Amendments to filing a record of site condition

October 29, 2025

On Oct. 23, 2025, the Ministry of the Environment, Conservation and Parks (MECP) posted its long awaited decision, confirming amendments to O. Reg. 153/04 (the RSC Regulation) made under the *Environmental Protection Act*, RSO 1990, c.E19 (EPA), which:

1. Prohibit the filing of RSCs in specified low risk circumstances; and
2. Expand the exemption from RSC filing requirements for specified changes in the use of buildings to mixed use.

The policy objective for these amendments is to remove barriers to redevelopment of brownfields and commercial buildings, and enhance residential uses, thereby accelerating the development of housing, highways and other critical infrastructure by reducing regulatory burden through a more streamlined approach consistent with the *Fighting Delays, Building Fast Act, 2025*. These amendments came into effect upon filing on Oct. 23, 2025 (found here) and are subject to the transition periods referenced below. These amendments were implemented by adding a new section (s. 11.1) and modifying the existing exemptions under subsection 15.1 of the RSC Regulation.

What you need to know

- Property owners are no longer able to submit an RSC for filing based solely on a phase one environmental site assessment (ESA) unless it was required under the EPA and RSC Regulation subject to prescribed exceptions detailed below.
- The exception under subsection 15(1) relating to changes in use to mixed used developments is no longer limited to six-storeys for properties.
- Building envelope has been expanded to include exterior works in specific circumstances.
- Parties involved in the purchase and sale of real property will no longer be able to impose a requirement to file an RSC supported only by a phase one ESA unless required under the EPA and RSC Regulation, and subject to the above exceptions.
- The same applies to financial institutions that required an RSC be filed by a borrower looking to secure financing, and some municipal authorities that

required an RSC as part of development and building permit approvals and applications.

1. Prohibiting the filing of RSCs in specified circumstances

The changes prohibit the filing of an RSC if it was not otherwise required under the EPA or the RSC Regulation and the RSC was prepared only on the basis of a phase one ESA. However, there are a few exceptions, as provided under the RSC Regulation, subsections 11.1(2) and 11.1(3):

- ss. 11.1(2) provides the prohibition does not apply to a property owner who is voluntarily submitting the RSC for filing and not in order to comply with a requirement imposed on the owner by another person and body; and
- ss. 11.1(3) provides the prohibition does not apply to a property owner who is submitting the RSC for filing to comply with a requirement imposed by another person or body that arose before the day this section came into force on Oct. 23, 2025.

Subsection 11.1(4), the Regulation expressly states that “another person or body” includes a requirement imposed by a public body under a legal instrument issued by the public body and requirements arising from agreements the owner enter into with another person or body. Upon review of the proposed amendments and comments collected during consultation, another “person” is intended to include purchasers/buyers imposing a requirement on sellers/vendors as part of purchase and sale agreements. While another “body” is intended to include municipal authorities requiring applicants to file an RSC that is otherwise not required under the EPA, as well as financial institutions imposing a requirement as a pre-condition to secure financing relating to real property.

In order to come within the exceptions, the property owner must submit a written declaration to the MECP stating that it is voluntarily submitting an RSC for filing, or it is doing so as a result of a requirement by imposed another person or body before the effective date of the regulation to be able to rely on the exceptions under subsections 11.1(2) and (3), respectively. We note, subsection 11.1(3) may only be relied on until October 23, 2026 pursuant to the one-year transition under the RSC Regulation.

2. Expanded exemption from RSC filing requirements for existing commercial and community use buildings

The amendments revoked and substituted subparagraphs 2 iv. and 2 v. of subsection 15(1) of the RSC Regulation to expand the existing exemptions by removing the six-story limitation for RSCs involving a change of us from commercial and community use buildings to mixed used developments, with respective or other sensitive areas. The amendments also modify restrictions to the building envelope and on additions of the exterior building. Additions to the exterior of the building are now allowed on floors above the ground floor, and additions to the ground floor are now permitted if they are being made solely for the purpose of meeting fire safety and accessibility standards, or an outdoor structure to an exterior portion of the building.

Implications and next steps

The Ontario Government has posted a guidance document entitled “Alternatives to Records of Site Condition When Not Mandatory” regarding the amendment prohibiting low-risks RSCs, which can be found here. As mentioned above, these amendments have already come into force but provide for a one-year transition period permitting the submission of an RSC for filing resulting from a requirement imposed by another person or body, which arose prior to the RSC Regulation taking effect.

These amendments have direct implications to both the private and public sector. Namely, developers and financial institutions can no longer impose a requirement to file an RSC if not legally required under the EPA and RSC Regulation under agreements involving real property. Similarly, municipal authorities are precluded from requiring that applicants seeking development approvals and permits obtain an RSC unless it is required under the EPA and RSC Regulation.

How BLG can help

BLG is well placed to assist both public and private sector clients in navigating these amendments. We have significant experience advising clients in identifying environmental risks associated with contaminated lands and providing actionable and practical advice on how to proceed and advance our clients’ interests. If you have any questions on how the amendments to the RSC Regulation may impact your business plans, please reach out to the authors or key contacts listed below.

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