

Excess Soil Regulation & Excess Soil Registry

Municipal Engineers Association

November 22, 2021

Presentation Overview

- Provide an overview of the various elements of the Excess Soil Regulation
- The Excess Soil Registry



[Inside Hamilton, May 2019](#)

DISCLAIMER

This presentation is intended to be a brief summary of some of the requirements of Ontario Regulation 406/19 On-Site and Excess Soil Management (the Regulation) made under the Environmental Protection Act and the Rules for Soil Management and Excess Soil Quality Standards - a document incorporated by reference by the Regulation . This is for information purposes only and should not be construed as legal advice or substitute for seeking independent legal advice on any issues related to the Regulation . Any person seeking to fully understand how the Regulation may apply to any of the activities they are engaged in must refer to the Regulation . In the event of any inconsistency between the Regulation and this presentation, the Regulation will always take precedence.

**An Overview of the *On Site and
Excess Soil Management
Regulation* (O. Reg. 406/19)**

Context - What is Excess Soil

- Excess soil is soil that is excavated at a project area and cannot be reused on site. It includes soil from construction and maintenance activities (e.g., buildings, infrastructure stormwater sediment)
- Excess soil can either be taken to a suitable site for reuse or it can be sent for processing or disposal at a landfill or other waste disposal facility
- Reuse of excess soil on-site, or locally, is encouraged over disposal or hauling soils long distances - to reduce project costs, green house gas emissions, unnecessary use of limited landfill capacity and impacts related to noise, dust, safety and road wear

What Does the Excess Soil Regulation do?

1. Provides **clear rules for beneficial reuse** of excess soil
2. Designates when **excess soil is a waste** and provides criteria that, if satisfied, removes this designation
3. Specifies **when waste approvals are needed** and when exemptions are provided
4. Sets out **minimum requirements** for certain generators of excess soil to ensure information (e.g., characterization) is available to facilitate **appropriate reuse** of excess soil, to **track** certain soil movements, and to provide **transparency**
5. Provides **soil standards** which help build confidence to beneficially reuse soil as a resource in a manner that is safe for the environment and human health
6. Clarifies **provincial role** and how it can be integrated with municipal by-laws or other instruments

Commonly Used Terminology & Non-Application

- **Excess soil:** Soil, crushed rock, or soil mixed with rock or crushed rock, that moves off the project area
- **Soil:** Naturally occurring material smaller than 2 mm; can include liquid soil (slump test)
- **Project Area:** site where excess soil is excavated and moved offsite from
- **Reuse site:** site where excess soil is finally placed for a beneficial purpose and not stockpiled
- **Class 1 soil management sites:** waste disposal sites with an ECA
- **Class 2 soil management sites:** temporary storage sites, no ECA required as long as the criteria in the regulation are met
- **Registry:** online system to come into effect Jan 2022, where larger and riskier projects are required to file a notice
- **Hauling record:** refers to the record that must accompany every load of dry or liquid soil during the transportation

The excess soil regulation **does not apply** to the following:

- Hazardous waste – as defined under Reg. 347
- Aggregates - operation of pits/quarries that are excavating aggregate (including recycled aggregate) and top soil, within the meaning of the Aggregates Resources Act
- Peat - the production of peat from a peat extraction operation
- Surface of water body - the final placement of excess soil on the bed of a surface water body

Clear Excess Soil Reuse Rules - January 1, 2021

Excess Soil Reuse:

- Excess soil may be reused, and is not considered waste, if all of the following:
 - It is being beneficially reused, not stock-piled
 - Soil is dry and the quality and quantity of the soil align with that necessary for the beneficial reuse
 - If the soil is not dry, an instrument must permit the deposit of the liquid soil
 - The reuse site has consented in writing to take the soil (not illegally dumped)
- Generally, soil staying in the project area is not a waste

Excess Soil Reuse Rules - Quality and Quantity:

- Detailed in *Rules for Soil Management and Excess Soil Quality Standards*
 - **Generic risk-based soil reuse standards**
 - Either based on small volume (up to 350m³, same as Brownfields regulation O. Reg. 153/04) or volume-independent
 - Based on land use category, similar to O. Reg. 153/04
 - Generic leachate screening tables and ceiling values tables are also provided
 - **Site-specific reuse standards**
 - Recognition of quality and/or quantity of soil in a site specific instrument
 - Allows site specific standards to be developed by a QP using the new Beneficial Reuse Assessment Tool or risk assessment, in some cases an instrument is required
 - **Specific reuse rules**
 - Rules for specific circumstances (e.g. crop land, sensitive sites, near water bodies)
 - Rules for specific types of soil (e.g. soil with salt, soil mixed with compost)

Generic Excess Soil Quality Reuse Standards - January 1, 2021

Table Description	Small Volume O. Reg. 153/04 (up to 350 m³)	Volume Independent
Full Depth, Background	Table 1	Table 1
Full Depth, Potable	Table 2	Table 2.1
Full Depth, Non-Potable	Table 3	Table 3.1
Stratified, Potable	Table 4	Table 4.1
Stratified, Non-Potable	Table 5	Table 5.1
Full Depth, Shallow Soil, Potable	Table 6	Table 6.1
Full Depth, Shallow Soil, Non-Potable	Table 7	Table 7.1
Full Depth, Within 30 m of a Water Body, Potable	Table 8	Table 8.1
Full Depth, Within 30 m of a Water body, Non-Potable	Table 9	Table 9.1

Exemption of Low-Risk Activities from Waste Approvals

- January 1, 2021

- Regulation and Soil Rules document specifies certain activities that, if regulatory rules are satisfied, would not require an approval (i.e. a waste Environmental Compliance Approval) :
 - **Hauling of excess soil** (dry or liquid)
 - Rules generally relate to containment and safety during transportation, and for haulers to provide information on soil they are transporting, if stopped and asked
 - **Low-risk on-site processing**
 - Including passive dewatering, some mixing of soils, sorting of soil and debris, mixing additives for solidification for transportation
 - Rules help to prevent adverse effects and retain confidence in processed material
 - **Temporary soil storage sites** (Class 2 Soil Management Sites)
 - Can be used to store up to 10,000 m³; some low-risk processing of dry soil is permitted
 - Rules help to ensure stored soil is ultimately reused appropriately, and there are no adverse effects
- Local waste transfer facilities can be used to do the same low-risk dry soil processing activities as Class 2 sites, as well as some low-risk liquid soil processing activities (e.g., passive dewatering) by public bodies and infrastructure companies
- General storage rules which apply to all sites (e.g., set-backs from water bodies, pile size)

Improved Reuse Planning to Support Reuse - January 1, 2022

Source Site Excess Soil Reuse Planning Rules:

- Project leaders of some sites generating excess soil would be subject to certain planning requirements to help ensure soil is managed and reused properly, some activities will require QP oversight
- These requirements include:
 - Filing a notice in the online, public **registry** before removing excess soil from the project area
 - Using a qualified person to complete:
 - an **Assessment of Past Uses**,
 - if necessary, a **Sampling and Analysis Plan** and an **Excess Soil Characterization Report** to understand the quality of the soil that will be excess soil
 - an **Excess Soil Destination Assessment Report** to verify that intended reuse sites can accept the soil to be sent to them
 - Develop and apply a **tracking system** to track each load of excess soil during its transportation and deposit at a reuse site
- To support compliance and transparency, key information from the above reports and records must be included in the notice filed on the registry, such as the locations to which soil was taken

Large Reuse Sites Requirements - January 1, 2022

Greater Assurance that Large Reuse Sites are not Receiving Waste Soil (January 1, 2022):

- Reuse sites accepting at least 10,000m³ of excess soil for an undertaking will be required to **register** and develop and implement procedures to track and **inspect** each load of excess soil being received
- Will not include reuse sites that are part of an undertaking related to an **infrastructure project**
- These additional requirements will help to ensure that these reuse sites are receiving soil that meets the appropriate reuse conditions and that the storage of excess soil for final placement in respect of an undertaking at the reuse site does not cause an adverse effect

Registry Regulatory Requirements

As of **January 1, 2022**, the Regulation requires a notice to be filed on the Registry by:

- project leaders for **projects** prescribed by the Regulation , including information on their site, excess soil quality, and excess soil destinations
- owners or operators of **reuse sites** prescribed by the Regulation , including information related to their site and the excess soil being received
- owners or operators of **residential development soil depots**, including amount of soil to be stored and anticipated dates of operation

Project Notices to the Excess Soil Registry

Project leaders for **projects** prescribed by the Regulation , including information on their site, excess soil quality, and excess soil destinations

- The requirement for a project area to file a notice on the Registry is specified in **Section 8** of the Regulation . The requirement to file a notice also triggers additional requirements:
 - Completion of an **assessment of past uses** and, if necessary, a **sampling and analysis plan** and a **soil characterization report**
 - Completion of an **excess soil destination report**
 - Development and application of a **tracking system**
- **generating 2,000 m³** or greater of excess soil and that are in a settlement area (such as cities and towns; this quantity trigger does not apply to non-settlement areas)
- where part of the project area has a past or present use that is a gas station, garage, used for the operation of dry-cleaning equipment, or industrial use (uses associated with an “**enhanced investigation project area**” as defined in the Regulation)
- where the primary purpose is **remediating contaminated lands**
 - (that is, if a new property use cannot proceed without completion of soil remediation, such as soil removal, this should be considered a primary purpose)
- When filing a notice on the Registry for a project, it must include the information listed in **Schedule 1 of the Regulation**

Exemptions & Project area soil going to a landfill

Exemptions from filing a notice

The Regulation includes several exemptions from filing a notice on the Registry, as well as from all or some of the **planning requirements** related to soil reuse planning for a project. These exemptions generally reflect lower risk soil movement scenarios.

General exemptions from the need to file a notice on the Registry are set out in **Schedule 2** to the Regulation .

Notices for excess soil going to landfills

If all of the excess soil from a project area is being disposed of at a landfill, and not going to a reuse site, there is still a general requirement to file a notice on the Registry.

- However, an exemption under Schedule 2 of the Regulation may apply.
 - For example, if 100 m³ or less of excess soil is being removed from the project area and being directly transported to a waste disposal site, such as a landfill, the project is exempt from the excess soil planning reuse requirements, including filing of a notice.

Reuse Site Notices to the Excess Soil Registry

Reuse sites can accept excess soil for **beneficial reuse** in an undertaking.

- This includes use as backfill, raising the grade of land for a planned development or an infrastructure project, or rehabilitation of an aggregate extraction site.
- Some reuse sites that are accepting large amounts of excess soil are required under the Regulation to file a notice on the Registry.
- The notice must be filed before the site begins receiving the excess soil

Undertakings required to file a notice

- **Section 19** of the Regulation requires that, if a reuse site will be receiving at least **10,000 m³** of excess soil for final placement in an undertaking, before it can be received at the site, the owner or operator of the reuse site will be required to:
 - File a notice on the Registry
 - Establish procedures to account for every load of excess soil being deposited at the reuse site and ensure that the storage of excess soil does not cause any adverse effects. Owners or operators filing a notice are required to confirm through a declaration on the Registry that these procedures have been put in place.
 - When filing a notice on the Registry for a reuse site, it must include the information listed in Section 19 of the Regulation .

Exemptions

Exemptions from filing a notice

- The requirement to file a notice as a reuse site does not apply to reuse sites that are part of an undertaking related to an infrastructure project.
- **Note:** if the reuse site was operation prior to January 1, 2022 and is receiving less than 10,000 m³ of excess soil after January 1, 2022, the owner or operator is not required to file a notice.
 - For example, if a site received 9,000 m³ as of December 2021, and only receives an additional 2,000 m³ in February 2022 to fulfill the need for the beneficial reuse, they do not need to file a notice even though the total amount at the site has been more than 10,000 m³.

Residential Development Soil Depots Reuse Site Notices to the Excess Soil Registry

- Residential development soil depots (depot) are temporary soil storage sites that store and manage excess soil that meets residential reuse quality standards.
- From the depot, the excess soil will be eventually redistributed for reuse at a residential property or other less sensitive property use.
- The amount of excess soil at any one time at the depot must not exceed **10,000 m³**.
- **Section 7 (4)** of the Regulation requires that a notice be filed on the Registry by the operator of the depot.
 - The notice must be filed before any excess soil is deposited at the site, or if the depot was operating prior to January 1, 2022, then the notice must be filed on January 1, 2022.

Who is responsible for filing the notice

Type of Notice	Who is Responsible	Additional Individuals that may file a notice
Project	Project Leader <ul style="list-style-type: none"> Ensures notice is filed completes the declarations 	Authorized Person* <ul style="list-style-type: none"> May file the notice on behalf of the project leader Facilitates but does not sign declarations. This authorized person could be a QP, a site operator, or another company contracted to manage the project for the project leader.
Reuse Site	Owner or operator <ul style="list-style-type: none"> Ensures notice is filed completes the declarations 	Authorized Person* <ul style="list-style-type: none"> May file the notice on behalf of the owner or operator Facilitates but does not sign declarations. This authorized person could be a QP, a site operator, or another company contracted to manage the project for the project leader.
Residential Development Soil Depots	Owner or operator <ul style="list-style-type: none"> Ensures notice is filed completes the declarations 	Authorized Person* <ul style="list-style-type: none"> May file the notice on behalf of the owner or operator Facilitates but does not sign declarations. This authorized person could be a QP, a site operator, or another company contracted to manage the project for the project leader.

*Ensure that the authorization to file a notice is documented.

Excess Soil Registry and RPRA

On March 15, 2021, the Minister of the Environment, Conservation and Parks directed the Resource Productivity & Recovery Authority (RPRA) to develop, implement and maintain a Registry for regulated persons to file their required notices as per the Excess Soil Regulation under the *Environmental Protection Act*.

- Owners, operators, project leaders or other authorized people who need access to the Registry, can find out more on RPRA's [website](#). RPRA will also post guidance on using the Registry, how to file a notice and information on learning opportunities. Through their website, you will also be able to search for a notice that has been posted.

RPRA's Role

- Operate the Registry to enable regulated persons to comply with registration and notice filing requirements outlined in the Regulation
- Enable the Ministry access to notice filings and associated data
- Enable public access to the information contained in notice filings
- Set and collect fees in a transparent and consultative manner to recover the costs for the Registry development, deployment and ongoing support to regulated persons
- Support stakeholders with training and resources to enable effective and efficient use of the Registry

Voluntary notice filing & Public Access

- The Regulation specifies the circumstances requiring the filing of a notice to the Registry. However, in other circumstances voluntary filings for project areas and reuse sites may be completed by project leaders, site owners and operators as well.
- The notices will be publicly available and will follow the same processes as the mandatory notice filings, including any applicable filling fees.
 - Voluntary in this context means not required by the Regulation . It may however be required under a contract, by-law or other legal instrument.

One of the key purposes of the Registry is to provide greater transparency for the public when it comes to the movement of excess soil across the province. Any notice filed on the Registry is publicly available.

For more information on how to search for a notice, visit RPRA's [website \(rpra.ca/excess-soil-Registry\)](https://www.rpra.ca/excess-soil-Registry)

Registry Launch and Training

- The Excess Soil Registry is due to Launch on **December 1st, 2021**
- **Webinars** will provide live demos of the Registry lead by RPRA Registry Support and PwC, the technology vendor for the Registry project:
 1. Introduction: a brief overview of the Registry, account creation, program enrolment and the program dashboard. This session will also include a demonstration of the Public Registry. **November 25, 2021**
 2. Project area: a live walkthrough of an initial project area filing, payment and submission of a final notice. **November 30, 2021**
 3. Reuse site: a live walkthrough of an initial reuse site filing, payment and submission of a final notice. **December 2, 2021**
- **Training materials** including step-by-step instruction documents, FAQs and videos for each notice type will be available on RPRA's website
- **1 on 1 support** for questions related to use of the Registry, including completion of notices. Contact RPRA Registry Support at Registry@rpra.ca or 647-496-0530 or toll-free 1-833-600-0530

For more information and to register for the webinars above, visit: <https://rpra.ca/excess-soil-Registry/>

If you have not been receiving updates from RPRA, you can email excesssoilRegistry@rpra.ca to be added to the mailing list.

Landfill Restrictions - January 1, 2025

Limited Restriction on Landfilling of Excess Soil to Avoid Unnecessary Use of Landfill Capacity

- Restriction on landfilling of soil that meets acceptable standards and can be reused (i.e. if the soil meets Table 2.1 for residential, parkland or institutional use)
- Will not affect use for daily or final cover or other beneficial uses for landfill operational needs

Excess Soil Implementation Dates

Regulatory Provisions	Timing
<p>Reuse Rules and Waste Clarification</p> <ul style="list-style-type: none"> - Clear reuse rules, excess soil reuse standards (including leachate screening levels) and site-specific standards e.g., BRAT - Clear waste designation - Reduced waste approvals for low risk soil management activities 	January 1, 2021
<p>Excess Soil Planning Requirements</p> <ul style="list-style-type: none"> - For larger or riskier generating projects (some exemptions) <ul style="list-style-type: none"> - Assessment of past uses, and if required sampling and characterization - Destination assessment report - Tracking and registration - Hauling record - Larger reuse site registration 	January 1, 2022 (see exception of this requirement below)
<p>Landfilling Restrictions</p> <ul style="list-style-type: none"> - Restrict the deposit of clean soil at landfill sites, unless the soil is needed for cover or purposes beneficial to the functioning of the landfill 	January 1, 2025
<p>Exception for Registry and Planning Requirements</p> <ul style="list-style-type: none"> - For contracts entered into by January 1, 2022 - to allow time for business practices to adapt and to provide necessary supporting guidance and outreach - If this exception applies, notice does not need to be filed in the registry and associated planning requirements are not triggered until January 1, 2026 	Exception expires on January 1, 2026

Excess Soil Webinar Series - Schedule

Topic Areas	Date and Time
1. Project Area - Source Sites	Wed October 27 th , 2021 9:00am to 11:00am
2. Reuse Sites	Fri October 29 th , 2021 9:00am to 11:00am
3. Transportation of Excess Soil (Dry and Liquid)	Wed November 3 rd , 2021 9:00am to 11:00am
4. Infrastructure Projects	Fri November 5 th , 2021 9:00am to 11:00am
5. Excess Soil Registry - Regulatory Requirements	Fri November 12th, 2021 9:00am to 11:00am
6. Vac Trucks and Liquid Soil Management	Fri November 19 th , 2021 9:00am to 11:00am
7. Qualified Persons (QP) and Excess Soil Planning	Wed November 24 th , 2021 9:00am to 11:00am
8. Soil Depots and Storage Sites	Fri November 26 th , 2021 9:00am to 11:00am

Additional Resources

For additional information, including a variety of guidance and tools developed by internal and external partners:

- Ontario Government Excess Soil Page: [ontario.ca/page/handling-excess-soil](https://www.ontario.ca/page/handling-excess-soil)
- Ontario Provincial Standard Specification (OPSS) 180 - General Specification for the Management of Excess Materials: currently being updated by MTO
- RPRAs Excess Soil Registry: [rpra.ca/excess-soil-Registry](https://www.rpra.ca/excess-soil-Registry)
- Ontario Environmental Industry Association (ONEIA) - Best Practices and Templates:
 - Hauling Best Practices and Template: <https://www.oneia.ca/excess-soils/hauling-best-practices>
 - Temporary Sites Best Practices: <https://www.oneia.ca/Temporary-Sites-Best-Practices>
 - Qualified Persons Best Practices: <https://www.oneia.ca/qp-best-practices>
- Ontario Society of Professional Engineers (OSPE) - Best Practices for Aggregate Pit and Quarry Rehabilitation: <https://ospe.on.ca/excess-soil-reports/>
- Canadian Urban Institutes (CUI) - Excess Soil By-Law Language Tool: <https://canurb.org/initiatives/excess-soil-by-law-tool/>
- OSSGA document on Excess Soil Best Management Practices for Pits/Quarries https://www.ossga.com/rehabilitation_and_excess_soil/

MECP Coordinates

MECP Contacts:

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- **Brownfields** - Dean Therrien dean.therrien@ontario.ca

Appendix

APPENDIX A: Rules that Came into Force on Jan 1, 2021 Recap

Waste Designation:

- Excess soil may be reused, and is not considered waste, if:
 - If it is being beneficially reused, not stock-piled
 - The quality and quantity of the soil align with that necessary for the beneficial reuse and the soil is dry, if the soil is not dry, a local instrument must permit the deposit of the excess soil
 - The reuse site has consented in writing to take the soil (not illegally dumped)

Waste Approvals:

- Low risk soil management activities which do not require an approval, replaced with simple regulatory rules:
 - Hauling of excess soil (dry or liquid) - for safe containment and transportation
 - Includes requirements for haulers to verbally provide key information to provincial officers, if asked, e.g., pick-up and deposit locations
 - Low-risk on-site processing - e.g., passive dewatering, some mixing of soils, sorting of soil and debris, mixing additives for solidification for transportation
 - Temporary soil storage - storage and low-risk processing of dry soil e.g., setbacks from water body and property line, pile size, maximum soil at a property, etc.
 - Local waste transfer facilities - can be used by public bodies and infrastructure companies to do specified low-risk dry and liquid soil processing activities (e.g., passive dewatering)

Excess Soil Reuse Standards:

- Generic risk-based standards, 2 volume sizes - small volume up to 350m³ and infinite volume; OR
- Use of site specific standards - standards specified in a site specific instrument (e.g. municipal fill by-law, Aggregate Resource Act licence), allows for use of the Beneficial Reuse Assessment Tool or Risk Assessments

The new standards are supported by more detailed rules which provide additional clarity and flexibility e.g., proximity to water body, salt impacted soil, soil mixed with compost, etc.

APPENDIX B: Screening Matrix of Key Site Conditions to Select Standards - Jan 1, 2021

Table	Table 1	Table 2/2.1	Table 3/3.1	Table 4/4.1	Table 5/5.1	Table 6/6.1	Table 7/7.1	Table 8/8.1	Table 9/9.1
Site Condition									
Property is an Environmentally Sensitive Area.	✓	x	x	x	x	x	x	x	x
Groundwater use condition is potable.	✓	✓	x	✓	x	✓	x	✓	x
Land Use is Agricultural or Other.	✓	✓	x	x	x	✓	x	✓	x
Overburden thickness is unknown or is less than 2 m.	✓	x	x	x	x	✓	✓	x	x
Depth to groundwater is unknown, is less than 3 m below ground surface or the capillary fringe is <0.8 m from the base of the gravel crush of any existing/future building foundation*.	✓	x	x	x	x	✓	✓	x	x
Nearest water body is unknown or less than 30 m from the property.	✓	x	x	x	x	x	x	✓	✓
Excess soil may be placed at any depth.	✓	✓	✓	x**	x**	✓	✓	✓	✓
Stratified site conditions must be maintained to ensure that surface soil and subsurface soil meets the applicable stratified condition standards.	✓	x	x	✓	✓	x	x	x	x

(Rules for Soil Management and Excess Soil Quality Standards and Rationale Document for Development of Excess Soil Quality Standards, MECP November 2019)

Notes: x This table may not be appropriate. ✓ This table may be acceptable, see Section 5.1 for other considerations.

* This site condition is applied to volatile chemicals only. ** Standards for subsurface soil in Tables 4/4.1 & 5/5.1 must be applied only for soil placed at 1.5 m below ground surface or deeper.

APPENDIX C: Key Considerations for Salt Impacted Soils - Jan 1, 2021

Soil Rules

Similar to the Brownfields regulatory changes in O. Reg. 153/04, soil that is impacted with salt due to salting for vehicle and pedestrian safety, **can be reused** if the following criteria are met:

- If soil is finally placed in an area where salting is expected e.g., future parking lot, future road; or
- At an industrial/commercial property where non-potable standards apply; or
- At least 1.5 meters below the surface

Despite the above, **salt impacted soil cannot be reused** in any of the following circumstances:

- Within 30 meters of a waterbody
- Within 100 meters of a potable well / an area intended for future potable well
- Within 2 meters above the water table (Note: October 2020 Regulatory Proposal recommending this requirement be removed)
- Where crops / pasture activities are occurring / planned (unless the soil is placed 1.5 m or greater below the soil surface)

If salt impacted soil is brought to a reuse site, the **reuse site must be notified** that the soil is salt impacted and the project leader/operator of the project area must communicate any relevant risks. If any sampling of the soil has taken place prior, these **sampling results must be provided** to the reuse site owner.

APPENDIX D: Special Considerations for Agricultural Lands and Sensitive Areas - January 1, 2021

Soil Rules

Environmentally Sensitive Areas

Excess soil shall only be placed within an environmentally sensitive area if the excess soil meets Table 1 of the excess soil quality standards and the results of any required leachate analysis meets Table 1 of the leachate screening levels

Soil for Growing Crops and Pasture

Excess soil shall only be finally placed for the beneficial purpose of growing crops or pasture if the following criteria are met

- 1) No excess soil will be placed on top of existing topsoil unless the excess soil is topsoil; and
- 2) The excess soil meets Table 1 of the excess soil quality standards and the results of any required leachate analysis meets Table 1 of the leachate screening levels, unless the excess soil is finally placed at a depth that is below 1.5 metres from the surface

Several other rules to consider for different types of excess soil management where in certain circumstances and conditions, a waste-ECA is not required e.g., soil blended with compost category AA, mixing soil for the purpose of solidifying excess soil, etc.

APPENDIX E: Key Considerations for Infrastructure Projects

- January 1, 2021 and January 1, 2022

Several areas of the regulation provide additional flexibility for soil movements undertaken as part of an **infrastructure project**, these include:

January 1, 2021

- **Local Waste Transfer Facilities** can be used for certain low risk storage and processing activities (dry and liquid soils) without an approval - if managed by a public body or infrastructure project
- When the **Beneficial Reuse Assessment Tool** is used with the six site use characteristics (e.g., adding a hard cap barrier, building prohibition, etc.) an approval is not required if the reuse site is an infrastructure project
- Generally, excess soil is to be reused within 2 years of being received at a reuse site; for infrastructure projects the **time for reuse is as long as is needed** to complete the project

January 1, 2022

- **Larger reuse sites** 10,000m³+ are required to register and establish procedures to track and inspect excess soil being received, this does not apply to infrastructure projects
- **Maintaining infrastructure** in a fit state of repair is not subject to the planning requirements
- Movements **from infrastructure project to infrastructure project** are exempt from the planning requirements if the reuse site is owned by the project leader of the site where the soil originated or a public body

APPENDIX F: Key Exemptions - Excess Soil Regulation Planning Rules - January 1, 2022

Certain excess soil movements are **exempt** from the requirement **to file a notice on the registry and the associated planning requirements**:

- If 100m³ or less is moved directly to a waste disposal site (but not a Class 2 Soil Management Site)
- Removal of soil due to emergencies e.g., danger to health, safety or damage to any person, property, plant or animal life
- Projects that are related to maintaining infrastructure in a fit state of repair, this does not include stormwater management pond clean outs
- Topsoil as defined in the *Municipal Act* which is transported directly for reuse as topsoil

Specific elements of excess soil planning requirements may be exempt (e.g., sampling, characterization and destination assessment) for excess soil with no contamination moving from less sensitive sites (e.g., agriculture, residential)

- Stormwater management pond (SWM) sediments are within scope of the definition of infrastructure, as such these sediments can take advantage of infrastructure planning exemptions, where applicable

Schedule 2

NON-APPLICATION OF SECTION 8 OF THE REGULATION

1. All of the following circumstances apply:

- 1. After making reasonable efforts to take into consideration any past reports about past uses and activities respecting the project area, the project leader is of the opinion that the project area is not and has never been, in whole or in part, an enhanced investigation project area.
- 2. The primary purpose of the project is not remediating contaminated land.
- 3. In the case of a project area, any part of which is located in an area of settlement within the meaning of the *Planning Act*, the amount of soil to be removed from the project area is less than 2,000 m³.

2. Both of the following circumstances apply:

- 1. The amount of soil to be removed from the project area is less than 100 m³.
- 2. The excess soil is directly transported to a waste disposal site that is not a Class 2 soil management site.

3. The reason for excavating the soil that will become excess soil is one of the following:

- 1. Danger to the health or safety of any person.
- 2. Impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it.
- 3. Injury or damage or serious risk of injury or damage to any property or to any plant or animal life.
- 4. The duty imposed by subSection 93 (1) of the Act.
- 5. An order made by any authority with jurisdiction to make the order.
- 6. Maintaining infrastructure in a fit state of repair, except if the excavation of soil is from a stormwater management pond for the purpose of maintaining the facility in a fit state of repair.

4. All of the following circumstances apply:

- 1. The excavated soil is topsoil.
- 2. The topsoil is transported directly to a reuse site from the project area for use as topsoil at the reuse site.
- 3. After making reasonable efforts to take into consideration any past reports about past uses and activities respecting the project area from which the excavated soil was transported, the project leader is of the opinion that the project area is not and has never been, in whole or in part, an enhanced investigation project area.
- 4. The primary purpose of the project from which the excavated soil was transported was not remediating contaminated land.

5. REVOKED: O. Reg. 775/20, s. 18 (2).

6. Both of the following circumstances apply:

- 1. The excess soil is excavated as part of an undertaking related to infrastructure.
- 2. The project leader for the undertaking related to infrastructure intends, after removing the excess soil from the project area, to finally place it at a reuse site that is owned by the project leader or a public body and that is part of another undertaking related to infrastructure.

7. Both of the following circumstances apply:

- 1. The soil is being deposited at a local waste transfer facility.
- 2. The amount of soil to be deposited at the local waste transfer facility is 100 m³ or less.