

The Quick And Dirty On Ontario's Landfilling Prohibition Postponement In The Excess Soil Regulation



Today, the Ontario Ministry of Environment, Conservation and Parks (the “**Ministry**”) [announced](#) that it will be postponing the prohibition on landfilling excess soil from January 1, 2025 to January 1, 2027 due to lack of industry awareness about the restriction and the resultant need for more time to understand and plan for it before the imminent deadline arrived in less than two weeks.

This change forms part of the latest proposed amendments to Ontario's [On-site and Excess Soil Management](#) regulations (the “**Regulation**”) and the [Rules for Soil Management and Excess Soil Quality Standards](#) (the “**Soil Rules**”) under the [Environmental Protection Act](#) (the “**EPA**”), which are discussed in the last [bulletin](#) issued in our Quick and Dirty series on excess soil regulation in Ontario.

As amended, Section 22 of the Regulation now prohibits the deposit of excess soil at landfilling or dump sites after January 1, 2027 unless one of two limited exemptions are met: (1) where a qualified person (“**QP**”) makes a specific declaration regarding the quality of the excess soil; or (2) where the excess soil will be used for daily cover, final cover, the construction of roads or berms or to support any

other type of ancillary use that supports the operation of the landfilling site or dump.

The amendments also clarify the requirements for the first exemption, such that the specific declaration to be made by a QP must state one or more of the following:

- The excess soil contains a parameter for which there is no applicable excess soil quality standard and there are reasonable grounds to believe the final placement of the excess soil at a reuse site may cause an adverse effect;
- The excess soil contains invasive species that should not be relocated; or
- Reuse of the excess soil at a reuse site for structural purposes is not possible due to its geotechnical instability and a reuse site that may use the soil for other beneficial purposes has not been located after reasonable efforts.

The remainder of the amendments discussed in our last [bulletin](#) are still being considered by the Ministry and a decision is expected in 2025.

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

Authors: [Talía Gordner](#), [Annik Forristal](#)

McMillan