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Environmental Protection Act

ONTARIO REGULATION 406/19

ON-SITE AND EXCESS SOIL MANAGEMENT

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INTERPRETATION AND APPLICATION

Interpretation

1. (1) In this Regulation,

“Beneficial Reuse Assessment Tool” means the data file entitled “Beneficial Reuse Assessment Tool” and dated November 19, 2019, as amended from time to time, that is maintained by the Ministry and is available on a website of the Government of Ontario; (“Outil d’évaluation pour la réutilisation bénéfique”)

“Class 1 soil management site” means a soil bank storage site or a soil processing site; (“site de gestion des sols de catégorie 1”)

“Class 2 soil management site” means a waste disposal site at which excess soil is managed on a temporary basis and that is,

- (a) located on a property or adjoining properties owned or controlled by a public body or by the project leader for the project or projects from which the excess soil was excavated, and
- (b) operated by or on behalf of the project leader for the project from which the excess soil was excavated; (“site de gestion des sols de catégorie 2”)

“crushed rock” means a naturally occurring aggregation of one or more naturally occurring minerals that is mechanically broken down into particles that are smaller than 2 millimetres in size or that pass the US #10 sieve; (“roche concassée”)

“dry soil” means soil that is not liquid soil; (“sol sec”)

“dump” has the same meaning as in Regulation 347; (“décharge”)

“enhanced investigation project area” means a project area used,

- (a) for an industrial use,
- (b) as a garage,
- (c) as a bulk liquid dispensing facility, including a gasoline outlet, or
- (d) for the operation of dry cleaning equipment; (“zone du projet d’étude avancée”)

“excess soil” means soil, crushed rock or soil mixed with rock or crushed rock, that has been excavated as part of a project and removed from the project area for the project; (“sols de déblai”)

“Excess Soil Standards” means the document entitled “Part II: Excess Soil Quality Standards”, published by the Ministry and dated February 19, 2024, available on a website of the Government of Ontario as Part II of the document entitled “Rules for Soil Management and Excess Soil Quality Standards”; (“normes sur les sols de déblai”)

“infrastructure” means all physical structures, facilities and corridors relating to,

- (a) public highways,
- (b) transit lines and railways,
- (c) gas and oil pipelines,
- (d) sewage collection systems and water distribution systems,
- (d.1) drainage works within the meaning of the *Drainage Act*,
- (e) stormwater management systems,
- (f) electricity transmission and distribution systems,
- (g) telecommunications lines and facilities, including broadcasting towers,
- (h) bridges, interchanges, stations and other structures, above and below ground, that are required for the construction, operation or use of the items listed in clauses (a) to (g), or
- (i) rights of way required in respect of existing or proposed infrastructure listed in clauses (a) to (h); (“infrastructure”)

“landfilling” has the same meaning as in Regulation 347; (“enfouissement”)

“landscaping soil depot” means a soil bank storage site that is operated for the purpose of producing landscaping or gardening products to meet a realistic market demand; (“dépôt de sols pour aménagement paysager”)

“liquid soil” means soil that has a slump of more than 150 millimetres using the Test Method for the Determination of “Liquid Waste” (slump test) set out in Schedule 9 to Regulation 347; (“sol liquide”)

“local waste transfer facility” has the same meaning as in Regulation 347; (“installation locale de transfert des déchets”)

“Ontario Regulation 153/04” means Ontario Regulation 153/04 (Records of Site Condition — Part XV.1 of the Act) made under the Act; (“Règlement de l’Ontario 153/04”)

“project” means any project that involves the excavation of soil and includes,

- (a) any form of development or site alteration,
- (b) the construction, reconstruction, erecting or placing of a building or structure of any kind,
- (c) the establishment, replacement, alteration or extension of infrastructure, or
- (d) any removal of liquid soil or sediment from a surface water body; (“projet”)

“project area” means, in respect of a project, a single property or adjoining properties on which the project is carried out; (“zone du projet”)

“project leader” means, in respect of a project, the person or persons who are ultimately responsible for making decisions relating to the planning and implementation of the project; (“chef de projet”)

“public body” means,

- (a) a municipality, local board or conservation authority,
- (b) a ministry, board, commission, agency or official of the Government of Ontario or the Government of Canada,
- (c) a port authority under the *Canada Marine Act*, or

(d) the Toronto Waterfront Revitalization Corporation under the *Toronto Waterfront Revitalization Corporation Act, 2002*; (“organisme public”)

“qualified person” means,

- (a) subject to clause (b), a qualified person within the meaning of section 5 of Ontario Regulation 153/04, and
- (b) for the purposes of subsections 5 (2) to (5), 6 (4), paragraph 7 of subsection 19 (4), section 20 and section 13 of Schedule 1, a qualified person within the meaning of section 5 or 6 of Ontario Regulation 153/04; (“personne compétente”)

“Registry” means the registry described in section 50 of the *Resource Recovery and Circular Economy Act, 2016* (“Registre”)

“Regulation 347” means Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Act; (“Règlement 347”)

“residential development soil depot” means a soil bank storage site that is temporarily operated for the purpose of managing, on a temporary basis, excess soil that will ultimately be transported to a reuse site for final placement in respect of an undertaking at a reuse site; (“dépôt de sols pour aménagement résidentiel”)

“reuse site” means a site at which excess soil is used for a beneficial purpose and does not include a waste disposal site; (“site de réutilisation”)

“rock” means a naturally occurring aggregation of one or more naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US #10 sieve; (“roche”)

“salt-impacted excess soil” means excess soil that exceeds one or more standards set out in the Excess Soil Standards solely because a substance was applied, for the safety of vehicular or pedestrian traffic under conditions of snow or ice or both, to the surface of all or part of a project area from which the excess soil was excavated; (“sols de déblai contaminés par des sels”)

“soil” means unconsolidated naturally occurring mineral particles and other naturally occurring materials resulting from the natural breakdown of rock or organic matter by physical, chemical or biological processes that are smaller than 2 millimetres in size or that pass the US #10 sieve; (“sol”)

“soil bank storage site” means a waste disposal site, other than a Class 2 soil management site, at which excess soil is managed on a temporary basis and that is operated, by a person who is not the project leader for all of the projects from which the excess soil was excavated, for the primary purpose of storing the excess soil from one or more projects until the excess soil can be transported to a site for final placement or disposal; (“site d’entreposage pour banque de sols”)

“soil processing site” means a waste disposal site, other than a Class 2 soil management site or a soil bank storage site, at which excess soil is managed on a temporary basis, that is operated for the primary purpose of processing excess soil, including processing in order to reduce contaminants in the excess soil; (“site de traitement de sols”)

“Soil Rules” means the document entitled “Part I: Rules for Soil Management”, published by the Ministry and as amended from time to time, available on a website of the Government of Ontario as Part I of the document entitled “Rules for Soil Management and Excess Soil Quality Standards”; (“règles concernant les sols”)

“supervisee” means an individual who is supervised by a qualified person; (“personne supervisée”)

“topsoil” means, subject to subsection (2.1), those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material; (“sol arable”)

“vehicle” includes a trailer or other equipment attached to the vehicle. (“véhicule”) O. Reg. 406/19, s. 1 (1); O. Reg. 775/20, s. 1; O. Reg. 555/22, s. 1; O. Reg. 174/24, s. 1 (1-6).

(2) For the purposes of the definition of “enhanced investigation project area” in subsection (1), the following terms have the same meaning as in Ontario Regulation 153/04:

1. Bulk liquid dispensing facility.
2. Dry cleaning equipment.
3. Garage.
4. Gasoline outlet.
5. Industrial use. O. Reg. 406/19, s. 1 (2).

(2.1) For the purposes of the definition of “topsoil” in subsection (1), if soil has been disturbed or excavated such that the horizons in the soil profile are no longer evident, it is considered to be topsoil if it consists of,

- (a) solely a mixture of soil and organic material; and
- (b) at least as much organic material as would be found in the “O” and the “A” horizons in a typical soil profile of topsoil that has not been disturbed or excavated. O. Reg. 174/24, s. 1 (7).

(3) For the purposes of this Regulation, two properties are adjoining if the boundary of one property touches or, were it not for an intervening highway, road allowance, railway line, railway allowance or utility corridor, would touch the boundary of the other property. O. Reg. 406/19, s. 1 (3).

(4) For the purposes of this Regulation, a requirement to identify or include in a document the location of a site or property shall be complied with by,

- (a) if the municipal address is available, identifying or including the municipal address; or
- (b) if the municipal address is not available, identifying or including a description of the location by another means. O. Reg. 406/19, s. 1 (4).

(5) For the purposes of this Regulation,

- (a) the use of a project area or a reuse site is its actual use and not the use for which it is zoned; and
- (b) if a project area or reuse site has no actual use, its use is deemed to be its most recent actual use. O. Reg. 174/24, s. 1 (8).

Non-application of Regulation

2. (1) This Regulation does not apply in respect of the following:

1. The excavation of soil that is hazardous waste or asbestos waste, both within the meaning of Regulation 347.
2. The operation of a pit or quarry from which consolidated or unconsolidated aggregate within the meaning of the *Aggregate Resources Act* is excavated, including the use and production of recycled aggregate in the pit or quarry.
3. The excavation of topsoil in accordance with a permit issued under the *Aggregate Resources Act*.
4. The production of peat from a peat extraction operation.
5. The final placement of excess soil on the bed of a surface water body. O. Reg. 406/19, s. 2.

(2) Despite paragraph 2 of subsection (1), this Regulation applies to the deposit and final placement of excess soil at a pit or quarry for reuse at the pit or quarry, including for the purpose of rehabilitating the pit or quarry. O. Reg. 775/20, s. 2.

DESIGNATION AS WASTE

Excess soil

3. (1) Subject to subsections (2), (2.1) and (2.2), excess soil is designated as waste. O. Reg. 406/19, s. 3 (1); O. Reg. 174/24, s. 2 (1).

(2) Excess soil is not designated as waste if all of the following criteria are satisfied:

1. The excess soil is directly transported to a reuse site from a project area, a Class 1 soil management site, a Class 2 soil management site, a local waste transfer facility or another reuse site.
2. Except if the owner or operator of the reuse site is the project leader for the project from which the excess soil was delivered, the owner or operator of the reuse site or a person authorized by the owner or operator has consented in writing to the deposit of excess soil at the reuse site and, if the excess soil to be deposited includes salt-impacted excess soil, the consent expressly acknowledges acceptance of salt-impacted excess soil.
3. The excess soil is dry soil and remains dry soil until it is finally placed at the reuse site, or, if it is not dry soil, an instrument described in paragraph 4 authorizes the excess soil to be deposited at the reuse site.

- 3.1 If excess soil is to be deposited at a reuse site at which it will not be used for an identified beneficial purpose in connection with a specific undertaking, including one mentioned in paragraph 2 of subsection 5 (1), the deposit of the excess soil must be governed by a site-specific instrument mentioned in paragraph 4 of this subsection.
4. If the reuse site is governed by one of the following instruments, the conditions set out in section 4 are satisfied:
- i. A permit that is issued under a by-law passed under section 142 of the *Municipal Act, 2001* or section 105 of the *City of Toronto Act, 2006*.
 - ii. Provisions of a by-law passed under section 142 of the *Municipal Act, 2001* or section 105 of the *City of Toronto Act, 2006*.
 - iii. A licence or permit issued under the *Aggregate Resources Act*.
 - iv. An approval under the *Planning Act*.
 - v. A certificate of property use issued under section 168.6 of the Act.
 - vi. Any other site-specific instrument under an Act of Ontario or Canada that may regulate the quality or quantity of soil that may be deposited for final placement at the reuse site.
5. If the reuse site is not governed by one of the instruments set out in paragraph 4, the conditions set out in section 5 are satisfied. O. Reg. 406/19, s. 3 (2); O. Reg. 174/24, s. 2 (2, 3).

(2.1) Excess soil that leaves a landscaping soil depot is not designated as waste if the following criteria are satisfied:

1. The excess soil leaving the depot meets the soil quality standards set out in the Soil Rules for the purposes of this subsection.
2. The excess soil leaving the depot is packaged as a landscaping or gardening product or is being sold in bulk and is directly transported to another person who will not process the excess soil and will sell the excess soil as a landscaping or gardening product. O. Reg. 174/24, s. 2 (4).

(2.2) Excess soil is not designated as waste if it is accepted at a landfilling site or dump and used, in accordance with the environmental compliance approval governing the landfilling site or dump, for the construction of roads or berms or to support any other type of ancillary use, other than daily cover or final cover, that supports the operation of the landfilling site or dump. O. Reg. 174/24, s. 2 (4).

(3) If, at any time, the criteria mentioned in subsection (2) cease to be satisfied in respect of excess soil, the excess soil is designated as a waste and continues to be so designated until one of the following events:

1. The criteria mentioned in subsection (2) have been satisfied again.
2. In a case where a provincial officer has issued an order mentioned in subsection (4) in respect of the excess soil, the order has been complied with.
3. Subject to subsection (6), the fifth anniversary of the day on which the undertaking for which the excess soil is used at the reuse site is completed. O. Reg. 406/19, s. 3 (3).

(4) Subject to subsection (5), if a provincial officer has determined that the criterion mentioned in paragraph 4 or 5 of subsection (2) is not being satisfied, the provincial officer may, by order under section 157 of the Act, specify conditions that apply in respect of the excess soil instead of the criterion that is not being satisfied. O. Reg. 406/19, s. 3 (4).

(5) The provincial officer shall not issue an order mentioned in subsection (4) unless all of the following criteria are met:

1. The provincial officer is of the opinion that it is not practicable in the circumstances to satisfy the conditions mentioned in paragraph 4 or 5 of subsection (2).

2. The provincial officer is of the opinion that, if the conditions specified in the order were met, no adverse effect would result, having regard to the following factors:
- i. The quality and quantity of the excess soil that has been deposited for final placement at the reuse site.
 - ii. The beneficial purpose for which the excess soil is to be used at the reuse site.
 - iii. The conditions at the reuse site, including the type of property use. O. Reg. 406/19, s. 3 (5).

(6) If an order has been issued in respect of the excess soil before the fifth anniversary mentioned in paragraph 3 of subsection (3) and the order has not been complied with as of the fifth anniversary, the excess soil is designated as a waste until such day as the order is complied with. O. Reg. 406/19, s. 3 (6).

(7) For the purposes of paragraph 3 of subsection (3), the day on which the undertaking for which the excess soil is used at the reuse site is completed shall be determined having regard to any documents provided by the operator of the reuse site relating to the completion of the undertaking. O. Reg. 406/19, s. 3 (7).

(8) For greater certainty, excess soil that is transferred and used in the manner described in subparagraph 1 i of subsection 3 (2) of Regulation 347 is not designated as a waste for the purposes of subsection (1). O. Reg. 174/24, s. 2 (5).

Excess soil, reuse site governed by instrument

4. (1) The conditions set out in this section apply for the purposes of paragraph 4 of subsection 3 (2). O. Reg. 406/19, s. 4 (1).

(2) If the reuse site is governed by an instrument in which the quality of excess soil deposited at the reuse site is addressed in the manner described in Column 1 of the following Table, the conditions set out opposite in Column 2 of the Table must be satisfied:

TABLE

Item	Column 1 Manner in which instrument addresses excess soil quality	Column 2 Conditions respecting excess soil quality
1.	Instrument deals with excess soil quality and imposes a requirement that is equivalent to or more stringent than the applicable excess soil quality standard as determined in accordance with the Excess Soil Standards.	The condition set out in paragraph 1 of subsection 5 (1) must be satisfied.
2.	Instrument deals with excess soil quality and imposes a less stringent requirement than the applicable excess soil quality standard as determined in accordance with the Excess Soil Standards.	The requirement set out in the instrument respecting excess soil quality must be satisfied.

O. Reg. 406/19, s. 4 (2).

(3) If the reuse site is governed by an instrument in which the quality of excess soil deposited at the reuse site is not addressed, the condition set out in paragraph 1 of subsection 5 (1) must be satisfied. O. Reg. 406/19, s. 4 (3).

(4) If the reuse site is governed by an instrument in which the quantity of excess soil deposited at the reuse site is addressed in the manner described in Column 1 of the following Table, the conditions set out opposite in Column 2 of the Table must be satisfied:

TABLE

Item	Column 1 Manner in which instrument addresses excess soil quantity	Column 2 Conditions respecting excess soil quantity
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1.	Instrument does not specify the maximum amount of excess soil that may be deposited but does identify the beneficial purpose for which the excess soil is to be used.	The quantity of excess soil to be deposited at the reuse site must not exceed the quantity necessary for the beneficial purpose identified.
2.	Instrument specifies the maximum amount of excess soil that may be deposited.	The maximum amount of excess soil specified in the instrument must not be exceeded.

O. Reg. 406/19, s. 4 (4).

(5) If the reuse site is governed by an instrument that does not specify a maximum amount of excess soil that may be deposited at the reuse site and does not identify the beneficial purpose for which the excess soil is to be used, the quantity of excess soil to be deposited at the reuse site must not exceed the quantity necessary for the purposes of the apparent beneficial purpose for which the excess soil is to be used, as determined by examining the circumstances in which the instrument was obtained, the type of undertaking for which the excess soil is to be used and any other relevant circumstances. O. Reg. 406/19, s. 4 (5).

(6) If the reuse site is governed by an instrument that does not include any provisions in relation to the period of time within which the excess soil must be finally placed after it is deposited at the reuse site, the condition set out in paragraph 5 of subsection 5 (1) must be satisfied. O. Reg. 174/24, s. 3.

(7) If the reuse site is governed by an instrument that does not specify any requirements governing the final placement of the excess soil at the reuse site, the condition set out in paragraph 6 of subsection 5 (1) must be satisfied. O. Reg. 174/24, s. 3.

Excess soil, reuse site not governed by instrument

5. (1) For the purposes of paragraph 5 of subsection 3 (2), the following conditions must be satisfied:

1. The quality of the excess soil that has been finally placed or that is intended to be finally placed at the reuse site must not exceed the following:
 - i. The applicable excess soil quality standards as determined in accordance with the Excess Soil Standards, unless subparagraph ii applies.
 - ii. Subject to subsection (4), if the excess soil does not meet an applicable excess soil quality standard mentioned in subparagraph i in respect of a parameter, the site-specific excess soil quality standards developed for the reuse site in respect of that parameter in accordance with subsections (3) and (5).
2. Excess soil must not be deposited at the reuse site, whether to be stockpiled temporarily or for final placement, unless there is an identified beneficial purpose in connection with a specific undertaking for which the excess soil is to be used at the reuse site, including any of the following:
 - i. Backfilling an excavation at the reuse site to implement the undertaking.
 - ii. Achieving the grade necessary at the reuse site for,
 - A. landscaping,
 - B. an undertaking related to existing or planned infrastructure, or
 - C. an undertaking related to existing or planned development.
 - iii. The final placement of fill to assist in the rehabilitation of the reuse site.
3. REVOKED: O. Reg. 174/24, s. 4 (1).
4. The quantity of excess soil deposited or to be deposited at the reuse site must not exceed the quantity necessary for the beneficial purpose identified.

5. Subject to subsections (6) and (7), the excess soil must be finally placed no later than two years after it is deposited at the reuse site.
 6. The excess soil must be finally placed in accordance with subsection (8) and any requirements set out in the Soil Rules. O. Reg. 406/19, s. 5 (1); O. Reg. 775/20, s. 4 (1, 2); O. Reg. 174/24, s. 4 (1, 2).
- (2) For the purposes of subparagraph 1 ii of subsection (1), only a qualified person shall develop and apply site-specific excess soil quality standards for the reuse site or supervise the development and application by a supervisee. O. Reg. 775/20, s. 4 (3).
- (3) The qualified person described in subsection (2) or the supervisee shall use the Beneficial Reuse Assessment Tool to develop and apply site-specific excess soil quality standards in accordance with the Soil Rules. O. Reg. 775/20, s. 4 (3).
- (4) The qualified person or supervisee shall not use the Beneficial Reuse Assessment Tool to develop and apply a site-specific excess soil quality standard for the purposes of subparagraph 1 ii of subsection (1) in circumstances that are identified in the Soil Rules as circumstances in which the Beneficial Reuse Assessment Tool can only be used under the authority of a site specific instrument mentioned in paragraph 4 of subsection 3 (2). O. Reg. 406/19, s. 5 (4).
- (5) If the qualified person is retained by the operator of the reuse site, the qualified person shall,
- (a) complete a declaration attesting to the accuracy of the information and the assumptions provided as inputs for the Beneficial Reuse Assessment Tool; and
 - (b) ensure that the operator of the reuse site is given a copy of the declaration and the output worksheet generated when using the Beneficial Reuse Assessment Tool. O. Reg. 775/20, s. 4 (4).
- (5.1) If the qualified person described in subsection (2) is retained by a person other than the operator of the reuse site, including by the project leader of the site from which the excess soil is excavated, then before the person responsible for the retaining permits any excess soil that is subject to a site-specific excess soil quality standard to be deposited at the reuse site,
- (a) the person who retained the qualified person or the qualified person shall ensure that the operator of the reuse site receives the declaration and output worksheet mentioned in clause (5) (b) and any other reports the qualified person prepares in respect of the reuse site to support the development of the site-specific excess soil quality standard; and
 - (b) the qualified person shall ensure that the reuse site operator is authorized to rely on the documents mentioned in clause (a), with that reliance to be based on any assumptions, reuse site characteristics or other conditions that apply to the site-specific excess soil quality standard that the qualified person developed when using the Beneficial Reuse Assessment Tool. O. Reg. 775/20, s. 4 (4).
- (6) A Director may, by written notice provided to the operator of the reuse site, authorize an extension, not exceeding five years, of the two-year period mentioned in paragraph 5 of subsection (1), if the Director is satisfied that,
- (a) the extension is necessary in order for the excess soil to be used for a beneficial purpose; and
 - (b) the extension will not result in an adverse effect. O. Reg. 406/19, s. 5 (6).
- (7) Paragraph 5 of subsection (1) does not apply if the excess soil is to be finally placed at a reuse site that is part of an undertaking related to infrastructure. O. Reg. 406/19, s. 5 (7).
- (8) Subject to subsection (9), for the purposes of paragraph 6 of subsection (1), the operator of a reuse site with one of the following uses shall ensure that a landscape plan is prepared in accordance with the Soil Rules and by a person retained as mentioned in subsection (10) before salt-impacted excess soil is finally placed in one or more parts of the reuse site at which vegetation may be grown:
1. Community use.
 2. Residential use.
 3. Parkland use.
 4. Institutional use. O. Reg. 174/24, s. 4 (3).

(9) A landscape plan mentioned in subsection (8) is not required in either of the following circumstances:

1. The salt-impacted soil has been finally placed at the reuse site at a depth of at least 1.5 metres below the soil surface.
2. The reuse site is owned or controlled by a public body that has developed and implemented a policy governing the final placement of salt-impacted excess soil at a location where vegetation may be grown at reuse sites it owns or controls. O. Reg. 174/24, s. 4 (3).

(10) The operator mentioned in subsection (8) shall retain one of the following to prepare a landscape plan mentioned in that subsection:

1. A person who is authorized to use the designation of "Landscape Architect" under the *Ontario Association of Landscape Architects Act, 1984*.
2. A person who is certified as a professional agrologist under the *Ontario Institute of Professional Agrologists Act, 2013*.
3. A person who meets the qualifications set out in section 6 of Ontario Regulation 153/04. O. Reg. 174/24, s. 4 (3).

Excavated soil processed at project area

6. (1) Subject to subsection (3), excavated soil or excavated crushed rock that is processed at the project area at which the soil was excavated is designated as waste. O. Reg. 406/19, s. 6 (1); O. Reg. 775/20, s. 5 (1).

(2) Excavated soil or excavated crushed rock designated as waste under subsection (1) is no longer designated as waste once processing is completed, if the soil remains at the project area. O. Reg. 406/19, s. 6 (2); O. Reg. 775/20, s. 5 (2).

(3) If excavated soil or excavated crushed rock is processed by one of the following methods at the project area at which it was excavated, it is not designated as waste:

1. Passive aeration.
2. Passive dewatering.
3. Mechanical dewatering.
4. Mixing, if the soil being mixed with it is of similar quality to it and the mixing is not carried out for the purpose of diluting the concentration of contaminants in the soil.
5. Soil turning.
6. Size-based sorting.
7. Sorting it for the purpose of removing debris.
8. Subject to subsection (4), mixing it with a substance or other material that is intended to dewater or solidify it. O. Reg. 406/19, s. 6 (3); O. Reg. 775/20, s. 5 (3).

(4) If the substance or other material mentioned in paragraph 8 of subsection (3) contains a natural or synthetic polymer, the excavated soil or excavated crushed rock is designated as waste unless the project leader for the project or the operator of the project area retains a qualified person to do the following or to supervise a supervisee to do the following and the qualified person or supervisee does the following:

1. Collect the following:
 - i. Any information supplied by the manufacturer of the substance or other material, including any relevant safety data sheets and technical data sheets.
 - ii. Any analytical results from the manufacturer that demonstrate whether the substance or other material affects the concentration of contaminants in the dewatered or solidified soil.
 - iii. Information about whether the substance or other material may affect the sampling and analysis of the dewatered or solidified soil.

- iv. The results of any sampling and analysis undertaken by the qualified person or supervisee for the purpose of determining the effect of the substance or material on the concentration of contaminants in the dewatered or solidified soil.
 - v. Any other information that, in the opinion of the qualified person or supervisee, is relevant to the use of the substance or other material.
- 2. Ensure that any sampling and analysis undertaken by the qualified person or the supervisee for the purpose of determining the effect of the substance or material on the concentration of contaminants in the dewatered or solidified soil is undertaken in accordance with the Soil Rules.
 - 3. Develop written procedures for the appropriate and safe use of the substance or other material within the project area during the dewatering or solidification process, having regard to any relevant information collected under paragraph 1.
 - 4. Give a copy of the written procedures to the project leader or operator of the project area.
 - 5. If the project leader or operator of the project area indicates that, after the excess soil is dewatered or solidified, it will be deposited for final placement at a reuse site, determine whether, having regard to the information collected under paragraph 1, there is any basis to conclude that the storage or final placement of the dewatered or solidified excess soil at a reuse site would cause an adverse effect.
 - 6. If the determination under paragraph 5 is that there is a basis for the conclusion mentioned in that paragraph, determine whether the qualified person or supervisee can develop instructions, including any restrictions, relating to the storage and final placement of the dewatered or solidified excess soil at the reuse site that, if followed, would prevent those adverse effects.
 - 7. If the determination under paragraph 5 is that there is no basis for the conclusion mentioned in that paragraph or if the determination under paragraph 6 is that the instructions mentioned in that paragraph can be developed, prepare and give to the project leader or operator of the project area a document that sets out the following:
 - i. Identification of the substance or other material, the mixing rates used to dewater or solidify the soil and the amount of liquid soil that was dewatered or solidified.
 - ii. A description of the way in which the substance or other material may have altered the physical characteristics of the dewatered or solidified excess soil, if any.
 - iii. Having regard to the information collected under paragraph 1, instructions, including any restrictions, relating to the storage and final placement at the reuse site of the dewatered or solidified excess soil, including to prevent any adverse effect mentioned in paragraph 5.
 - iv. A summary of the information collected under paragraph 1 and the reasoning for the determinations made under paragraphs 5 and 6.
 - 8. If the determination under paragraph 6 is that any adverse effect cannot be prevented by instructions mentioned in that paragraph, provide written notification to the project leader or operator of the project area that the excess soil should not be deposited for final placement at a reuse site, including a summary of the information collected under paragraph 1 and the reasoning for the determination. O. Reg. 406/19, s. 6 (4); O. Reg. 775/20, s. 5 (4); O. Reg. 174/24, s. 5 (1).
- (4.1) If paragraph 8 of subsection (4) applies, the project leader or operator of the project area shall ensure that the excess soil is disposed of at a waste disposal site that is authorized under the environmental compliance approval governing the waste disposal site to accept the waste. O. Reg. 174/24, s. 5 (2).
- (5) If the excavated soil or excavated crushed rock is processed at the project area by a method set out in paragraph 8 of subsection (3) and will be deposited for final placement at a reuse site after it is dewatered or solidified,
- (a) the project leader or operator of the project area shall ensure that a copy of the document mentioned in paragraph 7 of subsection (4) is given to the owner or operator of the reuse site; and

(b) the owner or operator of the reuse site shall ensure that the instructions set out in the document are followed. O. Reg. 406/19, s. 6 (5); O. Reg. 775/20, s. 5 (5); O. Reg. 174/24, s. 5 (3, 4).

(6) If the excavated soil or excavated crushed rock is processed at the project area by a method set out in subsection (3), the project leader shall ensure that it is processed in accordance with any requirements governing the processing that are set out in the Soil Rules. O. Reg. 406/19, s. 6 (6); O. Reg. 775/20, s. 5 (6).

(7) REVOKED: O. Reg. 174/24, s. 5 (5).

LANDSCAPING SOIL DEPOTS AND RESIDENTIAL DEVELOPMENT SOIL DEPOTS

Exemption from ss. 27, 40 and 41 of the Act

7. (1) The management of excess soil that is dry soil at a landscaping soil depot or a residential development soil depot is exempt from sections 27, 40 and 41 of the Act if the owner or operator of the depot complies with subsections (2) to (5) of this section. O. Reg. 174/24, s. 6.

(2) No owner or operator mentioned in subsection (1) shall operate both a landscaping soil depot and a residential development soil depot on a single property or adjoining properties. O. Reg. 174/24, s. 6.

(3) If a depot mentioned in subsection (1) is operated on land owned by another person, the owner or operator shall obtain the written consent of the owner of the land to operate the depot. O. Reg. 174/24, s. 6.

(4) The owner or operator of a depot mentioned in subsection (1) shall ensure that the amount of excess soil that is dry soil stored at the depot at any one time does not exceed 25,000 m³. O. Reg. 174/24, s. 6.

(5) If excess soil is processed while being stored at a depot mentioned in subsection (1), the owner or operator shall ensure that it is processed in accordance with any requirements set out in the Soil Rules and by one of the following methods:

- i. Passive aeration.
- ii. Mixing of soil, if the soil being mixed with it is of similar quality to it and the mixing is not carried out for the purpose of diluting the concentration of contaminants in the soil.
- iii. Soil turning.
- iv. Size-based sorting.
- v. Sorting for the purpose of removing debris.
- vi. If the depot is a landscaping soil depot, mixing of soil with other materials for the purpose of creating a landscaping or gardening product. O. Reg. 174/24, s. 6.

Additional requirements

7.1 (1) This section applies to the owner or operator of a landscaping soil depot or a residential development soil depot at which the management of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act under subsection 7 (1) of this Regulation. O. Reg. 174/24, s. 6.

(2) The owner or operator shall ensure the following:

1. That subsections 7 (2) to (5) are complied with.
2. That no liquid soil is deposited at the depot.
3. That the quality of the excess soil accepted and managed at the depot meets the excess soil quality standards set out in the Soil Rules for the purpose of this paragraph.

4. That the quality of the excess soil that leaves the depot meets the excess soil quality standards set out in the Soil Rules for the purpose of this paragraph.
5. In the case of a residential development soil depot, that no excess soil from the depot is transported to a type of reuse site identified in the Soil Rules for the purposes of this paragraph.
6. In the case of a landscaping soil depot, subject to subsection (3), that the excess soil that is deposited at the depot is removed from the depot no later than two years after it is first deposited at the depot.
7. That any other requirements set out in the Soil Rules with respect to the deposit and management of excess soil and other materials at the depot are met. O. Reg. 174/24, s. 6.

(3) A Director may, by written notice provided to the owner or operator of a landscaping soil depot, authorize an extension, not exceeding one year, of the two-year period mentioned in paragraph 6 of subsection (2), if the Director is satisfied that,

- (a) the extension is necessary in order for the excess soil to be prepared or packaged as a product;
- (b) the extension will not result in an adverse effect; and
- (c) the owner or operator has provided an estimated date for the removal of the excess soil from the depot. O. Reg. 174/24, s. 6.

(4) The owner or operator of a landscaping soil depot or residential development soil depot shall ensure that the following procedures are developed and applied at the depot, in accordance with the Soil Rules:

1. Procedures to receive and account for every load of excess soil to be deposited at the depot.
2. Procedures to ensure that the storage and processing of excess soil at the depot does not cause an adverse effect.
3. Procedures to ensure that all relevant reports and information in respect of the excess soil to be deposited at the depot are obtained by the owner or operator before the excess soil is deposited at the depot.
4. Procedures to ensure that before the owner or operator of the depot permits a load of excess soil to be deposited at the depot, the load is inspected by the owner or operator of the depot or a person acting on the owner or operator's behalf to ensure the load is appropriate for depositing at the depot and that it is consistent with any reports and information referred to in paragraph 3.
5. Any other procedures in respect of the operation of the depot as set out in the Soil Rules. O. Reg. 174/24, s. 6.

(5) The owner or operator of a landscaping soil depot or residential development soil depot shall ensure that the following requirements are met:

1. Fire-fighting equipment, spill clean-up and containment equipment appropriate for the types of waste expected to be at the depot shall be available at or near the depot.
2. Access to the depot shall be controlled by gates, fencing, attendants or other security measures.
3. Regular site inspections shall be undertaken to ensure the depot is secure and operations are not causing nuisances or adverse effects.
4. Signs shall be posted and safeguards maintained for the prevention of accidents at the depot. O. Reg. 174/24, s. 6.

(6) The owner or operator of a landscaping soil depot or residential development soil depot shall ensure that records in respect of the deposit and management of excess soil at the depot and any excess soil that leaves the depot are created in accordance with the Soil Rules and are retained at the depot. O. Reg. 174/24, s. 6.

Notice requirements

7.2 (1) This section applies to the owner or operator of a landscaping soil depot or a residential development soil depot at which the management of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act under subsection 7 (1) of this Regulation. O. Reg. 174/24, s. 6.

(2) In the case of a landscaping soil depot, the owner or operator shall provide, in writing, the notice described in subsection (4) to the Director before the excess soil begins to be deposited at the depot. O. Reg. 174/24, s. 6.

(3) In the case of a residential development soil depot, the owner or operator shall ensure that a notice described in subsection (4) is filed in the Registry before the excess soil begins to be deposited at the depot. O. Reg. 174/24, s. 6.

(4) The notice shall include the following:

1. The location of the depot.
2. The name, mailing address, postal code, telephone number and email address of the operator.
3. If the operator does not own the property on which the depot is located,
 - i. the name, mailing address, postal code, telephone number and email address of the owner, and
 - ii. in the case of a landscaping soil depot, a letter from the owner of the property indicating that the owner has given the operator consent to operate the depot on the property.
4. If the depot commences operations on or after the day Ontario Regulation 174/24 made under the Act comes into force, the date on which the storage and, if applicable, processing, of excess soil is expected to begin.
5. If the depot is in operation before the day Ontario Regulation 174/24 made under the Act comes into force, an estimate of the amount of excess soil stored at the depot.
6. If an instrument mentioned in paragraph 4 of subsection 3 (2) has been issued governing the depot, identification of the body that issued the instrument, the date the instrument was issued and to whom the instrument is issued, and, if there is an instrument identification number, that number.
7. A declaration by the owner or operator of the depot stating that the procedures described in subsection 7.1 (4) have been developed and applied and will continue to be applied. O. Reg. 174/24, s. 6.

(5) If the owner or operator becomes aware that any information in the notice described in subsection (4) is no longer complete or accurate, the owner or operator must ensure that,

- (a) in the case of a landscaping soil depot, the Director is notified and provided with the completed or corrected information within 30 days after the day the owner or operator becomes aware that the information is no longer complete or accurate; or
- (b) in the case of a residential development soil depot, the notice is updated within 30 days after the day the owner or operator becomes aware that the information is no longer complete or accurate. O. Reg. 174/24, s. 6.

(6) Despite subsections (2) and (3), if the depot is in operation before the day Ontario Regulation 174/24 made under the Act comes into force and the owner or operator did not previously provide a written notice or ensure that a notice was filed in the Registry, as applicable, the owner or operator shall do so no later than 90 days after the day Ontario Regulation 174/24 made under the Act comes into force. O. Reg. 174/24, s. 6.

Closure

7.3 (1) This section applies to the owner or operator of a landscaping soil depot or a residential development soil depot at which the management of excess soil that is dry soil is exempt is exempt from sections 27, 40 and 41 of the Act under subsection 7 (1) of this Regulation if the depot closes permanently. O. Reg. 174/24, s. 6.

(2) The owner or operator of the depot shall ensure that all excess soil is removed from the depot before the closure of the depot. O. Reg. 174/24, s. 6.

(3) In the case of a landscaping soil depot, the owner or operator of the depot shall provide written notice of the closure to the Director within 90 days after the closure of the depot, including the following information:

1. The location of the depot.
2. The date of the closure.
3. Confirmation that all excess soil has been removed from the depot. O. Reg. 174/24, s. 6.

(4) In the case of a residential development soil depot, the owner or operator shall update the notice filed in the Registry within 30 days after the closure to indicate the date of the closure. O. Reg. 174/24, s. 6.

REGISTRY

Notice to be filed on Registry

8. (1) Subject to subsections (2) and (3), the project leader for a project, respecting a project area described in subsection (1.1), shall ensure that, before removing from the project area soil that will become excess soil once removed, a notice is filed in the Registry setting out the information listed in Schedule 1. O. Reg. 406/19, s. 8 (1); O. Reg. 555/22, s. 2 (1).

(1.1) A project area to which subsection (1) applies is one that meets any of the following criteria:

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 or has ever been, in whole or in part, an enhanced investigation project area, except if,
 - i. a record of site condition has been filed in respect of the enhanced investigation project area under Part XV.1 of the Act and the record of site condition does not contain a certification made under subparagraph 4 ii of subsection 168.4 (1) of the Act in respect of a risk assessment, and
 - ii. no part of the project area has been used as an enhanced investigation project area since the filing of the record of site condition mentioned in subparagraph i.
2. Any part of the project area is located in an area of settlement within the meaning of the *Planning Act* and the amount of soil to be removed from the project area is 2,000 m³ or more, unless the whole project area is used for any of the following within the meaning of Ontario Regulation 153/04:
 - i. A residential use.
 - ii. An institutional use.
 - iii. A parkland use.
 - iv. An agricultural or other use.
3. All or part of the project area is being remediated by excavating and removing excess soil from the project area for the purpose of reducing the concentration of contaminants on, in or under the project area, including remediating the project area for the purpose of filing a record of site condition under Part XV.1 of the Act. O. Reg. 555/22, s. 2 (2); O. Reg. 174/24, s. 7.

(2) This section does not apply to a project leader in respect of a project and its project area if,

- (a) one of the sets of circumstances described in Schedule 2 applies; or
- (b) the project leader entered into a contract with another person with respect to the management of excess soil from the project before January 1, 2022. O. Reg. 406/19, s. 8 (2); O. Reg. 775/20, s. 7.

Note: On January 1, 2026, subsection 8 (2) of this Regulation is revoked and the following substituted: (See: O. Reg. 406/19, s. 29 (1))

(2) This section does not apply to a project leader in respect of a project and its project area if one of the sets of circumstances described in Schedule 2 applies. O. Reg. 406/19, s. 29 (1).

(3) The project leader may, before filing a notice in the Registry, remove from the project area soil that will become excess soil once removed if the following conditions are satisfied:

1. The preparation of a sampling and analysis plan is required under this Regulation in respect of the project and it is impracticable to conduct the required sampling at the project area.

2. The soil is removed from the project area and delivered to a local waste transfer facility or a Class 2 soil management site in accordance with this Regulation for the purposes of conducting the required sampling.
3. The project leader ensures that the required sampling is conducted promptly upon delivery of the soil to the local waste transfer facility or the Class 2 soil management site. O. Reg. 406/19, s. 8 (3).

(4) If soil is removed as described in subsection (3) before filing a notice in the Registry, the project leader shall ensure that the notice is filed in the Registry setting out the information listed in Schedule 1 before the excess soil is transported from the Class 2 soil management site or the local waste transfer facility to a Class 1 soil management site, reuse site, landfilling site or dump. O. Reg. 406/19, s. 8 (4).

Updating of information on Registry

9. (1) A project leader for a project who is required to file a notice under section 8 in respect of the project shall ensure that, before depositing excess soil at a Class 1 soil management site, Class 2 soil management site, reuse site, local waste transfer facility, landfilling site or dump, the information required to be included in the notice filed in the Registry under sections 10, 12 and 14 of Schedule 1 is information in respect of the applicable location. O. Reg. 406/19, s. 9 (1).

(2) A project leader mentioned in subsection (1) shall ensure that within 30 days after all soil that will become excess soil once removed has been removed from a project area, local waste transfer facility or Class 2 soil management site, the notice filed in the registry in respect of the project is updated with the following information:

1. The amount of excess soil removed from the project area as part of the project that was deposited at each of the following:

- i. A Class 1 soil management site.
- ii. A Class 2 soil management site.
- iii. A reuse site.
- iv. A local waste transfer facility.
- v. A landfilling site or dump.

2. The date on which the last load of excess soil was removed from the project area, local waste transfer facility or Class 2 soil management site, as the case may be. O. Reg. 406/19, s. 9 (2); O. Reg. 775/20, s. 8.

(3) If a project leader or a person authorized to file a notice in the Registry on behalf of a project leader becomes aware that the notice filed in the Registry in respect of the project is no longer complete or accurate, the project leader or authorized person shall ensure that the notice is updated within 30 days after the day the person becomes aware that the information is no longer complete or accurate. O. Reg. 406/19, s. 9 (3).

10. REVOKED: O. Reg. 775/20, s. 9.

DOCUMENTATION AND TRACKING

Assessment of past uses

11. (1) Subject to subsection (2), if the project leader for a project is required to file a notice under section 8 in respect of the project, the project leader shall ensure that, before filing the notice, a qualified person prepares or supervises the preparation of an assessment of past uses of the project area in accordance with the Soil Rules. O. Reg. 406/19, s. 11 (1); O. Reg. 555/22, s. 3.

(2) An assessment of past uses of the project area is not required if either of the following circumstances applies:

1. The project relates to the excavation of soil at a stormwater management pond.
2. A phase one environmental site assessment within the meaning of Ontario Regulation 153/04 has been prepared in respect of the project. O. Reg. 406/19, s. 11 (2).

(3) If, before January 1, 2023, a project leader undertakes an assessment of the project area to determine the likelihood that one or more contaminants have affected any soil that may become excess soil in respect of a project, that assessment shall be deemed to satisfy the requirements for an assessment of past uses required by this section for that project. O. Reg. 775/20, s. 10; O. Reg. 388/22, s. 2.

Sampling and analysis plan, soil characterization report

12. (1) Subject to subsection (3), if the project leader for a project is required to file a notice under section 8 in respect of the project and any of the circumstances set out in subsection (2) apply, the project leader shall ensure that, before filing the notice, a qualified person prepares or supervises the preparation of a sampling and analysis plan in accordance with the Soil Rules. O. Reg. 406/19, s. 12 (1); O. Reg. 555/22, s. 4.

(2) For the purposes of subsection (1), a sampling and analysis plan is required if any of the following circumstances apply:

1. The assessment of past uses prepared in accordance with section 11 or phase one environmental site assessment mentioned in paragraph 2 of subsection 11 (2) identifies a potentially contaminating activity within the meaning of Ontario Regulation 153/04.
2. Any part of the project area is or has ever been an enhanced investigation project area.
3. The project involves the excavation and removal of excess soil from a stormwater management pond. O. Reg. 406/19, s. 12 (2).

(3) A sampling and analysis plan is not required if the soil to be excavated is to be deposited at a Class 1 soil management site. O. Reg. 406/19, s. 12 (3).

(4) If a sampling and analysis plan is required to be prepared in respect of a project, the project leader shall,

- (a) ensure that a qualified person implements or supervises the implementation of the plan;
- (b) develop and apply procedures to ensure that, as soil is excavated and stored in stockpiles, the soil is segregated and stockpiled in accordance with the Soil Rules and that any soil that is sampled and analysed is kept segregated from other soil; and
- (c) before filing the notice on the Registry under section 8, ensure that a qualified person prepares or supervises the preparation of a soil characterization report in accordance with the Soil Rules. O. Reg. 406/19, s. 12 (4).

(5) A soil characterization report mentioned in clause (4) (c) shall include the following information:

1. The results of sampling and analysis and an assessment of those results, including a description of the parts of the project area that were sampled and analysed.
2. A description of which soil may be reused within the project area, with or without processing at the project area, and which soil may be deposited at a Class 1 soil management site, landfilling site or dump.
3. Having regard to the Excess Soil Standards, identification of the type of potential reuse sites to which excess soil from the project area may be transported for final placement. O. Reg. 406/19, s. 12 (5).

(6) If, before January 1, 2023, a project leader undertakes a sampling and analysis plan to analyze the concentration of contaminants of any soil in the project area that may become excess soil in respect of a project, the plan shall be deemed to satisfy the requirement for a sampling and analysis plan required by this section and a report that is prepared describing the results of implementing the sampling and analysis plan shall be deemed to satisfy the requirements of a soil characterization report set out in subsection (5) for that project. O. Reg. 775/20, s. 11; O. Reg. 388/22, s. 3.

Excess soil destination assessment report

13. (1) If the project leader for a project is required to file a notice under section 8 in respect of the project, the project leader shall ensure that, before filing the notice, a qualified person prepares or supervises the preparation of an excess soil destination assessment report in accordance with the Soil Rules. O. Reg. 406/19, s. 13 (1); O. Reg. 555/22, s. 5.

(2) The report shall be based on the results of any required assessment of past uses of the project area, any required soil characterization report and any information gathered in respect of the potential sites at which the excess soil may be deposited, and shall include the following:

1. Identification of each Class 1 soil management site, reuse site, local waste transfer facility, landfilling site or dump at which the excess soil will be deposited, including the location of each site.
2. Identification of contingency measures to be implemented in the event that the excess soil cannot be deposited at a site identified under paragraph 1, including the location of an alternate site.
3. An estimate of the quality and quantity of excess soil that will be deposited at each location identified under paragraph 1. O. Reg. 406/19, s. 13 (2).

14. REVOKED : O. Reg. 555/22, s. 6.

Documents to be updated

15. (1) This section applies to a project leader who is required to ensure that a qualified person prepares or supervises the preparation of a document under section 11, 12 or 13. O. Reg. 406/19, s. 15 (1).

(2) If the project leader or the operator of the project area or any other person working in the project area becomes aware of any of the following circumstances, the project leader or the operator of the project area shall ensure that a written record of the circumstance is immediately created, including the date on which the circumstance became known to the project leader, operator of the project area or other person:

1. Additional testing of excess soil reveals that the soil characterization report does not accurately reflect the quality of excess soil that is to be transported to a reuse site for final placement.
2. An area of potential environmental concern, within the meaning of Ontario Regulation 153/04, that is not identified in the assessment of past uses is identified within the project area.
3. Excess soil is intended to be transported to a reuse site for final placement and the reuse site is not identified in the excess soil destination assessment report. O. Reg. 406/19, s. 15 (2).

(3) The project leader or the operator of the project area shall ensure that within 30 days after the day the project leader or the operator of the project area becomes aware of the circumstance under subsection (2), a qualified person or a supervisee reviews all documents required to be prepared by or under the supervision of a qualified person under sections 11, 12 and 13 and makes any necessary amendments to those documents to reflect the circumstance. O. Reg. 406/19, s. 15 (3).

(4) In addition to complying with subsection (3), the project leader or the operator of the project area shall ensure that the qualified person provides to the project leader or operator of the project area any further recommendations in writing to ensure that excess soil is disposed of in accordance with the requirements of this Regulation. O. Reg. 406/19, s. 15 (4); O. Reg. 775/20, s. 12.

Tracking system

16. The project leader for a project shall, if the project leader is required to file a notice under section 8 in respect of the project, before removing from the project area soil that will become excess soil once removed, develop and apply a tracking system, in accordance with the Soil Rules, to track each load of excess soil during its transportation and deposit at a reuse site, Class 1 soil management site, local waste transfer facility, landfilling site or dump, and any transportation to and from a Class 2 soil management site.

TRANSPORTATION OF SOIL

Vehicles

17. (1) The transportation of excess soil in a vehicle is exempt from sections 27, 40 and 41 of the Act. O. Reg. 406/19, s. 17 (1).

(2) For greater certainty, section 16 of Regulation 347 applies in respect of a vehicle transporting excess soil that is designated as waste. O. Reg. 406/19, s. 17 (2).

(3) The owner and operator of a vehicle transporting excess soil that is not designated as waste shall ensure that the excess soil is collected and transported in accordance with the following rules:

1. The excess soil shall only be collected and transported in a vehicle that has been constructed to enable the excess soil to be transferred safely and without nuisance.
2. Bodies of vehicles shall be constructed to withstand abrasion and corrosion from the excess soil.
3. Bodies of vehicles shall be leakproof and covered where necessary to prevent the emission of offensive odours, the falling or blowing of material from the vehicle or the release of dust or other airborne materials that may cause air pollution.
4. If the excess soil is liquid soil,
 - i. any valves that are part of the vehicle transporting the liquid soil shall have a locking system and shall be locked when the vehicle contains the liquid soil and the owner or operator of the vehicle is not in attendance, and
 - ii. whenever liquid soil is being transferred to or from the vehicle, the owner or operator of the vehicle must be present.

O. Reg. 406/19, s. 17 (3); O. Reg. 174/24, s. 8.

Hauling records

18. (1) A person who is operating a vehicle for the purpose of transporting excess soil shall ensure that a record including the following information is available at all times during the transportation:

1. The location of the site at which the excess soil was loaded for transportation.
2. The date and time the excess soil was loaded for transportation.
3. The quantity of excess soil in the load.
- 3.1 An indication of whether the load includes salt-impacted excess soil.
4. The name, telephone number and email address of an individual at the site mentioned in paragraph 1 who may be contacted to respond to inquiries regarding the load, including inquiries regarding the soil quality.
5. The name of the corporation, partnership or firm transporting the excess soil, the name of the driver of the vehicle and the number plates issued for the vehicle under the *Highway Traffic Act*.
6. The location of the site at which the excess soil is to be deposited.
7. The name, telephone number and email address of an individual at the site mentioned in paragraph 6 who may be contacted to respond to inquiries regarding the deposit of the excess soil. O. Reg. 406/19, s. 29 (2); O. Reg. 174/24, s. 9 (1-4).

(1.1) Before a load of excess soil is removed by a vehicle from a site, the owner or operator of the site shall,

- (a) ensure that a record including all information described in subsection (1) has been created; and
- (b) confirm in the record that the information set out in the record is accurate. O. Reg. 174/24, s. 9 (5).

(1.2) If a vehicle load of excess soil is from two or more project areas, each project area shall be recorded in one record and subsections (1) and (1.1) apply in respect of each project area identified in the record. O. Reg. 174/24, s. 9 (5).

(2) Upon arriving at a Class 1 soil management site, Class 2 soil management site, reuse site, local waste transfer facility, landfilling site or dump, the person who is transporting the excess soil shall ensure that the record mentioned in subsection (1) includes the following information:

1. The date and time the load of excess soil is deposited.
2. The name and phone number of the individual at the Class 1 soil management site, Class 2 soil management site, local waste transfer facility, reuse site, landfilling site or dump who acknowledges that the excess soil has been deposited on the date and at the time specified under paragraph 1.
3. A declaration by the individual mentioned in paragraph 2, stating that the individual acknowledges the deposit of the excess soil. O. Reg. 406/19, s. 29 (2).

(3) The person who is operating a vehicle for the purpose of transporting excess soil shall give a copy of the record mentioned in subsection (1) that includes the information required under subsection (2) to the following:

1. The individual mentioned in subsection (1.1) or the operator of the site at which the excess soil was loaded.
2. The individual mentioned in paragraph 2 of subsection (2) or the operator of the site at which the excess soil was deposited.
O. Reg. 174/24, s. 9 (6).

(4) For greater certainty, an electronic tracking system may be used for the purposes of complying with this section. O. Reg. 174/24, s. 9 (6).

(5) This section does not apply if the person who is operating a vehicle for the purpose of transporting excess soil provides, to any provincial officer upon request, the information described in paragraphs 1 to 7 of subsection (1) and one of the following criteria is satisfied:

1. Excess soil that is dry soil is being transported from a project area and the total amount of soil to be removed from the project area in respect of the project is 5 m³ or less.
2. Excess soil that is dry soil is being transported to a reuse site for final placement in respect of an undertaking and the total amount of excess soil that is required for that undertaking is 5 m³ or less.
3. The excess soil that is being transported is packaged as a landscaping or gardening product. O. Reg. 174/24, s. 9 (6).

Contingency measures

18.1 The owner or operator of the site at which the excess soil is loaded for transportation shall identify contingency measures to be implemented in the event that the excess soil cannot be deposited at the site mentioned in paragraph 6 of subsection 18 (1), including the location of an alternate site at which the excess soil may be deposited or the circumstances in which the excess soil should be returned to the site at which it was loaded, and communicate those contingency measures to the person who is operating the vehicle for the purpose of transporting the excess soil. O. Reg. 174/24, s. 10.

DEPOSIT OF EXCESS SOIL

Operation of reuse site

19. (1) Subject to subsections (1.1) and (2), this section applies to the owner or operator of a reuse site at which at least 10,000 m³ of excess soil is expected to be deposited for final placement in respect of an undertaking. O. Reg. 406/19, s. 19 (1); O. Reg. 775/20, s. 13 (1).

(1.1) This section only applies to a reuse site that is in operation on the day this section comes into force if at least 10,000 m³ of excess soil is expected to be deposited for final placement in respect of the undertaking at the reuse site after this section comes into force. O. Reg. 775/20, s. 13 (2).

(2) This section does not apply to a reuse site that is part of an undertaking related to infrastructure. O. Reg. 406/19, s. 19 (2); O. Reg. 775/20, s. 13 (3).

(3) Before excess soil for final placement in respect of an undertaking may be deposited at the reuse site, the owner or operator of the reuse site shall ensure that the following steps are taken:

1. A notice described in subsection (4) is filed in the Registry.
2. Procedures are developed and applied to account for every load of excess soil to be deposited at the reuse site for final placement in respect of an undertaking.
3. Procedures are developed and applied to ensure that the storage of excess soil for final placement in respect of an undertaking at the reuse site does not cause an adverse effect. O. Reg. 406/19, s. 19 (3).

(4) For the purposes of paragraph 1 of subsection (3), the notice must include the following information:

1. A description of the reuse site, including,
 - i. the location of each property that is located, in whole or in part, within the reuse site, and

ii. the geographic coordinates of the centroid of the reuse site measured using a global positioning system receiver and projected on the Universal Transverse Mercator coordinate system.

2. A description of the undertaking at the reuse site in respect of which the excess soil is to be deposited for final placement.
3. The name, mailing address, postal code, telephone number and email address of the operator of the reuse site.
4. If the operator of the reuse site is not the owner of the site, the name, mailing address, postal code, telephone number and email address of the owner.
5. An estimate of the quantity of excess soil for final placement in respect of an undertaking that will be deposited at the reuse site.
6. The applicable excess soil quality standards for the reuse site, as determined in accordance with the Excess Soil Standards.
7. If site-specific excess soil quality standards have been developed for the reuse site by a qualified person, including by using the Beneficial Reuse Assessment Tool, an indication that this is the case and the name and contact information of the qualified person who developed the site-specific excess soil quality standards.
8. If an instrument mentioned in paragraph 4 of subsection 3 (2) has been issued governing the reuse site, identification of the body that issued the instrument, the date the instrument was issued and to whom the instrument is issued, and if there is an instrument identification number, that number.
9. An estimate of when the first and final loads of excess soil for final placement in respect of an undertaking will be deposited at the reuse site.
10. A declaration by the owner or operator of the reuse site, stating that the steps described in paragraphs 2 and 3 of subsection (3) have been and will continue to be taken. O. Reg. 406/19, s. 19 (4); O. Reg. 775/20, s. 13 (4); O. Reg. 174/24, s. 11.

(5) For the purposes of paragraph 2 of subsection (3), the procedures must provide for the following:

1. For each load deposited, identification of the project area, Class 1 soil management site or Class 2 soil management site from which the excess soil was transported.
2. Ensuring that all relevant reports and information in respect of the excess soil to be deposited at the reuse site are obtained by the owner or operator of the reuse site before the excess soil is deposited at the reuse site.
3. Ensuring that before the owner or operator of the reuse site permits a load of excess soil to be deposited at the reuse site, the load is inspected by the owner or operator of the reuse site or a person acting on the owner or operator's behalf to ensure the load is appropriate for depositing at the site and that it is consistent with any reports and information referred to in paragraph 2. O. Reg. 406/19, s. 19 (5).

(6) The owner or operator of the reuse site shall ensure that within 30 days after the final load of excess soil for final placement in respect of an undertaking has been deposited at the reuse site, the notice filed in the Registry includes the following information:

1. Confirmation that all excess soil for final placement in respect of an undertaking has been deposited at the reuse site.
2. The total amount of excess soil for final placement in respect of an undertaking deposited at the reuse site.
3. The date on which the final load of excess soil for final placement in respect of an undertaking was deposited at the reuse site. O. Reg. 406/19, s. 19 (6).

(7) If the owner or operator of the reuse site becomes aware that the notice filed in the Registry in respect of the reuse site is no longer complete or accurate, the owner or operator shall ensure that the notice is updated within 30 days after the day the owner or operator becomes aware that the information is no longer complete or accurate. O. Reg. 775/20, s. 13 (5).

Beneficial Reuse Assessment Tool

20. If an owner or operator of a reuse site retains a qualified person to develop or to supervise the development of site-specific excess soil quality standards using the Beneficial Reuse Assessment Tool, whether or not the site is governed by an instrument mentioned in paragraph 4 of subsection 3 (2), the qualified person shall ensure that a copy of each of the following is given to the Ministry in accordance with the Soil Rules:

1. A declaration attesting to the accuracy of the information and the assumptions provided as inputs for the Beneficial Reuse Assessment Tool.
2. The output worksheet generated when using the Beneficial Reuse Assessment Tool.

Class 2 soil management site, exemption from ss. 27, 40 and 41 of the Act

21. (1) In this section,

“project leader” means, in respect of a Class 2 soil management site at which excess soil is managed, the project leader for the project from which the excess soil was excavated. O. Reg. 174/24, s. 12.

(2) The management of excess soil that is dry soil at a Class 2 soil management site is exempt from sections 27, 40 and 41 of the Act if the project leader or the operator of the site complies with subsections (3) to (6) of this section. O. Reg. 174/24, s. 12.

(3) No project leader or operator of the site shall cause or permit the deposit of excess soil at the site other than excess soil in respect of projects of the project leader. O. Reg. 174/24, s. 12.

(4) If the site is operated on land owned by a person other than the project leader, the project leader or the operator of the site shall obtain the written consent of the owner of the land to operate the site. O. Reg. 174/24, s. 12.

(5) If the project leader is not a public body, the project leader or operator of the site shall ensure that the amount of excess soil that is dry soil stored at the site at any one time does not exceed 25,000 m³. O. Reg. 174/24, s. 12.

(6) If excess soil is processed while being stored at the site, the project leader or operator of the site shall ensure that it is processed in accordance with any requirements governing the processing that are set out in the Soil Rules and by one of the following methods:

1. Passive aeration.
2. Mixing of soil from projects that have the same project leader, if the soil being mixed with it is of similar quality to it and the mixing is not carried out for the purpose of diluting the concentration of contaminants in the soil.
3. Soil turning.
4. Size-based sorting.
5. Sorting it for the purpose of removing debris. O. Reg. 174/24, s. 12.

Class 2 soil management site, additional requirements

21.1 (1) In this section,

“project leader” means, in respect of a Class 2 soil management site at which excess soil is managed, the project leader for the project from which the excess soil was excavated. O. Reg. 174/24, s. 12.

(2) This section applies in respect of a Class 2 soil management site at which the management of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act under subsection 21 (2). O. Reg. 174/24, s. 12.

(3) Subject to subsection (4), before excess soil is deposited at the Class 2 soil management site, the project leader, the operator of the project area or the operator of that site shall do the following:

1. Except if the owner of the reuse site is the project leader, ensure that written consent has been obtained from the operator of the reuse site at which the excess soil will be deposited.
2. Ensure that a written record is prepared, setting out the following:
 - i. Identification of the intended reuse site at which the excess soil to be stored at the Class 2 soil management site will be deposited for final placement.
 - ii. If consent is required under paragraph 1, confirmation that the consent mentioned in that subparagraph has been obtained. O. Reg. 174/24, s. 12.

- (4) If there is any change in the intended reuse site, the project leader, the operator of the project area or the operator of the Class 2 soil management site shall obtain the consent referred to in paragraph 1 of subsection (3) and update the written record referred to in paragraph 2 of subsection (3). O. Reg. 174/24, s. 12.
- (5) If the conditions set out in subsection 8 (3) are satisfied in respect of the excess soil, subsection (3) shall be complied with as soon as possible after complying with section 12 in respect of the project area. O. Reg. 174/24, s. 12.
- (6) The project leader or the operator of the Class 2 soil management site shall ensure the following:
1. That subsections 21 (3) to (6) are complied with.
 2. That no liquid soil is deposited at the depot.
 3. That the record mentioned in paragraph 2 of subsection (3) is made available while the excess soil is stored.
 4. Subject to subsection (7), that the excess soil is deposited for final placement at a reuse site no later than two years after the excess soil is first deposited at the Class 2 soil management site.
 5. That records in respect of the deposit and management of excess soil at the Class 2 soil management site and any excess soil that leaves the site are created in accordance with the Soil Rules and are retained at the site.
 6. That any other requirements set out in the Soil Rules with respect to the deposit and management of excess soil at a Class 2 soil management site are met. O. Reg. 174/24, s. 12.
- (7) The Director to whom written notice is provided under section 21.2 may authorize in writing an extension, not exceeding five years, of the two-year period mentioned in paragraph 4 of subsection (6), if the Director is satisfied that,
- (a) the extension is necessary in order for the excess soil to be used at a reuse site;
 - (b) the extension will not result in an adverse effect; and
 - (c) the project leader or the operator of the Class 2 soil management site has provided an estimated date for the removal of the excess soil from the site. O. Reg. 174/24, s. 12.
- Class 2 soil management site, notice requirements**
- 21.2 (1)** In this section,
- “project leader” means, in respect of a Class 2 soil management site at which excess soil is managed, the project leader for the project from which the excess soil was excavated. O. Reg. 174/24, s. 12.
- (2) This section applies in respect of a Class 2 soil management site at which the management of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act under subsection 21 (2). O. Reg. 174/24, s. 12.
- (3) The project leader or the operator of the site shall provide written notice to the Director in accordance with subsection (4) before the excess soil begins to be deposited at the site. O. Reg. 174/24, s. 12.
- (4) The notice shall include the following:
1. The location of the Class 2 soil management site.
 2. The quantity of excess soil to be deposited at the site, and, if known, its quality.
 3. The name, mailing address, postal code, telephone number and email address of the project leader and an indication whether the project leader is a public body.
 4. If the site is not operated by the project leader, the name, mailing address, postal code, telephone number and email address of the operator of the site.
 5. The date on which the storage of the excess soil at the site is expected to begin and the date on which it is expected to end. O. Reg. 174/24, s. 12.

(5) If the project leader or the operator of the site becomes aware that any information in the written notice described in subsection (4) is no longer complete or accurate, they shall ensure that, within 30 days after the day they become aware, the Director is notified and provided with the completed or corrected information. O. Reg. 174/24, s. 12.

Closure

21.3 (1) This section applies to a Class 2 soil management site at which the management of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act under subsection 21 (2) if the site closes permanently. O. Reg. 174/24, s. 12.

(2) The project leader for the project from which the excess soil was excavated or the operator of the site shall,

- (a) ensure that all excess soil is removed from the site before the closure of the site; and
- (b) provide written notice of the closure, including the information described in subsection (3), to the Director within 90 days after the closure of the site. O. Reg. 174/24, s. 12.

(3) For the purposes of clause (2) (b), the notice must include the following:

- 1. The location of the site.
- 2. The date of the closure.
- 3. Confirmation that all excess soil has been removed from the site. O. Reg. 174/24, s. 12.

Local waste transfer facility

21.4 (1) The person who owns or controls a local waste transfer facility shall ensure that the quantity of excess soil that is liquid soil and that is managed at the facility at any one time does not exceed 10,000 m³. O. Reg. 174/24, s. 12.

(2) Subject to subsection (4), the person who owns or controls a local waste transfer facility shall ensure that the quantity of excess soil, including excess soil that is liquid soil, that is managed at the facility at any one time does not exceed 25,000 m³. O. Reg. 174/24, s. 12.

(3) For the purposes of subsections (1) and (2), when determining the quantity of liquid soil managed at a local waste transfer facility at any one time, the volume of liquid that is removed as a result of dewatering the liquid soil and that is managed at the facility at that time shall be included in the amount. O. Reg. 174/24, s. 12.

(4) Subsection (2) does not apply if the person who owns or controls the local waste transfer facility is a public body. O. Reg. 174/24, s. 12.

(5) Subject to subsection (6), the person who owns or controls a local waste transfer facility shall ensure that excess soil deposited at the facility is removed from the facility no later than two years after the excess soil is first deposited at the facility. O. Reg. 174/24, s. 12.

(6) A Director may authorize in writing an extension, not exceeding five years, of the two-year period mentioned in subsection (5), if the Director is satisfied that,

- (a) the extension is necessary in order for the excess soil to be used at a reuse site;
- (b) the extension will not result in an adverse effect; and
- (c) the person who owns or controls the local waste transfer facility has provided an estimated date for the removal of the excess soil from the facility. O. Reg. 174/24, s. 12.

(7) Despite there being no authority under Regulation 347 for waste to be processed at a local waste transfer facility, if the person who owns or controls the local waste transfer facility is a public body or a project leader in respect of an undertaking related to infrastructure, any excess soil stored at the local waste transfer facility may be processed at the facility by a method specified in subsection 6 (3) and subsections 6 (4), (4.1), (5) and (6) apply, with necessary modifications, to the processing of the excess soil. O. Reg. 174/24, s. 12.

(8) The person who owns or controls a local waste transfer facility shall ensure that records in respect of the deposit and management of excess soil at the facility and any excess soil that leaves the facility are created in accordance with the Soil Rules and are retained at the facility. O. Reg. 174/24, s. 12.

Note: Section 22 comes into force on January 1, 2025.

Landfilling site or dump

22. (1) Subject to subsection (2), no person shall deposit, or cause, permit or arrange for the deposit of excess soil at a landfilling site or dump if the excess soil meets the soil quality standards set out in the Excess Soil Standards for the purposes of this subsection. O. Reg. 406/19, s. 22 (1).

(2) Subsection (1) does not apply if 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. O. Reg. 406/19, s. 22 (2).

(3) Despite subsection (1), the deposit of excess soil described in that subsection is permitted at a landfilling site or dump if a qualified person is of the opinion that it would be unsafe to finally place the excess soil at a reuse site, has completed a declaration stating the opinion and has given the declaration to the owner or operator of the landfilling site or dump at which the excess soil is deposited. O. Reg. 406/19, s. 22 (3).

Note: On January 1, 2025, subsection 22 (3) of the Regulation is amended by striking out “finally place the excess soil” and substituting “deposit the excess soil for final placement”. (See: O. Reg. 174/24, s. 13)

EXCAVATION — GENERAL

Procedure required

23. (1) The project leader or the operator of a project area shall ensure that a procedure is developed and applied with respect to what must occur if any person working in the project area makes an observation during soil excavation within the project area, including any visual or olfactory observation, that suggests that the soil being excavated may be affected by the discharge of a contaminant. O. Reg. 406/19, s. 23 (1).

(2) At a minimum, the project leader or the operator of the project area shall ensure that the procedure mentioned in subsection (1) sets out the following:

1. All soil excavations in the project area must immediately cease upon the observation being made, until such time as the project leader directs that soil excavations may be resumed.
2. The project leader or the operator of the project area must immediately be notified of the observation.
3. The project leader or the operator of the project area, upon being notified of the observation, must, before directing that soil excavations may be resumed, ensure that all necessary steps are taken to ensure that,
 - i. all excavated soil or excavated crushed rock that is affected by the discharge of a contaminant is identified and is segregated from other excavated soil or excavated crushed rock in the project area,
 - ii. the portion of the project area that is affected by the discharge of a contaminant is determined, and
 - iii. any excess soil from that portion of the project area is disposed of in accordance with this Regulation.
4. If a project leader was required to ensure that a qualified person prepared or oversaw the preparation of documents under this Regulation, the project leader shall, before authorizing any soil to be removed from the project area where the observation was made,
 - i. obtain the advice of a qualified person regarding what steps are necessary in order to ensure the outcomes mentioned in subparagraphs 3 i, ii and iii, and
 - ii. request that the qualified person advise on whether any of the documents required under this Regulation require revision as a result of the observation. O. Reg. 406/19, s. 23 (2); O. Reg. 775/20, s. 15.

MISCELLANEOUS

Storage

24. Except where an instrument regulates the management of soil at a site, including an instrument mentioned in paragraph 4 of subsection 3 (2), the operator of a project area, local waste transfer facility, Class 2 soil management site, landscaping soil depot, residential development soil depot or reuse site shall ensure that any soil, excess soil or crushed rock at the site is stored in accordance with the Soil Rules. O. Reg. 775/20, s. 16; O. Reg. 174/24, s. 14.

25. REVOKED: O. Reg. 174/24, s. 15.

Qualified persons, conflict of interest

26. (1) No qualified person shall prepare or supervise the preparation of documents under this Regulation in respect of a project in which the qualified person holds a direct or indirect interest.

(2) No qualified person shall develop and apply site-specific excess soil quality standards under this Regulation in respect of a reuse site in which the qualified person holds a direct or indirect interest.

(3) Despite subsections (1) and (2), a qualified person may act in respect of a project or reuse site in which his or her employer holds a direct or indirect interest.

(4) Nothing in this section shall be construed so as to derogate from any obligations imposed on the qualified person under the *Professional Engineers Act* or the *Professional Geoscientists Act, 2000*.

Form of notices, declarations

27. (1) A notice required to be filed in the Registry shall be prepared in accordance with the Soil Rules and in the form, if any, approved by the Director and available on a website of the Government of Ontario.

(2) A declaration required under this Regulation or the Soil Rules or any other document or record required to be prepared under this Regulation or the Soil Rules shall be prepared in the form, if any, approved by the Director and available on a website of the Government of Ontario.

Records retention

28. (1) Subject to subsections (3) and (5), the following persons shall retain every document and record that the person created or acquired under this Regulation for a period of at least seven years after the date that the document or record is created or acquired:

1. A project leader or an operator of a project area.
2. An owner or operator of a Class 1 soil management site, reuse site, local waste transfer facility, landfilling site or dump.
3. An operator of a Class 2 soil management site. O. Reg. 406/19, s. 28 (1); O. Reg. 174/24, s. 16.

(2) If a project leader or operator of a project area has entered into any contracts relating to the management of excess soil from the project area, including the transporting of excess soil from the project area, the project leader or operator of the project area shall retain the contract for at least seven years after the date the contract was entered into. O. Reg. 406/19, s. 28 (2).

(3) A qualified person shall,

- (a) retain any document or record prepared by the qualified person or prepared under the oversight of the qualified person under this Regulation for a period of at least seven years after the date that the document or record is prepared; or
- (b) make reasonable efforts to ensure that a copy of any document or record mentioned in clause (a) is stored for the period referred to in clause (a) in the offices of the firm, corporation or partnership where the qualified person was employed at the time when the document or record was prepared. O. Reg. 406/19, s. 28 (3).

(4) A qualified person or the offices of the firm, corporation or partnership at which the qualified person was employed at the time when the documents or records were prepared, shall, upon request, make any documents or records prepared by the qualified person or prepared under the oversight of the qualified person available to any public body responsible for the management of excess soil. O. Reg. 406/19, s. 28 (4).

(5) A person transporting excess soil and all persons mentioned in subsection (1) shall retain a record required under section 18 in respect of excess soil for a period of at least two years after the day that the excess soil was loaded for transportation. O. Reg. 406/19, s. 29 (3).

28.1 REVOKED: O. Reg. 388/22, s. 4 (2).

Application of *Ontario Water Resources Act*

29. For greater certainty, nothing in this Regulation relieves a person from complying with subsection 9 (1) of the Act or subsection 53 (1) of the *Ontario Water Resources Act* when carrying out processing. O. Reg. 174/24, s. 17.

30. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 406/19, s. 30; O. Reg. 270/20, s. 1.

SCHEDULE 1
INFORMATION TO BE SET OUT IN NOTICE (SECTION 8 OF THE REGULATION)

1. A description of the project.
2. A description of the project area, including,
 - (a) the location of each property that is located, in whole or in part, within the project area and the geographic coordinates of the centroid of the property measured using a global positioning system receiver and projected on the Universal Transverse Mercator coordinate system; or
 - (b) if the project area includes linear facilities, a narrative description of the location of the project area including each end point and the geographic coordinates of each end point measured using a global positioning system receiver and projected on the Universal Transverse Mercator coordinate system.
3. The name, mailing address, postal code, telephone number and email address of each project leader for the project.
4. If the project leader is not the operator of the project area, the name, mailing address, postal code, telephone number and email address of the operator of the project area.
5. If a person authorized by the project leader files the notice on behalf of the project leader, the name and email address of that person.
6. If the project leader is a firm, corporation or partnership, the name of the person who is authorizing the filing on behalf of the firm, corporation or partnership.
7. If applicable, the name, mailing address, postal code, telephone number and email address of each qualified person who prepared or oversaw the preparation of documents under this Regulation.
8. An estimate of how much excess soil will be removed from the project area, broken down by any applicable Table in the Excess Soil Standards that the excess soil meets, if it is to be deposited for final placement at a reuse site.
 - 8.1 A list of all substances or other materials, including any natural or synthetic polymers but not including water, that may be in the excess soil as a result of using that substance or material in the excavation process or of the mixing of that material or substance with excavated soil or crushed rock.
9. The name of the person who is ultimately responsible for the transportation of excess soil from the project area, the mailing address, postal code, telephone number and email address of the person and if the person is a corporation, the individual to be contacted about inquiries regarding the transportation of excess soil.
10. The location of each Class 2 soil management site and local waste transfer facility at which excess soil is intended to be deposited and temporarily managed.

11. If the project leader is not the operator of the Class 2 soil management site mentioned in section 10, the name, mailing address, postal code, telephone number and email address of the operator of the Class 2 soil management site.

12. The location of each reuse site at which the excess soil is intended to be deposited for final placement and for each reuse site, a description of,

- (a) the type of property use of the reuse site; and
- (b) the undertaking for which the excess soil is intended to be used.

13. The applicable excess soil quality standards for each reuse site mentioned in section 12, as determined in accordance with the Soil Rules, or, if site-specific excess soil quality standards have been developed for a reuse site by a qualified person, including by using the Beneficial Reuse Assessment Tool, an indication that this is the case and the name and contact information of the qualified person who developed the site-specific excess soil quality standards.

14. The location of each Class 1 soil management site, landfilling site or dump at which excess soil is intended to be deposited.

15. If the project leader undertakes a peer review of any of the actions required to be taken under this Regulation or subjects any of the actions to a certification process, a description of the peer review or certification process, including identification of the person responsible for conducting the peer review or the certification process.

16. A declaration by the project leader, stating the following:

1. That the project leader has conducted reasonable inquiries to obtain all information relevant to compliance with this Regulation.
2. If a qualified person was required to prepare or supervise the preparation of documents under this Regulation,
 - i. that the project leader has disclosed to the qualified person or supervisee all the information obtained as described in paragraph 1,
 - ii. that the project leader has, for the purpose of assisting the qualified person or supervisee in preparing the documents, provided the qualified person or supervisee with all necessary access to the project area and has authorized the qualified person or supervisee to make any inquiries of the project leader's employees and agents, and
 - iii. that the qualified person has completed the applicable declarations, as outlined in the Soil Rules.
3. That the information filed in the Registry is complete and accurate to the best of the project leader's knowledge.
4. That the project leader will develop and apply all necessary procedures to ensure that all necessary steps are taken to ensure that this Regulation is complied with and to ensure that excess soil from the project area will be disposed of in compliance with this Regulation.

O. Reg. 406/19, Sched. 1; O. Reg. 775/20, s. 17; O. Reg. 174/24, s. 18.

SCHEDULE 2 NON-APPLICATION OF SECTION 8 OF THE REGULATION

1. REVOKED: O. Reg. 555/22, s. 7.

2. Both of the following circumstances apply:

1. The amount of soil to be removed from the project area is 100 m³ or less.
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. To alleviate an immediate danger to human life, the health of any persons, the natural environment, or to property.
 2. The duty imposed by subsection 93 (1) of the Act.
 3. An order made by any authority with jurisdiction to make the order.
 4. 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 project area is subject to section 8 by reason only of paragraph 2 of subsection 8 (1.1).
 2. The excavated soil is only topsoil.
 3. The topsoil is transported directly to a reuse site from the project area for use as topsoil at the reuse site.
5. All of the following circumstances apply:
1. The soil is excavated from an area within an enhanced investigation project area.
 2. The amount of excavated soil is 100 m³ or less.
 3. The project is a landscaping project, involving only landscape care and maintenance services, installing or replacing lamp posts, light poles, trees, shrubs, plants, lawns or gardens, and the construction of walkways, retaining walls, decks, fences and ponds.
 4. Based on a report prepared by or under the supervision of a qualified person, including an assessment of past uses under section 11, it has been demonstrated that the part of the enhanced investigation project area from which the soil will be excavated is not likely to have been affected by the discharge of a contaminant.
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 deposit it for final placement 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.

O. Reg. 406/19, Sched. 2; O. Reg. 775/20, s. 18; O. Reg. 555/22, s. 7; O. Reg. 174/24, s. 19.

Français