



**Environmental Protection Act  
Loi sur la protection de l'environnement**

**ONTARIO REGULATION 153/04**

*No Amendments*

**RECORDS OF SITE CONDITION — PART XV.1 OF THE ACT**

**Historical version for the period June 1, 2004 to September 30, 2004.**

*This Regulation is made in English only.*

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**Note: This Regulation comes into force on October 1, 2004. See: O. Reg. 153/04, s. 55 (1).**

## PART I DEFINITIONS, INTERPRETATION AND APPLICATION

### Definitions and application

1. (1) In this Regulation, and in any document or provision of a document adopted by reference by this Regulation,

“associated product” means any product of petroleum or any other liquid product used as a fuel, other than gasoline, wax and asphalt;

“bulk liquid dispensing facility” means premises at which solvents, gasoline or associated products are stored in one or more storage tanks and dispensed for sale;

“Cleanup Guideline 1996” means the Ministry publication entitled “Guideline for Use at Contaminated Sites in Ontario” originally dated June 1996 and later revised;

“dry cleaning equipment” means dry cleaning equipment as defined in Ontario Regulation 323/94 made under the Act;

“garage” means a place or premises where motor vehicles are received for maintenance or repairs for compensation;

“gasoline” means a product of petroleum that may include oxygenates and gasoline additives that has a flash point below 37.8°C, that is a liquid at standard temperature and pressure and that is designed for use in an engine;

“gasoline outlet” means any premises to which the public is invited, at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or floating motorized watercraft, or into portable containers;

“Phase I ESA Standard” means the document entitled “Phase I Environmental Site Assessment” and designated as CAN/CSA Z768-01 published by the Canadian Standards Association and dated November 2001, as it may be amended from time to time;

“Phase II ESA Standard” means the document entitled “Phase II Environmental Site Assessment” and designated as CAN/CSA Z769-00 published by the Canadian Standards Association and dated March 2000, as it may be amended from time to time;

“road” means the part of a common or public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle that is improved, designed or ordinarily used for regular traffic and includes the shoulder;

“rock” means a naturally occurring aggregation of one or naturally occurring minerals that is 2 millimetres or larger in size or that does not pass the US #10 sieve;

“sediment” means the soil, to a maximum depth of 0.15 metres, located at the base of a water body;

“sewage treatment facility” means that part of a sewage works as defined in the *Ontario Water Resources Act* that treats or disposes of sewage but does not include the part of the sewage works that collects or transmits sewage;

“soil” means, except for the purposes of shallow soil property as defined in section 41, unconsolidated naturally occurring mineral particles and other naturally occurring material 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, Ground Water and Sediment Standards” means the “Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the *Environmental Protection Act*” published by the Ministry and dated March 9, 2004;

“solvent” means any volatile organic compound that is used as a cleaning agent, diluent, dissolver, thinner, or viscosity reducer, or for a similar purpose;

“subsurface soil” means soil that is more than 1.5 metres beneath the soil surface, excluding the thickness of any non-soil surface treatment such as asphalt, concrete or aggregate;

“surface soil” means soil that is no more than 1.5 metres beneath the soil surface, excluding the thickness of any non-soil surface treatment such as asphalt, concrete or aggregate;

“transition notice” means the notice referred to in paragraph 2 of subsection 168.4 (6) of the Act;

“waste disposal site”, as used in the Phase I ESA Standard and this Regulation, means a waste disposal site as defined in section 25 of the Act;

“water body” means a permanent stream, river or similar watercourse or a pond or lake, but does not include a pond constructed on the property for the purpose of controlling surface water drainage;

“water treatment facility” means, in respect of a large municipal drinking water system, as defined in Ontario Regulation 170/03, a facility that is used in relation to the treatment of water and includes any equipment related to the management of residue from the treatment process or the management of a substance into the natural environment from the system. O. Reg. 153/04, s. 1 (1).

(2) For the purposes of this Regulation, the following are the types of property uses:

1. Agricultural or other use.
2. Commercial use.
3. Community use.
4. Industrial use.
5. Institutional use.
6. Parkland use.
7. Residential use. O. Reg. 153/04, s. 1 (2).

(3) In this Regulation, in relation to a use of property,

“agricultural or other use” means,

(a) the use of land, or a building on the property for an agricultural purpose, including, but not limited to, animal husbandry, aquaculture, beekeeping, dairying, field crops, forestry, fruit farming, horticulture, market gardening, poultry raising and the operation of glass- or plastic-covered greenhouses, or

(b) any other use of land or a building on the property, other than a commercial use, community use, industrial use, institutional use, parkland use or residential use;

“commercial use” means any use of land or a building on the property for an enterprise or activity involving the exchange of goods or services, including the following uses:

1. Use as a hotel, motel, hostel or similar accommodation.
2. Use as an office building.
3. In respect of the classification of occupancies in Table 3.1.2.1. of Ontario Regulation 403/97 (Building Code), use that falls within,
  - i. Group D, business and personal services occupancies, or
  - ii. Group E, mercantile occupancies.

“community use” means use of land for a road or any of the following uses in a building on the property:

1. Use of a building for,
  - i. indoor recreational activities,
  - ii. travel purposes, such as use for a railway station or an airport passenger terminal, or like purposes,
  - iii. an indoor gathering of people for civic, religious or social purposes.
2. In respect of the classification of occupancies in Table 3.1.2.1. of Ontario

Regulation 403/97 (Building Code), use that falls within,

- i. Group A, Division 1, assembly occupancies intended for the production and viewing of the performing arts, or
  - ii. Group A, Division 3, assembly occupancies of the arena type.
3. Use of a classroom in a building by a,
- i. a university that is authorized to operate pursuant to section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,
  - ii. a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*,
  - iii. any other institution with authority to grant a degree or part of a degree under the *Post-secondary Education Choice and Excellence Act, 2000*,
  - iv. a private career college as defined and approved under the *Private Career Colleges Act*;

“industrial use” means any of the following uses of land or of a building on the property:

1. Use for an enterprise or activity involving assembling, fabricating, manufacturing, processing, producing, storing, warehousing or distributing goods or raw materials.
2. In respect of the classification of occupancies in Table 3.1.2.1. of Ontario Regulation 403/97 (Building Code), use that falls within,
  - i. Group F, Division 1, high hazard industrial occupancies,
  - ii. Group F, Division 2, medium hazard industrial occupancies, or
  - iii. Group F, Division 3, low hazard industrial occupancies.
3. Use for research or development in association with an enterprise or activity described in paragraph 1.
4. Use for the transportation of goods or people by railway or by airplane, but not including use for a gathering of people for travel purposes, such as use as a railway station or an airport passenger terminal.
5. Use as a waste disposal site as defined in section 25 of the Act, except a site for organic soil conditioning as defined in Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act.
6. Use in connection with sewage works described in subsection 53 (6.1) of the *Ontario Water Resources Act*.
7. Use for the production of oil or gas, or for mining or quarrying.
8. Use in connection with a water treatment facility.
9. Use in connection with a sewage treatment facility.
10. Use for the generation or transformation of electricity.
11. Use for the storage, maintenance or repair of equipment or material used to maintain transportation systems.
12. Use as a salvage yard, including an automobile wrecking yard or premises;

“institutional use” means any of the following uses of land or a building on the property:

1. Use as a day-care centre.
  2. Use as a school as defined in the *Education Act*.
  3. Use as a private school as defined in the *Education Act*;
- “parkland use” means the use of land or a building on the property for,
- (a) outdoor recreational activities, including use for a playground or a playing field,
  - (b) a day camp, an overnight camp or an overnight camping facility,
  - (c) an outdoor gathering of people for civic or social purposes, or
  - (d) in respect of the classification of occupancies in Table 3.1.2.1. of Ontario Regulation 403/97 (Building Code), use that falls within Group A, Division 4, assembly occupancies in which occupants are gathered in the open air;
- “residential use” means any of the following uses of land or a building on the property:
1. Use as a home or mobile home, or as a residence not otherwise described in this definition, but not including use as a hotel, motel, hostel or similar accommodation.
  2. In respect of the classification of occupancies in Table 3.1.2.1. of Ontario Regulation 403/97 (Building Code), use that falls within,
    - i. Group B, Division 1, detention occupancies,
    - ii. Group B, Division 2, care and treatment occupancies, or
    - iii. Group B, Division 3, care occupancies.
  3. Use as a health care facility as defined in Ontario Regulation 170/03 made under the *Safe Drinking Water Act, 2002*.
  4. Use as a place of custody or detention for the purposes of the *Youth Criminal Justice Act* (Canada) or a correctional institution established or continued under section 14 of the *Ministry of Correctional Services Act*, whether the institution is operated or maintained by the Crown or any other person.
  5. Use as a penitentiary as defined in the *Corrections and Conditional Release Act* (Canada) or as a prison as defined in the *Prisons and Reformatories Act* (Canada).
  6. Use as a residence associated with any of the following:
    - i. A university that is authorized to operate pursuant to section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*.
    - ii. A college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*.
    - iii. Any other institution with authority to grant a degree or part of a degree under the *Post-secondary Education Choice and Excellence Act, 2000*.
    - iv. A private career college as defined and approved under the *Private Career Colleges Act*. O. Reg. 153/04, s. 1 (3).

### **Unused property, most recent use**

2. For the purposes of this Regulation, if property is unused, the property is deemed to have the type of property use to which the property was most recently put. O. Reg. 153/04, s. 2.

### **Mixed use property, most sensitive use**

3. (1) If a property is used for more than one type of property use, the site condition standards that are applicable to the property are the standards that are applicable to the most

sensitive type of property use. O. Reg. 153/04, s. 3 (1).

(2) The following rules apply in determining which type of property use is the most sensitive type of property use:

1. An agricultural or other use is the most sensitive of any type of property use.
2. A residential use, parkland use or institutional use is more sensitive than an industrial use, commercial use or community use. O. Reg. 153/04, s. 3 (2).

## **PART II DEFINED PERSONS**

### **Owner of property**

4. For the purposes of Part XV.1 of the Act,

“owner”, in relation to a record of site condition, includes a receiver in respect of the property for which the record of site condition is filed or is to be filed. O. Reg. 153/04, s. 4.

### **Qualified persons, other than risk assessment**

5. (1) A person referred to in subsection (2) meets the qualifications to be a qualified person for the purposes of,

- (a) conducting or supervising a phase one environmental site assessment; and
- (b) completing the certifications that must be completed by a qualified person in a record of site condition in respect of a property if a phase two environmental site assessment was not conducted for any part of the property. O. Reg. 153/04, s. 5 (1).

(2) A person meets the qualifications to be a qualified person for the purposes of subsection (1) if,

- (a) the person holds a licence or temporary licence issued under the *Professional Engineers Act* to engage in the practice of professional engineering, other than a limited licence issued under that Act;
- (b) the person is a member of the Association of Professional Geoscientists of Ontario under the *Professional Geoscientists Act, 2000*, but not if the person is a limited member or a non-practising member;
- (c) the person is registered as an applied science technologist or a certified engineering technologist by the Ontario Association of Certified Engineering Technicians and Technologists under the *Ontario Association of Certified Engineering Technicians and Technologists Act, 1998*, being chapter Pr7;
- (d) the person is registered as an architectural technologist by the Association of Architectural Technologists of Ontario under the *Association of Architectural Technologists of Ontario Act, 1996*, being chapter Pr20;
- (e) pursuant to the by-laws made under *The Ontario Professional Agrologists Act, 1960*, being chapter 158, the person is certified as a professional agrologist by the Ontario Institute of Professional Agrologists; or
- (f) the person is registered as a chartered chemist by the Association of the Chemical Profession of Ontario under the *Association of the Chemical Profession of Ontario Act, 1984*, being chapter Pr10. O. Reg. 153/04, s. 5 (2).

(3) A person referred to in clauses (2) (a), (b), (e) and (f) meets the qualifications to be a qualified person for the purposes of,

- (a) conducting or supervising a phase two environmental site assessment; and
- (b) completing the certifications that must be completed by a qualified person in a record of site condition in respect of a property, if the record of site condition for the property is being filed on the basis that the property meets all the applicable site condition standards, and no risk assessment was required for that property. O. Reg. 153/04, s. 5 (3).

(4) A person referred to in clauses (2) (a) and (b) meets the qualification to be a qualified person for the purposes of completing the certifications that must be completed by a qualified person in a record of site condition in respect of a property, if a risk assessment has been carried out in respect of the property and the record of site condition is being filed on the basis that the property meets the standards specified in the risk assessment. O. Reg. 153/04, s. 5 (4).

**(5) This section is revoked on October 1, 2006. O. Reg. 153/04, s. 5 (5).**

### **Qualified persons, risk assessment**

6. (1) A person meets the qualifications to be a qualified person for the purposes of section 168.1 of the Act in relation to the preparation or supervision of a risk assessment if,
- (a) the person holds a bachelor's degree in science, engineering or applied technology from a post-secondary institution;
  - (b) the person has experience in the conduct or supervision of environmental site assessments, or in the conduct, supervision or review of assessment of risk described in clause (c), or in any combination of both, as follows:
    - (i) if the person holds a doctoral degree in science or engineering from a university, five years' experience,
    - (ii) if the person holds a master's degree in science or engineering from a university, seven years' experience,
    - (iii) in any other case, eight years' experience; and
  - (c) within the period of experience required by clause (b), the person has two years' experience,
    - (i) in the conduct or supervision of an assessment of risk, or
    - (ii) in the technical or scientific review of an assessment of risk on behalf of a public authority. O. Reg. 153/04, s. 6 (1).

(2) In this section,

“assessment of risk” means an assessment of human health risks and ecological risks associated with the presence or discharge of contaminants on, in or under property, and includes the preparation of a risk assessment of a site specific risk assessment under the Cleanup Guideline 1996;

“environmental site assessment” means an investigation in relation to land to determine the environmental condition of property, and includes a phase one environmental site assessment and a phase two environmental site assessment;

“university” means a university within or outside of Ontario. O. Reg. 153/04, s. 6 (2).

### **Qualified persons, insurance**

7. (1) Subject to subsection (3), every qualified person mentioned in sections 5 and 6 shall maintain insurance coverage under an insurance policy that satisfies the requirements in subsection (2),



(a) at all times when the person,

(i) undertakes or supervises any work in their capacity as a qualified person, including any work associated with a phase one environmental site assessment, a phase two environmental site assessment or a risk assessment that is completed for the purposes of filing a record of site condition under section 168.4 of the Act, or

(ii) makes a statement required by this Regulation; and

(b) for a period of two years after the date the qualified person ceases to act in his or her capacity as a qualified person, including doing anything described in clause (a). O. Reg. 153/04, s. 7 (1).

(2) The insurance policy must satisfy the following criteria:

1. The policy shall indemnify the qualified person against liability imposed by law arising out of the performance of or the failure to perform any activity described in subsection (1) for claims whenever occurring that are first made and reported to the insurer during period that insurance coverage is required by subsection (1).

2. The insurance policy shall, at a minimum, specify an indemnity limit of \$1,000,000 per claim and \$1,000,000 in the aggregate during the period of the insurance.

3. The insurance policy shall provide for the continuation of coverage if the insured is adjudged as bankrupt, insolvent, incompetent or dies during the period of insurance. O. Reg. 153/04, s. 7 (2).

(3) This section does not apply to a qualified person who undertakes the work described in section 5 or 6 on behalf of his or her employer and in respect of property owned by the employer. O. Reg. 153/04, s. 7 (3).

### **PART III ENVIRONMENTAL SITE REGISTRY**

#### **Contents public**

**8.** (1) The Director shall ensure that records of site condition, notices and other documents that are filed in the Registry are available for examination by the public. O. Reg. 153/04, s. 8 (1).

(2) If the Director becomes aware of a clerical, grammatical or typographical error in a record of site condition, notice or other document that has been filed in the Registry, the Director may cause the error to be corrected and the correction shall not require a new filing. O. Reg. 153/04, s. 8 (2).

#### **Notice to users**

**9.** The Director shall ensure that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry. O. Reg. 153/04, s. 9.

#### **Notice of order in Registry**

**10.** (1) The Director may require that the Registry contain notice of an order issued under section 7, 8, 12, 17, 18, 97, 157 or 157.1 of the Act with respect to a property for which a record of site condition has been filed, if the order is issued in respect of a contaminant that was discharged into the natural environment before the certification date of the record of site

condition and the contaminant was on, in or under the property as of the certification date. O. Reg. 153/04, s. 10 (1).

(2) The Director may require that the Registry contain notice of an order issued under section 16, 16.1 or 32 of the *Ontario Water Resources Act* with respect to a property for which a record of site condition has been filed, if the order is issued in respect of material that was discharged into the natural environment before the certification date of the record of site condition and the material was on, in or under the property as of the certification date. O. Reg. 153/04, s. 10 (2).

(3) The Director may require that the Registry contain notice of a proceeding commenced under the *Provincial Offences Act*, if the proceeding relates to a false or misleading statement made in a record of site condition or a risk assessment. O. Reg. 153/04, s. 10 (3).

(4) If the Director requires that a notice be contained in the Registry under this section and the circumstances giving rise to the notice no longer exist, the Director may require that the notice be withdrawn from the Registry. O. Reg. 153/04, s. 10 (4).

**Note: Part IV comes into force on the day subsection 2 (37) of the *Brownfields Statute Law Amendment Act, 2001* comes into force. See: O. Reg. 153/04, s. 55 (2).**

## **PART IV CHANGE OF PROPERTY USE**

### **Definitions for the Act, industrial, commercial, residential and parkland use**

**11.** (1) For the purposes of section 168.3.1 of the Act, “industrial use”, “commercial use”, “residential use” and “parkland use”, in relation to the use of property, have the meanings given by subsection 1 (3) of this Regulation. O. Reg. 153/04, s. 11 (1).

(2) For the purposes of the Act and this Regulation, a reference to a change in the use of a property does not include a reference to a change in the zoning of the property under a municipal by-law. O. Reg. 153/04, s. 11 (2).

### **Exemption, construction, s. 168.3.1 of the Act**

**12.** Despite clause 168.3.1 (1) (c) of the Act, subsection 168.3.1 (1) of the Act does not apply to the issuance of a building permit under section 8 of the *Building Code Act, 1992* if the only construction authorized by the permit is,

(a) the removal of soil, rock or fill for the purpose of making an excavation; or

(b) the erection of a retaining structure or other structure,

(i) to support the sides of the excavation,

(ii) that are erected to assist in the conduct of an investigation in relation to property, or

(iii) for any other activity necessary for the purpose of filing a record of site condition. O. Reg. 153/04, s. 12.

### **Exemptions, change of use, s. 168.3.1 (1) (a) of the Act**

**13.** (1) Despite clause 168.3.1 (1) (a) of the Act, a person may change the use of a property from a railway line to a trail used for recreational activities, subject to subsection (2). O. Reg. 153/04, s. 13 (1).

(2) Clause 168.3.1 (1) (a) of the Act applies to a change of use of a portion of a property described in subsection (1), if the use of the portion is changed to a playground, a playing field, a day camp, an overnight camp or an overnight camping facility, whether the use of the

portion is for the use of trail users only or for the general public. O. Reg. 153/04, s. 13 (2).

(3) Despite clause 168.3.1 (1) (a) of the Act, a person may change the use of a property from a landfilling site approved under Part V of the Act to any property use. O. Reg. 153/04, s. 13 (3).

#### **Changes of use, s. 168.3.1 (1) (b) of the Act**

**14.** A person shall not change the use of property for the purposes of clause 168.3.1 (1) (b) of the Act in any of the following manners:

1. A change from an industrial use to an agricultural or other use or to an institutional use.
2. A change from an industrial use to more than one type of property use, including any or all of the following:
  - i. Agricultural or other use.
  - ii. Institutional use.
  - iii. Parkland use.
  - iv. Residential use.
3. If the property is used for an industrial use as well as any other type or types of property use, a change in the use of part or all of the property used for industrial use to any or all of the following types of property uses:
  - i. Agricultural or other use.
  - ii. Institutional use.
  - iii. Parkland use.
  - iv. Residential use.
4. A change from a commercial use to an agricultural or other use or to an institutional use.
5. A change from a commercial use to more than one type of property use including any or all of the following types of property use:
  - i. Agricultural or other use.
  - ii. Institutional use.
  - iii. Parkland use.
  - iv. Residential use.
6. If the property is used for a commercial use as well as any other type or types of property use, a change in the use of part or all of the property used for commercial use to any or all of the following types of property uses:
  - i. Agricultural or other use.
  - ii. Institutional use.
  - iii. Parkland use.
  - iv. Residential use.
7. A change from a community use to an agricultural or other use or to an institutional use, a parkland use or a residential use.
8. A change from a community use to more than one type of property use,

including any or all of the following types of property use:

- i. Agricultural or other use.
- ii. Institutional use.
- iii. Parkland use.
- iv. Residential use.

9. If the property is used for a community use as well as any other type or types of property use, a change in the use of part or all of the property used for community use to any or all of the following types of property uses:

- i. Agricultural or other use.
- ii. Institutional use.
- iii. Parkland use.
- iv. Residential use. O. Reg. 153/04, s. 14.

### **Exemption, change in use**

**15.** If a part of a building on a property is used for a residential use or institutional use and another part of the building is used for a commercial use, a community use or an industrial use, section 168.3.1 of the Act and section 14 do not apply to,

- (a) a change in the use of the property that is substantially restricted to the part of the property where the building is located; or
- (b) the construction of a building, if the building will be used in connection with a change in use described in clause (a). O. Reg. 153/04, s. 15.

## **PART V RECORDS OF SITE CONDITION**

### **Records of site condition, requirements**

**16.** (1) A record of site condition shall be completed and filed in accordance with the requirements set out in Schedule A. O. Reg. 153/04, s. 16 (1).

(2) Paragraph 4 of subsection 168.4 (2) of the Act does not apply to a record of site condition filed in respect of a property if a phase two environmental site assessment has not been conducted for any part of the property. O. Reg. 153/04, s. 16 (2).

(3) A transition notice shall be completed and filed in accordance with the requirements set out in Schedule B. O. Reg. 153/04, s. 16 (3).

### **Certification date**

**17.** (1) This section applies to the certification date of a record of site condition filed in the Registry under section 168.4 of the Act in relation to a property. O. Reg. 153/04, s. 17 (1).

(2) If a phase two environmental site assessment is not conducted for any part of the property, the certification date is the day on which the qualified person forms the conclusion that the certifications made in the record of site condition are true. O. Reg. 153/04, s. 17 (2).

(3) If a phase two environmental site assessment is conducted for any part of the property, the certification date is the last day on which sampling was done that confirms that the property meets any applicable site condition standards, or any standard specified in a risk assessment, in relation to a contaminant. O. Reg. 153/04, s. 17 (3).

(4) For the purposes of a record of site condition filed in the Registry under subsection 168.4

(6) of the Act, the certification date is the date set out in Part 5 (Affidavit of Principal Consultant) of the record of site condition that was acknowledged by the Ministry under the Cleanup Guideline 1996. O. Reg. 153/04, s. 17 (4).

### **Retention and storage of reports**

**18.** (1) For the purposes of subsection 168.4 (5) of the Act, the prescribed period for the retention of a report by a qualified person is seven years after the date the record of site condition listing the report is filed in the Registry. O. Reg. 153/04, s. 18 (1).

(2) Subsection (1) and subsection 168.4 (5) of the Act do not apply if the qualified person takes all reasonable steps to ensure that a copy of the report is stored for the period referred to in subsection (1) in the offices of the firm, company or partnership where the qualified person was employed at the time when the report was prepared. O. Reg. 153/04, s. 18 (2).

### **Transition, requirements for filing old records of site condition**

**19.** (1) The following are the requirements that an owner shall certify as having been complied with in the notice filed in the Registry for the purposes of paragraph 2 of subsection 168.4 (6) of the Act:

1. The property in respect of which the notice is to be filed is the same property or entirely within the property in respect of which the record of site condition was submitted to the Ministry.
2. A qualified person has certified to the owner that he or she has reviewed the following:
  - i. A copy of the record of site condition that has been acknowledged as received by the Ministry under the Cleanup Guideline 1996.
  - ii. The environmental reports listed in Part 2 of the record of site condition that was acknowledged by the Ministry under the Cleanup Guideline 1996.
3. The qualified person has made the following certifications to the owner on the basis of that review:
  - i. The information in the record of site condition that was acknowledged by the Ministry under the Cleanup Guideline 1996 is consistent with the environmental reports listed in Part 2 of the record of site condition.
  - ii. The record of site condition was properly completed in accordance with the Cleanup Guideline 1996.
  - iii. At the time of the certification date, the record of site condition indicates that the property met the appropriate environmental site conditions for the land use specified in Part 3 of the record of site condition that was acknowledged by the Ministry under the Cleanup Guideline 1996. O. Reg. 153/04, s. 19 (1).

(2) This section and subsection 168.4 (6) of the Act do not apply if a detailed site assessment as referred to in section 8.2 of the Cleanup Guideline 1996, was not completed and, before the record of site condition was submitted to the Ministry, the property to which the record of site condition relates was,

- (a) used at any time, in whole or in part, for an industrial use; or
- (b) used at any time, in whole or in part, 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. O. Reg. 153/04, s. 19 (2).

### **Past owners, immunity**

**20.** (1) This section applies to a person who, before the certification date of a record of site condition filed in the Registry, owned the property for which the record of site condition was filed. O. Reg. 153/04, s. 20 (1).

(2) A person meets the requirements for the purposes of paragraph 4 of subsection 168.7 (1) of the Act if the person satisfies one of the following requirements:

1. The person sold the property to a purchaser pursuant to an agreement for the purchase and sale of land that included a condition, covenant or term that the purchaser would file a record of site condition for the property in the Registry under section 168.4 of the Act and the purchaser has filed a record of site condition for the property in the Registry, in accordance with that agreement.
2. The person was the owner of the property at the time that a record of site condition in respect of the property was submitted to the Ministry pursuant to the Cleanup Guideline 1996, if the record of site condition was filed pursuant to subsection 168.4 (6) of the Act. O. Reg. 153/04, s. 20 (2).

### **Soil management**

**21.** (1) This section applies in relation to a property if,

- (a) a record of site condition has been filed in the Registry containing a certification under sub-subparagraph 4 i C of subsection 168.4 (1) of the Act by a qualified person that the property meets the applicable stratified site condition standards for all prescribed contaminants subject to any exceptions specified by the qualified person; and
- (b) since the record of site condition was filed, sub-surface soil at the property has been disturbed so that it is brought to within 1.5 metres beneath the soil surface, or is deposited on top of the soil surface. O. Reg. 153/04, s. 21 (1).

(2) A person who owns or occupies the property, or a person who has charge, management or control of the property, shall ensure that any disturbed sub-surface soil that does not, after the disturbance, meet the applicable stratified site condition standards for all prescribed contaminants does not remain within 1.5 metres of the surface of the property. O. Reg. 153/04, s. 21 (2).

(3) Subsection (2) only applies to a person who occupies or has charge, management or control of the property if the person, whether alone or with any other person, has engaged in or arranged for the activity that caused the sub-surface soil at the property to be disturbed. O. Reg. 153/04, s. 21 (3).

## **PART VI DEFINITIONS FOR AND INTERPRETATION OF PHASE I AND PHASE II ESA STANDARDS**

### **Definitions and application**

**22.** (1) In Parts VII and VIII and, as specified in the definitions in this section, in the Phase I and Phase II ESA Standards as adopted by this Regulation,

“adjoining property”, as used in the Phase I ESA Standard in relation to a phase one environmental site assessment of a property, means any property that is contiguous or

immediately adjacent to the property under assessment;

“assessor”, as used in the Phase I and Phase II ESA Standards in relation to a phase one or phase two environmental site assessment, or part of such an assessment, means the individual who conducts the assessment or part-assessment;

“BTEX”, as used in the Phase II ESA Standard means benzene, toluene, ethylbenzene and xylenes;

“client” as used in the Phase I and Phase II ESA Standards and this Regulation in relation to a phase one or phase two environmental site assessment of a property, means the owner of the property, or, if the property is owned by more than one person, the owner who commissioned the assessment;

“contamination” as used in the Phase I and Phase II ESA Standards in relation to a phase one or phase two environmental site assessment of a property, includes the presence of a contaminant in soil, sediment or ground water at the property, in concentrations that exceed the maximum concentrations set out in the applicable site condition standards prescribed under Part IX (Site Condition Standards and Risk Assessments);

“environmental audit” as used in the Phase I ESA Standard, means a systematic process of objectively obtaining and evaluating information about the potential environmental effects of activities that are taking place or have taken place on the property being audited;

“hazardous material” as used in the Phase I ESA Standard, means material that may, upon exposure, constitute an identifiable risk to human health or the natural environment;

“neighbouring property” as used in the Phase I ESA Standard in relation to a phase one environmental site assessment of a property, means an adjoining property and any other property that can reasonably be expected to have been a source of contamination in, on or under the property under assessment;

“ozone-depleting material”, as used in the Phase I ESA Standard, means an ozone depleting substance as defined in section 56 of the Act;

“PCB”, as used in the Phase I and Phase II ESA Standards, means PCB as defined in Regulation 362 of the Revised Regulations of Ontario, 1990 made under the Act;

“PCB waste”, as used in the Phase I and Phase II ESA Standards, means PCB waste as defined in Regulation 362 of the Revised Regulations of Ontario, 1990 made under the Act;

“Phase I ESA”, as used in the Phase I and Phase II ESA Standards, means,

(a) a Phase I Environmental Site Assessment (ESA) as defined in section 2.1 of the Phase I ESA Standard and includes an initial site assessment as referred to in section 8.1 of the Cleanup Guideline 1996, if the assessment is conducted before the date Parts VII and VIII of this Regulation come into force, or

(b) a phase one environmental site assessment as defined in section 168.1 of the Act, if the assessment is conducted on or after the date Parts VII and VIII of this Regulation come into force;

“Phase II ESA”, as used in the Phase I and Phase II ESA Standards, means,

(a) a Phase II Environmental Site Assessment (ESA) as defined in section 2.1 of the Phase II ESA Standard and includes a detailed site assessment as referred to in

section 8.2 of the Cleanup Guideline 1996, if the assessment is conducted before the date Parts VII and VIII of this Regulation come into force, or

(b) a phase two environmental site assessment as defined in section 168.1 of the Act, if the assessment is conducted on or after the date Parts VII and VIII of this Regulation come into force;

“property”, as used in the Phase I and Phase II ESA Standards in relation to a phase one or phase two environmental site assessment, means the property under assessment, including any improvements to the property;

“sample matrix”, as used in the Phase II ESA Standard in relation to a phase two environmental site assessment, means the medium being investigated as part of the assessment;

“sampling residual”, as used in the Phase II ESA Standard in relation to a phase two environmental site assessment, means sample matrix material left over after sampling for the purposes of the assessment has been completed;

“scope of work”, as used in the Phase II ESA Standard in relation to a phase two environmental site assessment, means a document that indicates the parameters for the assessment, including site boundaries, the purpose of the assessment and the information to be collected;

“sewage disposal system”, as used in the Phase I ESA Standard, means sewage works as defined in the *Ontario Water Resources Act*, and “sewage system”, as used in the Phase I ESA Standard, has the same meaning;

“site”, as used in the Phase I and Phase II ESA Standards in relation to a phase one or phase two environmental site assessment, means the property under assessment, including any improvements to the property;

“site condition standards” means the full depth background site condition standards, full depth generic site condition standards and stratified site condition standards;

“site contact”, as used in the Phase II ESA Standard in relation to a phase two environmental site assessment, means an individual designated by the client to be informed about the commencement of field work for the assessment;

“site representative”, as used in the Phase I ESA Standard in relation to a phase one environmental site assessment of a property, means the individual designated by the owner of the property to be interviewed for the purposes of section 7.3 of the Standard;

“spill”, as used in the Phase I and Phase II ESA Standards, and in the Risk Assessment Procedures, means spill as defined in subsection 91 (1) of the Act;

“UST”, as used in the Phase II ESA Standard, means an underground storage tank;

“waste”, as used in the Phase I ESA Standard, means waste as defined in section 25 of the Act;

“waste generator”, as used in the Phase I ESA Standard, means a generator as defined in Regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act;

“water distribution system”, as used in the Phase I ESA Standard in relation to a phase one environmental site assessment, means a drinking-water system as defined in the *Safe Drinking Water Act, 2002*. O. Reg. 153/04, s. 22 (1).

(2) For the purposes of the Phase I and Phase II ESA Standards as adopted by reference by this Regulation, this section and section 1 apply despite anything to the contrary in those



Standards. O. Reg. 153/04, s. 22 (2).

(3) In this Regulation, a reference to a provision of the Phase I or Phase II ESA Standard by number is a reference to the provision of that Standard that had that number at the time this Regulation came into effect, as the provision may be amended from time to time. O. Reg. 153/04, s. 22 (3).

## **PART VII PHASE ONE ENVIRONMENTAL SITE ASSESSMENTS**

### **Phase one site assessment, elements**

**23.** (1) Subject to subsection (2) and section 24, a phase one environmental site assessment of a property shall include the following components:

1. A records review.
2. A site visit.
3. Interviews.
4. An evaluation of the information gathered from the records review, site visit and interviews.
5. The preparation of a written report.
6. The submission of the written report to the client. O. Reg. 153/04, s. 23 (1).

(2) An initial site assessment, as referred to in section 8.1 of the Cleanup Guideline 1996, that was commenced, but not completed, before this Regulation came into force in respect of a property satisfies the requirements of this Regulation for a phase one environmental site assessment if,

- (a) a qualified person certifies in writing in the written report required under subsection (1) that the components of the initial site assessment completed before this Regulation came into force meet the requirements of this Regulation with respect to a phase one environmental site assessment, except that they were not conducted or supervised by a qualified person; and
- (b) a phase one environmental site assessment is completed that consists of,
  - (i) a review by a qualified person of those components of the initial site assessment completed before this Regulation came into force, and
  - (ii) the completion of those components required under subsection (1) that were not completed at the time this Regulation came into force. O. Reg. 153/04, s. 23 (2).

### **Transition**

**24.** If, before this Regulation came into force, a report was completed for the purposes of an initial site assessment as referred to in section 8.1 of the Cleanup Guideline 1996, the initial site assessment is deemed to be a phase one environmental site assessment for the purpose of section 168.1 of the Act if a qualified person reviews the report and certifies that the initial site assessment was completed in accordance with clauses 7 and 8 of the Phase I ESA Standard. O. Reg. 153/04, s. 24.

### **Records review, site visit and interviews**

**25.** (1) The records review, site visit and interviews required for a phase one environmental site assessment shall be conducted in accordance with clause 7 of the Phase I ESA Standard, as modified by this section. O. Reg. 153/04, s. 25 (1).

(2) In its application under this Regulation, clause 7.2.1.4 (Limitations) of the Phase I ESA Standard is modified by the addition of the following sentence:

“However, the denial of access by any person to a structure, building or any other part of the property is not a limiting condition.”

O. Reg. 153/04, s. 25 (2).

### **Evaluation and reporting**

**26.** (1) The evaluation of information required for a phase one environmental site assessment shall be conducted in accordance with clause 8 of the Phase I ESA Standard. O. Reg. 153/04, s. 26 (1).

(2) The preparation and submission of written reports required for a phase one environmental site assessment shall be conducted in accordance with clause 9 of the Phase I ESA Standard, modified by the omission of clause 9.3 (Deviations). O. Reg. 153/04, s. 26 (2).

## **PART VIII PHASE TWO ENVIRONMENTAL SITE ASSESSMENTS**

### **When phase two assessment required to file record of site condition**

**27.** (1) For the purposes of filing a record of site condition under subsection 168.4 (1) of the Act in relation to a property, a phase two environmental site assessment is required if the property is used, or has ever been used, in whole or in part for an industrial use or for any of the following commercial uses:

1. As a garage.
2. As a bulk liquid dispensing facility, including a gasoline outlet.
3. For the operation of dry cleaning equipment. O. Reg. 153/04, s. 27 (1).

(2) Subsection (1) does not apply if,

(a) the property is currently used for an agricultural or other use, or a community use, an institutional use, a parkland use or a residential use; and

(b) since the latest date on which the property stopped being used for any of the types of property uses described in subsection (1), a record of site condition has been filed in the Registry under section 168.4 of the Act for the use described in clause (a). O. Reg. 153/04, s. 27 (2).

### **Phase two assessment, elements**

**28.** (1) Subject to subsection (2) and section 29, a phase two environmental site assessment of a property shall include the following components:

1. Planning a site investigation.
2. Conducting the site investigation.
3. Interpreting and evaluating information gathered through the site investigation.
4. The preparation of a written report.
5. The submission of the written report to the client. O. Reg. 153/04, s. 28 (1).

(2) A detailed site assessment as referred to in section 8.2 of the Cleanup Guideline 1996 that was commenced, but not completed, before this Regulation came into force in respect of a property satisfies the requirements of this Regulation for a phase two environmental site assessment if,

- (a) a qualified person certifies in writing in the written report required under subsection (1) that the components of the detailed assessment completed before this Regulation came into force meet the requirements of this Regulation with respect to a phase two environmental site assessment, except that they were not conducted or supervised by a qualified person; and
- (b) a phase two environmental site assessment is completed that consists of,
  - (i) a review by a qualified person of those components of the detailed site assessment completed before this Regulation came into force, and
  - (ii) the completion of those components required under subsection (1) that were not completed at the time this Regulation came into force. O. Reg. 153/04, s. 28 (2).

### **Transition**

**29.** If, before this Regulation came into force, a report was completed for the purposes of a detailed site assessment as referred to in section 8.2 of the Cleanup Guideline 1996, the detailed site assessment is deemed to be a phase two environmental site assessment for the purpose of section 168.1 of the Act if a qualified person reviews the report and certifies that the detailed site assessment was completed in accordance with clauses 6, 7 and 8 of the Phase II ESA Standard. O. Reg. 153/04, s. 29.

### **Planning the investigation**

**30.** The site investigation for a phase two environmental assessment shall be planned in accordance with clause 6 of the Phase II ESA Standard. O. Reg. 153/04, s. 30.

### **Conducting the investigation**

**31.** (1) The site investigation for a phase two environmental site assessment shall be conducted in accordance with clause 7 of the Phase II ESA Standard, as modified by this section. O. Reg. 153/04, s. 31 (1).

(2) In its application under this regulation, clause 7.3.3.3 (Limitations and Deviations) of the Phase II ESA Standard is modified by the addition of the following sentence:

“However, the denial of access by any person to a structure, building or any other part of the property is not a limiting condition.”

O. Reg. 153/04, s. 31 (2).

### **Interpretation and evaluation**

**32.** The site investigation for a phase two environmental assessment shall be interpreted and evaluated in accordance with clause 8 of the Phase II ESA Standard. O. Reg. 153/04, s. 32.

### **Reporting**

**33.** The preparation and submission of written reports required for a phase two environmental site assessment shall be conducted in accordance with clause 9 of the Phase II ESA Standard, modified by the omission of clause 9.3 (Deviations). O. Reg. 153/04, s. 33.

## **PART IX SITE CONDITION STANDARDS AND RISK ASSESSMENTS**

### **SITE CONDITION STANDARDS**

#### **Full depth background site condition standards**

**34.** (1) For the purpose of sub-subparagraph 4 i A of subsection 168.4 (1) of the Act, the

prescribed contaminants and the full depth background site condition standards for those contaminants are those set out in Table 1 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 34 (1).

(2) The property meets the applicable full depth background site condition standards for the prescribed contaminants, in relation to the type of property use for which the record of site condition is filed, if the following criteria are satisfied:

1. In each of the following media that exist at the property, the concentration of the contaminants does not exceed the standards in relation to the medium for that type of property use set out in Table 1 of the Soil, Ground Water and Sediment Standards:

- i. Soil, not including sediment (if any).
- ii. Sediment.

2. If ground water sampling was carried out at the property as part of the phase two environmental site assessment, the concentration of the contaminants in the ground water does not exceed the standards in relation to ground water for that type of property use set out in Table 1 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 34 (2).

### **Non-potable and potable ground water conditions**

**35.** (1) In this section,

“non-potable ground water site condition standards” means,

(a) the full depth generic site condition standards prescribed under section 37 in relation to the contaminants prescribed under that section, or

(b) the stratified site condition standards prescribed under section 39 in relation to the contaminants prescribed under that section;

“owner”, in relation to a notice in respect of a property, includes a person authorized by the owner of the property to give or receive such a notice;

“potable ground water site condition standards” means,

(a) the full depth generic site condition standards prescribed under section 36 in relation to the contaminants prescribed under that section, or

(b) the stratified site condition standards prescribed under section 38 in relation to the contaminants prescribed under that section;

“well” means a well as defined in section 35 of the *Ontario Water Resources Act*.

O. Reg. 153/04, s. 35 (1).

(2) For the purposes of sub-subparagraphs 4 i B and C of subsection 168.4 (1) of the Act,

(a) the non-potable ground water site condition standards may be applied only if the circumstances described in subsection (3) exist; and

(b) the potable ground water site condition standards may be applied whether or not those circumstances exist. O. Reg. 153/04, s. 35 (2).

(3) The circumstances mentioned in subsection (2) are that,

(a) the property, and all other properties located, in whole or in part, within 100 metres of the boundaries of the property, are supplied by a municipal drinking-water system as defined in the *Safe Drinking Water Act, 2002*;

- (b) the property is either,
  - (i) not located in an area designated in a municipal official plan as a well-head protection area or other designation identified by the municipality for the protection of ground water, or
  - (ii) if it is located in such a designated area, the municipality has consented in writing to the application of the non-potable ground water site condition standards in preparing a record of site condition for the property;
- (c) the record of site condition does not specify agricultural or other use as the type of property use for which the record of site condition is filed;
- (d) the owner has given the clerk of the local municipality, and of any upper-tier municipality, in which the property is located written notice of intention to apply the non-potable ground water site condition standards in preparing a record of site condition for the property; and
- (e) within 30 days after receiving the notice described in clause (d),
  - (i) neither the local municipality nor the upper-tier municipality (if any) has given written notice (in this clause called a “notice of objection”) to the owner that it objects to that application of the non-potable ground water site condition standards, or
  - (ii) a local or upper-tier municipality has given a notice of objection to the owner, and the municipality, at any time after giving the notice of objection, has withdrawn the objection and given written consent to the owner for the application of the non-potable ground water site condition standards. O. Reg. 153/04, s. 35 (3).

### **Full depth generic site condition standards, potable ground water**

**36.** (1) This section prescribes the full depth generic site condition standards that may be applied by virtue of clause 35 (2) (b). O. Reg. 153/04, s. 36 (1).

(2) For the purpose of sub-subparagraph 4 i B of subsection 168.4 (1) of the Act, the prescribed contaminants and the applicable prescribed full depth generic site condition standards for those contaminants are those set out in Table 2 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 36 (2).

(3) The property meets the applicable full depth generic site condition standards for the prescribed contaminants, in relation to the type of property use for which the record of site condition is filed, if the following criteria are satisfied:

1. In each of the following media that exist at the property, the concentration of the contaminants does not exceed the standards in relation to the medium for that type of property use set out in Table 2 of the Soil, Ground Water and Sediment Standards:
  - i. Soil, not including sediment (if any).
  - ii. Sediment.
2. If ground water sampling was carried out at the property as part of the phase two environmental site assessment, the concentration of the contaminants in the ground water does not exceed the standards in relation to ground water for that type of property use set out in Table 2 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 36 (3).

**Full depth generic site condition standards, non-potable ground water**

**37.** (1) This section prescribes the full depth generic site condition standards that may be applied by virtue of clause 35 (2) (a). O. Reg. 153/04, s. 37 (1).

(2) For the purpose of sub-subparagraph 4 i B of subsection 168.4 (1) of the Act, the prescribed contaminants and the applicable full depth generic site condition standards for those contaminants are those set out in Table 3 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 37 (2).

(3) The property meets the applicable full depth generic site condition standards for the prescribed contaminants, in relation to the type of property use for which the record of site condition is filed, if the following criteria are satisfied:

1. In each of the following media that exist at the property, the concentration of the contaminants does not exceed the standards in relation to the medium for that type of property use set out in Table 3 of the Soil, Ground Water and Sediment Standards:

- i. Soil, not including sediment (if any).
- ii. Sediment.

2. If ground water sampling was carried out at the property as part of the phase two environmental site assessment, the concentration of the contaminants in the ground water does not exceed the standards in relation to ground water for that type of property use set out in Table 3 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 37 (3).

**Stratified site condition standards, potable ground water**

**38.** (1) This section prescribes the stratified site condition standards that may be applied by virtue of clause 35 (2) (b). O. Reg. 153/04, s. 38 (1).

(2) For the purpose of sub-subparagraph 4 i C of subsection 168.4 (1) of the Act, the prescribed contaminants and the applicable stratified site condition standards for those contaminants are as set out in Table 4 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 38 (2).

(3) The property meets the applicable stratified site condition standards for the prescribed contaminants, in relation to the type of property use for which the record of site condition is filed, if the following criteria are satisfied:

1. In each of the following media that exist at the property, the concentration of the contaminants does not exceed the standards in relation to the medium for that type of property use set out in Table 4 of the Soil, Ground Water and Sediment Standards:

- i. Surface soil, not including sediment (if any).
- ii. Subsurface soil, not including sediment (if any).
- iii. Sediment.

2. If ground water sampling was carried out at the property as part of the phase two environmental site assessment, the concentration of the contaminants in the ground water does not exceed the standards in relation to ground water for that type of property use set out in Table 4 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 38 (3).

**Stratified site condition standards, non-potable ground water**

**39.** (1) This section prescribes the stratified site condition standards that may be applied by virtue of clause 35 (2) (a). O. Reg. 153/04, s. 39 (1).

(2) For the purpose of sub-subparagraph 4 i C of subsection 168.4 (1) of the Act, the prescribed contaminants and the applicable stratified site condition standards for those contaminants are as set out in Table 5 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 39 (2).

(3) The property meets the applicable stratified site condition standards for the prescribed contaminants, in relation to the type of property use for which the record of site condition is filed, if the following criteria are satisfied:

1. In each of the following media that exist at the property, the concentration of the contaminants does not exceed the standards in relation to the medium for that type of property use set out in Table 5 of the Soil, Ground Water and Sediment Standards:

- i. Surface soil, not including sediment (if any).
- ii. Subsurface soil, not including sediment (if any).
- iii. Sediment.

2. If ground water sampling was carried out at the property as part of the phase two environmental site assessment, the concentration of the contaminants in the ground water does not exceed the standards in relation to ground water for that type of property use set out in Table 5 of the Soil, Ground Water and Sediment Standards. O. Reg. 153/04, s. 39 (3).

#### **Stratified site condition standards not applicable to certain uses**

**40.** The qualified person shall not use the applicable stratified site conditions standards pursuant to sub-subparagraph 4 i C of subsection 168.4 (1) of the Act in certifying the record of site condition for the purposes of paragraph 4 of subsection 168.4 (1) of the Act if agricultural or other use is specified under paragraph 3 of subsection 168.4 (2) of the Act as the type of property use for which the record of site condition is filed. O. Reg. 153/04, s. 40.

#### **Site condition standards, environmentally sensitive areas**

**41.** (1) This section applies in relation to a property if,

(a) the property is within an area of natural significance, or includes or is adjacent to such an area or part of such an area;

(b) the soil at the property has a pH value as follows:

- (i) for surface soil, less than 5 or greater than 9,
- (ii) for sub-surface soil, less than 5 or greater than 11;

(c) the property is a shallow soil property;

(d) the property includes or is adjacent to a water body or includes land that is within 30 metres of a water body; or

(e) a qualified person is of the opinion that, given the characteristics of the property and the certifications the qualified person would be required to make in a record of site condition in relation to the property as specified in Schedule A, it is appropriate to apply this section to the property. O. Reg. 153/04, s. 41 (1).

(2) If this section applies, the qualified person shall not use the following standards in certifying the record of site condition for the purposes of paragraph 4 of subsection 168.4 (1)

of the Act:

1. The applicable full-depth generic site condition standards pursuant to sub-subparagraph 4 i B of subsection 168.4 (1) of the Act.
2. The applicable stratified site condition standards pursuant to sub-subparagraph 4 i C of subsection 168.4 (1) of the Act. O. Reg. 153/04, s. 41 (2).

(3) In this section,

“area of natural significance” means any of the following:

1. A provincial park designated by a regulation under the *Provincial Parks Act*.
2. A conservation reserve established under the *Public Lands Act*.
3. An area of natural and scientific interest (life science) identified by the Ministry of Natural Resources as having provincial significance.
4. A wetland identified by the Ministry of Natural Resources as having provincial significance.
5. An area designated by a municipality in its official plan as environmentally significant, however expressed, including designations of areas as environmentally sensitive, as being of environmental concern and as being ecologically significant.
6. An area designated as an escarpment natural area or an escarpment protection area by the Niagara Escarpment Plan under the *Niagara Escarpment Planning and Development Act*.
7. A habitat of endangered or threatened species identified by the Ministry of Natural Resources.
8. Property within an area designated as a natural core area or natural linkage area within the area to which the Oak Ridges Moraine Conservation Plan under the *Oak Ridges Moraine Conservation Act, 2001* applies;

“extract test” means a test conducted in accordance with the Toxicity Characteristic Leaching Procedure, Method 1311 that appears in the United States Environmental Protection Agency Publication SW - 846 entitled “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, dated July, 1992, as it may be amended from time to time, or an equivalent test method approved by the Director;

“shallow soil property” means a property of which 1/3 or more of the area consists of soil equal to or less than 2 metres in depth beneath the soil surface, excluding any non-soil surface treatment such as asphalt, concrete or aggregate, but does not include either of the following:

1. A property that has ground water within such soil, if the concentrations of the contaminants in the ground water do not exceed the applicable standards set out in Table 6 of the Soil, Ground Water and Sediment Standards.
2. A property that has ground water beneath such soil, if an extract test of the soil indicates that the concentrations of the contaminants in the extract do not exceed the applicable standards set out in Table 6 of the Soil, Ground Water and Sediment Standards.

“soil” means, for the purposes of the definition of shallow soil property, unconsolidated naturally occurring mineral particles and other naturally occurring material 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, and includes a mixture of soil and rock if less than 50 per cent by mass of the mixture is rock. O. Reg. 153/04, s. 41 (3).

### **Soil textures, applicable standards**

**42.** (1) If, in respect of a contaminant, a cell in a table in the Soil, Ground Water and Sediment Standards sets one standard for coarse textured soil and another standard for medium and fine textured soil for the contaminant, the qualified person shall apply the following rules in determining which standard applies to a property for that contaminant:

1. If the qualified person determines that at least 1/3 of the soil at the property, measured by volume, consists of coarse textured soil, the qualified person shall apply the standard for coarse textured soil.
2. In any other case, the qualified person may apply the standard for medium and fine textured soil. O. Reg. 153/04, s. 42 (1).

(2) In this section,

“course textured soil” means soil that contains more than 50 per cent by mass of particles that are 75 micrometres or larger in mean diameter;

“medium and fine textured soil” means soil that contains 50 per cent or more by mass of particles that are smaller than 75 micrometres in mean diameter. O. Reg. 153/04, s. 42 (2).

### **Applicable site condition standard: “N/A”, “N/V” or not listed**

**43.** (1) If a cell in a table in the Soil, Ground Water and Sediment Standards indicates “N/A” or “N/V” in respect of a contaminant found in an environmental medium in relation to a type of property use, no applicable site condition standard is prescribed for that contaminant found in that environmental medium in relation to that type of property use. O. Reg. 153/04, s. 43 (1).

(2) In cases where a cell in a table in the Soil, Ground Water and Sediment Standards indicates “N/V” as referenced in subsection (1), if the contaminant is detected in the environmental medium in, on or under a property, the owner of the property may submit to the Director a new science risk assessment described in section 9 of Schedule C, if the owner or qualified person is of the opinion that a risk assessment is necessary in order to complete the certifications in a record of site condition prescribed by Schedule A. O. Reg. 153/04, s. 43 (2).

(3) In cases where a contaminant is detected on, in or under a property and the contaminant is not listed in the table that sets out the applicable site conditions standards in the Soil, Ground Water and Sediment Standards, the owner of the property may submit to the Director a new science risk assessment described in section 9 of Schedule C, if the owner or qualified person is of the opinion that a risk assessment is necessary in order to complete the certifications in a record of site condition prescribed by Schedule A. O. Reg. 153/04, s. 43 (3).

## **RISK ASSESSMENTS**

### **Risk assessment form**

**44.** (1) Subject to subsection (2) and section 45, a risk assessment shall be prepared and submitted in accordance with Schedule C. O. Reg. 153/04, s. 44 (1).

(2) A site specific risk assessment of a property as referred to in the Cleanup Guideline 1996 that was commenced, but not completed, before this Regulation came into force satisfies the requirements of this Regulation if,

(a) in an appendix to the risk assessment report prepared and submitted in accordance with Schedule C, a qualified person certifies in writing that the components of the site specific risk assessment completed before this Regulation came into force meet the requirements of this Regulation with respect to a risk assessment, except that they were not completed by a qualified person; and

(b) a risk assessment is completed that consists of,

(i) a review by a qualified person of those components of the site specific risk assessment completed before this Regulation came into force, and

(ii) the completion of those components required under Schedule C that were not completed at the time this Regulation came into force. O. Reg. 153/04, s. 44 (2).

(3) A site specific risk assessment of a property as referred to in the Cleanup Guideline 1996 that was submitted to Ministry, but not approved by the Ministry under the Guideline before this Regulation came into force, satisfies the requirements of this Regulation, if the Director determines that the site specific risk assessment complies with the requirements specified in section 4 of Schedule C, except that the site specific risk assessment was not completed by a qualified person. O. Reg. 153/04, s. 44 (3).

### **Transition**

**45.** (1) If a site specific risk assessment in respect of a property was completed and submitted to the Ministry under the Cleanup Guideline 1996 before this Regulation came into force and was approved by the Ministry under the Guideline, the approved site specific assessment is deemed to be a risk assessment that has been accepted by the Director under section 168.5 of the Act for the purposes of the Act and this Regulation. O. Reg. 153/04, s. 45 (1).

(2) The following provisions do not apply to a site specific risk assessment that is deemed to be a risk assessment under subsection (1), if the site specific risk assessment does not specify a standard with respect to a contaminant:

1. Sub-subparagraph 4 (ii) C of subsection 168.4 (1) of the Act.
2. Paragraph 3 of subsection 21 (2) of Schedule A.
3. Paragraph 3 of subsection 22 (2) of Schedule A.
4. Paragraph 3 of subsection 23 (2) of Schedule A.
5. Paragraph 3 of subsection 24 (2) of Schedule A.
6. Paragraph 3 of subsection 25 (2) of Schedule A. O. Reg. 153/04, s. 45 (2).

### **Time to respond to risk assessment**

**46.** (1) The period of time prescribed for the purposes of subsection 168.5 (1) of the Act for notice to be given in relation to a risk assessment submitted by the owner to the Director is as follows:

1. In the case of a limited scope risk assessment described in section 7 of Schedule C or an estimation of natural local background concentration risk assessment described in section 8 of Schedule C, eight weeks after the date of submission.
2. In the case of a new science risk assessment described in section 9 of Schedule C or a wider area of abatement risk assessment described in section 10 of Schedule C, 22 weeks after the date of submission.

3. In any other case, 16 weeks after the date of submission. O. Reg. 153/04, s. 46 (1).

(2) If, at any time after the submission of a risk assessment report and before the Director has made a decision on the risk assessment under section 168.5 of the Act, the Director becomes aware of one of the following circumstances, the Director may notify the owner in writing of the circumstance:

1. The type of approach taken by the risk assessment is not appropriate given the circumstances of the contaminant and the property to which the risk assessment relates.

2. The content of the risk assessment report does not comply with a requirement specified in section 4 or 5 of Schedule C.

3. The risk assessment report does not contain sufficient data or information to support the conclusions reached in the report. O. Reg. 153/04, s. 46 (2).

(3) A notice under subsection (2) may request that the owner,

(a) revise and resubmit the risk assessment to the Director in accordance with the directions specified in the notice; or

(b) provide specified additional information for the risk assessment report by the date and time specified in the notice. O. Reg. 153/04, s. 46 (3).

(4) If the Director gives notice under clause (3) (a), the period of time for the purposes of subsection (1) shall commence on the date that the qualified person submits the revised risk assessment in accordance with the Director's notice. O. Reg. 153/04, s. 46 (4).

(5) If the Director gives notice under clause (3) (b), the period of time for the purposes of subsection (1) stops on the date the notice is issued and resumes on the date the information specified in the notice is provided to the Director. O. Reg. 153/04, s. 46 (5).

(6) At any time after an owner submits a risk assessment under subsection 168.5 of the Act to the Director, the owner may withdraw the risk assessment by giving written notice to the Director. O. Reg. 153/04, s. 46 (6).

#### MEETING SITE CONDITION AND RISK ASSESSMENT STANDARDS

##### **Analytical procedures**

**47.** (1) Where a qualified person takes a sample of sediment, soil or ground water from in, on or under a property for the purpose of analysing the sample for a contaminant as part of a phase two environmental site assessment or a risk assessment or for the purpose of indicating the maximum concentration of a contaminant in, on or under the property in a record of site condition, the qualified person shall ensure that,

(a) the samples are collected and handled in accordance with the Analytical Protocol; and

(b) the analysis of the samples mentioned in clause (a) are carried out by a laboratory that,

(i) has been accredited in accordance with the International Standard ISO/IEC 17025 – General Requirement for the Competence of Testing and Calibration Laboratories, dated December 15, 1999, as amended from time to time, and

(ii) has been accredited in accordance with the standards, if standards for proficiency testing have been developed by the Standards Council of Canada for a parameter set out in the Soil, Ground Water and Sediment Standards.

O. Reg. 153/04, s. 47 (1).

(2) If a sample mentioned in subsection (1) is submitted by a qualified person to a laboratory for analysis for a contaminant, the laboratory shall,

(a) conduct the analysis for the contaminant in accordance with the Analytical Protocol; and,

(b) give a written report to the qualified person that specifies the analytical method used for conducting the analysis for the contaminant. O. Reg. 153/04, s. 47 (2).

(3) Despite subsection (2), the analysis of a sample for a contaminant may be conducted by a laboratory using a method other than a method specified in the Analytical Protocol if the laboratory obtains the written permission of the Director to use that analytical method for that contaminant. O. Reg. 153/04, s. 47 (3).

(4) The qualified person mentioned in subsection (2) shall obtain from the laboratory mentioned in subsection (2) written confirmation that the laboratory has conducted its analysis for a contaminant,

(a) in accordance with the Analytical Protocol; or

(b) in accordance with an analytical method for which the laboratory has obtained the written permission of the Director under subsection (3). O. Reg. 153/04, s. 47 (4).

(5) In this section,

“Analytical Protocol”, means the “Protocol for Analytical Methods Used in the Assessment of Properties under Part XV.1 of the Environmental Protection Act” published by the Ministry and dated March 9, 2004, as it may be amended from time to time. O. Reg. 153/04, s. 47 (5).

### **Meeting standards**

**48.** (1) For the purposes of section 168.4 of the Act and this Regulation, a property meets an applicable site condition standard or a standard specified for a contaminant in a risk assessment, if, subject to subsection (2), the standard is met at each sampling point from which a sample is taken in, on or under the property and in no other circumstances. O. Reg. 153/04, s. 48 (1).

(2) If two or more samples of soil or sediment are taken from sampling points at the same sampling location that are at the same depth in, on or under the property, the property meets a standard mentioned in subsection (1) if the average of the sampling results meets the standard and in no other circumstances. O. Reg. 153/04, s. 48 (2).

(3) If, having regard to any phase one and phase two environmental site assessments for a property, a qualified person determines that an applicable site condition standard is exceeded at the property solely because a substance has been used on a highway for the purpose of keeping the highway safe for traffic under conditions of snow or ice or both, as provided for under section 2 of Regulation 339 of the Revised Regulations of Ontario, 1990 (Classes of Contaminants — Exemptions), the applicable site condition standard is deemed not to be exceeded for the purpose of Part XV.1 of the Act. O. Reg. 153/04, s. 48 (3).

(4) In this section,

“sampling location”, means an area of the property that does not have a radius larger than two metres. O. Reg. 153/04, s. 48 (4).

### **Meeting petroleum hydrocarbon standards**

**49.** (1) A property does not meet an applicable site condition standard in relation to a petroleum hydrocarbon unless the qualified person has determined that there is no evidence of free product, including but not limited to, any visible petroleum hydrocarbon film or sheen present in the ground water or surface water or in any ground water or surface water samples. O. Reg. 153/04, s. 49 (1).

(2) A property does not meet an applicable potable ground water site condition standard unless the qualified person has determined that the ground water is free from objectionable petroleum hydrocarbon odour and taste. O. Reg. 153/04, s. 49 (2).

**Note: Part X comes into force on the day subsection 2 (38) of the *Brownfields Statute Law Amendment Act, 2001* comes into force. See: O. Reg. 153/04, s. 55 (3).**

## **PART X CERTIFICATES OF PROPERTY USE**

### **Certificate of property use, notice**

**50.** For the purposes of subsection 168.6 (5) of the Act, the following persons are prescribed to receive notice in relation to a certificate of property use:

1. A chief building official as defined in the *Building Code Act, 1992* of the municipality in which the property is located.
2. The clerk of the local municipality in which the property is located.
3. The clerk of any upper-tier municipality in which the property is located.
4. If the property is located in an area in which a board of health, planning board or conservation authority has jurisdiction under section 3.1 of the *Building Code Act, 1992*, in each of the following:
  - i. The inspector appointed under that section who has the same powers and duties in relation to sewage systems as does the chief building official in respect of buildings.
  - ii. The medical officer of health of the board of health, or the secretary-treasurer of the planning board or conservation authority. O. Reg. 153/04, s. 50.

### **Certificate of property use, prohibition on construction or use**

**51.** Sections 8 and 10 of the *Building Code Act, 1992* are prescribed for the purposes of subsection 168.6 (6) of the Act. O. Reg. 153/04, s. 51.

## **PART XI DANGEROUS CONTAMINANTS ORDERS**

### **Emergencies relating to old contaminants**

**52.** (1) For the purpose of subsection 168.8 (5) of the Act, notice of an order shall set out the number and date of issue of the order. O. Reg. 153/04, s. 52 (1).

(2) For the purpose of subsection 168.8 (6) of the Act, notice of compliance with an order shall set out the number and date of issue of the order, and the date on which the Director became satisfied that the order has been complied with. O. Reg. 153/04, s. 52 (2).

### **Exceptional circumstances, municipalities**

**53.** (1) For the purpose of subsection 168.14 (6) of the Act, notice of an order shall set out the number and date of issue of the order. O. Reg. 153/04, s. 53 (1).

(2) For the purpose of subsection 168.14 (7) of the Act, notice of compliance with an order shall set out the number and date of issue of the order, and the date on which the Director became satisfied that the order has been complied with. O. Reg. 153/04, s. 53 (2).

### **Exceptional circumstances, secured creditors, receivers and trustees in bankruptcy**

**54.** (1) For the purpose of subsection 168.20 (9) of the Act, notice of an order shall set out the number and date of issue of the order. O. Reg. 153/04, s. 54 (1).

(2) For the purpose of subsection 168.20 (10) of the Act, notice of compliance with an order shall set out the number and date of issue of the order, and the date on which the Director became satisfied that the order has been complied with. O. Reg. 153/04, s. 54 (2).

**55.** Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 153/04, s. 55.

## **SCHEDULE A RECORD OF SITE CONDITION**

### **PART I INTERPRETATION AND APPLICATION**

1. (1) In this Schedule,

“certification date”, in relation to a record of site condition, means the certification date applicable to the record of site condition;

“RSC” means a record of site condition under Part XV.1 of the Act;

“RSC property”, in relation to a record of site condition, means the property in respect of which the record of site condition is filed;

“RSC property use”, in relation to a record of site condition, means the type of property use in respect of which the record of site condition is filed.

(2) The certifications, information and documents required by this Schedule are in addition to the information required under section 168.4 of the Act.

2. The RSC and documents included in the RSC shall be filed in a form acceptable to the Director and the Director may require that the RSC and documents be filed in an acceptable electronic form.

### **PART II OWNER’S OBLIGATIONS**

3. This Part applies to every RSC that is filed in respect of a property.

4. The person who is filing the RSC in respect of the property shall ensure that the RSC contains the following information:

1. The name, mailing address, telephone number, e-mail address and fax number of the owner of the RSC property who is filing or authorizing the filing of the RSC.

2. The name of a contact person for the owner if the owner is a corporation or a partnership.

3. The name and mailing address of any other current owner of the RSC property and, if the other owner is a corporation or partnership, the name of a contact person for the other owner.

4. For the RSC property, a legal description, municipal address, assessment roll number, property identification number and GIS compatible coordinates of the

centroid of the property

5. The current type of use of the property and, if the owner intends to change the type of use of the property, the proposed type of use.

6. An indication of whether a certificate of property use has been issued under section 168.6 of the Act for the RSC property and if so, the certificate of property use number.

5. The person who is filing the RSC in respect of the property shall ensure that the following documents are contained in the RSC:

1. If the owner is a corporation, a certified copy of the Certificate of Status.

2. If the owner is a partnership, a certified copy of the Business Names Report, if one exists.

3. If the person who is filing the RSC is not the owner of the property, proof of the owner's authorization to file the RSC.

4. If the owner has authorized an agent to make the statements required under subsection 6 (1) on their behalf, proof of the owner's authorization to make the statements and to sign the RSC on their behalf.

5. If the owner is a receiver, proof of appointment as receiver, including any order, or proof that the receiver has taken possession or control of the property.

6. If the owner is a not receiver, a copy of the deed or transfer by which the RSC property was acquired by the owner, even if the deed or transfer includes other property in addition to the RSC property.

7. If the RSC property is a part of a larger property that is the subject of the deed or transfer, a copy of a survey of the RSC property prepared by an Ontario land surveyor.

8. If a certification is made by a qualified person under paragraph 1 or 2 of subsection 16 (2), a copy of a survey that indicates the location on the RSC property where the phase two environmental site assessment was conducted.

6. (1) The person who is filing the RSC shall ensure that the owner of the RSC property or their agent signs and dates the RSC and makes the following statements in the RSC, in the language set out in this section, in relation to the part of the RSC that includes the information and statements required by this Part:

1. I acknowledge that the RSC will be filed in the Environmental Site Registry, that records of site condition that are filed in the Registry are available for examination by the public and that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry.

2. I have conducted reasonable inquiries to obtain all information relevant to this RSC, including information from the other current owners of the RSC property named in this part of the RSC.

3. I have disclosed all information referred to in paragraph 2 to any qualified person named in this RSC.

4. To my knowledge, the statements made in this part of the RSC are true as of [*insert date on which the owner or the owner's agent signs the RSC*].

(2) If an agent makes the certifications on behalf of the owner under subsections (1), the agent shall make the following statement, using the language set out in this subsection:

I certify that I have been authorized by the owner of the RSC property to make the statements prescribed by this section on their behalf and that the owner of the RSC property has read and understands the statements being made on their behalf.

### **PART III NO PHASE TWO ESA CONDUCTED**

7. This Part applies to a RSC filed in respect of a property if a phase two environmental site assessment was not conducted for any part of the property.
8. A qualified person shall complete, sign and date the part of the RSC that includes the information, certifications and statements required by this Part.
9. The qualified person shall provide in the RSC the following information and documents:
1. The name, mailing address, telephone number, e-mail address and fax number of the qualified person.
  2. If the qualified person is an employee of a corporation, the name of the corporation and a certified copy of the Certificate of Status of the corporation.
  3. If the qualified person is an employee of a partnership or a member of a partnership, the name of the partnership and a certified copy of any Business Names Report, if one exists.
  4. The mailing address, telephone number, e-mail address and fax number of the clerk of the local municipality and of the clerk of any upper-tier municipality in which the property is located.
  5. The name of the local district office of the Ministry of the Environment in whose territory the property is located.
10. The qualified person shall certify, in the language set out in this section, the following in the RSC:
1. A phase one environmental site assessment of the RSC property, which includes the evaluation of the information gathered from a records review, site visit and interviews, has been conducted in accordance with the regulation by or under the supervision of a qualified person as required by the regulation.
  2. As of [*insert the certification date*], no phase two environmental site assessment is required by the regulation for any part of the RSC property and based on the phase one environmental site assessment for the RSC property, in my opinion, it is not necessary for any other reason to conduct a phase two environmental site assessment for any part of the RSC property.
  3. As of [*insert the certification date*], in my opinion, based on the phase one environmental site assessment, there is no evidence of any contaminants in the soil, ground water or sediment on, in or under the RSC property that, if the RSC property were put to any of the types of property uses listed in subsection 1 (2) of the regulation, are likely to interfere with any of those types of property uses.
11. The qualified person shall provide in the RSC,
- (a) the total area of the RSC property in hectares;
  - (b) a list of reports or other documents, setting out title, author and date, relied upon in certifying the information set out in section 10;



(c) the RSC number of any previous RSC that has been filed in the Registry, if the previous RSC applies to any part of the RSC property; and

(d) the transition notice number of any previous transition notice that has been filed in the Registry, if the previous transition notice applies to any part of the RSC property.

12. The qualified person shall, in the RSC, make, using the language set out in this section, the following statements in relation to the part of the RSC that includes the information, certifications and statements required by this Part:

1. I am a qualified person and have the qualifications required by section 5 of the regulation.
2. I have in place an insurance policy that satisfies the requirements of section 7 of the regulation.
3. I acknowledge that the RSC will be filed in the Environmental Site Registry, that records of site condition that are filed in the Registry are available for examination by the public and that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry.
4. The opinions expressed in this RSC are engineering or scientific opinions made in accordance with generally accepted principles and practices as recognized by members of the environmental engineering or science profession or discipline practising at the same time and in the same or similar location.
5. To the best of my knowledge, the certifications and statements in this part of the RSC are true as of [*insert certification date*].
6. By signing this RSC, I make no express or implied warranties or guarantees.

#### **PART IV PHASE TWO ESA CONDUCTED**

##### GENERAL

13. This Part applies to a RSC filed in respect of a property if a phase two environmental site assessment was conducted for any part of the property.

14. A qualified person shall complete, sign and date the part of the RSC that includes the information, certifications and statements required by this Part.

15. The qualified person shall provide in the RSC the following information and documents:

1. The name, mailing address, telephone number, e-mail address and fax number of the qualified person.
2. If the qualified person is an employee of a corporation, the name of the corporation and a certified copy of the Certificate of Status of the corporation.
3. If the qualified person is an employee of a partnership or a member of a partnership, the name of the partnership and a certified copy of any Business Names Report, if one exists.
4. The mailing address, telephone number, e-mail address and fax number of the clerk of the local municipality and of the clerk of any upper-tier municipality in which the property is located.

5. The name of the local district office of the Ministry of the Environment in whose territory the property is located.

#### ENVIRONMENTAL SITE ASSESSMENTS AND RISK ASSESSMENTS

16. (1) The qualified person shall certify, in the language set out in paragraph 1, the following in the RSC:
  1. A phase one environmental site assessment of the RSC property, which includes the evaluation of the information gathered from a records review, site visit and interviews, has been conducted in accordance with the regulation by or under the supervision of a qualified person as required by the regulation.
- (2) If there is a part of the RSC property for which a phase two environmental site assessment was not conducted, in addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC:
  1. As of [*insert certification date*], no phase two environmental site assessment is required by the regulation for that part of the RSC property and based on the phase one site environmental site assessment for the RSC property, in my opinion, it is not necessary for any other reason to conduct a phase two environmental site assessment for that part.
  2. As of [*insert certification date*], in my opinion, based on the phase one environmental site assessment, there is no evidence of any contaminants in the soil, ground water or sediment on, in or under that part of the RSC property that, if that part of the RSC property were put to any of the types of property uses listed in subsection 1 (2) of the regulation, are likely to interfere with any of those types of property uses.
17. The qualified person shall certify, in the language set out in this subsection, the following in the RSC:
  1. I have conducted or supervised a phase two environmental site assessment, which includes the evaluation of information gathered through the sampling and analysis of soil and other site investigation or assessment activities, of all or part of the RSC property with respect to one or more contaminants, in accordance with the regulation.
  2. The information represents the site conditions at the sampling points at the time of sampling only and the conditions between and beyond the sampling points may vary.
  3. As of [*insert certification date*], in my opinion, based on the phase one environmental site assessment and the phase two environmental site assessment, and any confirmatory sampling, there is no evidence of any contaminants in the soil, ground water or sediment on, in or under the RSC property that would interfere with the type of property use to which the RSC property will be put, as specified in the RSC.
18. The qualified person shall provide in the RSC,
  - (a) the total area of the RSC property in hectares;
  - (b) if there is part of the RSC property for which a phase two environmental assessment was not conducted, the area of that part of the RSC property in hectares;
  - (c) the RSC number of any previous RSC that has been filed in the Registry, if the

previous RSC applies to any part of the RSC property;

(d) the transition notice number of any previous transition notice that has been filed in the Registry, if the previous transition notice applies to any part of the RSC property;

(e) if a risk assessment has been accepted by the Director in relation to the RSC property under section 168.5 of the Act, the identification number of the risk assessment;

(f) if a risk assessment has been conducted in relation to the RSC property, an indication of whether the risk assessment was a site specific risk assessment completed and approved in accordance with the Cleanup Guideline 1996.

#### SITE CONDITION STANDARDS

19. (1) The qualified person shall make a statement in the RSC as to which of the site condition standards has been applied to the RSC property and shall specify in the statement whether potable ground water site condition standards or non-potable site condition standards were applied to the RSC property.

(2) If non-potable ground water standards prescribed under section 37 or 39 of the regulation have been applied, the qualified person shall certify, in the language set out in this subsection, the following:

1. One of the following certifications:

i. The owner of the property or a person authorized by the owner of the property has informed me that the owner of the property has given written notice of intention to apply non-potable ground water site condition standards to the clerk of the local municipality in which the property is located and the clerk of any upper-tier municipality in which the property is located.

ii. I have given written notice of intention to apply non-potable ground water site condition standards to the clerk of the local municipality in which the property is located and the clerk of any upper-tier municipality in which the property is located.

2. The owner of the property has informed me that either,

i. the owner did not receive a notice of objection from either the local municipality or the upper-tier municipality within 30 days of the municipality or upper-tier municipality receiving the notice described in paragraph 1, or

ii. after receiving a notice of objection from the municipality, the municipality has withdrawn its objection and given written consent to the application of non-potable ground water standards.

3. I did not receive a notice of objection from either the local municipality or the upper-tier municipality within 30 days of the municipality receiving the notice described in paragraph 1, or, after I received a notice of objection from the municipality, the municipality gave written consent to the application of non-potable ground water standards.

#### GROUND WATER SAMPLING

20. The qualified person shall make a statement in the RSC as to whether ground water sampling has been carried out at the RSC property and, if so, the qualified person shall certify, in the language set out in this subsection, the following:

1. As of *[insert certification date]*, in my opinion, based on the phase one and phase two environmental site assessments, and any confirmatory sampling, which included the sampling and analysis of soil, it is not necessary to conduct sampling and analysis of ground water quality for the RSC property to make the certified statement set out in paragraph 3 of section 17 of Schedule A.

#### FULL DEPTH BACKGROUND SITE CONDITION STANDARDS

21. (1) The qualified person shall certify in the RSC, in the language set out in this subsection, the following in relation to the RSC property, if the full depth background site condition standards prescribed by section 34 of the regulation were applied to the RSC property:

1. As of *[insert certification date]*, in my opinion, based on the phase one and phase two environmental site assessments and any confirmatory sampling, the RSC property meets the applicable full depth background site condition standards prescribed by section 34 of the regulation for all contaminants prescribed by the regulation in relation to the type of property use for which this RSC is filed, except for those contaminants (if any) specified in this RSC at *[insert Table number]*.
2. As of *[insert certification date]*, the maximum known concentration of each contaminant in soil, sediment and ground water at the RSC property for which sampling and analysis has been performed is specified in this RSC at *[insert Table number]*.

(2) In addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC, if there is any contaminant excepted from the certification mentioned in paragraph 1 of subsection (1) or if there is any other contaminant that in the opinion of the qualified person is likely to cause an adverse effect:

1. A risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted.
2. The Director has accepted the risk assessment under clause 168.5 (1) (a) of the Act.
3. As of *[insert certification date]*, the property for which the phase two environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.

#### FULL DEPTH GENERIC SITE CONDITION STANDARDS, POTABLE GROUND WATER

22. (1) If the full depth generic site condition standards prescribed by section 36 of the regulation were applied to the RSC property, the qualified person shall certify in the RSC, in the language set out in this subsection, the following in relation to the RSC property:

1. As of *[insert certification date]*, in my opinion, based on the phase one and phase two environmental site assessments and any confirmatory sampling, the RSC property meets the applicable full depth generic site condition standards prescribed by section 36 of the regulation for all contaminants prescribed by the regulation in relation to the type of property use for which this RSC is filed, except for those contaminants (if any) specified in this RSC at *[insert Table number]*.
2. As of *[insert certification date]*, the maximum known concentration of each contaminant in soil, sediment and ground water at the RSC property for which sampling and analysis has been performed is specified in this RSC at *[insert Table*

*number*].

(2) In addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC, if there is any contaminant excepted from the certification mentioned in paragraph 1 of subsection (1) or if there is any other contaminant that in the opinion of the qualified person is likely to cause an adverse effect:

1. A risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted.
2. The Director has accepted the risk assessment under clause 168.5 (1) (a) of the Act.
3. As of [*insert certification date*], the property for which the phase two environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.

#### FULL DEPTH GENERIC SITE CONDITION STANDARDS, NON-POTABLE GROUND WATER

23. (1) If the full depth generic site condition standards prescribed by section 37 of the regulation were applied to the RSC property, the qualified person shall certify in the RSC, in the language set out in this subsection, the following in relation to the RSC property:

1. As of [*insert certification date*], in my opinion, based on the phase one and phase two environmental site assessments and any confirmatory sampling, the RSC property meets the applicable full depth generic site condition standards prescribed by section 37 of the regulation for all contaminants prescribed by the regulation in relation to the type of property use for which this RSC is filed, except for those contaminants (if any) specified in this RSC at [*insert Table number*].
2. As of [*insert certification date*], the maximum known concentration of each contaminant in soil, sediment and ground water at the RSC property for which sampling and analysis has been performed is specified in this RSC at [*insert Table number*].

(2) In addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC, if there is any contaminant excepted from the certification mentioned in paragraph 1 of subsection (1) or if there is any other contaminant that in the opinion of the qualified person is likely to cause an adverse effect:

1. A risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted.
2. The Director has accepted the risk assessment under clause 168.5 (1) (a) of the Act.
3. As of [*insert certification date*], the property for which the phase two environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.

#### STRATIFIED SITE CONDITION STANDARDS, POTABLE GROUND WATER

24. (1) If the stratified site condition standards prescribed by section 38 of the regulation were applied to the RSC property, the qualified person shall certify in the RSC, in the language set out in this subsection, the following in relation to the RSC property:

1. As of [*insert certification date*], in my opinion, based on the phase one and phase

two environmental site assessments and any confirmatory sampling, the RSC property meets the applicable stratified site condition standards prescribed by section 38 of the regulation for all contaminants prescribed by the regulation in relation to the type of property use for which this RSC is filed, except for those contaminants (if any) specified in this RSC at *[insert Table number]*.

2. As of *[insert certification date]*, the maximum known concentration of each contaminant in soil, sediment and ground water at the RSC property for which sampling and analysis has been performed is specified in this RSC at *[insert Table number]*.

(2) In addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC, if there is any contaminant excepted from the certification mentioned in paragraph 1 of subsection (1) or if there is any other contaminant that in the opinion of the qualified person is likely to cause an adverse effect:

1. A risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted.
2. The Director has accepted the risk assessment under clause 168.5 (1) (a) of the Act.
3. As of *[insert certification date]*, the property for which the phase two environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.

#### STRATIFIED SITE CONDITION STANDARDS, NON-POTABLE GROUND WATER

25. (1) If the stratified site condition standards prescribed by section 39 of the regulation were applied to the RSC property, the qualified person shall certify in the RSC, in the language set out in this subsection, the following in relation to the RSC property:

1. As of *[insert certification date]*, in my opinion, based on the phase one and phase two environmental site assessments and any confirmatory sampling, the RSC property meets the applicable stratified site condition standards prescribed by section 39 of the regulation for all contaminants prescribed by the regulation in relation to the type of property use for which this RSC is filed, except for those contaminants (if any) specified in this RSC at *[insert Table number]*.
2. As of *[insert certification date]*, the maximum known concentration of each contaminant in soil, sediment and ground water at the RSC property for which sampling and analysis has been performed is specified in this RSC at *[insert Table number]*.

(2) In addition to the information certified under subsection (1), the qualified person shall certify, in the language set out in this subsection, the following in the RSC, if there is any contaminant excepted from the certification mentioned in paragraph 1 of subsection (1) or if there is any other contaminant that in the opinion of the qualified person is likely to cause an adverse effect:

1. A risk assessment was prepared for the contaminant with respect to the property for which the phase two environmental site assessment was conducted.
2. The Director has accepted the risk assessment under clause 168.5 (1) (a) of the Act.
3. As of *[insert certification date]*, the property for which the phase two

environmental site assessment was conducted meets the standards specified in the risk assessment for the contaminant.

#### REPORTS AND OTHER DOCUMENTS

26. The qualified person shall provide a list of reports or other documents, setting out title, author and date, relied upon in making any certifications in the RSC for the purposes of this Part.

#### REMEDIAL ACTION AND MITIGATION

27. The qualified person shall provide a description of any soil removals or other action taken to reduce the concentration of contaminants on, in or under the RSC property for the purposes of filing the RSC, in accordance with sections 28 to 34.

28. (1) The qualified person shall identify the estimated quantities of the soil, if any, originating at and remaining on the RSC property that have been remediated, at a location either on or off the property, to reduce the concentration of contaminants in the soil.

(2) The qualified person shall report estimated soil quantities as measured in, or equivalent to, in-ground volume in cubic metres.

(3) In identifying the quantities of any soil for the purposes of subsection (1), the qualified person shall indicate the remediation process or processes used and the estimated amount of soil remediated by each identified process.

29. (1) The qualified person shall identify the estimated quantities of soil or sediment, if any, removed from and not returned to the RSC property.

(2) The qualified person shall report the estimated soil and sediment quantities as measured in, or equivalent to, the in-ground volume in cubic metres.

30. (1) The qualified person shall identify the estimated quantity of the soil, if any, being brought to and deposited at the RSC property, not including any soil that may have been remediated off the property and that is identified in section 28.

(2) The qualified person shall report the estimated soil quantity as measured in, or equivalent to, the in-ground volume in cubic metres.

31. The qualified person shall identify any ground water control or treatment measures that,

(a) were required for the RSC property prior to the certification date for the purpose of filing the RSC; or

(b) are required for the RSC property after the certification date.

32. Other than the activities identified in sections 28 to 31, the qualified person shall identify any constructed works to control or otherwise mitigate the release or movement of known existing contaminants that,

(a) were required for the RSC property prior to the certification date for the purpose of filing the RSC; or

(b) are required for the RSC property after the certification date.

33. (1) The qualified person shall indicate whether there are any monitoring requirements, or any requirements for care, maintenance or replacement of any monitoring or control works, for known existing contaminants, if any, on the RSC property, after the certification date.

(2) A qualified person who indicates that there are monitoring requirements, or requirements for care, maintenance or replacement of any monitoring or control works, shall indicate whether those requirements are ground water management measures or soil management

measures.

34. The qualified person shall indicate if any soil, sediment or ground water at the RSC property that is or was located within 3 metres of the RSC property boundary has been remediated or removed for the purpose of remediation.

#### COVERING STATEMENTS

35. The qualified person shall make the following statements in the RSC, using the language set out in this section, in relation to the part of the RSC that includes the information, certifications and statements required by this Part:

1. I am a qualified person, as defined in section 168.1 of the Act and have the qualifications required by section 5 of the regulation.
2. I have in place an insurance policy that satisfies the requirements of section 7 of the regulation
3. I acknowledge that the RSC will be filed in the Environmental Site Registry, that records of site condition that are filed in the Registry are available for examination by the public and that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry.
4. The opinions expressed in this RSC are engineering or scientific opinions made in accordance with generally accepted principles and practices as recognized by members of the environmental engineering or science profession or discipline practising at the same time and in the same or similar location.
5. To the best of my knowledge, the certifications and statements in this part of the RSC are true as of [*insert certification date*].
6. By signing this RSC, I make no express or implied warranties or guarantees.

O. Reg. 153/04, Sched. A.

#### SCHEDULE B TRANSITION NOTICE

1. In this Schedule,

“RSC” means record of site condition referred to in subsection 168.4 (6) of the Act; and

“RSC property”, in relation to a record of site condition, means the property in respect of which the record of site condition is filed.

2. The transition notice, the RSC and the documents specified in section 4 shall be filed in a form acceptable to the Director and the Director may require that the RSC and the documents be filed in an acceptable electronic form.

3. The person who is filing the transition notice and the RSC shall provide the following information in the transition notice:

1. The name, mailing address, telephone number, e-mail address and fax number of the RSC property owner who is filing or authorizing the filing of the transition notice and the RSC.
2. The name of a contact person for the owner if the owner is a corporation or a partnership.



3. The name and mailing address of any other current owner of the RSC property and, if the other owner is a corporation or partnership, the name of a contact person for the other owner.
  4. For the RSC property, a legal description, municipal address, assessment roll number, property identification number (if one exists) and GIS compatible coordinates of the centroid of the property.
  5. The following information from Part 3 of the RSC that was submitted to the Ministry under the Cleanup Guideline 1996:
    - i. an indication of whether a Phase 2 ESA has been completed,
    - ii. an indication of the assessment or restoration approach used in relation to the RSC property,
    - iii. an indication of the type of land use for the RSC property, and
    - iv. an indication of the ground water condition for the RSC property.
  6. The name, mailing address, telephone number, e-mail address and fax number of the qualified person on whom the owner relied in making the certification below.
  7. If the qualified person is an employee of a corporation, the name of the corporation.
  8. If the qualified person is an employee of a partnership or a member of a partnership, the name of the partnership.
  9. The mailing address, telephone number, e-mail address and fax number of the clerk of the local municipality and of the clerk of any upper-tier municipality in which the property is located.
  10. The name of the local district office of the Ministry of the Environment in whose territory the property is located.
4. The person who is filing the RSC in respect of the property shall provide the following documents:
1. If the owner is a corporation, a certified copy of the Certificate of Status.
  2. If the owner is a partnership, a certified copy of the Business Names Report, if one exists.
  3. If the person who is filing the RSC is not the owner of the property, proof of the owner's authorization to file the RSC.
  4. If the owner has authorized an agent to make the statements required under subsections 6 (1) and (2) on their behalf, proof of the owner's authorization to make the statements and to sign the transition notice on their behalf.
  5. If the owner is a receiver, proof of appointment as receiver, including any order or proof that the receiver has taken possession or control of the property.
  6. If the owner is not a receiver, a copy of the deed or transfer by which the RSC property was acquired by the owner, even if the deed or transfer includes other property in addition to the RSC property.
  7. If the RSC property is a part of a larger property that is the subject of the deed or transfer, a copy of a survey of the RSC property prepared by an Ontario land surveyor.
  8. If the qualified person is an employee of the corporation, a certified copy of the

Certificate of Status of the corporation.

9. If the qualified person is an employee of a partnership or a member of a partnership, a certified copy of the Business Names Report, if one exists.

5. The person who is filing the transition notice and the RSC shall make a statement in the transition notice either that,

(a) an order has been issued under the Act in respect of the property as a result of the approval by the Ministry of a site specific risk assessment completed in accordance with the Cleanup Guideline 1996; or

(b) an order has not been issued under the Act in respect of the property as a result of the approval by the Ministry of a site specific risk assessment completed in accordance with the Cleanup Guideline 1996.

6. (1) The person who is filing the transition notice and the RSC shall ensure that the owner of the RSC property or their agent signs and dates the transition notice and makes the following statements in the transition notice, using the language set out in this section:

1. I acknowledge that the RSC and the transition notice will be filed in the Environmental Site Registry, that the transition notices and records of site condition that are filed in the Registry are available for examination by the public and that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry.

2. I certify that the property for which the transition notice and the record of site condition is being filed is the same property or is entirely within the property in respect of which the record of site condition was submitted to the Ministry pursuant to the Cleanup Guideline 1996 before subsection 168.4 (6) of the Act came into force.

3. I certify that I retained a qualified person, whose name appears in the transition notice, who made the following written certifications to me:

i. The qualified person has the qualification required by section 5 of the regulation.

ii. The qualified person has in place an insurance policy that satisfies the requirements of section 7 of the regulation.

iii. The qualified person reviewed all of the following:

A. A copy of the record of site condition that was submitted to the Ministry pursuant to the Cleanup Guideline 1996 before subsection 168.4 (6) of the Act came into force and that was acknowledged as received by the Ministry.

B. The environmental reports listed in Part 2 of that record of site condition.

iv. On the basis of the review described in subparagraph iii:

A. The information set out in the record of site condition is consistent with the environmental reports listed in Part 2 of the record of site condition.

B. The land use specified in Part 3 of the record of site condition is

identified as one of agricultural, residential/parkland or industrial/commercial as set out in the Cleanup Guideline 1996.

C. The record of site condition was properly completed in accordance with the Cleanup Guideline 1996 and indicates that, as of the certification date, the property met the appropriate environmental site conditions for the land use specified in Part 3 of the record of site condition.

v. The opinions expressed by the qualified person to the owner or the owner's agent, as set out in the transition notice, are engineering or scientific opinions made in accordance with generally accepted principles and practices as recognized by members of the environmental engineering or science profession or discipline practising at the same time and in the same or similar location.

vi. The qualified person has acknowledged that the RSC and the transition notice will be filed in the Environmental Site Registry, that transition notices and records of site condition that are filed in the Registry are available for examination by the public and that the Registry contains a notice advising users of the Registry who have dealings with any property to consider conducting their own due diligence with respect to the environmental condition of the property, in addition to reviewing information in the Registry.

vii. In making the written certifications for the purposes of this transition notice, the qualified person makes no express or implied warranties or guarantees.

4. I certify that, to the best of my knowledge, the statements and certifications in this notice are true as of the date below.

(2) If the RSC is filed electronically, the owner or their agent shall certify that the RSC is an accurate representation of the record of site condition that was submitted to the Ministry pursuant to the Cleanup Guideline 1996.

(3) If an agent makes the certifications on behalf of the owner under subsections (1) and (2), the agent shall make the following statements, using the language set out in this subsection:

I certify that I have been authorized by the owner of the RSC property to make the statements prescribed by this section on their behalf and that the owner of the RSC property has read and understands the statements being made on their behalf.

O. Reg. 153/04, Sched. B.

## SCHEDULE C RISK ASSESSMENTS

### PART I MANDATORY REQUIREMENTS

#### Definitions

1. (1) In this Schedule,

“contaminants of concern” means,

(a) one or more contaminants found on, in or under a property that exceed the applicable site condition standards for the property, or

(b) one or more contaminants found on, in or under the property for which no applicable site condition standard is prescribed under Part IX (Site Condition Standards and Risk Assessment) of the regulation;

“RA property” means a property that is the subject of a risk assessment.

### **Components of a risk assessment**

2. (1) A risk assessment must include the following components:

1. The preparation and submission of a pre-submission form.
2. The conduct of an assessment of human health risk and of ecological risk.
3. The preparation of a written risk assessment report that includes a description of the assessments of risk described in paragraph 2.

(2) Paragraph 2 of subsection (1) does not apply to an estimation of natural local background concentration risk assessment that is described in section 8.

### **Mandatory requirements of a pre-submission form**

3. (1) Before completing the written risk assessment report referred to in paragraph 3 of subsection 2 (1), the property owner shall submit a pre-submission form to the Ministry for comment on the proposed risk assessment approach.

(2) The pre-submission form shall be prepared by a qualified person in accordance with this section using the form approved by the Director.

(3) The qualified person shall prepare the pre-submission form based on the results of the phase one environmental site assessment, the phase two environmental site assessment and on any other information that the qualified person considers relevant.

(4) The pre-submission form must contain the information specified in subsections (5) to (11) and any other information required by the Director.

(5) The pre-submission form must include the following:

1. The name, mailing address, telephone number, e-mail address and fax number of the owner of the RA property who is responsible for the submission of the risk assessment.
2. The name of a contact person for the owner, if the owner is a corporation or a partnership.
3. The name and mailing address of any other current owner of the RA property and, if the other owner is a corporation or partnership, the name of a contact person for the other owner.
4. For the RA property, a legal description, municipal address, property identification number and GIS compatible coordinates of the centroid of the property.
5. The current type of use of the RA property and, if the owner intends to change the type of use of the property, the proposed type of use.

(6) The pre-submission form must identify which of the following types of risk assessment approaches the qualified person intends to use for the risk assessment:

1. A limited scope risk assessment described in section 7.
2. An estimation of natural local background concentration risk assessment described in section 8.

3. A new science risk assessment described in section 9.
4. A wider area of abatement risk assessment described in section 10.
5. A standard risk assessment, which is a risk assessment that satisfies the requirements of section 4, but is not a risk assessment described in paragraphs 1 to 4.

(7) If the risk assessment will use one or more computer models in its preparation, the pre-submission form must identify which models.

(8) The pre-submission form must include information on the proposed conceptual site model that the qualified person intends to rely upon in the preparation of the parts of the risk assessment report described in report sections 3, 4 and 5 of Table 1 including,

(a) a site plan of the RA property and a diagram that shows one or more cross-sections of the property which convey,

(i) existing and historical sources of contaminants,

(ii) surface and sub-surface structures that affect contaminant distribution and transport,

(iii) locations where samples were taken at the RA property and which will be relied on for the purposes of the risk assessment, and

(iv) geological and hydrogeological interpretations which will be relied on in the risk assessment;

(b) for each of the sources of contaminants mentioned in subclause (a) (i), one or more diagrams, with explanatory notes, that clearly identify the release mechanisms, transport pathways, the human and ecological receptors located on and off the RA property, exposure points and routes of exposure; and

(c) one or more diagrams, with explanatory notes, showing the biota and food web relationships on and off the RA property which may be affected by contaminants on, in or under the RA property.

(9) The diagrams that are part of the conceptual site model mentioned in clauses (8) (b) and (c), must be prepared,

(a) taking into consideration the specific property use to which the RA property will be put and that no measure has been taken or will be taken at the RA property which has the effect of reducing the risk from a contaminant on, in or under the RA property, including any non-soil surface treatment such as asphalt, concrete or aggregate which may have been or will be applied to the RA property; and

(b) identifying any measures that have been taken or may be proposed at the RA property which have the effect of reducing the risk from a contaminant of concern on, in or under the RA property, including any non-soil surface treatment such as asphalt, concrete or aggregate which may have been or will be applied to the RA property.

(10) In respect of an estimation of natural local background concentration risk assessment described in section 8,

(a) clauses (8) (b) and (c) and subsection (9) do not apply; and

(b) in addition to the information specified in clause (8) (a), the pre-submission form must also include information on the methods described in subsections 8 (4) to (9) that will be used to support the natural local background concentration soil

standard that will be proposed under subsection 8 (1).

(11) The pre-submission form must include information about proposed public communication plans, if applicable.

(12) The Director shall review the pre-submission form and may provide comments with respect to it to the owner of the property.

(13) If, at any time after submitting the pre-submission form,

(a) the qualified person who is identified in the pre-submission form as being responsible for the preparation of the risk assessment changes; or

(b) the owner mentioned who is identified in the pre-submission form changes,

the property owner shall give notice to the Director of the change in circumstance.

### **Mandatory requirements of risk assessment reports**

4. (1) A risk assessment report shall be prepared by a qualified person and,

(a) must be divided into the report sections as specified in Table 1; and

(b) must include the headings and sub-headings set out in Table 1.

(2) A risk assessment report must address the minimum requirements set out in Table 1.

(3) A qualified person may include report sections, headings and sub-headings in addition to those set out in Table 1 and other information in the risk assessment report.

(4) Report sections 4 and 5 of Table 1 do not apply to an estimation of natural local background concentration risk assessment described in section 8.

(5) If a risk assessment assumes that the ground water under the RA property does not or will not serve as a raw water supply for a drinking-water system, as defined in the *Safe Drinking Water Act, 2002*, the owner shall give written notice to the clerk of the local municipality and of any upper-tier municipality where the property is located that,

(a) identifies the location of the RA property and the use to which it will be put;

(b) notifies the municipality that the qualified person intends to prepare a risk assessment in a manner that assumes that the ground water under the RA property does not or will not serve as a raw water supply for a drinking-water system; and

(c) requests the municipality to respond to the notice and to indicate whether the municipality objects to the assumption being made under clause (b) and, if there is an objection, the reasons for it.

(6) A risk assessment report must have the following attached as appendices to the report:

1. The pre-submission form submitted under section 3, including all attached documents, the Ministry response and how Ministry concerns, if any, were addressed.

2. The resumes for the qualified person who prepared the risk assessment report and for the team technical leads.

3. A list of the documents relied upon in the preparation of the risk assessment report.

4. A summary of the phase one environmental assessment and phase two environmental assessment reports, including justification for the sampling program used in undertaking the phase two environmental assessment, summary of quality assurance and quality controls used for the sampling program and analysis of the

samples, an assessment of whether the sampling program is sufficient for the purposes of the risk assessment and if not, a description of what further site investigations were conducted to support the risk assessment.

5. A copy of any reports documenting further site investigations conducted to support the risk assessment, if applicable.

6. A copy of the written notice of intention to conduct a risk assessment that assumes a non-potable ground water condition in preparing a risk assessment for the property given under subsection (5), if applicable and a copy of any response the municipality has given to the notice.

7. If the risk assessment recommends a risk management measure that involves engineering or hydrogeological controls, an engineering or hydrogeological report prepared by a qualified person mentioned in clause 5 (a) or (b) of the regulation that includes detailed plans and specifications of the engineering or hydrogeological controls or both.

### **Mandatory certifications**

5. (1) In an appendix to the risk assessment report, the qualified person shall certify the following, using the language set out in this section:

1. I have conducted or supervised a risk assessment report in accordance with the regulation.
2. I am a qualified person, as defined in section 168.1 of the Act, and have the qualifications required by section 6 of the regulation.
3. I have in place an insurance policy that satisfies the requirements of section 7 of the regulation.
4. The risk assessment team included members with expertise in all of the disciplines required to complete the risk assessment in accordance with the regulation.
5. The opinions expressed in the risk assessment are engineering or scientific opinions made in accordance with generally accepted principles and practices as recognized by members of the environmental engineering or science profession or discipline practising at the same time and in the same or similar location.
6. To the best of my knowledge, the certifications and statements in this risk assessment are true as of [*insert date of completion of risk assessment report*].
7. By making these certifications in this risk assessment report, I make no express or implied warranties or guarantees.

(2) In an appendix to the risk assessment report, the qualified person shall certify, in the language set out in this section, the following in relation to the RA property:

1. As of [*insert date of completion of risk assessment report*], it is my opinion that based on the phase one environmental site assessment and the phase two environmental site assessment and other relevant property information, the approach taken in the conduct of the risk assessment,
  - i. is appropriate to evaluate human health and ecological risks from the contaminants of concern at the concentrations proposed as the standards specified in the risk assessment and assuming no measures have been taken at the RA property which have the effect of reducing the risk from the contaminants, and

ii. is consistent with the approach set out in the pre-submission form with the exception of those deviations listed in section 1 of the report under the heading “Deviations from Pre-Submission Form”.

2. As of [*insert date of completion of risk assessment report*], it is my opinion that, taking into consideration the assumptions specified in the risk assessment report, including the use of the property specified in report section 3 of the risk assessment, and any risk management measures recommended in the report, as long as the RA property satisfies those assumptions and meets the standards specified in the risk assessment report, the contaminants of concern are unlikely to pose a human health or ecological risk greater than the level of risk that was intended in the development of the applicable full-depth site condition standards for those contaminants.

3. As of [*insert date of completion of risk assessment report*], it is my opinion that, (pick the applicable statement below),

i. no risk management plan is necessary for a contaminant of concern addressed in the risk assessment report to prevent, eliminate or ameliorate any adverse effect from that contaminant to the human or ecological receptors addressed in the report and located on the RA property, or

ii. the implementation of the risk management plan described in section 9 of the risk assessment report is necessary for a contaminant of concern addressed in the risk assessment report to prevent, eliminate or ameliorate any adverse effect from that contaminant to the human or ecological receptors addressed in the report and located on the RA property and is sufficient to address the current and potential future transport and exposure pathways.

4. As of [*insert date of completion of risk assessment report*], the risk assessment report completely and accurately reflects the risk assessment assumptions and conclusions and all pertinent information has been included in the report and the appendices to the report.

(3) If in report sections 4 and 5 of the risk assessment report under the heading “Risk Characterization”, the report concludes that the standards that are being proposed for the RA property are not likely to result in a concentration greater than the applicable full depth site condition standard for any of the human or ecological receptors that are addressed in the report and are located off the RA property, the qualified person shall certify, in the language set out in this subsection, the following in relation to the RA property and its impact on those receptors:

As of the submission date, it is my opinion that, taking into consideration the assumptions specified in the risk assessment report including any risk management measures recommended in the report, as long as the RA property satisfies those assumptions and meets the standards specified in the report, the applicable full depth site condition standards will likely be met at the nearest off-site ecological and human receptors identified in the report.

## **PART II ALTERNATIVE RISK ASSESSMENT PROCEDURES**

### **Alternative risk assessment procedures**

6. Risk assessment procedures may be modified in accordance with this Part.

### **Limited scope risk assessment**



7. A risk assessment is a limited scope risk assessment if sections 9 and 10 do not apply to it, no risk management is proposed or required to meet the target level of risk specified in report sections 4 and 5 of Table 1 under the heading "Risk Characterization" and if one of the following conditions is met:

1. One or more applicable site condition standards are exceeded but only in the ground water under the RA property and the source of the contaminant is or was located off the RA property.
2. The applicable full depth generic potable site condition standards are met for all environmental media, but section 41 of the regulation applies to the property.
3. The risk assessment uses the same models and assumptions used by the Ministry to develop the full depth generic site condition standards and the models and assumptions are appropriate, having regard to the characteristics of the RA property.

### **Estimation of natural local background concentrations**

8. (1) Where full depth background site condition standards provided in Table 1 of the Soil Ground Water and Sediment Standards are not technologically achievable on a property because of naturally elevated local background concentrations or are not provided by Table 1, a property owner may propose a natural local background concentration soil standard for a contaminant of concern by undertaking a soil sampling and analysis program in accordance with this section.

(2) A natural local background concentration for a contaminant of concern proposed under subsection (1) is a standard specified in a risk assessment.

(3) A risk assessment is an estimation of natural local background concentration risk assessment if the natural local background concentration soil standard proposed under subsection (1) for a contaminant of concern,

(a) does not exceed the applicable full depth generic potable site condition standard provided in Table 2 of the Soil Ground Water and Sediment Standards; and

(b) was estimated using the method described in subsections (4) to (9).

(4) The property owner shall ensure that samples are collected in accordance with the following procedures:

1. Samples must be collected from not less than 30 separate sampling locations, distributed over at least 10 physically separate geographical settings, as described in paragraph 3, that are representative of the local geology.
2. From at least one sampling location in each geographical setting, a minimum of two samples must be taken from sampling points at that same sampling location.
3. The sampling locations must be in areas that have not been affected by local point sources of air or land pollution, by local roads or highways or by other known sources of contaminant. The sampling locations may be in rural (agricultural property use) or urban (all other property uses) settings in Ontario. Suitable geographical settings include parks, cemeteries, forests, wood lots or large undeveloped tracks of land.
4. Subsections 48 (2) and (4) of the regulation apply with necessary modifications to samples collected under this subsection.

(5) Despite subsection (4), in areas of known, widespread soil contamination, where it is not possible to avoid the influence of historical industrial emissions to soil surfaces, the sampling

program may still be undertaken if,

- (a) it is designed to determine the change in contaminant of concern concentration as it varies with increased depth from the surface; and
- (b) the use of this sampling program approach can be justified.

(6) The sampling and analysis program shall be used to establish the 90th percentile of the concentration of the contaminants of concern present in the soil.

(7) The value established in accordance with subsection (6) is the natural local background concentration soil standard for that contaminant of concern at that property that shall be proposed under subsection (1).

(8) If the concentration of contaminants of concern show large variability, increased replicate sampling (that is, more than two replicate samples) and averaging the analytical results from the replicate sampling may be used to establish the 90th percentile.

(9) Despite subsections (4) to (8), existing geological summary data may also be used to estimate the natural local background concentrations in place of sampling data to support the soil standard proposal under subsection (1), if, in the opinion of the Director, the sampling method used to obtain the data provides data at least as accurate as the estimates that would be provided by the sampling method set out in subsection (4).

#### **New science risk assessment**

9. (1) A risk assessment is a new science risk assessment if the risk assessment satisfies one or more of the conditions set out in this section.

(2) A risk assessment is a new science risk assessment if a contaminant of concern is identified during a phase two environmental site assessment for which there is no applicable site condition standard, as described in subsections 43 (2) and (3) of the regulation, and the property owner,

- (a) chooses to develop a standard specified in the risk assessment by undertaking a risk assessment using quantitative analysis for both human health and the natural environment as described in this Schedule; or
- (b) adopts a standard from a credible agency.

(3) For the purposes of subsection (2), an agency is a credible agency if it incorporates one or more of the following in developing contaminant standards:

1. Rigorous peer review of the standards by regulatory bodies, public organizations or academic institutions or any combination of them.
2. A process to ensure the ongoing review and updating of the standards.
3. The standards and the rationale for setting the standards are publicly available.

(4) A risk assessment is a new science risk assessment if the risk assessment uses a computer model that,

- (a) is not available to the public; or
- (b) is available to risk assessment practitioners for a fee but has not been used by the Ministry.

(5) If a risk assessment uses a computer model referred to in subsection (4), the qualified person shall, upon the request of the Director, include an electronic copy of the computer model in the risk assessment report in a manner that does not violate any person's copyright or other intellectual property rights.

(6) If a risk assessment uses a computer model referred to in subsection (4), the following information shall be provided in the risk assessment report to support the selection and use of the computer model:

1. A list of assumptions used in the development of the model and a discussion of the validity of the assumptions for the RA property, including the effect invalid assumptions will have on the model results.
2. Any information used to generate the computer model inputs.

(7) A risk assessment is a new science risk assessment if there is use of a probabilistic model and may be used if it meets the criteria set out in subsection (8) and in no other circumstances.

(8) A risk assessment that uses a probabilistic model may be used if the model is used for the exposure assessments described in sections 4 and 5 of Table 1 and for no other purposes and shall be sufficiently supported by data.

### **Wider area of abatement risk assessment**

10. (1) A risk assessment is a wider area of abatement risk assessment if the Ministry has identified the RA property to be within a wider area of abatement in its comments on the pre-submission form or in a notice issued under subsection 46 (2) of the regulation.

(2) If the Ministry has identified the property to be within a wider area of abatement, the wider area of abatement risk assessment must include,

- (a) consultation with the applicable Ministry of the Environment District or Regional Office regarding the implications of the risk assessment report recommendations; and
- (b) development and implementation of a public communication plan.

### **Exemption**

11. Despite sections 4 and 5, if the Director considers it appropriate in the circumstances and in the public interest after having regard to the RA property, the contaminants of concern and the human and ecological receptors to be addressed in a risk assessment report, the Director in the course of providing comments on a pre-submission form submitted under subsection 3 (1) or in a notice issued under subsection 46 (2) of the regulation, may exempt the risk assessment report from,

- (a) a requirement in relation to the preparation of a risk assessment report specified in section 4;
- (b) a requirement to make a certification in an appendix to the risk assessment report as specified in section 5.

**TABLE 1  
MANDATORY REQUIREMENTS FOR RISK ASSESSMENT REPORTS**

Report Section	Heading	Sub-Heading	Minimum Requirements
1. Summary of Recommendations / Findings	Risk Assessment Objectives and Approach		Summarize the risk assessment objectives, including those specified in report section 4 (Human Health Risk Assessment) and report section 5 (Ecological Risk Assessment)
			Summarize the type or types of risk assessment approaches taken to meet the objectives.
	Deviations from Pre-submission Form		Describe in detail any deviations from the information provided in the pre-submission form including,
			(a) any changes to the conceptual site model that was submitted as part of the form;

			(b) whether there has been a change in the type of risk assessment approach identified in the form; and,
			(c) whether another computer model was used other than the model specified in the form.
	Risk Assessment Standards		State the proposed standard specified in the risk assessment for each contaminant of concern.
	Risk Assessment Assumptions		State the assumptions used in determining each standard specified in the risk assessment, including property use assumptions.
	Risk Management Requirements		State the risk management measures and on-going monitoring , maintenance and contingency plan requirements, if applicable.
2. Risk Assessment Team Membership			State the expertise required to complete this risk assessment and design of any risk management measures specified in report section 7 and justify the omission of areas of expertise normally associated with the completion of a risk assessment.
			Identify each team member with the expertise necessary to complete the risk assessment and state how their qualifications relate to the given role and expertise required for this risk assessment.
3. Property Information, Site Plan and Geological Interpretation	Property Information		State the property location and ownership
			Describe the general physical characteristics of the property including size of the property and size of contaminated area.
			Provide sufficient detail on the property to support the conceptual site model used in the preparation of the risk assessment report, including,
			(a) a summary of past and current use of property;
			(b) a summary of past and current use of any relevant property that is adjacent to the property;
			(c) a description of off-site sources of contaminants of concern and off-site receptors; and,
			(d) an indication of the proposed use of property.
	Site Plan and Hydrogeological Interpretation of RA Property		Provide the site plans, cross-sections and a hydrogeological interpretation of the RA property that satisfies the requirements of clause 3 (8) (a) and that was relied upon in the preparation of the risk assessment and all documentation used to support this interpretation.
	Contaminants of Concern		List all of the contaminants of concern.
			The contaminants of concern must include the following:
			1. Any contaminants detected on, in or under the RA property that exceed the applicable site condition standards.
			2. Any contaminants detected on, in or under the RA property and for which no applicable site condition standard is prescribed under Part IX (Site Condition Standards and Risk Assessment) of the regulation.
		Sampling Programs	With reference to the sampling programs summarized in the appendices to the risk assessment report, describe how the program is adequate for the risk assessment objectives and approach specified in report section 1.
			In the case of an estimation of natural local background concentration risk assessment, specify the methods that were used to estimate

			the local background concentrations in soil, including details of,
			(a) any sampling programs undertaken in accordance with subsections 8 (4) to (8);
			(b) any existing geological data, as described in subsection 8 (9) that were used to estimate the natural local background concentrations in place of sampling data.
4. Human Health Risk Assessment (HHRA)	Problem Formulation	Human Health Conceptual Site Model	Provide a human health conceptual site model that,
			(a) satisfies the requirements of clause 3 (8) (b);
			(b) explains how the information provided under report section 3 was incorporated into the human health conceptual site model; and,
			(c) was relied upon in the preparation of the risk assessment.
		Risk Assessment Objectives	State the objectives of the human health risk assessment and include an indication of,
			(a) the proposed use of the RA property;
			(b) the receptors and exposure pathways to be assessed by the human health risk assessment;
			(c) whether a qualitative or quantitative assessment of risk or both will be used in the human health risk assessment; and
			(d) the type of approach used for the human health risk assessment.
			Demonstrate that the data used for the human health risk assessment is sufficient to meet the objectives of the assessment, having regard to,
			(a) the data quality objectives specified in the reports on the sampling program summarized in the appendices to the risk assessment report; and
			(b) any other relevant information the qualified person has gathered or obtained in conducting the assessment.
			State how any uncertainty resulting from variable data, poor data quality or gaps in data in relation to the RA property affected,
			(a) the setting of objectives for the human health risk assessment; and
			(b) the ability to meet those objectives.
	Exposure Assessment	Receptor Characteristics	Describe in detail the characteristics of every human receptor, both on and off the RA property, identified in the human health conceptual site model.
		Pathway Analysis	Describe in detail every exposure pathway identified in the human health conceptual site model. Justify which exposure pathways are incomplete.
		Exposure Estimates	For every complete exposure pathway, state
			(a) the relative frequency and duration of actual or potential exposures;
			(b) the relative magnitude of exposure to the human receptors, using measured contaminant exposure concentrations or concentrations predicted through fate and transport modelling; and
			(c) given the uncertainty described under the heading of "Problem Formulation", how does this uncertainty affect the outcomes of the exposure assessments conducted under clauses (a) and (b).
	Toxicity Assessment	Nature of Toxicity (Hazard Assessment)	For each contaminant of concern,
			(a) state the potential adverse health effects on the human receptors associated with their

			exposure to those contaminants; and
			(b) indicate whether the contaminants are carcinogenic or exhibit threshold or non-threshold characteristics.
		Dose Response Assessment	For each contaminant of concern,
			(a) describe the relationship between the magnitude of exposure to the contaminant from each route of exposure and the probability of the occurrence of the adverse health effects identified in the Hazard Assessment;
			(b) if the data permits, identify the appropriate toxicity limit, from published limits available from a credible agency as described in subsection 9 (3) for each of the routes of exposure identified in clause (a); and
			(c) analyze the sources of uncertainty in the data used to conduct the hazard assessment and the dose response assessment, including any gaps or variability in the data and state how such uncertainty could affect these assessments.
	Risk Characterization	Interpretation of Health Risks	For each contaminant of concern, having regard to the exposure assessment and the toxicity assessment, state the risk attributable in respect of that contaminant to each exposure route for human receptors on the RA property, using either a quantitative or qualitative analysis.
		Quantitative Interpretation of Health Risks	A quantitative analysis undertaken for a contaminant of concern must including the following:
			1. Provide a comparison of the dose response assessment to the exposure estimate to derive the risk level or hazard quotient at the RA property in the absence of any measures that have been taken or are being proposed at the RA property which have the effect of reducing the risk from the contaminant of concern.
			2. For each contaminant of concern with non-threshold toxic effects and taking into consideration any risk management measures that are being proposed in the risk assessment, propose and justify a human health standard for the contaminant, ensuring that the standard meets a target risk level of $1 \times 10^{-6}$ for each environmental medium.
			3. For each contaminant of concern with threshold toxic effects and taking into consideration any risk management measures that are being proposed in the risk assessment, propose and justify a human health standard for the contaminant, ensuring that each human receptor does not receive an estimated dose exceeding $0.2 \times$ the limit dose (TDI, RfD or RfC) for each environmental medium. In this paragraph, "TDI" means tolerable daily intake, "RfD" means the reference dose, "RfC" means the reference concentration. The units used to measure the tolerable daily intake, the reference dose and the reference concentration must be specified and conform to acceptable conventions.
			4. If, under paragraph 3, given the circumstances of the human receptors and the characteristics of the contaminant, it is unreasonable to apply a hazard quotient of less than or equal to 0.2 for each environmental medium, a higher hazard

			quotient may be proposed, if the proposed quotient is accompanied with a detailed site specific multi-media exposure assessment that considers the transport of the contaminant across all environmental media to the human receptors by all exposure pathways and ensures that the standard achieves the same level of protection for each human receptor as is intended to be achieved by the applicable full depth generic site condition standard for that contaminant.
		Qualitative Interpretation of Health Risks	A qualitative analysis undertaken for a contaminant of concern must include the following:
			1. Provide a justification for why a quantitative analysis was not undertaken.
			2. Describe the justification process being used as part of the qualitative analysis. The justification process includes a non-numeric characterization of risk and may include a numeric assessment of exposure or toxicity for screening purposes and risk prioritization.
			3. Taking into consideration any risk management measures that are being proposed for the RA property, propose and justify a human health standard for the contaminant.
		Special Considerations for Environmentally Sensitive Area	If a RA property is an environmentally sensitive area as defined in section 41 of the regulation, the justification for the health standard being proposed for the RA property must take into account the site conditions that make the RA property an environmentally sensitive area under section 41 of the regulation.
		Interpretation of Off-Site Health Risks	For each contaminant of concern, assess whether the human health standard being proposed for the RA property is likely to result in a concentration greater than the applicable full depth site condition standard at the nearest human receptor located off the RA property and, if this is the case for any contaminant, specify the contaminant, the applicable site condition standard for that contaminant and the property where the human receptor is located and describe the human receptors that may be impacted.
		Discussion of Uncertainty	Having regard to the discussions of uncertainty under headings "Exposure Assessment" and "Toxicity Assessment", state how such uncertainty could affect the interpretation of risk in this report section and the need to manage such risks.
5. Ecological Risk Assessment (ERA)	Problem Formulation	Ecological Conceptual Site Model	Provide an ecological conceptual site model that,
			(a) satisfies the requirements of clauses 3 (8) (b) and (c);
			(b) explains how the information provided under report section 3 was incorporated into the ecological conceptual site model; and
			(c) was relied upon in the preparation of the risk assessment.
		Risk Assessment Objectives	State the objectives of the ecological risk assessment and include an indication of,
			(a) the proposed use of the RA property;
			(b) which ecological receptors on the RA property are considered to be valued ecosystem components, the degree to which they must be protected and a justification to support such decisions;

			(c) the exposure pathways to be assessed in the ecological risk assessment;
			(d) whether a qualitative or quantitative assessment of risk or both will be used in the ecological risk assessment;
			(e) the type of approach used for the ecological risk assessment.
			Demonstrate that the data used for the ecological risk assessment is sufficient to meet the objectives of the assessment, having regard to,
			(a) the data quality objectives specified in the reports on the sampling program summarized in the appendices to the risk assessment report; and
			(b) any other relevant information the qualified person has gathered or obtained in conducting the assessment.
			State how any uncertainty resulting from variable data, poor data quality or gaps in data in relation to the RA property affected,
			(a) the setting of objectives for the ecological risk assessment; and
			(b) the ability to meet those objectives.
	Receptor Characterization		Describe in detail the characteristics of every valued ecosystem component, both on and off the RA property, identified in the ecological conceptual site model.
	Exposure Assessment	Pathway Analysis	Describe in detail every exposure pathway identified in the ecological conceptual site model. Justify which exposure pathways are incomplete.
		Exposure Estimates	For every complete exposure pathway, state,
			(a) the relative frequency and duration of actual or potential exposures;
			(b) the relative magnitude of exposure to the valued ecosystem components, using measured contaminant exposure concentrations or concentrations predicted through fate and transport modelling in a manner compatible with that used in the human health risk assessment; and
			(c) given the uncertainty described under the heading of "Problem Formulation", how does this uncertainty affect the outcomes of the exposure assessments conducted under clauses (a) and (b).
	Hazard Assessment		State the potential adverse effects on the valued ecosystem components associated with their exposure to each contaminant of concern
			For each contaminant of concern,
			(a) describe the relationship between the magnitude of exposure to the contaminant from each route of exposure and the probability of the occurrence of the adverse ecological effect identified in the Hazard Assessment;
			(b) if the data permits, propose a toxicity reference value for each of the routes of exposure identified in clause (a); and
			(c) analyze the sources of uncertainty in the data used to conduct the hazard assessment, including any gaps or variability in the data and state how such uncertainty could affect the assessment.
	Risk Characterization	Interpretation of Ecological Risks	For each contaminant of concern, having regard to the exposure assessment and the hazard assessment, state the risk attributable in respect of that contaminant to each exposure route for the valued ecological components on the RA



			property, using either a quantitative or qualitative analysis.
		Quantitative Interpretation of Ecological Risks	A quantitative analysis that has been undertaken for a contaminant of concern must include the following:
			1. For each valued ecosystem component, provide a comparison of the toxicity reference value proposed in the "Hazard Assessment" to the exposure estimate proposed in the "Exposure Assessment" to derive an estimate of the degree of risk at the RA property in the absence of any measures that have been taken or are being proposed at the RA property which have the effect of reducing the risk from the contaminant of concern.
			2. Provide narrative to describe all magnitudes, comparisons and limitations relied upon to derive the risk under paragraph 1.
			3. Taking into consideration any risk management measures being proposed in the risk assessment, propose and justify an ecological standard for the contaminant, ensuring that the standard achieves the same level of protection for each valued ecosystem component that is intended to be achieved by the applicable full-depth generic site condition standard for that contaminant.
		Qualitative Interpretation of Ecological Risks	A qualitative analysis that has been undertaken for a contaminant of concern must include the following:
			1. Provide a justification for why a quantitative analysis was not undertaken.
			2. Describe the justification process being used as part of the qualitative analysis. The justification process includes a non-numeric characterization of risk and may include a numeric assessment of exposure or toxicity for screening purposes and risk prioritization.
			3. Taking into consideration any risk management measures that are being proposed for the RA property, propose and justify an ecological standard for the contaminant, ensuring that the standard achieves the same level of protection for each valued ecosystem component that is intended to be achieved by the applicable full-depth generic site condition standard for that contaminant.
		Special Considerations for Environmentally Sensitive Area	If a RA property is,
			(a) located within an "area of natural significance", as defined in subsection 41 (3) of the regulation, includes such an area, is adjacent to such an area or part of such an area, the justification for the ecological standard being proposed for the RA property must ensure that the standard is protective of the conditions that causes the area to be an area of natural significance; and
			(b) an environmentally sensitive area as defined in section 41 of the regulation for any other reason other than the reason specified in clause (a), the justification for the ecological standard being proposed for the RA property must take into account the site conditions that make the RA property an environmentally sensitive area under section 41 of the regulation.

		Interpretation of Off-Site Ecological Risks	For each contaminant of concern, assess whether the ecological standard being proposed for the RA property is likely to result in a concentration greater than the applicable full depth site condition standard at the nearest ecological receptor located off the RA property and, if this is the case for any contaminant, specify the contaminant, the applicable site condition standard for that contaminant and the property where the ecological receptor is located and describe the ecological receptors that may be impacted.
		Discussion of Uncertainty	Having regard to the discussions of uncertainty under heading "Exposure Assessment" and "Hazard Assessment", state how such uncertainty could affect the interpretation of risk advanced in this report section and the need to manage such risks.
6. Conclusions / Recommendations		Recommended Standards	A standard must be specific in the risk assessment for each contaminant of concern. The specified standard shall be, at a minimum, the more stringent of the human health standard and the ecological standard being proposed for the RA property.
			In the case of an estimation of natural local background concentration risk assessment, the specified standard shall be the local background concentration soil standard proposed under subsection 8 (1).
			State critical assumptions on which the standards specified in the risk assessment rely, having regard to the discussion of uncertainty in the "Risk Characterization" in report sections 4 (Human Health Risk Assessment) and 5 (Ecological Risk Assessment).
		Special Considerations for Ground Water Standards	If a standard being proposed in the risk assessment for ground water in or under the RA property is greater than 50% of the solubility limit, demonstrate the risk of free product formation and propose any risk management measures necessary in order to mitigate the formation of free product.
7. Risk Management Plan (if applicable)	Risk Management Plan	Risk Management Performance Objectives	State the exposure pathways and environmental media that risk management measures are intended to address.
			State the required reduction in exposure concentration that the risk management measures are intended to achieve.
		Risk Management Measures	To achieve the specified performance objectives,
			(a) propose risk management measures on the RA property that are designed to prevent, eliminate or ameliorate any adverse effects on or off the RA property;
			(b) propose restrictions on the use of the RA property, including any restriction that apply to the construction of a building on the property; or
			(c) propose a combination of measures specified in clauses (a) and (b).
			State the implications of the risk management plan for off-site health and ecological receptors.
		Duration of Risk Management Measures	Specify the duration the proposed risk management measures are required to remain in place to ensure the specified performance objectives are achieved.
			Specify the designed lifespan of the measure, if applicable.
		Requirements for	Propose a program for one or more of the

		Monitoring and Maintenance	following activities, if the program is necessary to achieve the specified risk management performance objectives:
			1. A program which includes procedures for the ongoing maintenance, monitoring and replacement of the risk management measures to ensure they remain operable for the period identified in this report under the sub-heading "Duration of Risk Management Measures".
			2. A program which includes procedures for the ongoing monitoring of contaminants of concern.
			3. A contingency plan for meeting the Risk Management Objectives if the Risk Management Measures fail.
8. Public Communication Plan (if applicable)	Public Communication Plan	Optional Communication Plans	If owner has implemented a plan to consult the public as part of the development of the risk assessment, provide,
			(a) a description of the plan, including any opportunities given to the public to comment on the proposed risk assessment;
			(b) a summary of the comments received during the consultation; and
			(c) a description of how the public comments were considered as part of the risk assessment process.
		Required Communication Plans For RA Properties in Wider Area of Abatement	If the risk assessment has been identified by the Ministry as relating to a property located within a wider area of abatement under section 10, the risk assessment shall include,
			(a) a description of the public communication plan required by clause 10 (2) (b) including any opportunities given to the public to comment on the proposed risk assessment;
			(b) a summary of the comments received during consultation under the plan;
			(c) a description of how the public comments were considered as part of the risk assessment process; and
			(d) a copy of all the written comments received from the Ministry under clause 10 (2) (a).

O. Reg. 153/04, Sched. C.

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