



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

EXCAVATION PITS REGULATIONS

PLEASE NOTE

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca



**ENVIRONMENTAL PROTECTION ACT
CHAPTER E-9**

EXCAVATION PITS REGULATIONS

Pursuant to section 25 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, Council made the following regulations:

1. Definitions

In these regulations,

- (a) “**abandoned**”, in relation to an excavation pit, means that a registration certificate has not been issued for the excavation pit within the previous two years;
- (b) “**Act**” means the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9;
- (c) “**excavation pit**” means any excavation in the ground for the purpose of searching for or removing clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit, but does not include
 - (i) an excavation made within the boundaries of a highway,
 - (ii) a snow-trap constructed to protect a highway from snow accumulation,
 - (iii) an excavation in preparation for a structural foundation, or the removal of stored or stockpiled clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit that originated from another location, or
 - (iv) an excavation designed for water retention and irrigation purposes;
- (d) “**highway**” means a highway as defined in the *Roads Act* R.S.P.E.I. 1988, Cap. R-15;
- (e) “**license**” means a valid and subsisting excavation pit operator license issued under section 4;
- (f) “**Minister**” means the Minister of Communities, Land and Environment;
- (g) “**operate**”, in relation to an excavation pit, means to search for, move or remove any clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit, or any part of them, and includes the drainage and management of water in the excavation pit or on the property where the excavation pit is located;
- (h) “**registration certificate**” means a valid and subsisting excavation pit registration certificate issued under section 8;

- (i) **“residential premises”** includes
 - (i) any house, dwelling, apartment, or other place that is occupied or may be occupied by an individual as a residence, or
 - (ii) any part of a place referred to in subclause (i) that is or may be occupied by an individual as a residence,but does not include campers, tents or travel trailers used for seasonal occupancy;
- (j) **“watercourse or wetland”** means a watercourse or wetland as those terms are defined in the Watercourse and Wetland Protection Regulations (EC720/08) under the Act. (EC146/17)

2. Application of regulations, etc.

These regulations and the Design and Operational Criteria for Excavation Pits set out in the Schedule to these regulations apply to the design, development, operation and restoration of all excavation pits except an excavation pit

- (a) located within the boundaries of any municipality as defined in the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8, that has enacted bylaws to regulate excavation pits; or
- (b) referred to in section 13. (EC146/17)

3. Prohibition

Subject to section 13, no person shall

- (a) develop or operate an excavation pit;
 - (b) remove excavated material from an excavation pit; or
 - (c) institute reclamation procedures in an excavation pit,
- except under the authority of
- (d) a license issued under section 4; and
 - (e) a registration certificate issued under section 8 for the pit being developed, operated or restored. (EC146/17)

4. Application for license

- (1) A person may apply for a license by submitting to the Minister,
 - (a) a completed application, including the information specified in subsection (2), in the form approved by the Minister; and
 - (b) the application fee set out in section 14.

Required information

- (2) An applicant for a license shall provide the following information in respect of the application:
 - (a) the applicant’s name and business name, if applicable;
 - (b) the applicant’s address;
 - (c) the applicant’s telephone number.

Reinstatement

- (3) A person may apply for reinstatement of a license that has been suspended under subsection 5(1) at the end of the suspension period specified by the Minister under subsection 5(2) by



complying with subsection (1) and providing proof satisfactory to the Minister that the contravention has been corrected.

Issuance

- (4) The Minister, after review of an application submitted in accordance with subsection (1), may grant a license to the applicant.

Compliance required

- (5) A license holder shall carry out all activities associated with the operation of an excavation pit in compliance with these regulations and the requirements of the Design and Operational Criteria for Excavation Pits set out in the Schedule to these regulations.

Requirement to notify

- (6) A license holder shall notify the Minister in writing of any change in the circumstances of the license holder that relates to any information the license holder provided in the application for the issuance of the license. *(EC146/17)*

5. Suspension

- (1) The Minister may suspend or revoke a license or a registration certificate issued under section 8 for an excavation pit if the Minister is satisfied that any one or more of the following conditions prevail:
- (a) the excavation pit being operated by the license holder is not designed, located, constructed, or operated in accordance with the requirements set out in these regulations;
 - (b) the license holder has obtained the license through misrepresentation or fraud;
 - (c) the license holder, where required to do so, has failed to obtain a registration certificate for an excavation pit pursuant to section 8 of these regulations.

Duration of suspension

- (2) A suspension under subsection (1) remains in force for the period of time specified by the Minister, which shall not exceed the remainder of the period during which the license or registration certificate is valid. *(EC146/17)*

6. Reinstatement

Where a license is suspended under subsection 5(1), the license holder may reapply to the Minister under section 4 for reinstatement of the license on the expiry of the suspension period specified under subsection 5(2) by providing proof satisfactory to the Minister that the contravention that gave rise to the suspension has been corrected. *(EC146/17)*

7. Prohibition

- (1) A license holder shall not transfer the license to any person.

Idem

- (2) A license holder shall not
- (a) transfer a registration certificate to any person; or
 - (b) use a registration certificate for the development or operation of an excavation pit other than the excavation pit for which it was granted.

Expiry

- (3) A license expires on the date indicated on the license, which shall not be more than five years from the date of issuance.

Renewal

- (4) A license holder may renew the license prior to its expiry by submitting a completed application in the form required by the Minister to the Minister, accompanied by the renewal fee set out in section 14. (EC146/17)

REGISTRATION CERTIFICATES**8. Prohibition**

- (1) Subject to section 13, no person shall commence the operation of an excavation pit, or cause the excavation pit to be operated, unless the person is a license holder or an owner of the property who has obtained a registration certificate in accordance with this section for the operation of the excavation pit.

Application

- (2) A license holder or owner may apply for a registration certificate for the operation of an excavation pit by submitting to the Minister
- (a) a completed application in the form approved by the Minister, including the information specified in subsection (3); and
 - (b) the application fee set out in clause 14(c) or (d), as the case may be.

Required information, etc.

- (3) The information and other documentation to be provided by an applicant for the purposes of an application under subsection (2) includes
- (a) if the applicant is not the owner of the parcel of land where the proposed excavation pit is to be operated, the written consent of the owner to the operation of the excavation pit on that parcel of land;
 - (b) the real property tax number and the name of the owner as shown on the tax notices under the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5, for the parcel of land where the proposed excavation pit is to be located;
 - (c) a map or plan showing the location, shape, dimensions, approximate area and description of the property on which the excavation pit is to be located and the location of the proposed excavation pit, together with the existing grades of the property on which the excavation pit is to be located;
 - (d) details of the existing land use of the location of the proposed excavation pit, including whether the property on which the proposed excavation pit is located is designated under the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5;
 - (e) details of the use of all land within 500 metres of the boundary of the proposed excavation pit;
 - (f) the location and extent of all watercourses and wetlands within the property boundaries or within 250 metres of the proposed excavation pit;
 - (g) the details of all drainage from the proposed excavation pit;



- (h) proposed measures to prevent soil eroded from the proposed excavation pit from entering any adjacent watercourses or wetlands;
- (i) a description of all entrances to and exits from the proposed excavation pit;
- (j) the proposed location and size of stockpiles of the matter to be excavated, overburden and waste;
- (k) proposed measures to protect people and livestock from any hazards that may be created by the proposed excavation pit, including fencing and posting of signs that warn of its proximity; and
- (l) other information respecting the proposed excavation pit and its operation that may be required by the Minister in order to assess the application.

Plans

- (4) A plan referred to in clause (3)(c) may be in the form of an aerial photograph, a survey plan certified by a Prince Edward Island land surveyor or a line drawing made by an applicant, but the applicant shall ensure that any plan submitted for the purposes of this section contains sufficient detail and identifies the location and extent of the features referred to in subsection (3) with sufficient clarity to allow the Minister to properly assess the application.

Issuance of registration certificate

- (5) The Minister shall issue a registration certificate to an applicant if the Minister is satisfied that
 - (a) the application has been made in accordance with the requirements of these regulations; and
 - (b) the application submitted under subsection (2)
 - (i) includes the information and other requirements referred to in subsection (3) and is otherwise acceptable to the Minister, and
 - (ii) adequately provides for the operation of the excavation pit in compliance with the Act and these regulations. (EC146/17)

9. Display required

- (1) A holder of a registration certificate shall display the registration certificate for an excavation pit in clear view at the entrance to the excavation pit for which it was issued.

Transfer

- (2) A holder of a registration certificate shall not transfer the registration certificate to any person.

Reasons for refusal

- (3) Where the Minister refuses to issue a registration certificate to an applicant, the Minister shall provide written reasons for the refusal to the applicant.

Expiry

- (4) Unless otherwise specified by the Minister, a registration certificate expires one year after the date on which it was issued.

Renewal

- (5) The holder of a registration certificate may renew the registration certificate prior to its expiry by submitting a completed application for renewal in the form required by the Minister to the Minister, accompanied by the renewal fee set out in section 14.

Required information

- (6) An applicant under subsection (5) shall provide, in respect of the excavation pit to which the registration certificate relates,
- (a) the information required under clauses 8(3)(a) and (b); and
 - (b) any information under clauses 8(3)(d) and (e) that has changed since the issuance of the registration certificate or the previous renewal, whichever last occurred. *(EC146/17)*

10. Notice to public

- (1) When issuing a registration certificate pursuant to section 8, the Minister may require that the holder of the registration certificate give notice of the issuance to the public or particular members of the public in the manner and containing the information directed by the Minister.

Information provided by Minister

- (2) The Minister may provide information to the public respecting registration certificates that have been issued for excavation pits and may, in the Minister's discretion, provide that information by electronic means. *(EC146/17)*

11. Reclamation procedures

The holder of a registration certificate shall, before the excavation pit is abandoned, conduct reclamation procedures and institute safety measures that are acceptable to the Minister, including

- (a) sloping of the working faces of the excavation pit;
- (b) contouring of pit floors to limit ponding of surface water; and
- (c) restricting public access to the excavation pit by appropriate means. *(EC146/17)*

12. Direction by Minister

- (1) The Minister may direct the owner of a property on which an abandoned excavation pit is located to perform activities relating to the closure and reclamation of the pit, if the Minister believes on reasonable grounds that
- (a) the slope or grading of the excavation pit is contributing to the release of sediment, silt or surface water runoff that is detrimental to the environment;
 - (b) the closure and reclamation of the excavation pit would contribute to an improvement in the natural habitat of the area;
 - (c) the excavation pit may be injurious to the health or safety of a person; or
 - (d) the excavation pit interferes with or is likely to interfere with the comfort, well-being, livelihood, or enjoyment of life of a person.

Exemption

- (2) Clause 3(c) does not apply to an owner of a property referred to in subsection (1) who is acting under the authority of a directive issued by the Minister under that subsection. *(EC146/17)*



PITS FOR NON-COMMERCIAL USE**13. Exemption**

The registered owner of a parcel of land in the province is exempt from the requirement to obtain a license or a registration certificate for the operation of an excavation pit located on that parcel of land if the material to be excavated is for private use and is not sold commercially or supplied to any person for resale. (EC146/17)

FEES**14. Fees**

(1) The fees payable under these regulations are as follows:

- (a) for an application for, or renewal of, a license (corporation) \$500
- (b) for an application for, or renewal of, a license (individual) \$250
- (c) for an application for, or renewal of, a registration certificate (corporation)...\$150
- (d) for an application for, or renewal of, a registration certificate (individual).....\$75

Fees non-refundable

(2) The fees specified in subsection (1) are non-refundable. (EC146/17)

15. Schedule adopted

(1) The Schedule to these regulations is hereby adopted and forms part of these regulations.

Responsibility of operator

(2) The operator of an excavation pit shall ensure that the design and operation of the excavation pit comply with the requirements of the Design and Operational Criteria for Excavation Pits set out in the Schedule. (EC146/17)

16. Revocation

The *Environmental Protection Act* Excavation Pits Regulations (EC753/90) are revoked. (EC146/17)

SCHEDULE

DESIGN AND OPERATIONAL CRITERIA FOR EXCAVATION PITS

1.0 Setback Criteria

1.1 No part of an excavation pit shall be located within 300 metres of any residential premises other than a residence occupied by the holder of the registration certificate for the excavation pit.

1.2 No part of an excavation pit shall be located within 500 metres of any church, school, hospital, nursing home, cemetery, public hall, bathing beach, public skating rink, public park or public playground.

1.3 No part of the site proposed for an excavation pit shall be located within 50 metres of a watercourse.

1.4 No part of an excavation pit, with the exception of the pit access road, shall be located within 60 metres of a highway.

2.0 Pit Operation

2.1 No person shall, in operating an excavation pit, excavate below a line extending horizontally from an adjacent property boundary, within eight metres of that boundary.

2.2 No person shall, in operating an excavation pit, excavate below a gradient line which slopes downward from an adjacent property boundary at a slope of one unit vertical to one unit horizontal.

2.3 No person shall, in operating an excavation pit, excavate below the groundwater table.

2.4 The operator of an excavation pit shall ensure that the interior of the excavation pit is screened from view of every adjacent highway either by a growth of trees of sufficient density or by the creation of an earthen berm.

2.5 The operator of an excavation pit shall control dust on the access road to the excavation pit by means of a method approved by the Minister for that purpose.

2.6 The operator of an excavation pit shall ensure that the excavation pit is not used as a dumping area for garbage and other litter, organic waste or construction and demolition debris.

3.0 Signage

3.1 The registration certificate for an excavation pit shall be posted at the entrance way to the excavation pit and in a position that is viewable from the adjacent public road.

3.2 The mounting post for the registration certificate shall be installed on the right side of the entrance way to the excavation pit.

3.3 The height of the mounting post measured from the ground surface shall be a minimum of 7 feet and a maximum of 10 feet.

3.4 The mounting post shall be buried in the ground a minimum of 4 feet.

3.5 The mounting post dimensions should be a minimum of 6 inches by 6 inches.

3.6 The registration certificate for an excavation pit shall be posted on a plywood backing attached to the mounting post to ensure readability.

3.7 The registration certificate for an excavation pit shall be maintained in a legible condition while it is in force.

3.8 If a registration certificate that is in force becomes illegible, the operator of the excavation pit shall obtain a replacement from the Minister and shall post the replacement in accordance with the provisions of the regulations and this Schedule.

(EC146/17)

