
Revisions to the Ontario Regulation 153/04 and How this Update Could Affect You or Your Clients

Toronto, Canada (November, 2008) – The Ontario Ministry of the Environment (MOE) is in the process of updating Ontario Regulation 153/04. The revisions include updated generic site condition standards, based on current science (toxicology and exposure modeling) and new pathways and receptors. Approximately 25% of the soil standards and 50% of the groundwater standards have increased (become less stringent), a handful has remained unchanged, and the remainder has become more stringent (lower). Many chemicals commonly encountered at contaminated sites fall into the last category where the new standards have become more stringent. Other changes to the regulation include a streamlined risk assessment approach, in which a risk assessment model developed by the MOE can be used to complete a ‘modified generic risk assessment’, which is intended to facilitate the use of risk assessment in a more timely and efficient manner.

Risk assessment is the science-based process available to site owners when site chemical concentrations exceed generic groundwater and soil site condition standards.

What do these changes mean to property owners and Brownfields redevelopment in Ontario?

- The updated generic site condition standards will result in more sites requiring remediation, risk assessment and/or risk management;
- Since remediation is often costly and not always technically feasible, property owners will have to consider risk assessment and risk management at a wider range of properties;
- Risk assessment is a viable option; however, property owners, lenders and insurers must come to grips with the reality that the MOE will require a Certificate of Property Use (CPU) at most sites; and,
- The streamlined approach will expedite the process for some sites although many sites will still require comprehensive risk assessment and risk management.

Use of the MOE Modified Generic RA model will allow a Qualified Person for Risk Assessment (QPRA) to easily modify several generic RA parameters based on specific site characterization (e.g., chemical-physical soil parameters, geophysical parameters and site location relative to surface and ground water parameters), and use MOE exposure models to calculate property-specific soil and groundwater standards. Changes to the risk management process will also allow for the use of simple risk management measures designed and published by MOE for the elimination or blocking of exposure pathways within the modified generic risk assessment.

A comprehensive risk assessment is still available for more complex sites or those sites where the modified generic approach is not permitted (e.g., properties located within a wellhead protection area or environmentally sensitive area and/or for which any risk management measure is required, other than those designed and published by MOE).

Potential financiers have signaled that the consultant’s reputation and experience in Brownfield redevelopment will be a factor in determining loan eligibility. Intrinsic has more than 12 years of experience and success with applying risk assessment under O. Reg. 153 and the previous Guideline process at sites in Ontario. We have over 40 highly skilled scientists and 13 staff that qualify as QP_{RA} based on expertise and experience in toxicology and risk assessment which makes us uniquely positioned to help you and your clients navigate the risk assessment process.

Property owners must be aware that the use of any risk management measure will require the issuance of a CPU outlining the measures to be taken as well as a contingency plan outlining actions that must be taken in the future if risk management fails or monitoring reveals a problem. A CPU is the administrative mechanism that allows these restrictions to be placed on the title to a property. CPUs are required regardless of the complexity of the risk management measures taken.

Regulatory changes will allow for expedited approvals of modified generic risk assessments with risk management measures designed and published by the Ministry, since these CPUs will not require Environmental Bill of Rights (EBR) registry posting, a process that can add significantly to timelines.

About Intrinsic

Intrinsic Environmental Sciences Inc. is a recognized leading firm providing superior toxicology, risk assessment and risk management advice. From our 5 offices across Canada, we have successfully addressed the toxicology related risk management needs of clients in Canada and around the world. Our expertise includes assessments of human health risk and terrestrial and aquatic ecological risk. Beyond risk assessment, Intrinsic is active in the field of environmental toxicology through legal support services, peer review and risk management communication. We are dedicated to constant improvement of our scientific capabilities as we help our clients manage environmental issues.

For further information, please visit the website at www.intrinsicscience.com/environment or contact Glenn Ferguson or Adam Safruk at (905) 364-7800 or via email info@intrinsicscience.com.

If you wish to be removed from this news release mailing list, please reply back and we will promptly remove your name.