



2022 Registry Fees for Excess Soil

Consultation Report

November 30, 2021

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Executive summary

This report describes the Resource Productivity and Recovery Authority's (RPRA) consultation process for setting the 2022 Excess Soil Registry Fees. The report summarizes the feedback received and explains how RPRA incorporated the feedback during the decision making process. Questions about this report can be emailed to consultations@rpra.ca.

Excess Soil Registry (the Registry) users are required to pay fees to RPRA to recover its costs to build, maintain and operate the Registry, and to provide ongoing support to Registry users. From September 27, 2021, to November 12, 2021, RPRA consulted Excess Soil stakeholders and other interested stakeholders on its proposed 2022 Excess Soil Registry Fees, and the methodology and assumptions behind the fee structure and rates.

Comments and questions received during the consultation are summarized in the ['What we heard'](#) section of this report. All questions received during the consultation webinars and the responses provided by RPRA are recorded in [Appendix B](#) of this report.

The majority of the feedback RPRA received consisted of requests for clarification about when, how, and how often fees would be charged; further explanation of RPRA's methodology for calculating the fees; and the rationale behind the fee structure design, including why RPRA chose to tie some fees to soil volume.

Some stakeholders requested that RPRA issue refunds after Project Area and Reuse Site notices are filed in cases where the user over-estimated the soil volume associated with the project in the initial notice. As a result of this feedback, RPRA will issue refunds to Registry users if required because of initial over-estimations of soil volumes for Project Area or Reuse Site notices.

One stakeholder representing the residential construction industry stated that the proposed fees were too high. They also requested that Project Area fees be flat rather than variable and tied to soil volume, and expressed concern that Registry fees for Reuse Site notices would discourage new Reuse Sites from establishing.

No comments were received that expressed concern about the validity of RPRA's assumptions or methodology.

RPRA considered all feedback received in setting the 2022 Excess Soil Registry Fees and determined that no changes were required to the proposed fee structure and rates. RPRA is charging fees for Project Area notices based on tiers of variable rates tied to soil volume in order to protect smaller projects from higher fees, and recover its costs without undue risk of over- or under-collection.

The fees were approved on November 29, 2021. RPRA posted the final fees to its website on November 30, 2021, and stakeholders who took part in the consultation were notified on the same day. The wider stakeholder group was notified about the final fees on December 1, 2021.

Review the final [2022 Excess Soil Registry Fee Schedule](#) on the RPRA website.

Introduction

About RPRA and the Excess Soil Registry

RPRA is the regulator mandated by the Government of Ontario to administer the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WDTA), and their associated regulations.

In March 2021, the Minister of the Environment, Conservation and Parks (MECP) directed RPRA to develop, implement and maintain a registry for obligated parties under the [Onsite and Excess Soil Management Regulation, O. Reg. 406/19](#) (the Excess Soil Regulation) under the Environmental Protection Act, by January 1, 2022.

The Excess Soil Regulation:

- Sets rules and standards for the reuse of Excess Soil, requirements for the planning and tracking of reuse and disposal of Excess Soil, and requirements for certain procedures at larger soil Reuse Sites
- Requires notices to be filed to the Excess Soil Registry for the following activities:
 - Excavating and moving Excess Soil from Project
 - Areas (Project Area notices)
 - Operating soil Reuse Sites (Reuse Site notices)
 - Operating Residential Development Soil Depots (RDSD notices)

Under the Excess Soil Regulation, RPRA's duties include:

- Building, maintaining, and operating a digital reporting service
- Supporting Registry users to help them file notices in compliance with the Regulation
- Providing the Ministry of the Environment, Conservation and Parks with access to information and data to support the ministry's enforcement and compliance activities
- Setting and collecting fees to recover RPRA's costs to build, maintain, and operate the Registry, and provide support to Registry users

Before setting fees for the Excess Soil Registry, RPRA's legislative framework requires RPRA to consult on the fees for 45 days and post the final fees for 30 days.

RPRA is not responsible for compliance and enforcement of the Regulation. The ministry is responsible for policy and programs related to Excess Soil and will conduct compliance and enforcement activities. Information about the Regulation is available at <https://www.ontario.ca/page/handling-excess-soil>. Please direct questions about the Regulation, including those associated with interpretation and/or compliance, directly to the ministry at MECP.LandPolicy@ontario.ca.

Principles of 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.

Accessible and cost effective: 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.

Transparent: 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 2022 Excess Soil Registry Fees began on September 27, 2021 and ran for 45 days to November 12, 2021. RPRA created a [dedicated web page](#) with background information on the consultation, registration links for the webinars, and presentation materials.

On September 27, 2021, RPRA emailed Excess Soil stakeholders to inform them of the consultation period and how to participate. RPRA also contacted a list of key industry associations and media outlets, and shared information about the consultation in RPRA's October newsletter. Stakeholders were invited to submit feedback on the proposed fees via email, and to attend one of two webinars hosted on October 13 and October 14, where they could ask questions and make comments directly to RPRA staff.

What we heard

RPRA received feedback through all its consultation channels. There were 179 participants at RPRA's webinars on October 13 and October 14, and nine written submissions were received via email. Webinar presentations and recordings can be found [here](#).

[Appendix A](#) of this report contains a list of stakeholders that submitted written feedback, and [Appendix B](#) outlines the full list of questions received during the webinars and the answers RPRA provided.

The majority of the feedback RPRA received consisted of requests for clarification about when, how, and how often fees would be charged; further explanation of RPRA's methodology for calculating the fees; and the rationale behind the fee structure design, including why RPRA chose to tie some fees to soil volume.

Some stakeholders requested that refunds be issued upon final filing of Project Area and Reuse Site notices if the final quantity of Excess Soil generated or received was less than originally estimated in the initial notice filing.

One stakeholder representing the residential construction industry stated that the proposed fees were too high. They also requested that Project Area fees be flat rather than variable and tied to soil volume and expressed concern that Registry fees for Reuse Site notices could prevent more Reuse Sites from establishing.

The feedback received from all channels and RPRA's responses are summarized and grouped by topic below:

Logistics of fee payment

Some stakeholders were unsure who would be responsible for paying fees, and what payment methods would be available.

RPRA's response:

If required under the Excess Soil Regulation, Project Leaders, Owners and Site Operators are required to use the Excess Soil Registry to file notices, and when they do, they will be required to pay any applicable fees. Project Leaders, Owners and Site Operators can also assign an Authorized Person to file a notice and pay any associated fees in the Registry on their behalf.

Fees are paid through the Registry as part of the notice filing process. Accepted payment methods are bank withdrawal, credit card, EDI, cheque and electronic bill.

How fees are calculated

Stakeholders had varied questions about how fees are calculated:

- Some stakeholders asked whether Registry users would be required to pay a registration fee or an annual fee
- One stakeholder asked whether a Project Leader would be charged a fee for excavated soil that was not moved from a Project Area
- Stakeholders requested further clarification of how fees would be calculated
- One stakeholder commented that the proposed fees were too high, and another requested further explanation as to why, in the case of Project Area notice fees, fee rates increase with the volume of Excess Soil generated
- One stakeholder requested that Project Area fees be flat rather than variable, and expressed concern that Registry fees for Reuse Site notices could prevent more Reuse Sites from establishing
- Some stakeholders requested that RPRA refund Registry users if they overestimated the quantity of Excess Soil moved or received in the initial notice filing

RPRA's response:

A Registry fee will be charged each time a user files an initial notice for a Project Area, Residential Development Soil Depot or Reuse site and, in some cases (if applicable), after the project has been completed or Reuse Site has closed, and a final notice is filed. As the fees for Project Area and Reuse Site notices are based on the volume of Excess Soil moved or

received, the costs will be based on the type of notice and, where applicable, the volume of Excess Soil reported.

The Regulation requires a Project Area notice to be filed before Excess Soil is excavated and removed from the Project Area. Any soil that is used on-site within the Project Area or not removed from the Project Area is not considered “Excess Soil” and no notice is required.

Fees associated with Project Area notices generating between 2,000 and 249,000 m³ of Excess Soil are variable and tied to soil volume. Notices for projects that generate less than 2000 m³ or greater than 249,000 m³ of Excess Soil have flat fees.

Fees associated with Reuse Site notices are based on soil volume tiers or “buckets,” and there is one flat fee for Residential Soil Depot notices.

All fees, including flat fees, are charged per notice, when a user files the notice, and not on an annual basis. The user pays a fee upon completion of their initial filing and may pay a second fee upon completion of their final filing (notice close-out) if the final volume of Excess Soil received has increased from the amount estimated in their initial filing. The proposed fees are for 2022. Fees for 2023 will be proposed and consulted on toward the end of 2022 or in early 2023.

To minimize complexity, the Registry will automatically calculate the fees to be paid on the initial and final notice filings, according to the quantities of soil the Registry user records.

The Authority is charging fees for Project Area notices based on tiers of variable rates tied to soil volume in order to protect smaller projects from incurring high fees, and to recover its costs without taking on undue risk of over- or under-collecting. The ceiling on the variable fee for Project Area notices protects large projects from ever-increasing costs.

There is precedent and a methodology for predicting the approximate amount of Excess Soil that will be generated in Ontario annually, but no precedent or reliable methodology for predicting with any accuracy how many Project Area notices will be filed on the Registry in 2022.

None of the stakeholder feedback RPRA received during or prior to the consultation communicated that Reuse Site notice fee rates were prohibitively expensive for prospective Reuse Site owners/operators.

As a result of stakeholder feedback, RPRA has decided to enable the issuance of refunds as required to Registry users when they file their final Project Area or Reuse Site notices.

Excess Soil Registry

Stakeholders asked what support would be available for Registry users, whether the data submitted in the Registry would be made public, and whether guidance would be provided on converting soil tonnage to soil volume.

RPRA’s response:

As part of RPRA’s responsibility to build and maintain the Registry, RPRA will provide training sessions and training guides ahead of the Registry launch. Following the launch, Registry Support Staff will also provide phone and email support to help users navigate the portal and provide the correct information. All supporting material will be available on the project webpage: <https://rpra.ca/excess-soil-registry/>.

The Ontario Ministry of the Environment, Conservation and Parks (MECP) is responsible for the Regulation and ensuring compliance with the Regulation. Questions regarding obligations under the Regulation should be directed to MECP via email at MECP.LandPolicy@ontario.ca.

The contents of Excess Soil notice filings will be publicly available on RPRA's website.

The Regulation requires reporting in cubic metres of soil. The final fees are based on the units required by the Regulation. Conversion tools are not currently being developed, but they may be considered in the future.

Excess Soil Regulation

- One stakeholder requested clarification on the difference between Project Area and “project” and how to report quantities of Excess Soil generated from a single project or multiple projects in the same area
- One stakeholder asked whether RPRA would consider separate fees for infrastructure projects, public projects, or taxpayer funded projects

RPRA's response:

A Project Area, as defined by the Regulation, may be made up of adjoining properties. Within the Project Area, it is possible to have multiple excavations in respect of one project (e.g., for a new subdivision). The Regulation requires the total volume of Excess Soil excavated and removed from the Project Area in respect of one project to be included in one Project Area filing. If there are two **different** projects taking place on the same property, two Project Area notices must be filed to the Registry – one for each project.

RPRA sets fees for the Excess Soil Registry program in order to recover its costs to build and maintain the Registry and help Registry users file notices correctly, as directed by the Ministry of Environment, Conservation and Parks. The Registry fees are based on the quantity of Excess Soil generated or received, regardless of the type of project. Certain infrastructure projects may be exempt from the requirements to file notices if they meet the exemption criteria set out in the [Regulation](#).

The MECP developed the Regulation and is responsible for all compliance activities. For information about the contents of the Regulation or for help determining Project Leader obligations, please visit <https://www.ontario.ca/page/handling-excess-soil>, or contact the MECP via email at MECP.LandPolicy@ontario.ca.

Evaluation

To help RPRA improve future consultations and communications, participants were invited to complete a short survey following the consultation webinars. Of the 179 webinar attendees, 74 (41%) completed the survey.

In response to the question, “Overall, how would you rate the consultation?”, 93% of respondents ranked the session “Good” (based on a scale of Excellent, Good, Average, Fair, Poor).

98% of respondents said the information provided by the presenter was “Extremely, Very or Somewhat helpful”. The remaining 2% said it was “Not so helpful”.

The majority of respondents (97%) ranked the presentation slides and question and answer portion of the webinars as “Excellent” or “Good”.

Conclusion

The 2022 Excess Soil Registry fees were approved on November 29, 2021. The Authority posted the final fees to its website on November 30, 2021, and stakeholders who took part in the consultation were notified on the same day. Wider stakeholder groups were notified about the fee schedule on December 1, 2021.

The Authority appreciates the thoughtful feedback provided through the consultation process and considered each submission in setting the 2022 Excess Soil Registry fees.

The Authority considered all feedback received in setting the 2022 Excess Soil Registry fees and decided not to alter the originally proposed fee structure and rates. The Authority is charging fees for Project Area notices based on tiers of variable rates tied to soil volume in order to protect smaller projects from higher fees, and to recover its costs without undue risk of over- or under-collection.

As a result of stakeholder feedback, the Authority will issue refunds upon final Project Area and Reuse Site notice filings where necessary.

See [Appendix B](#) for more detailed responses to stakeholder feedback.

Appendix A: Stakeholders that submitted feedback in writing

Nine written submissions were submitted by the following stakeholders:

- City of Toronto
- Ontario Waste Management Association
- The Township of McNab/Braeside
- Township of Woolwich
- City of Ottawa
- Tomlinson Group
- Canadian Vehicle Manufacturers' Association
- Ontario Home Builders' Association

Appendix B: Questions and answers

Below are the questions received during the consultation period and the Authority's responses.

Questions have been organized by the topics below, and questions not relevant to this consultation have been excluded. Some questions were edited for length and clarity, and similar questions were grouped together.

General fees questions		
#	Question	Answer
1	Who is generally responsible for the fees? Is it the owner of the project or the contractor moving the Excess Soil?	If required under the On-Site and Excess Soil Management Regulation, O. Reg 406/19 (the Regulation) Project Leaders, Owners and Site Operators are required to use the Excess Soil Registry (the Registry) to file notices, and when they do, they will be required to pay any applicable fees. Project Leaders, Owners and Site Operators can also assign an Authorized Person to file a notice and pay any associated fees through the Registry on their behalf.
2	How will users pay these fees?	Fees can be paid through the Registry as part of the notice filing process. Fees can be paid by bank withdrawal, credit card, EDI, cheque and electronic bill.
Questions related to how the fees are calculated		
#	Question	Answer
1	How much will it cost to register?	The proposed fees for filing notices on the Registry are included in the fee proposal document . A fee would be charged each time a user files an initial notice for a Project Area, Residential Development Soil Depot or Reuse Site, and if applicable, after the project has been completed or Reuse Site has been closed and a final notice is filed. As the proposed fees for Project Area and Reuse Site notices are based on the volume of Excess Soil moved or received, the costs will be based on the type of notice and, where applicable, the volume of Excess Soil reported.

2	<p>Has RPRA considered buckets of fees rather than variable fees to provide certainty and minimize complexity at closing/true-up, given that the initial fee is based on an estimate (and the final volume could change and result in reimbursement or additional payment)? Are flat fees per year?</p>	<p>RPRA is proposing a mix of flat and variable fees based on soil volume. Fees associated with Project Area notices generating between 2,000 and 250,000 m³ of Excess Soil are variable and tied to soil volume. Notices for projects that generate less than 2000 m³ or greater than 250,000 m³ of Excess Soil have flat fees.</p> <p>Fees associated with Reuse Site notices are based on soil volume tiers or “buckets”.</p> <p>Variable fees for Project Area notices avoid overburdening smaller projects.</p> <p>To minimize complexity, the Registry will automatically calculate the fees to be paid on the initial and final notice filing, according to the quantities of soil the Registry user records.</p> <p>All fees, including flat fees, are charged per notice, at the time of filing.</p> <p>The proposed fees are for 2022. Fees for 2023 will be proposed towards the end of 2022, or in early 2023.</p>
3	<p>Will there be a refund if the project ends up generating less than the estimated volume?</p>	<p>The proposed fee structure did not include the issuance of refunds for fees paid on initial notice filing, but RPRA is considering providing them.</p>
4	<p>Are Reuse Sites annual fees or one time?</p>	<p>Fees are charged when a user files a notice, not on an annual basis. The user pays a fee upon completion of their initial filing and may pay a second fee upon completion of their final filing (notice close-out) if the final volume of Excess Soil received has increased from the amount recorded in the initial filing.</p>
5	<p>Are the fee tiers defined strictly on soil quantity, or are they also based on the project sites generating the soil?</p>	<p>The fee tiers are based on the volume of soil moved or received. For Project Area notices, fees are charged according to the volume of Excess Soil generated; for Reuse Site notices they are based on the volume of Excess Soil expected to be received over the lifetime of the Reuse Site.</p>
6	<p>Are you sure that reuse fees will account for 30% of revenues if they are paid at the time of filing a Reuse Site notice? Most of them will file in their first year and then operate for years afterward.</p>	<p>We based our estimate that 30% of the Registry fee revenue in 2022 would be recovered from Reuse Site notice filings on an assumption that there will be approximately 150 Reuse Site notices being filed in 2022. We assume that the majority of these sites will be accepting less than 1 million m³ of soil. RPRA welcomes feedback on these assumptions. Please send comments to consultations@rpra.ca.</p>
7	<p>Is the calculated volume based on the project or the property? What if there are two projects on one property?</p>	<p>The volume is calculated based on the volume of Excess Soil excavated and removed from the Project Area in respect of one project. A Project Area, as defined by the Regulation, may be made up of adjoining properties.</p>

		Within the Project Area, it is possible to have multiple excavations in respect of one project (e.g., for a new subdivision). The Regulation requires the total volume of Excess Soil excavated and removed from the Project Area in respect of one project to be included in one Project Area filing. If there are two different projects taking place on the same property, two Project Area notices must be filed to the Registry – one for each separate project.
8	Is the obligation to file and pay fees only applicable to soil moved out of the Project Area?	The Regulation requires a Project Area notice to be filed on the Registry before Excess Soil is excavated and removed from the Project Area. Any soil that is not removed from the Project Area is not considered “Excess Soil,” and therefore the project leader would not need to record that quantity of soil on the Registry. The Regulation also requires Reuse Site notices be filed to operate a site accepting greater than 10,000 m ³ of Excess Soil; and Residential Development Soil Depot Notices to be filed to create and operate a depot.
9	You mentioned smaller sites and projects being charged a lower fee. Has a similar lens been applied to public, infrastructure, or taxpayer-funded projects?	No. The proposed fees are based on the quantity of Excess Soil generated or received, regardless of the type of project. However, certain infrastructure projects may be exempt from notice-filing requirements if they meet the exemption criteria in the Excess Soil Regulation .
10	Have you accounted for Reuse Sites where Excess Soil may be deposited over several years, such as a gravel pit that is using the soil to rehabilitate it for another land use?	Yes. Fees associated with Reuse Site notices are based on the volume of Excess Soil expected to be received over the lifetime of the Reuse Site. The owner or operator of a Reuse Site may have to pay a second fee upon completion of their final filing (notice close-out) if the final volume of soil received has increased from the estimate provided in the initial filing.
11	If the soil is being transferred from one municipal project to another one, does the Registry fee apply?	Fees are paid at the same time a Project Area notice is filed. Project Area notices must be filed before soil is removed from the Project Area, regardless of whether that soil is moving to a project within the same municipality, or elsewhere. Sub-section 1 (1) of the regulation defines a Project Area as “a single property or adjoining properties on which the project is carried out.” More information on when notice filings are required is available here: https://rprra.ca/faq/?faq_id=16001&faq_program=112#faq-16001
Registry related questions		
#	Question	Answer
1	What support will RPRA provide to the Registry users, given that RPRA is not responsible for compliance and enforcement of the regulation.	As part of RPRA’s responsibility to build and maintain the registry, RPRA will provide training sessions and training guides ahead of the Registry launch. Following the Registry launch, Registry Support Staff will also provide phone and email support to help users navigate the portal and provide the correct information. All supporting

		<p>material will be available on the project webpage: https://rprra.ca/excess-soil-registry/.</p> <p>The Ontario Ministry of the Environment, Conservation and Parks (MECP) is responsible for ensuring compliance with the Regulation. Questions regarding obligations under the Regulation should be directed to MECP via email at MECP.LandPolicy@ontario.ca.</p>
2	Would the data submitted to the Registry be available to the public?	The contents of Excess Soil notice filings will be publicly available on RPRA's website.
	The industry generally works in weight (tons) rather than volume (m3). Will RPRA be providing guidance / direction to convert tonnage to volume?	The Regulation requires reporting in cubic metres of soil. The proposed fees are based on the units required by the Regulation. Conversion tools are not currently being developed, but they may be considered in the future.
Questions related to the regulation		
#	Question	Answer
1	For Project Area Notices, what is the significance of the statement "Generate at least 200 m3"? What if it generates less than 200 m3 of Excess Soil?	<p>This was an error in our original consultation document. It has been corrected in the current fee proposal.</p> <p>A Project Area notice is required to be filed when:</p> <ul style="list-style-type: none"> • a project generates more than 2000 m3 of Excess Soil and is located within a Settlement Area as defined under the <i>Planning Act</i>. • a project generates Excess Soil from an Enhanced Investigation Project Area; or • the primary purpose of the project that is generating Excess Soil is to remediate contaminated land. <p>Circumstances under which projects are exempt from the requirement to file a notice are outlined in Schedule 2 of the Regulation.</p>
2	If I have a quantity of soil and I find a home for it does the generator and receiver need to register or is this a business transaction between two parties and no need to register anything?	Project Area notices must be filed in the situations described in the previous question. An owner or operator of a Residential Development Soil Depot, or a Reuse Site that is accepting more than 10,000 m3 of Excess Soil, must also file a notice on the Registry. The terms, "Excess Soil," "Project Area," and "Reuse Site" are all defined by the regulation , as are the circumstances under which notice must be filed. For more information on determining your obligations under the Regulation, please contact the MECP via email at MECP.LandPolicy@ontario.ca .
3	A multi-Ministry approach was identified by the Excess Soil Engagement Group as an important activity. For example, MMAH would outreach to municipalities on issues related to updating soil by-laws and tender documents. Will MECP	RPRA will be providing information about the Registry service and how to file notices. Other inquiries about the Regulation and any associated programs should be directed to the Ministry of Environment, Conservation and Parks via email at MECP.LandPolicy@ontario.ca .

	coordinate this or will RPRA promote the program through awareness and education?	
4	In the rare case that Excess Soil doesn't leave a project site, do you have to file a notice?	No. If the project leader does not plan to move soil off-site, but instead plans to use it within the Project Area, it is not "Excess Soil" as defined by the regulation, and they do not have to file a notice on the Excess Soil Registry.
5	Other than current standards / regulations, will there be additional soil testing requirements?	The MECP developed and is responsible for compliance with the Excess Soil Regulation. For information about the contents of the Regulation, please visit https://www.ontario.ca/page/handling-excess-soil , or contact the MECP via email at MECP.LandPolicy@ontario.ca .