



2024 fees for the Excess Soil Registry

Consultation Report

February 16, 2024

Table of contents	
About RPRA	3
Executive Summary	3
Introduction	4
About RPRA	4
Principles for public consultation	4
Consultation	5
Process	5
What we heard	5
Conclusion	6
Appendix A: Stakeholders that submitted feedback	7
Appendix B: Response to stakeholder comments	8
Appendix C: Webinar questions and answers	10

About RPRA

The Resource Productivity and Recovery Authority (RPRA) is Ontario's regulator for the circular economy with a mission to implement the province's resource recovery programs and operate registries for Ontario's reporting and tracking programs for excess soil and liquid and industrial hazardous waste.

RPRA's activities are focused on the following strategic priorities:

- Providing registrants with accessible and easy-to-use registry services
- Delivering effective compliance programs to help achieve resource recovery and waste reduction outcomes for the province
- Providing Ontario with reliable and useful resource recovery and waste information
- Building an accountable, transparent and sustainable organization that achieves value for money

Executive summary

This report details RPRA's consultation process, the feedback received, and how RPRA incorporated the feedback into its decision-making on setting fees for users of the Excess Soil Registry.

Questions about this report can be emailed to consultations@rppra.ca.

RPRA's fees are charges that registrants pay to RPRA annually to cover its costs for building and operating registries and operating compliance and enforcement programs. Excess Soil Registry fees cover the costs for building and operating the Excess Soil Registry. RPRA's [General Fee-Setting Policy](#) guides how fees are set in accordance with a list of principles and objectives.

Excess Soil Registry users are required to pay fees to RPRA for each initial notice filed to the registry.

RPRA consulted on proposed 2024 fees for the Excess Soil Registry from November 10, 2023, to January 10, 2024.

RPRA's 2024 Excess Soil Registry Fees were approved on February 13, 2024. RPRA posted the final fees to its website on February 16, 2024, and stakeholders were notified the same day.

RPRA's Board of Director approved the fee model for Excess Soil notices as proposed during the consultation.

The fee model is unchanged from 2022 and 2023. Registrants of initial project area notices pay a per-m³ fee for projects generating between 2000 and 500,000 m³, and rates increase in steps at certain thresholds of soil volume. Registrants of initial reuse site notices pay fixed flat fees tied to the total volume the reuse site will accept over its lifetime, and flat fees increase in steps at certain thresholds of volume.

Final 2024 fees rates for the Excess Soil Registry are lower than proposed during the consultation. RPRA's Board approved the extension of the recovery period for the Excess Soil Registry Program's deficit to five years instead of three in order to lessen the fee increase year-over-year.

For more information on the final fees, view the [2024 Excess Soil Registry Fee Schedule](#).

RPRA received 10 submissions in response to the fee proposals. The comments are summarized in [What We Heard](#), and RPRA's responses are detailed in [Appendix B](#) of this report.

All questions received during the consultation webinars and responses provided by RPRA are detailed in [Appendix C](#) of this report.

Introduction

About RPRA

RPRA is the regulator created by the Ontario government to enforce the requirements of the RRCEA and the [Waste Diversion Transition Act, 2016](#) (WDTA).

RPRA has also been directed by the Minister of the Environment, Conservation and Parks to build and operate registries for the Hazardous Waste and Excess Soil programs, governed by the [Environmental Protection Act](#) (EPA).

RPRA is a non-profit organization that does not receive any government funding. The WDTA and RRCEA allow RPRA to set and collect fees to recover its costs from regulated parties. RPRA revenues come from two sources:

- Charges to industry funding organizations (IFOs) and industry stewardship organizations (ISOs) for RPRA's oversight and wind-up of current waste diversion programs operating under the WDTA and the IFOs that operate those programs.
- Charges to parties required to register and report to RPRA.

Excess Soil Registry fees are used to cover the costs of developing and operating the Excess Soil Registry.

Before setting fees, RPRA must engage in public consultation for at least 45 days and post the fees on its website for 30 days.

Principles for public consultation

RPRA's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development:

Inclusiveness and openness: Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible and responsive.

Timeliness: Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.

Accessibility and cost effectiveness: Consider a variety of tools and methods to gather feedback that promote efficient and cost-effective consultations.

Balance: Provide opportunities for diverse perspectives and opinions to be heard and considered.

Transparency: Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.

Evaluation: Demonstrate the impact of public consultations on program delivery and policy development.

Consultation

Process

Consultation on RPRA's proposed 2024 fees for the Excess Soil Registry were consulted on during October and November. A [dedicated web page](#) was created on RPRA's website with background information on the consultation, a registration link for a webinar, and presentation material.

On November 10, 2023, RPRA sent two emails announcing the start of the consultation for 2024 fees for users of the Excess Soil Registry: the first email was sent to registered users of the Excess Soil Registry, and the second was sent to Excess Soil stakeholders including Ontario municipalities, industry associations, and professional consultants. The emails communicated information on how to participate in the consultations. Registry users and other stakeholders were invited to submit feedback on the proposed fees via email or by attending the Excess Soil fees consultation webinar, which was held on November 16, 2023.

What we heard

RPRA received 10 submissions via email, and questions and comments during the webinar held on November 23, 2023 for an audience of 55. The webinar presentation and recordings can be found on the [consultation webpage](#).

Key feedback received is summarized below; a more detailed description of feedback received and RPRA's response is in Appendix B.

General fee- and cost- related

- The fee increases are extreme, particularly when considering:
 - 2024 project budgets have already been approved
 - There are no new services being provided to registry users
 - Project proponents must cover the costs to comply with the [On-Site and Excess Soil Management Regulation](#) in addition to the RPRA fee
- RPRA should postpone the fee increase to later in 2024 or 2025 to give proponents time to adjust budgets
- RPRA should soften the fee increase year-over-year
- High fee rates for project area notices for large development projects will affect business' decisions on whether or not to locate new industrial/manufacturing facilities in Ontario
- High fees may act as a disincentive to building new housing
- High fees will encourage free riding while penalizing registrants who are in compliance

Fee model

- The volume-based fee model puts too much fee pressure on larger projects
- Municipalities and public infrastructure projects should not be burdened by fee increases
- Due to the expansion of exemptions to development projects on farmland or residential land, including subdivisions, infrastructure projects now shoulder a disproportionate fee burden because they remain subject to requirements to register and file project area notices

For a list of stakeholders that submitted written feedback, see [Appendix A](#) of this report.

[Appendix B](#) outlines RPRA's responses to comments provided during the consultation.

For a list of all questions received during the webinars presented in October, see [Appendix C](#).

Conclusion

The 2024 fees for the Excess Soil Registry were approved on February 13, 2024. RPRA posted the final fees to its website on February 16, 2024 and stakeholders were notified the same day.

RPRA appreciates the thoughtful feedback provided during the consultation, and carefully considered each submission.

The increase in 2024 fees for the Excess Soil Registry is required because substantially fewer filings and less soil volumes are being registered than RPRA had anticipated when the registry was built. Although the program's operating budget for 2024 has been reduced substantially in response to the lower activity, fee rates still need to increase both to ensure full recovery of the reduced annual operational budget, and to recover program deficits that have accumulated from 2021 through 2023, in part because of the low volumes. RPRA's only source of revenue for the program is registry filing fees, and these fees must cover program costs. The discrepancy between earlier estimates for filings and current anticipated volumes is likely due in part to regulatory changes that exempted additional projects and, potentially, to slow uptake of the program by registrants in its first two years.

In response to feedback during the consultation, RPRA's Board of Directors approved extending the recovery of the program deficit over five years (instead of the three years originally proposed) to dampen the fee increase for 2024 and spread the burden of recovering the deficit over a greater number of projects.

Appendix A: Stakeholders that submitted feedback

10 written submissions were submitted by private consultants, and representatives from the following organizations:

- City of Toronto
- City of London
- City of Windsor
- Municipal Engineers Association (one initial submission and one follow-up)
- Canadian Vehicle Manufacturers Association
- LDS Consultants
- Reid's Heritage Homes
- Scarborough Transit Connect
- XS Soil Solutions
- Self-employed consultant

Appendix B: Response to stakeholder comments

RPRA considered all feedback received during the consultation period. Key comments received and RPRA's responses are included below.

Feedback

General fee- and cost- related

- The fee increases are extreme, particularly when considering:
 - 2024 project budgets have already been approved
 - There are no new services forthcoming for registry users
 - Project proponents must cover the costs to comply with the [On-Site and Excess Soil Management Regulation](#) in addition to the RPRA fee
- RPRA should postpone the fee increase to later in 2024 or 2025 to give proponents time to adjust budgets
- RPRA should soften the fee increase year-over-year
- High fee rates for project area notices for large development projects will affect business' decisions on whether or not to locate new industrial/manufacturing facilities in Ontario
- High fees may act as a disincentive to building new housing
- High fees will encourage free riding while penalizing registrants who are in compliance

Fee model

- The volume-based fee model puts too much fee pressure on larger projects
- Municipalities and public infrastructure projects should not be burdened by fee increases
- Due to the expansion of exemptions to development projects on farmland or residential land, including subdivisions infrastructure projects now shoulder a disproportionate fee burden because they remain subject to requirements to register and file project area notices

RPRA's response

General cost- and fee-related

The increase in 2024 fees for the Excess Soil Registry is due to fewer filings and lower soil volumes being reported than RPRA had anticipated when the registry was built. This discrepancy is due in part to regulatory changes that exempted additional projects and, potentially, to slow uptake of the program by registrants in its first two years.

In response to lower volumes filed in 2023, during its 2024 business planning process RPRA reduced the cost allocation to the Excess Soil Registry Program by 60%. However, this substantial reduction is not sufficient to entirely offset the lower volumes. Additionally, there are substantial deficits from operations in 2022 and 2023 that must be recovered, and which were exacerbated by the low volumes. Total operational deficits as of the end of 2023, not including registry capital costs, is estimated to be approximately \$3.3 million. RPRA has no other means of recovering its costs than through fees to registrants. RPRA does not receive funding from the government or any other source.

The Excess Soil Registry is a public service that RPRA is required by law to operate. The registry is the means by which regulated businesses and organizations are required to fulfill their regulatory obligations under the [On-Site and Excess Soil Management Regulation](#), and the means by which excess soil information is transmitted to the Ontario government and the public.

Additional functionalities may add costs that would need to be recovered from registrants. In concert with stakeholders, including the ministry, RPRA can consider enhanced functionalities once volume and registrations are more stable.

In response to feedback during the consultation, the RPRA Board approved extending the recovery of the program deficit over five years (instead of the three years originally proposed) to reduce the fee increase for 2024 and spread the burden of recovering that deficit over a greater number of projects, and potentially a greater number of registrants.

Businesses and organizations regulated under the [On-Site and Excess Soil Management Regulation](#) are obligated to register and pay fees to RPRA to remain in compliance, and the ministry has communicated its intention to focus on compliance activities in 2024.

Extending regulatory exemptions to excess-soil-generating projects on parkland, agricultural or residential land was a government policy decision. The deficit for the Excess Soil Registry Program must be recovered from proponents of projects that remain obligated by the regulation.

Due to its volume-based variable fee model, RPRA fees are typically a very small portion of project costs – including large infrastructure and industrial projects (for which total geotechnical requirements could cost millions). Typical infrastructure or industrial development projects would have maximum registry fees in the tens of thousands, a small portion of total soil management and movement costs, and a fraction of total project costs.

RPRA fees are unlikely to act as a disincentive to building new housing. Large residential tower developments that are subject to the regulation have total costs in the tens of millions, while the registry fee for these projects is likely to reach a maximum in the tens of thousands. Small infill housing development projects fall under fee tiers that incur registry notice costs under \$10,000.

Fee model

A volume-based approach to fees is consistent with how RPRA charges fees for its other registry programs, and accords with RPRA's fee-setting principles, including equity. Volume-based fees put responsibility on the soil generator or receiver, and help ensure that fees remain low as a percentage of the overall cost of an excess soil project. Moving from volume-based to flat fees would substantially benefit proponents of large projects with total costs (and potential profits) in the millions of dollars, at the expense of proponents of smaller projects. Ninety percent of per-notice fees incurred by registry users who filed project area notices in 2023 totalled less than \$1,000. Accordingly, volume-based fees support RPRA's fee setting principle of equity.

The [On-Site and Excess Soil Management Regulation](#) does not contain any exemptions for municipalities or public infrastructure projects. Exempting municipalities or any other project proponents from fee increases would require a policy change by the Ontario government.

Appendix C: Webinar questions and answers

Below are the questions received during the consultation webinar and RPRA's responses. Some questions were edited for length and clarity.

Question	Response
Do registry fees go back into General Revenue?	Fees paid in association with notices filed on the Excess Soil Registry go to the Excess Soil Registry Program, which is allocated a cost recovery target annually based on the resources required to operate the program.
Is RPRA proposing to change the fee structure for the Excess Soil Registry?	No. The fee model for the Excess Soil Registry is proposed to remain the same as in 2022 and 2023.
Will 2023 rates be applied to project area notices that are closed in 2024 or later?	Fees for Project Area Notices are charged based on the total volume of soil for the project that is identified in the <i>initial</i> notice submission, and in accordance with the fees set for the year the initial notice submission is made. If the volume of soil identified in the final notice submission is greater than the volume of soil identified in the initial submission, registrants may be charged additional fees.
The proposed excess soil regulation amendments require registration of Class 2 Soil Management Facilities. Will a registry fee be applied to Class 2 site registrations?	RPRA cannot make fee decisions based on proposed regulatory amendments that have not been finalized. RPRA will consult on any proposed new fees or fee rate changes that may result from regulatory amendments in advance of implementing those new fees or rate changes.
<p>Will advance notice be provided prior to the implementation of the fees?</p> <p>Once the fees are in effect for excess soil, will there be a grace period for Contractors to pay the new fees?</p>	<p>RPRA will inform registrants and stakeholders of the final 2024 fees at least 30 days prior to implementation.</p> <p>There will be no phase-in period for 2024 fee rates once they are implemented. When proponents file notices on the Excess Soil Registry, fees are automatically calculated and HST is added. Fees are due based on the terms of the invoice.</p>
Is it possible that the reason for lower fee collection in 2023 was lack of registration (when it was actually required)?	<p>Slow uptake of the program could account in part for fewer filings and lower volumes. The other likely cause is regulatory amendments that came into force in 2023 that exempted some projects from the requirement to file notices to the registry.</p> <p>The Ministry of the Environment, Conservation and Parks is responsible for enforcing the requirements of the On-site and Excess Soil Management Regulation, including registration.</p>