

December 1<sup>st</sup>, 2023

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Ministry of the Environment, Conservation and Parks  
Environmental Policy Branch  
40 St Clair Avenue West, 10th Floor  
Toronto, ON M4V 1M2

*Submitted electronically*

**RE: ERO #019-7636 Proposed amendments to O. Reg. 406/19: On-Site and Excess Soil Regulation and the Rules for Soil Management and Excess Soil Quality Standards**

The Residential and Civil Construction Alliance of Ontario (RCCAO) is pleased to provide comments to the Ministry of Environment, Conservation and Parks (MECP) regarding the proposed amendments to Excess Soil Regulation in Ontario.

RCCAO has been involved with the MECP and other stakeholder organizations in promoting the environmentally responsible and beneficial reuse of excess soils in Ontario for over a decade. We want to commend the government on its work and advancement of this file and implementing a regulatory regime to improve the removal, disposal and re-use of excess soils. RCCAO appreciates the current proposal's aim to ensure that the regulation can be more easily implemented, understood, and reduce requirements on lower risk activities to achieve greater reuse of readily usable excess soils as part of a circular economy.

We would like to offer the below recommendations as considerations to help continue the improvement to excess soil process in Ontario:

**1. Alignment with Existing Regulations**

RCCAO supports the proposed enhanced reuse opportunities for salt-impacted soil; however, there remains further opportunities for harmonizing the approach to salt-impacted soil with existing regulations.

Specifically, the Ministry should consider further amendment the proposed enhanced reuse opportunities for salt-impacted soil to include a similar approach taken within in O. Reg. 153/04, the Soil, Groundwater and Sediment Standards for use under the Environmental Protection Act and the accompanying Rationale Document (MOE, 2011) for potable groundwater scenario where a stratified soil approach can be maintained.

For greater clarity, Table 4 soil standards do not provide a value for Electrical Conductivity and Sodium Adsorption Ratio for any land use if soil is placed and maintained at a depth greater than 1.5 metres below ground surface. It is understood that this is a result of the primary driver of risk posed by EC/SAR which is outlined in the Rationale Document as being protective of soil organisms and plants.

It is unclear to industry and consultants because the approach taken to brownfield redevelopment is less stringent than that taken with the beneficial reuse of salt-impacted soil, especially considering its widespread use and ubiquitous presence in urban environments.

Accordingly, the Ministry should consider removing the SAR/EC standards for subsurface soils as provided by Excess Soil Quality Standards Table 4.1 and Table 5.1.

## **2. Adopt a Zonation Approach**

We note that salt impacted soils were being permitted on agricultural properties so long as they are not used in naturalized areas, crop fields, or pasturing areas. When considering the application of stratified site condition standards, with the appropriate salt impacted soil exemptions, there is an inherent spatial zonation that occurs for the reuse site. This would ease the acceptance restrictions on large properties that may have an environmentally sensitive receptor on a small portion away from the proposed excess soil placement area.

As it stands, only sites where Table 2.1/3.1 apply are eligible to accept excess soil with quality that meets Table 4.1/5.1 ESQS as the later tables are less conservative than any other site condition standards.

We therefore recommend that the Ministry consider adopting a zonation approach to excess soil reuse sites, where a property can accept multiple soil qualities based on the site condition standards applicable to an area of the site, with appropriate setbacks.

RCCAO appreciates having the opportunity to provide input into this consultation process. We will our engagement on this file, and we look forward to providing further input as the Ministry works on this important industry issue.

Sincerely,



Nadia Todorova  
Executive Director