



March 31<sup>st</sup>, 2022

**Re: Implementation Pause of Excess Soil Requirements in Effect  
January 1, 2022**

Dear MECP,

According to the Residential and Civil Construction Alliance of Ontario, the Province of Ontario generates approximately 25 million cubic meters of excess soil annually. Prior to January 1, 2021 there was widespread and inconsistent management of excavated soils, which lead to significant amounts of soil being illegally dumped and/or using up critical landfill capacity with soils that could be re-used.

The Ministry of Environment, Conservation and Parks (MECP) over the course of a decade engaged with industry stakeholders to find a long-term solution. Best Practices were created however adopted sparingly by industry. Then in November 2019 at the Excess Soils Symposium in Pickering, Minister Jeff Yurek announced the creation of O. Reg. 406/19 On-Site and Excess Soils management to an audience of over 500 environmental industry practitioners.

The goals of O. Reg. 406/19 are to:

- Promote beneficial re-use of soils.
- increase transparency, accountability and enforceability.
- clear, concise guidelines on tasks Project Leaders must follow.
- reduce the amount of green house gases emitted by hauling long distances.

With O. Reg. 406/19 the MECP has successfully created a roadmap on how excess soils are to be managed that allows for consistency in application pertaining to; sampling, tracking, notice filing, on-site reuse and professional oversight by Qualified Persons.

Since November 2019, the MECP and stakeholders (construction associations, municipal groups, ONEIA, ULI, PEO, etc..) have hosted dozens of education sessions. These sessions have spread across Ontario for over three years outlining the nuances of O. Reg. 406/19 including notification of the MECP's phased approach of implementation. Even with Covid 19 limiting in-person events, the messaging and engagement opportunities continued to get the word is out and industry has adapted to the 'new way of managing soil'.

There have been a number of proactive project leaders and stakeholders considered, 'early adopters' that have instituted O. Reg. 406/19 prior to full implementation date of January 1, 2022. There are also a number of large-scale, high-profile projects including TTC Scarborough and Eglinton Tunnels, Ontario Line, Waterfront Toronto and Region of Waterloo Landfill expansion that are all following the full requirements of O. Reg. 406/19.



The MECP in Dec 2020 issued an amendment to the regulation to include a wider range of projects to fall under O. Reg. 406/19 resulting in O. Reg. 775/20. The MECP and industry have taken the appropriate measures to ensure excess soils are properly managed and a level playing field is set.

Like many others in the Industry, GFL has invested significantly in software systems and operational processes to manage the changes from O. Reg. 406/19. In fact, many years ago, the MECP unilaterally amended the majority of the GFL Environmental Compliance Approvals related to Soil Treatment Facilities to include analytical packages that anticipated those to be included in O. Reg. 406/19. It was our argument then, that such amendments prematurely created a disconnect from what the analytical package the treatment facilities were obligated to adhere too, versus what the analytical packages provided by its Clients (Developers, Contractors and Municipalities).

The direct cost to GFL in terms of supplementary analytical costs to remain compliant at each of its treatment facilities, has been several millions of dollars. Only recently, with the implementation of O. Reg. 406/19 has GFL seen this technical and cost disparity diminish such that the majority of analytical packages provided by the Project Sites to the Treatment Facilities now reflect the requirements of the Environmental Compliance Approvals.

A temporary “pause” to the implementation of the O. Reg. 406/19 will not override the specific regulatory conditions within the Environmental Compliance Approvals of the Soil Treatment Facilities and as such, once again reestablishes an imbalance that will significantly impact of these operations, both at a compliance and financial level.

For the MECP to consider a temporary ‘pause’ on the January 1, 2022, would only benefit the minority of stakeholders that have disregarded their responsibilities to familiarize themselves with the regulation. There has been ample opportunity to be made aware, educated and adjust with the phased approach the MECP has taken. Rewarding these stakeholders is not the answer and diminishes the vast amount of human and financial capital industry has made in preparation of January 1, 2022

Best regards,

A handwritten signature in black ink, appearing to read 'Damian Rodriguez'.

Damian Rodriguez

Vice President Soils / Director of Operations, Liquid East