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*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**  
to be made under the  
**ENVIRONMENTAL PROTECTION ACT**  
**ON-SITE AND EXCESS SOIL MANAGEMENT**

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**PART I  
GENERAL**

**Interpretation**

1. (1) In this Regulation,

“dry soil” means soil that is not liquid soil;

“excess soil” means soil that has been excavated as part of a project and removed from the project area for the project;

“excess soil management plan” means a plan required to be prepared under subsection 6 (1);

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

- (a) public highways,
- (b) transit lines, railways and associated corridors and facilities,
- (c) gas and oil pipelines and associated facilities,
- (d) sewage and water service systems, including septage treatment systems,
- (e) stormwater management systems,
- (f) electric generation facilities and 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 for items listed in clauses (a) to (h);

“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 of

the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the Act;

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

“project” means any project carried out on a single property or a group of adjoining properties that involves the excavation of soil and includes any form of development, the construction, reconstruction, erecting or placing of a building or structure of any kind or the establishment, replacement or alteration of infrastructure;

“project area” means, in respect of a project, the property or the adjoining properties on which the project is carried out;

“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;

“public body” means,

(a) a municipality, local board or conservation authority, or

(b) a ministry, board, commission, agency or official of the Government of Ontario;

“qualified person” has the same meaning as in section 5 of Ontario Regulation 153/04;

“Registry” has the same meaning as in Part XV.1 of the Act;

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

“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;

“soil bank storage site” means a waste disposal site, other than a temporary soil storage site, that,

- (a) is governed by an environmental compliance approval,
- (b) operates for the primary purpose of storing, on a temporary basis, excess soil that originates from one or more projects, and
- (c) is operated by a person who is not a project leader for all of the projects from which the stored excess soil originated;

“soil processing site” means a waste disposal site that is governed by an environmental compliance approval and at which excess soil is temporarily stored and processed for the purpose of reducing the concentration of contaminants in the excess soil;

“Soil Rules” means the document entitled “Rules for On-Site and Excess Soil Management”, dated [*date to be confirmed*], published by the Ministry and available on a website of the Government of Ontario;

“temporary soil storage site” means a waste disposal site,

- (a) at which excess soil is stored on a temporary basis, and
- (b) which is located on a property owned by a public body or by the project leader for the project in relation to which the stored excess soil was excavated.

(2) For the purposes of this Regulation, the following terms have the same meaning as in Ontario Regulation 153/04:

1. Areas of potential environmental concern.
2. Bulk liquid dispensing facility.
3. Commercial use.
4. Contaminant of potential concern.
5. Dry cleaning equipment.
6. Gasoline outlet.

7. Garage.
8. Industrial use.
9. Potentially contaminating activity.

(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.

### **Non-application of Regulation**

2. (1) This Regulation does not apply to excavated soil that is hazardous waste or asbestos waste, both within the meaning of Regulation 347 of the Revised Regulations of Ontario, 1990 (General - Waste Management), made under the Act.

(2) This Regulation does not apply to aggregate, within the meaning of section 1 of the *Aggregate Resources Act*, to which that Act applies.

## **PART II EXCESS SOIL**

### **Designation as waste**

3. (1) Excess soil is designated as waste, except if all of the following conditions are satisfied:

1. The excess soil must be directly transported to a reuse site from,
  - i. a project area, or
  - ii. a soil bank storage site, temporary soil storage site or soil processing site.
2. The operator of the reuse site or a person authorized by the operator must have consented in writing to the deposit of the excess soil at the reuse site.
3. The excess soil must be dry soil and must remain dry soil until it is finally placed at the reuse site.

4. If the reuse site is governed by one of the following instruments, the conditions set out in section 4 must be satisfied:
  - i. A permit that is issued under a by-law passed under section 142 of the *Municipal Act, 2001*.
  - ii. Provisions of a by-law passed under section 142 of the *Municipal Act, 2001*.
  - 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 must be satisfied.

(2) If, at any time, the conditions mentioned in subsection (1) cease to be satisfied, the excess soil is designated as a waste and continues to be so designated until one of the following events:

1. The conditions mentioned in subsection (1) have been satisfied again.
2. In a case where a provincial officer has issued an order mentioned in subsection (3) in respect of the excess soil, the order has been complied with.
3. The fifth anniversary of the day on which the undertaking for which the excess soil is used at the reuse site is completed.

(3) Subject to subsection (4), if a provincial officer has determined that the condition mentioned in paragraph 4 or 5 of subsection (1) 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 conditions that are not being satisfied.

(4) The provincial officer shall not issue an order mentioned in subsection (3) 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 condition mentioned in paragraph 4 or 5 of subsection (1).
2. The provincial officer is of the opinion that, if the different 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.

(5) For the purposes of paragraph 3 of subsection (2), 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.

#### **Exemption from designation, if reuse site governed by instrument**

4. (1) For the purposes of paragraph 4 of subsection 3 (1), 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 does not deal with excess soil quality.	The condition set out in paragraph 1 of subsection 5 (1) must be satisfied.
2.	Instrument deals with excess soil quality and imposes a more stringent requirement than the applicable excess soil quality standard as determined in accordance with the Soil Rules.	The condition set out in paragraph 1 of subsection 5 (1) must be satisfied.
3.	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 Soil Rules.	The requirement set out in the instrument respecting excess soil quality must be satisfied.

(2) For the purposes of paragraph 4 of subsection 3 (1), 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
1.	Instrument does not specify a maximum amount of excess soil that may be deposited 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.
2.	Instrument does not specify a 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.
3.	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.

### **Exemption from designation, if reuse site not governed by instrument**

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

1. The quality of the excess soil that is intended to be finally placed at the reuse site must not exceed the applicable excess soil quality standards as determined in accordance with the Soil Rules.
2. The primary use of the reuse site must not be the deposit of excess soil.
3. There must be an identified beneficial purpose in connection with the undertaking for which the excess soil is to be used at the reuse site, such as,
  - i. backfill for an excavation carried out for the purposes of any form of development,
  - ii. final grading carried out for the purposes of any form of development, or
  - iii. achieving the grade necessary for,
    - A. planned development,
    - B. landscaping, or
    - C. another project governed by an instrument issued by a public body.



4. The quantity of excess soil to be deposited at the reuse site must not exceed the quantity necessary for the beneficial purpose identified.
5. Subject to subsections (2) and (3), the excess soil must be finally placed no later than one year after it is deposited at the reuse site.
6. After the excess soil is deposited and before it is finally placed, it must be stored in accordance with the Soil Rules.

(2) A provincial officer may, by order, authorize an extension, not exceeding two years, of the one-year period mentioned in paragraph 5 of subsection (1), if the provincial officer 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 adverse effects.

(3) 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.

### **Requirement to prepare excess soil management plan**

6. (1) The project leader for a project shall ensure that, before removing soil from the project area that will become excess soil once removed, an excess soil management plan is prepared in accordance with section 7, with respect to the project and the project area.

(2) Despite subsection (1), a project leader is not required to ensure the preparation of an excess soil management plan in respect of a project and its project area if all of the following conditions are satisfied:

1. After making reasonable efforts to take into consideration any past reports about past uses and activities respecting the project area, the project leader must be of the opinion that the project area is not used and has never been used, in whole or in part, for an industrial use or for any of the following commercial uses:
  - i. As a garage.
  - ii. As a bulk liquid dispensing facility, including a gasoline outlet.

- iii. For the operation of dry cleaning equipment.
2. The primary purpose of the project must not be to remediate land that has been contaminated.
3. In the case of a project area, any part of which is located in an area of settlement within the meaning of the *Planning Act*, the amount of soil to be removed from the project area must be less than 2,000 m<sup>3</sup>.

(3) Despite subsection (1), a project leader is not required to ensure the preparation of an excess soil management plan in respect of a project and its project area if both of the following conditions are satisfied:

1. The amount of soil to be removed from the project area must be less than 100 m<sup>3</sup>.
2. The excess soil must be directly transported to a waste disposal site that is not a temporary soil storage site.

(4) Despite subsection (1), a project leader is not required to ensure the preparation of an excess soil management plan in respect of a project and its project area if the reason for excavating the soil that will become excess soil is one of the following:

1. Danger to the health or safety of any person.
2. Impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it.
3. Injury or damage or serious risk of injury or damage to any property or to any plant or animal life.
4. The duty imposed by subsection 93 (1) of the Act.
5. An order made by any authority with jurisdiction to make the order.

6. Maintaining infrastructure in a fit state of repair, except if the excavation of soil is from a stormwater management facility for the purpose of maintaining the facility in a fit state of repair.

(5) Despite subsection (1), a project leader is not required to ensure the preparation of an excess soil management plan in respect of a project and its project area if all of the following conditions are satisfied:

1. The excavated soil must be top soil within the meaning of subsection 142 (1) of the *Municipal Act, 2001*.
2. The excavated soil must not have originated from a project area that is used or has ever been used, in whole or in part, for an industrial use or for any of the following commercial uses:
  - i. As a garage.
  - ii. As a bulk liquid dispensing facility, including a gasoline outlet.
  - iii. For the operation of dry cleaning equipment.
3. The excavated soil must not have originated from a project with a primary purpose of remediating land that has been contaminated.
4. The top soil must be transported directly to a reuse site from the project area for use as top soil at the reuse site.

#### **Requirements re preparation, contents of plan**

7. (1) If an excess soil management plan is required to be prepared in respect of a project and its project area, the project leader shall ensure that a qualified person prepares or oversees the preparation of the plan and all of its components.

(2) The plan and all of its components shall be prepared in the form, if any, approved by the Director and available on a website of the Government of Ontario.

(3) The plan shall set out the following in accordance with the Soil Rules:

1. A description of the project.

2. A description of the project area.
3. The name of the project leader or project leaders.
4. The name of each qualified person who prepared or oversaw the preparation of the plan.
5. If the project leader has entered into any contracts relating to the management of excess soil originating from the project area, including the transporting of excess soil from the project area, the name of each contractor and any subcontractor.
6. Subject to subsection (6), an assessment of past uses of the project area.
7. A sampling and analysis plan, if either of the following circumstances applies:
  - i. Any part of the project area is used or has ever been used, in whole or in part, for an industrial use or for any of the following commercial uses:
    - A. As a garage.
    - B. As a bulk liquid dispensing facility, including a gasoline outlet.
    - C. For the operation of dry cleaning equipment.
  - ii. The assessment of past uses under paragraph 6 identifies a potentially contaminating activity.
8. If a sampling and analysis plan is required under paragraph 7, the following:
  - i. The results of sampling and analysis and an assessment of those results, including a soil characterization report that describes the parts of the project area that were sampled and analysed.
  - ii. 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 soil processing site, a soil bank storage site or a landfill.

- iii. Identification of the type of potential reuse sites at which excess soil from the project area may be deposited for final placement, having regard to the excess soil quality standards set out in the Soil Rules.
9. A tracking system to track each load of excess soil during its transportation and deposit at a reuse site for final placement or at a soil bank storage site, soil processing site or landfill, and any transportation to and from a temporary soil storage site.
10. A description of procedures for periodic testing of the tracking system mentioned in paragraph 9, for the purpose of ensuring the system is operating as described in that paragraph.
11. A description of procedures to ensure that, as soil is excavated and stored in stockpiles at the project area, the soil is segregated and stockpiled in accordance with the requirements of the Soil Rules and that soil that is sampled and analysed is kept segregated from other soil.
12. An excess soil destination assessment and identification that,
  - i. assesses the options for depositing the excess soil at reuse sites for final placement,
  - ii. if any of the excess soil cannot be deposited at a reuse site for final placement, assesses the options for disposing of the soil at a soil bank storage site, soil processing site or landfill,
  - iii. identifies each reuse site, soil bank storage site, soil processing site or landfill at which the excess soil will be deposited, including the municipal address of each reuse site,
  - iv. identifies additional reuse sites at which excess soil may be deposited in the event that a reuse site identified under subparagraph iii cannot be used, including the municipal address of each additional reuse site, and
  - v. provides an estimate of the quality and quantity of excess soil that will be deposited at each location identified under subparagraph iii.

13. For each reuse site identified under subparagraph 12 iii, written confirmation from the operator of the reuse site that the quantity and quality of excess soil estimated under subparagraph 12 v in respect of the reuse site will be accepted for deposit at the reuse site.
14. An identification, including the municipal address, of each temporary soil storage site at which excess soil will be stored.
15. The procedures, as described in section 8, that must be followed if an individual responsible for soil excavation or soil storage and management makes an observation that suggests any soil at the project area may be affected by contaminants.
16. A description of the steps to be taken in the event that the excess soil cannot be finally placed or deposited in accordance with this Regulation or in accordance with the excess soil destination assessment and identification mentioned in paragraph 12, including steps to amend the plan and to ensure that the excess soil is finally placed or deposited in a manner that complies with this Regulation.
17. A declaration by the project leader of the following:
  - i. That the project leader has conducted reasonable inquiries to obtain all information relevant to the preparation of the plan.
  - ii. That the project leader has disclosed all the information referred to in subparagraph i to the qualified person responsible for preparing or overseeing the preparation of the plan.
  - iii. That the project leader has, for the purpose of assisting the qualified person in preparing or overseeing the preparation of the plan, provided the qualified person with all necessary access to the project area and has authorized the qualified person to make any inquiries of the project leader's employees and agents.
  - iv. That the plan is complete and accurate to the best of the project leader's knowledge.
  - v. That the project leader will establish and implement all necessary procedures to ensure the plan is implemented.

18. A declaration by the qualified person who prepared or oversaw the preparation of the excess soil management plan of the following:
  - i. That the project leader has provided the qualified person with all necessary access to the project area and authorized the qualified person to make any inquiries of the project leader's employees and agents, for the purpose of assisting the qualified person in preparing or overseeing the preparation of the plan.
  - ii. That the qualified person has prepared or overseen the preparation of the plan.
  - iii. That the plan is complete and accurate and complies with this Regulation to the best of the qualified person's knowledge.

(4) If the project leader becomes aware of a matter described in subsection (5) after including in a plan a written confirmation mentioned in paragraph 13 of subsection (3), the project leader shall ensure that a new confirmation that meets the requirements of paragraph 13 of subsection (3) is included in the plan within 30 days after the day the project leader becomes aware of the matter.

(5) Subsection (4) applies if the project leader becomes aware of one of the following matters:

1. There is a higher concentration of contaminants in the excess soil than indicated in the confirmation.
2. The quantity of excess soil is greater than indicated in the confirmation.

(6) 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 facility.
2. A phase one environmental site assessment within the meaning of Ontario Regulation 153/04 has been prepared in respect of the project.

(7) If paragraph 2 of subsection (6) applies, the phase one environmental site assessment shall be included in the excess soil management plan.

**Procedures to be included in plan**

8. (1) For the purposes of paragraph 15 of subsection 7 (3), the excess soil management plan shall set out a description of observations, both visual and olfactory, that suggest that any soil in locations where soil is being excavated or any excavated soil at the project area may be affected by contaminants.

(2) Subject to subsection (3), for the purposes of paragraph 15 of subsection 7 (3), the procedures set out in the excess soil management plan shall include, at a minimum, the following procedures that apply if an individual makes an observation mentioned in subsection (1):

1. Soil excavation in the part of the project area that may be affected by contaminants must be halted immediately.
2. The project leader or, if a contractor or subcontractor has been assigned to supervise soil management within the project area, the contractor or subcontractor, must be notified immediately of the observation.
3. The qualified person who prepared or oversaw the preparation of the plan must be notified of the observation, or, if another qualified person has been retained by the project leader as the qualified person for the purposes of this section and to provide the project leader with advice in respect of issues that arise during the implementation of the excess soil management plan, that qualified person must be notified.
4. The qualified person must provide direction on how to respond to the observation, including,
  - i. what steps must be taken to identify the soil that is affected by contaminants, to prevent contaminants from affecting other soil and to segregate any contaminated soil, and
  - ii. whether further sampling and analysis of the soil, beyond what is already required in the plan, is necessary.
5. If the qualified person determines that sampling and analysis is necessary, the qualified person must ensure that,
  - i. the sampling and analysis is carried out in accordance with the Soil Rules, and



- ii. the soil characterization report that is part of the sampling and analysis plan in the excess soil management report is updated to reflect the results.
6. Excavation is not to resume until the qualified person gives a written confirmation to the individual at the project area responsible for the soil excavation that the response to the observation is complete.
  7. The project leader must ensure that the observation and the response to the observation are recorded in the record required under section 10.

(3) The procedures mentioned in subsection (2) do not apply if the observation is made in an area of potential environmental concern that has been identified in the assessment of past uses included in the excess soil management plan.

#### **Qualified persons, conflict of interest**

**9.** (1) No qualified person shall, in respect of a project in which the qualified person holds a direct or indirect interest, conduct or supervise the preparation of an excess soil management plan or of any of its components.

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

(3) 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*.

#### **Implementation of plan**

**10.** (1) The project leader shall ensure that the excess soil management plan in respect of the project and its project area is implemented.

(2) The project leader shall maintain a record regarding the implementation of the excess soil management plan, beginning on the first day the excess soil is removed from the project area until the day on which the project is completed.

(3) The record is not required to be maintained during any period during which the project is suspended.

(4) The record shall include the following information:

1. A description, updated on a weekly basis, of information gathered from the tracking system referred to in paragraph 9 of subsection 7 (3) regarding the quality and quantity of each load of excess soil transported,
  - i. from the project area to a temporary soil storage site,
  - ii. from the project area to a soil processing site, soil bank storage site or landfill,
  - iii. from the project area to a reuse site, and
  - iv. from a temporary soil storage site to a reuse site.
2. A description of any complaints received by the project leader in respect of the management of soil at the project area or the management of excess soil removed from the project area and a description of the steps taken to respond to each complaint.
3. If soil will become excess soil, a description of the types of soil processing undertaken within the project area with respect to that soil and the results of the soil processing.
4. The results of the periodic testing of the tracking system, including an assessment of whether the system is operating as described in paragraph 9 of subsection 7 (3).
5. A description of any issues that arise with respect to implementation of the plan, including any issues that arise with a reuse site identified in the plan, and what steps were taken to resolve those issues.
6. A description of any observations made, other than those already reflected in the soil characterization report, that suggest that any soil at the project area may be affected by contaminants.
7. Subject to subsection (5), a description of any additional testing of soil quality conducted and whether the results of the additional testing confirm or depart from the soil quality results described in the soil characterization report.
8. A description of any amendments made to the excess soil management plan.

9. Any other information related to implementation of the plan, as may be recommended to be included in the record by a qualified person responsible for preparing or overseeing the preparation of the plan.

(5) Paragraph 7 of subsection (4) does not apply in respect of any sampling and analysis conducted as part of the sampling and analysis plan or in response to an observation made under section 8.

### **Amendments to plan**

**11.** (1) If the project leader or a contractor or subcontractor of the project leader becomes aware of any of the following circumstances following the preparation of an excess soil management plan in respect of the project and project area, the project leader shall ensure that within 30 days after the day the project leader becomes aware of the circumstance, a qualified person responsible for preparing or overseeing the preparation of the plan amends the plan to reflect the circumstance:

1. Additional testing of excess soil by the project leader after the completion of the plan reveals that that 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. A new area of potential environmental concern is identified within the project area that is not identified in the plan.
3. Excess soil is intended to be transported to a reuse site for final placement that is not identified in the plan.

(2) If the project leader is of the opinion that, due to a circumstance other than a circumstance described in subsection (1), the excess soil management plan should be amended in order to ensure excess soil is managed and disposed of in accordance with the requirements of this Regulation, the project leader shall ensure that the plan is amended.

### **Notice of plan completion to be filed in Registry**

**12.** (1) The project leader for a project shall ensure that, before removing soil from the project area that will become excess soil, a notice is filed in the Registry regarding the completion of the excess soil management plan.

(2) The notice shall be prepared in the form, if any, approved by the Director and available on a website of the Government of Ontario.

(3) The notice shall set out the following in accordance with the Soil Rules:

1. A description of the project.
2. A description of the project area, including,
  - i. the municipal address of each property that is located, in whole or in part, within the project area, and
  - ii. 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.
3. In respect of each project leader for the project, the name, mailing address, postal code, telephone number and email address.
4. 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.
5. 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.
6. The name, mailing address, postal code, telephone number and email address of each qualified person who prepared or oversaw the preparation of the plan.
7. An estimate of how much excess soil will be removed from the project area, broken down by any soil quality categories set out for the purpose of this paragraph in the Soil Rules.
8. In respect of each corporation that will transport excess soil from the project area, the name, mailing address, postal code, telephone number and email address of the corporation.
9. An identification, including the municipal address, of each temporary soil storage site at which the excess soil is intended to be stored.

10. An identification, including the municipal address, of each reuse site at which the excess soil is intended to be deposited for the purposes of final placement and for each reuse site, a description of,
  - i. the type of property use of the reuse site, and
  - ii. the undertaking for which the excess soil is intended to be used.
11. An identification, including the municipal address, of each soil bank storage site, soil processing site and landfill at which excess soil is intended to be deposited.
12. A declaration by the qualified person mentioned in paragraph 6 that an excess soil management plan that complies with this Regulation has been prepared respecting the project and its project area.

**Information re excess soil movement to be filed in Registry**

**13.** (1) A project leader shall ensure that, after excess soil is removed from a project area, information described in this section is filed in the Registry,

- (a) within 14 days after the soil is removed; and
- (b) subject to subsection (3), within 60 days after information is first required to be filed and within every subsequent 60 days.

(2) The project leader shall ensure that the information is filed in the form, if any, approved by the Director and available on a website of the Government of Ontario.

(3) If the project is suspended and the project leader has filed information in the Registry indicating the day of the suspension, the obligation in clause (1) (b) ceases to apply until the project resumes, at which point the project leader shall ensure that the information is filed in the Registry within 60 days after the resumption and within every subsequent 60 days.

(4) The information shall be in respect of the movement of the soil during the reporting period for the information.

(5) The reporting period is,

- (a) in the case of the first information filed, the period beginning on the day of the removal of the soil from the project area and ending on the day before the filing of the information; and
  - (b) in the case of subsequent information filed, the period beginning on the day of the filing of the most recent information and ending on the day before the filing of the current information.
- (6) The following information shall be filed in respect of the reporting period:
- 1. The amount of excess soil deposited at each of the following:
    - i. A temporary soil storage site.
    - ii. A reuse site.
    - iii. A soil bank storage site.
    - iv. A soil processing site.
    - v. A landfill.
  - 2. If the project was suspended during the reporting period, the date of the suspension and the expected duration of the suspension.
  - 3. If the project had been suspended previously and resumed during the reporting period, the day on which the project resumed.
  - 4. If the project was completed during the reporting period, the day of the completion and a statement that the information being filed is the final information to be filed in respect of the project.

### **Updating of filed information**

**14.** If a project leader or a person authorized to file information in the Registry on behalf of a project leader becomes aware that any information filed in the Registry is no longer complete or accurate, the project leader or other person shall ensure that complete and accurate information is filed in the Registry within 30 days after the day the person becomes aware that the information is no longer complete or accurate.

## Transportation

15. (1) The transportation of excess soil is exempt from sections 27, 40 and 41 of the Act.

(2) For greater certainty, section 16 of Regulation 347 of the Revised Regulations of Ontario, 1990 (General - Waste Management) made under the Act applies in respect of a vehicle or carrier transporting excess soil that is designated as waste.

(3) Excess soil that is not designated as waste and that is to be transported shall be collected and transported in accordance with the following rules:

1. The excess soil shall only be collected and transported in a vehicle or carrier that has been constructed to enable the excess soil to be transferred safely and without nuisance.
2. Bodies of vehicles and carriers shall be constructed to withstand abrasion and corrosion from the excess soil.
3. Bodies of vehicles and carriers shall be leakproof and covered where necessary to prevent the emission of offensive odours, the falling or blowing of material from the vehicle and carriers or the release of dust or other airborne materials that may cause air pollution.

(4) A person who is transporting excess soil shall ensure that a record setting out the following information is available at all times during the transportation:

1. An identification, including the municipal address, of the location at which the excess soil was loaded for transportation and an identification of whether the excess soil is being transported from a project area, a temporary soil storage site, a soil bank storage site or a soil processing site.
2. If the excess soil is being transported from a project area, a description of the project from which the excess soil originated.
3. The date and time the excess soil was loaded for transportation.
4. The quantity of excess soil in the load.

5. The name of an individual who may be contacted to respond to inquiries regarding the load, including inquiries regarding the soil quality.
6. The name and phone number of the individual who supervised the loading of the excess soil on to the vehicle or carrier on behalf of the operator of the location from where the soil is being transported.
7. A declaration signed by the individual mentioned in paragraph 6, stating that to the best of the individual's knowledge, the information mentioned in paragraphs 1 to 6 as set out in the record is accurate and complete.
8. 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*.
9. An identification, including the municipal address, of the location at which the excess soil is to be deposited, including whether that location is a temporary soil storage site, a soil bank storage site, a soil processing site, a landfill or a reuse site.
10. If the soil is transported to a reuse site, the name and phone number of an individual who is able to answer inquiries about the reuse site, the quality of excess soil that may be deposited at the reuse site and the beneficial purpose for which the excess soil will be used at the reuse site.

(5) Upon arriving at a temporary soil storage site, a soil bank storage site, a soil processing site, a landfill or a reuse site, the person who is transporting the excess soil shall ensure that the record mentioned in subsection (4) sets out the following:

1. The date and time that the load of excess soil is deposited.
2. The name and phone number of the individual at the temporary soil storage site, soil bank storage site, soil processing site, landfill or reuse site who acknowledges that the excess soil has been deposited on the date and at the time specified under paragraph 1.
3. A declaration signed by the individual mentioned in paragraph 2, stating that the individual acknowledges the deposit of the excess soil.



(6) The person who is transporting the excess soil shall ensure that the individual mentioned in paragraph 2 of subsection (5) is given a copy of the record containing the information mentioned in that subsection.

(7) The record shall be prepared in the form, if any, approved by the Director and available on a website of the Government of Ontario.

### **PART III MISCELLANEOUS**

#### **General requirement re excavation of soil**

**16.** (1) This section applies to any project in respect of which no excess soil management plan is required to be prepared.

(2) The project leader for a project mentioned in subsection (1) shall ensure that a procedure is established and implemented with respect to what must occur if an employee or agent of the project leader or an employee or agent of a contractor or subcontractor of the project leader 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 contaminants.

(3) At a minimum, the project leader shall ensure that the procedure sets out the following:

1. All soil excavations in the project area must cease immediately upon the observation being made, until such time as the project leader directs that soil excavations may be resumed.
2. The project leader must be notified of the observation immediately.
3. The project leader, upon being notified of the observation, must take steps to ensure that one of the following occurs before directing that soil excavations may be resumed:
  - i. Ensure that any excess soil originating from the project area is to be transported to a soil processing site or a landfill for disposal.
  - ii. If the project leader intends to deposit any of the excess soil from the project area at a reuse site for final placement, the project leader prepares an excess soil management plan in accordance with section 7 with respect to the project and the project area.

(4) If a project leader is required to prepare an excess soil management plan under subparagraph 3 ii of subsection (3), the project leader shall ensure compliance with all other provisions of this Regulation that apply in respect of a project and project area for which an excess soil management plan is required.

**Excavated soil processed at project area, designation as waste**

17. (1) Subject to subsection (3), excavated soil that is processed at the project area at which the soil was excavated is designated as waste.

(2) Excavated soil designated as waste under subsection (1) is no longer designated as waste once processing is completed, if the soil remains at the project area.

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

1. Passive aeration.
2. Subject to subsection (4), passive drainage.
3. Mixing of soil excavated at the project area, if the soil being mixed is of similar quality and the mixing is not carried out for the purpose of diluting the concentration of contaminants in the soil.
4. Soil turning.
5. Size-based sorting of soil.
6. The sorting of soil for the purpose of removing debris.

(4) For the purposes of paragraph 2 of subsection (3), soil processed at a project area by passive drainage that involves the dewatering of excavated liquid soil is designated as waste unless the excavated liquid soil originated from a stormwater management facility or the bed of a water body.

(5) If the excavated soil is processed at the project area as described 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.

(6) For greater certainty, nothing in this section 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 as described in subsection (3).

**Temporary soil storage site, exemption from ss. 27, 40 and 41 of the Act**

**18.** (1) The deposit and storage at a temporary soil storage site of excess soil that is dry soil is exempt from sections 27, 40 and 41 of the Act if the following conditions are met:

1. In the case of a temporary soil storage site that is owned by a public body, if the public body is not the project leader for the project from which the excess soil originated, the public body or a person authorized by the public body must have consented in writing to storage of the excess soil at the site.
2. Before storing the excess soil at the temporary soil storage site, the project leader for the project from which the excess soil originated must prepare a written record identifying the intended reuse site at which the excess soil to be stored at the temporary soil storage site will be finally placed.
3. The project leader mentioned in paragraph 2 must update the record if there is any change in the intended reuse site.
4. The record mentioned in paragraph 2 must be kept at the temporary soil storage site while the excess soil is stored.
5. Subject to subsection (2), the excess soil must be finally placed at a reuse site no later than two years after the excess soil is first stored at the temporary soil storage site.
6. The excess soil must not be processed while being stored at the temporary soil storage site.
7. The project leader must provide written notice to the Director in accordance with subsection (3) no later than one month before the excess soil is transported to the temporary soil storage site.
8. Any other conditions set out in the Soil Rules with respect to the deposit and storage of excess soil at a temporary soil storage site must be met.

(2) A provincial officer may, by order, authorize an extension, not exceeding two years, of the two-year period mentioned in paragraph 5 of subsection (1), if the provincial officer is satisfied that,

- (a) the extension is necessary in order for the excess soil to be used at a reuse site; and
- (b) the extension will not result in adverse effects.

(3) For the purposes of paragraph 7 of subsection (1), the written notice must include the following:

1. An identification, including the municipal address, of the temporary soil storage site.
2. A description of the quality and quantity of excess soil to be deposited at the site.
3. The name of the project leader for the project from which the excess soil originates.
4. The name and phone number of the individual who, on behalf of the project leader, is responsible for supervising the temporary soil storage site.
5. If the temporary soil storage site is operated by a public body, the name of the public body.
6. The date on which the storage of the excess soil at the temporary soil storage site is expected to begin.

(4) The written notice mentioned in paragraph 7 of subsection (1) shall be in the form, if any, provided by the Director and available on a website of the Government of Ontario.

(5) If the project leader becomes aware that any information in the written notice mentioned in paragraph 7 of subsection (1) is no longer complete or accurate, the project leader must ensure that the Director is notified and provided with the completed or corrected information within 30 days after the day the project leader becomes aware that the information is no longer complete or accurate.

### **Registry, additional purposes**

**19.** For the purpose of paragraph 3 of subsection 168.3 (2) of the Act, the Registry has the purposes of,

- (a) allowing the filing of notices of plan completion and other documents under this Regulation respecting the management of excess soil; and
- (b) facilitating public access to information respecting the management of excess soil, including information contained in notices of plan completion, filed in the Registry under this Regulation.

### **Registry, contents public**

**20.** (1) The Director shall ensure that notices of plan completion and other documents that are filed in the Registry under this Regulation are available for examination by the public.

(2) If the Director becomes aware of a clerical, grammatical or typographical error in a notice of plan completion or other document that has been filed in the Registry under this Regulation, the Director may cause the error to be corrected and the correction shall not require a new filing.

(3) The Director may cause a notice of plan completion or other document that has been filed in the Registry under this Regulation to be updated to add new information and remove previous information and the change shall not require a new filing, if the Director becomes aware of, and the update relates to, a change to,

- (a) a mailing address, postal code or email address or a change in a mailing address, postal code or email address; or
- (b) a municipal address or a change in a municipal address.

### **Records retention**

**21.** (1) A project leader and an operator of a temporary soil storage site, a soil bank storage site, a soil processing site, a landfill or a reuse site 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, as the case may be.

(2) A person transporting excess soil shall retain a record required under section 15 in respect of excess soil for a period of at least seven years after the date that the record was created.

**PART IV  
COMMENCEMENT**

**Proposed commencement for consultation purposes**

**22. (1) Subject to subsection (2), this Regulation comes into force on the later of January 1, 2020 and the day it is filed.**

**(2) The following sections come into force on the later of January 1, 2021 and the day this Regulation is filed:**

**1. Sections 6 to 14.**

**2. Sections 19 and 20.**