



November 21, 2024

Reema Kureishy

Ministry of Environment, Conservation and Parks

Environmental Policy Branch

40 St Clair Avenue West, 10<sup>th</sup> Floor

Toronto, ON, M4V 1M2

*Submitted electronically*

**Re: OSWCA Submission to the Ministry of Environment, Conservation and Parks on the Proposed Amendments to Ontario Regulation 406/19: On-Site and Excess Soil Management**

The Ontario Sewer and Watermain Construction Association (OSWCA) represents over 800 companies and 30,000 workers who build housing-enabling infrastructure, roads, tunnels and bridges across Ontario. Soil excavation and management of excess soils is essential for any construction or infrastructure-related project.

On behalf of our members, the Ontario Sewer and Watermain Construction Association (OSWCA) appreciates the opportunity to provide feedback on the proposed amendments to Ontario regulation 406/19 on the On-Site and Excess Soil Management and Excess Soil Quality Standards.

We acknowledge the ongoing work the Ministry has undertaken to enable greater reuse and management of excess soil and addressing other common concerns around the implementation of the regulation.

Allowing and promoting the beneficial reuse of soils helps to reduce the amount of soil movement and disposal within the province, therefore reducing greenhouse gas emissions, and reducing added costs on construction projects.

While a number of provisions of the recently proposed amendments to O.Reg 406/19 will help to facilitate the reuse of excess soil excavated from construction sites and infrastructure projects, the proposal to allow for soils that could be beneficially reused to be dumped into landfills for an extended two-year period is in direct opposition to this goal.



**Recommendation: Encourage other stakeholders to adapt and change their soil management practices to avoid further delays to the implementation of the Landfilling Restrictions.**

**Recommendation: Create a best practices document for how municipalities can best establish their own Class 2 Management sites, including working in partnership with the private sector. Develop an economic analysis of the costs and benefits for establishing these sites over the long term.**

The expressed goals of the regulation include reducing the amount of excess soil disposed of in landfills, preventing improper reuse of soil and encouraging and facilitating local reuse, thus decreasing greenhouse gas emissions. Understanding these goals, Section 21 of the regulation provides for exemptions from the planning requirements provided the two following conditions are met:

1. the excess soil is excavated as a part of an infrastructure project; and,
2. the Project Leader for the infrastructure project intends, after removing the excess soil from the project area, to finally place it at a reuse site that is owned by the project leader or a public body that is a part of an undertaking related to another infrastructure project.

The municipality therefore has the option of storing their materials excavated from an infrastructure project at a Class 2 Soil Management Site to help facilitate additional reuse options and significantly lower the total project cost.

Unfortunately, there is little knowledge in the public buyer community for the establishment and utilization of the Class 2 Management Site. As such, education is a critically important element which cannot be overstated, including providing the financial justification for why such sites are a valuable investment for municipalities to make. It is particularly important MECP communicate to public buyers their ability to partner with local landowners via a lease agreement, for the purposes of operating a Class 2 Management site.

Further, in order to expand opportunities for soil reuse, for both small rural communities and large urban centers generating significant excess fill, the MECP ought to consider increasing the amount of excess soil stored at the Class 2 soil management site at any one time, from 10,000 m<sup>3</sup> to 50,000 m<sup>3</sup>. For reference, Peel Region produced at least 1,208,880 m<sup>3</sup> of fill (beneficially reused at the Jim Tovey Conservation Area) between 2016 and 2020,





or an average of 242,000 m<sup>3</sup> per year. Under the current rules, this amount of fill would have to be spread across 24 sites (if no immediate reuse site was available) versus 5 sites under an expansion to 50,000 m<sup>3</sup>. An expanded number makes for great opportunities for reuse. This expansion would ensure public bodies intending to reuse their excavated materials, could utilize the class 2 site and limit the impacts to the environment related to managing and transporting excess soil.

**Recommendation: Develop and provide standardized municipal requirements to ensure all municipalities are provided with a clear, uniform path to achieving the objectives of the regulation.**

Historically, the management of excess materials has been downloaded entirely to the construction community. As such many public buyers are unaware of the opportunities which exist to manage their own material. Specifically, the benefits resulting from retaining Qualified Persons during design and maintaining such services to prepare the Assessment of Past Uses, Soil Characterization Reports, Sampling and Analysis Plans as well as all required testing and analysis during construction, and the further opportunities which exist when owners identify beneficial reuse site, partner with a conservation authorities to beneficially reuse soil, coordinate capital projects or developments in need of material, and operate class 2 management sites to reuse native on projects.

The historic practice of downloading, combined with the introduction of complex and ambiguous Regulation, has created confusion, inconsistency, and varying interpretations of the new rules around the management of excess materials across the province. Ultimately, this has resulted in the rapidly escalating costs of construction without any significant improvement to the process the Regulation sought to remedy. Unfortunately, when owners continue the practice of downloading these responsibilities and do not capitalize on the incentives to reuse their soil, the purpose of the Regulation to promote the reuse of soils, reduce the amount of soil movement and disincentive the reliance on virgin aggregate is lost.

Understanding the complexity of the Regulation and the inexperience of many owners in managing their excess materials has resulted in limited, if any, achievement of the intention of the Regulation, it is imperative the Ministry clarify the intention of the Regulation and provide unambiguous guidance regarding implementation. Specifically, the Ministry ought to provide standardized municipal requirements to ensure all municipalities are provided with a clear, uniform path to achievement.



Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'P' followed by a horizontal stroke that curves upwards at the end.

Patrick McManus  
Executive Director