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Proposed Changes to Regulation 153/04

On October 6, 2008 the Ministry of the Environment (MOE) published a series of proposed changes to *Ontario Regulation (O. Reg.) 153/04* on the Environmental Site Registry.

The proposed changes are:

1. Enhanced Record of Site Condition (RSC) Integrity:

- New rules for completion of Phase I and Phase II Environmental Site Assessment (ESA) and RSC; and
- Regulated timelines including a 30 business day notice period during which the MOE would conduct an administrative check of a RSC;

2. Protection from MOE orders for RSC properties (there are no off-property concerns if a property meets generic standards for the most sensitive land use within a specified distance).

3. Establishment of a streamlined risk assessment approach, referred to as Tier 2 risk assessment (T2RA).

4. Revisions to soil and groundwater site condition standards, including the establishment of ground water petroleum hydro-carbon standards.

5. Addition of complementary technical regulatory amendments which include:

- Sampling and information requirements for replacement soil brought to a site;
- Limited scope risk assessment option for owners of a property with a multi-property assessment report;
- Reclassification of indoor recreational facilities from community use to parkland use;
- Reclassification of non-commercial fuelling facilities;
- Clarification of site condition standards for environmentally sensitive areas;
- Increasing the range for potable ground

water standards to include any property serviced by a well within 250 metres of a RSC property.

6. Transition Period: 1 year after the amendments are filed.

Given the proposed changes to site condition standards and the establishment of the T2RA approach, it is likely that there will be an increasing emphasis on risk assessments.

The T2RA may be used as an alternative to the generic site condition standards. This approach would allow proponents to develop property specific standards using a MOE approved model to modify generic assumptions to reflect property-specific conditions. The assumptions which may be modified are:

- Soil characteristics (type, dry bulk density, organic carbon content);
- Ground water characteristics (depth below grade, hydraulic conductivity, hydraulic gradient); and
- Distance from property boundary to surface water body.

Much of the information required as inputs to the model will be available through the Phase II ESA. The T2RA is meant to be a comparatively quick and inexpensive method to obtaining site specific standards where remediating to generic standards is impracticable. The iterations which slow down the current MOE review and comments period will be eliminated, thereby saving time in obtaining site specific standards and RSC.

The proposed RSC standards will now provide specific criteria for shallow soil properties and properties within 30 metres of water bodies. These revised standards will replace the *Table 1 - Full Depth Background Site Condition Standards for Agricultural or Other Property Use* listed under Part XV.1 of the EPA (*Table 1*). *Table 1* standards will still apply to other types of sensitive sites. *Table 6 - Soil Extract and Ground water Standards to Determine Whether a Property is a Shallow Soil Property* will be removed.

For further information please contact: info@terrapex.com

Importation of Inert Fill

Revisions to the Aggregate Resource Policy manual

Inert fill, as defined within *Ontario Regulation (O. Reg.) 347 General – Waste Management*, is now exempt from the requirements of the regulation and *Part V* of the *Environmental Protection Act (EPA)*. Accordingly, generators of inert fill are no longer required to register these wastes, and shippers and receivers of inert fill do not require waste management approvals (i.e. Certificates of Approval) under the *EPA*.

Pits and quarries frequently import inert fill for the purposes of rehabilitation (e.g. backfilling part of a pit or quarry). Inert fill is defined within *O. Reg. 347* as “earth or rock fill or waste of a similar nature that contains no putrescible materials or soluble or decomposable chemical substances”. It should be noted that both the regulation and the *EPA* lack a quantitative definition of inert fill. Furthermore, pits and quarries are regulated under the *Aggregate Resources*

Act, an act administered by the Ministry of Natural Resources (MNR). The MNR has recently adopted *Policy A.R.6.00.03*, which includes a revised quantitative definition of inert fill.

The previous policy required inert fill to meet the quality criteria set forth in *Table 1 - Full Depth Background (Background) Site Condition Standards for Agricultural or Other Property Use (Standards) listed under Part XV.1 of the EPA*. In contrast to the old policy, *Policy A.R.6.00.03* recognizes electrical conductivity (EC) and sodium adsorption ratio (SAR) parameters listed in the *Background Standards* were developed to ensure good plant growth, and that plant growth is primarily affected by surface soil. The new policy now permits the importation of fill in which EC and/or SAR concentrations exceed the *Background Standards*, provided the fill is deposited at a depth greater than 1.5 m below final (post-rehabilitation) grade.

For further information please contact: info@terrapex.com

Office Locations:

Toronto

- 49 Coldwater Rd
Toronto, ON
M3B 1Y8
Tel: 416.245.0011
Fax: 416.245.0012

Ottawa

- 100 - 2700 Lancaster Rd
Ottawa, ON
K1B 4T7
Tel: 613.745.6471
Fax: 613.745.0796

Burlington

- 920 Brant St., Unit 16
Burlington, ON
L7R 4J1
Tel: 905.632.5939
Fax: 905.632.6793

Sioux Lookout

- P.O. Box 2047
Sioux Lookout, ON
P8T 1J7

Tel: 807.737.7132
Fax: 807.737.1091

Terrapex Announces New Senior Hires and Expansion of Services

The Terrapex Toronto office is pleased to announce the recent hiring of **Allen Jones** as Senior Technical Specialist / Project Manager and **Steve Bridle** as Senior Project Manager.

Allen joins Terrapex after a 30+ year career with the Ministry of the Environment. Before his retirement, Allen was the District Engineer in Toronto. He has an extensive background in environmental site assessment, site remediation and risk management. Allen's regulatory experience will also assist in providing advice to clients on Brownfields issues to clients. Allen is also a past Chair of the Professional Engineers Ontario Environment Committee and the current Chair of the Professional Standards Committee.

Steve has over ten years of experience in the Environmental Management field. Steve has experience in compliance auditing, designated substance surveys and environmental management systems, in addition to his background in environmental site assessment and contaminant management.

The new senior level hires enable Terrapex to expand services in both **Compliance** and **Industrial Services** as well as enhance our experience in **Brownfield Redevelopment, Contaminant Management and Designated Substance/ Hazardous Material Management**.

For further information on our services please contact: info@terrapex.com