

Implications of Pause of January 1, 2022 Requirements

On MayOn xxx

On April 21, 2022, MECP paused some provisions in the Excess Soil Regulation that came into effect on January 1, 2022, until January 1, 2023.

This includes pausing the registration and planning requirements for projects, requirements for larger reuse sites, the hauling record, and registration requirements for residential development soil depots.

Note that:

- must still comply with the sections of the Regulation that have not been suspended
- due diligence (testing) is still required during the pause
- due diligence is essential to avoiding future liability - document communications with owners to ensure clear understanding of requirements and instructions

Project Leaders	<p>Project leaders are not required to:</p> <ul style="list-style-type: none"> • file or update a notice in the Registry • complete an assessment of past uses • complete a sampling and analysis plan and soil characterization report, if required, including meeting the minimum sampling requirements • complete an excess soil destination assessment report • implement a tracking system related to the movement of excess soil <p>Assessments and reports commenced prior to January 1, 2023 for the project would not need to be repeated and can be recognized for ongoing projects after January 1, 2023.</p> <p>The contract exemption date of January 1, 2022 remains unchanged. This is the date by which a project leader must have entered into a contract related to the management of excess soil from the project area in order to be exempt from reuse planning provisions that now come into effect January 1, 2023.</p> <p>January 1, 2022 is still the date for projects to comply with MECP's Synthetic Precipitation Leaching Procedure (E9003 or mSPLP) if leachate sampling was undertaken.</p>
Reuse Sites	<p>Larger reuse sites (accepting 10,000m³ or greater) are not required to:</p> <ul style="list-style-type: none"> • file or update a notice on the Registry; or • develop and apply procedures to account for every load of excess soil deposited at the reuse site or to ensure that the storage of the excess soil does not cause an adverse effect. <p>These requirements restart as of January 1, 2023 for larger reuse sites.</p>
Haulers	<p>Haulers are not required to have physical or electronic hauling records during the transportation of excess soil, until January 1, 2023.</p> <p>During this period, haulers transporting excess soil are deemed to comply with the requirement for a hauling record if they provide key information (verbally) on the excess soil movement (e.g., source location, quantity of soil, and location where soil is being deposited) to a provincial officer, upon request.</p>
Residential Development Site Depots	<p>A notice is not required to be filed on the Registry as a condition of establishing a residential development soil depot, until January 1, 2023.</p> <p>Requirements to update any information in the notice are also paused until January 1, 2023.</p>

Excess Soil Management Bulletin

June 2022

Excess soil management regulations are being phased in by the provincial government over the next six years.

Excess Soil means soil, or soil mixed with rock, that has been excavated as part of a project and removed from the project area because it cannot or will not be reused at the site.

Regulations & Rules

- O.Reg. 406/19: On-Site and Excess Soil Management
- O.Reg. 153/04: Record of Site Condition
- Rules for Soil Management and Excess Soil Quality Standards

Implementation Timeline

The Regulation will be phased-in over six years

- January 1, 2021: new risk-based soil and leachate quality standards, waste designation and approvals.
- **UPDATED January 1, 2023: volume-based testing, tracking, hauling records and registration.**
- January 1, 2025: restrictions on landfilling of clean soils.
- Grandfathering provisions: applicable from January 1, 2021 to January 1, 2026.

Key Elements of the Regulation

- Clarifies when excess soil can be reused or is considered waste
- Replaces or simplifies waste-related approvals
- Reuse planning
- Ensures reuse sites are not receiving contaminated soil
- Requires larger reuse sites to register and develop procedures to track and inspect soil
- Restrictions on landfilling clean soil that is suitable for reuse

Key Elements of the Rules

- Assessment of past use
- Sampling and analysis plans
- Excess soil characterization reports
- Excess soil destination assessment reports
- Soil storage and processing
- Excess soil tracking systems
- Soil quality standards and reuse rules
- Hauling records and record retention requirements

