



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

Re: Comments on Proposed Amendments dated September 2023 to O. Reg. 406/19 as part of ERO #019-7636

Reema Kureishy:

I am the president of EcoVac Solutions Ltd. (EcoVac). We operate a liquid soil receiving site under Environmental Compliance Approval (ECA) # 3168-BH9JQY, and process non-contaminated liquid soil waste to recover its constituent materials for beneficial reuse. Our company has made a significant investment in designing our plant and developing procedures to comply with our ECA. Furthermore, we undergo inspections with Ministry Staff to audit our operations to ensure compliance with our ECA and the associated design and operations report.

We have reviewed the Ministry’s proposed amendments to O. Reg. 406/19. Our comments are provided below.

We are particularly concerned with part 1(c) of the proposed amendment where the Ministry is proposing to exempt liquid soil receiving sites take up to 200m³ per day from the requirement of having an ECA (Waste) in place to govern liquid soil processing activities occurring at their sites. In lieu of holding and complying with an ECA, these sites would only be required to register on the Ontario Excess Soil registry; this is a significantly less rigorous threshold for both approval of the facility’s design and operations, and for ongoing compliance of operations compared to sites that operate under ECAs.

EcoVac Comments:

The ECA approvals process is a substantially and materially more rigorous process compared to the registration process proposed for liquid soil sites.

Sites applying for an ECA are required to clearly articulate design and operations plans to address the following:

- The management of water that comes into contact with soil stockpiles.
- Ensuring the site has appropriate space to stockpile material such that it can be tested prior to sending to a receiving or reuse site.
- Having protocols in place to maintain the chain of custody of received loads.
- Having protocols in place for disposal of contaminated materials.

- Protocols for testing of soil stockpiles prior to shipping to receiving or re-use sites with systems that can maintain records of testing.
- Protocols on receiving liquid soil including identifying potential contaminated loads and maintaining records.
- Treatment and discharge of excess water.
- Ensuring the site has its required municipal permits in place to allow for discharge of water and containment of dust.
- Spills response plan
- Operations & design report that details how the depot will operate within the parameters of the excess soil regulations

These plans are submitted for review, and made more stringent and comprehensive through the incorporation of feedback from the regulator, the public and/or other stakeholders.

The registration process, conversely, would only require that registering site assert that they will operate in accordance with the requirements set out in 1(c) of the proposed amendment. Checking that these plans were in place, or were of a quality sufficient to prevent impact to the environment or the public, would only occur through MECP inspection, investigation and enforcement. Additionally, enforcement of registration requirements will be difficult without clearly articulated standards / expectations for the items identified in part 1(c) of the amendment. These standards/expectations have not been clearly articulated in the proposed amendment. Lastly, it seems like the public's only opportunity to confirm that registered sites have measures in place to protect the environment and public well being would be by initiating an inspection/investigation of the registered site by the MECP. This will result in significantly more complaints being filed against our industry, and will degrade the public's view of our business as less diligent operators overtake incumbent operators who have invested significant resources to protect the environment, our neighbours and our stakeholders.

We do not understand how the MECP is going to make sure that these new facilities are built adequately to protect the environment and human health, and to prevent adverse effects. Furthermore, our ECA, which we have invested in developing, looks to impose a higher standard for operations on an ongoing basis. This is a clear business disadvantage for ECA holders who were leaders and early actors in our efforts to comply with the MECP's excess soil framework. Our ECAs now subject us to disproportionate operational costs on an ongoing basis.

We strongly disagree with the assertion that smaller sites pose lower environmental risks compared to sites like EcoVac's, which receives on average 400m³ of material daily. It is our position that all operations, whether large or small carry the same environmental risks that need to be mitigated and consequently require the same standards and protections. We are concerned that unregulated sites will exploit this loophole to the detriment of regulated sites and the hydro-excavation industry as a whole, resulting in higher enforcement costs for the MECP and higher compliance costs for incumbent operators who may not be able to sustain operations. The same amount of material will then need to be processed by numerous smaller sites with less effective regulatory oversight and environmental protections.



EcoVac is strongly opposed to exemption 1(c) being proposed under the amendment to Ontario Regulation 406/19 under ERO #019-7636, which will allow new operators to circumvent controls and environmental protections to the detriment of the public and incumbent operators who are held to a higher standard. Our first request would be to remove the exemptions set out in part 1(c) of ERO #019-7636. Alternatively, if the amendment is to be implemented as written, we request that the MECP Policy Branch convene a consultation session with owners and operators that process material under ECAs. This would be an opportunity for these operators to provide comments and input into standards, guidance, and pre-operation mechanisms to confirm compliance for registered sites. These standards will support effective and timely enforcement, and, consequently, better environmental protection. This could also mitigate disproportionate costs being imposed on proactive environmental businesses who invested early to develop and permit infrastructure and facilities to support the MECP's objectives.

Signed

A handwritten signature in black ink, appearing to read "Greg Rieveley", written over a horizontal line.

Greg Rieveley, President
EcoVac Solutions Ltd.