

SENT BY EMAIL: karen.moore4@ontario.ca

October ~~XX~~14, 2021

Karen Moore  
Assistant Deputy Minister  
Environmental Policy Division  
Ministry of Environment, Conservation and Parks  
40 St. Clair Avenue, 10th fl.  
Toronto, ON M4V 1M2

**RE : Request to delay upcoming implementation dates of O. Reg. 406/19**

Dear Karen,

I am writing on behalf of the Regional Public Works Commissioners of Ontario (RPWCO) to express concern regarding the timing of key guidance materials and tools in support of O.Reg. 406/19, On-site and Excess Soil Management under the *Environmental Protection Act*. Due to delays in their release, RPWCO requests that the upcoming implementation dates be deferred by one year.

RPWCO's Excess Soils working group has been keeping members informed of regulatory requirements and sharing information regarding impacts and strategies to assist our members in complying with the regulation. All municipalities have been diligently working towards assessing their current practices and identifying gaps, revising contract specifications, training staff, identifying resources such as consultants and internal staff, requesting additional budget, and informing Council, to be in compliance with regulation.

Those municipal members responsible for compliance with the regulation have indicated that delays in critical materials and tools from the Ministry of Environment Conservation and Parks is making compliance with the upcoming implementation dates extremely challenging.

The guidance documents and fact sheets that were promised by the Ministry to help guide the users on how to interpret the Regulations have not yet been released. This increases the risk to all the municipalities with regard to preparing the tender documents and putting the requirements of the regulations into practice.

Additionally, the Ministry has committed to releasing the Soil Registry by November 2021, followed by training. Updates posted to the RPRA's website indicate that the registry will open for the regulated community to begin filing notices in December 2021. Compliance with the Regulation follows shortly after; as of January 1, 2022.

Less than one month for the regulated community to familiarize themselves, as well as undertake training on the use of the Registry is too close to the effective date of January 1 2022 and is not practical for the users to implement these in our contracts. Some of the municipalities are currently putting out their tenders for construction contracts in the Fall months of 2021 and will not be able to put these requirements in place.

Municipal staff are also finding it difficult to procure the appropriate tracking tool due to the lack of knowledge of the format required.

In sum, the industry including consultants, contractors, municipalities and receiving sites are not ready for the full implementation of the Regulation.

We request that the ministry extend the effective date of sections 8 to 16 and section 19 of O. Reg. 406/19 by one year, from January 1, 2022 to January 1, 2023.

If it is not possible to make the necessary regulatory changes by the end of the year, we would appreciate it if the Ministry could consider a grace period for the enforcement of the Regulation until the industry is ready to adapt to the requirements of the Regulation.

RPWCO appreciates your careful consideration of our requested delay of O. Reg. 406/19 implementation given the lack of readiness of both the Ministry and the industry at large. The RPWCO Excess Soils working group would be pleased to speak with you and your staff about RPWCO's comments at your convenience.

Sincerely,



Kealy Dedman

RPWCO Chair

cc. Susan Jacob  
Mika Raisanen  
Kayla Dixon

Michael D'Andrea  
Chris Lompart