Region recommends that the MECP provide specific examples to help clarify the intent of this proposed amendment.

**2) Exempt specified excess soil management sites from a waste environmental compliance approval (ECA) subject to rules****Aggregate Reuse Depots**

Will the aggregate reuse sites require registration on the RPRA web site?

**Small Liquid Soil Depots**

Why is the allowable storage time limited to six (6) months instead of twelve (12)?

**3) Enhanced reuse opportunities for aggregate and stormwater management pond (SWMP) sediment**

No comment.

**4) Allow greater reuse of soil to be coordinated between similar infrastructure projects**

No comment.

**5) Reduce reuse planning requirements for excess soil moved between infrastructure projects**

No comment.

**6) Allow in-situ sampling for stormwater management pond (SWMP) sediment**

The Region is in agreement with the proposed revision as this will provide the owner the flexibility to carry-out in-situ sampling, and to determine depth of the dredging requirement which will be beneficial in determining soil volume.

**7) Regional mapping of naturally occurring local background concentrations**

The Region is fully supportive of this initiative and agrees that further discussion is necessary to gain a clearer understanding of how regional mapping would operate in practice. The primary challenge in creating soil mapping at a regional scale involves considerable financial costs and the specialized expertise needed to carry it out. The Region recommends that the MECP consider funding these mapping efforts, either in full or in part.

**8) Other clarifications and corrections**

The Region generally agrees with the other proposals under item 8. It seems reasonable and would likely be beneficial to locate multiple types of depots on the same property or on adjacent properties as described in 8(vi).