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# Rehabilitation Work in Québec: New Requirements for Traceability of Excavated Contaminated Soils

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The Québec government published, on July 7, 2021, the *Regulation respecting traceability of excavated contaminated soils* (Regulation). Once in force, the Regulation will apply to excavated soils containing contaminants from human activities, regardless of the concentration value of the contaminants.

## Background to the Regulation

The Regulation is the Québec government's response to numerous instances, documented in recent years, of illegal dumping of excavated contaminated soils, particularly in wooded and agricultural areas.

## Main Stakeholders Concerned by the Regulation

The main stakeholders concerned by the Regulation are the owners of excavated contaminated soils or contaminated soils in the process of being excavated, general contractors in charge of excavating contaminated soils, the carriers of such soils, the managers of receiving sites for such soils as well as site-characterization and site-rehabilitation consultants.

## Registration and Follow-Up

To achieve its traceability objective, the Regulation introduces a series of requirements applicable to the various stages of the management of excavated contaminated soils, from the site of origin to the final receiving site. The operationalization of these requirements is achieved through a computer system (Computer System) to be implemented by the Minister of the Environment and the Fight against Climate Change (Minister). The Minister has entrusted the development and management of the Computer System to Attestra, an independent non profit organization specializing in the development, implementation and management of traceability systems.

The process begins with soils being registered in the Computer System before they leave the site of origin. The soils are then tracked through information entered on an electronic tracking slip by each of the stakeholders covered by the Regulation, from the site of origin to the final receiving site. When soils are transported after having been unloaded at a temporary receiving site, the same sequence applies again, with the temporary receiving site manager creating a second electronic tracking slip to track the soils to the final receiving site.

The Regulation provides for additional requirements when the total estimated quantity of soils to be transported exceeds 200 metric tonnes. In that case, the receiving site manager must provide the Minister with confirmation, agreed with the owner of the soils, that the soils may be unloaded at that receiving site. This agreement must be documented in writing. As of January 1, 2023, the carrier of the excavated contaminated soils must provide real-time tracking of the soils being transported. Then, within 15 days of the last transportation of such soils, the owner of the soils transported, the general contractor in the case of a linear infrastructure project, or, if the soils were excavated following an accidental discharge, the party causing the discharge must provide the Minister with an attestation that all the soils excavated have been recorded on a tracking slip. This attestation must be given by a person qualified to do so in accordance with the Regulation.

The Regulation provides a specific framework for the unloading of contaminated soils outside Québec. For example, the owner of the soils being transported must be present when the carrier arrives at the receiving site outside Québec. The owner must obtain a document from the site manager confirming receipt of the soils and the quantity involved, and provide the document to the Minister within 24 hours of the soils being unloaded.

However, the Regulation provides for certain exceptions and special rules depending on the quantities involved, the location of the rehabilitation work and the means of transportation used. Special rules also apply to contaminated soils that were excavated following an accidental discharge of hazardous materials or during work on a linear infrastructure or contaminated soils that were discovered unexpectedly.

### **Gradual Implementation of the Regulation**

The Computer System will be available for voluntary use starting at the end of the summer of 2021. In general, the Regulation will be implemented gradually – that is, a first phase will cover the transportation of contaminated soils of certain large-scale projects (5,000 metric tonnes) as of November 1, 2021; a second phase will cover the transportation of contaminated soils of certain medium-sized projects (1,000 metric tonnes) and the transportation of certain quantities of contaminated soils from receiving sites as of January 1, 2022; and finally a third phase will include all projects as of January 1, 2023.

### **Conclusion**

The Regulation will affect the planning and implementation of construction or development work involving the excavation of contaminated soils, particularly because of the documentation to be produced and the specific deadlines set out in the Regulation that apply to the various stages of the management of excavated contaminated soils. Companies involved in such work should work with companies that have expertise in the new rules and become familiar with the rules.

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