

Ministry of the Environment, Conservation and Parks

Alternatives to Records of Site Condition When Not Mandatory

Brownfields redevelopment is an effective way to put underutilized or vacant prime land back to good use, contributing to efforts to intensify development, including more housing.

When redeveloping brownfields in Ontario, records of site condition (RSCs) are a valuable tool to help ensure that concerns related to potential contamination in soil and groundwater have been addressed. RSCs support land use planning decisions and can help property owners or others concerned about potential responsibility for historic contamination.

An RSC is a document that summarizes the environmental condition of a property as determined by a qualified person by conducting studies called environmental site assessments (ESAs), and when necessary, risk assessments (RAs). There are two types of ESAs: phase one ESAs and phase two ESAs. Filed RSCs appear in a public online registry called the environmental site registry (ESR). An RA may enable the development of property-specific standards where contamination exceeds provincial generic standards and may include identification of risk management measures.

While RSCs are an important tool, the Ministry of the Environment, Conservation and Parks (ministry) advises against using them when not required under provincial legislation and regulation and they are unnecessary to confirm that contamination has been appropriately assessed. In such circumstances, alternative approaches, which can result in project cost and time savings, should be considered.

This resource sheet provides key information about:

- Current RSC requirements under provincial legislation and regulation and their relationship to planning and development decisions.
- Alternative approaches to confirm whether potential contamination exists at a property and if so whether it has been addressed.
- An amendment made to [Ontario Regulation 153/04: Records of Site Condition](#) (the RSC Regulation), made under the *Environmental Protection Act* (EPA), in October 2025 that prohibits the submission of an RSC for filing in the ESR where the filing is

not mandatory under the EPA and there is no basis for contamination being a concern.

When are RSCs required under provincial legislation and regulation?

RSC requirements are contained in the EPA and RSC Regulation. Generally, an RSC is required to be filed in a public registry, the ESR, before a person can change the use of a property from a less sensitive use that has a higher likelihood of potential contamination (i.e., industrial, commercial, or community property use) to a more sensitive use (i.e., residential, parkland, institutional, or agricultural or other property use).

Some RSCs are submitted for filing when they are not required by the EPA and RSC Regulation, but contamination may nonetheless be a concern. For example, a municipality may request an RSC as part of a land use planning decision related to a property that has past evidence of contamination to confirm that the environmental condition of the subject property is suitable for the proposed use, before a new land use is approved. Land use planning policies require that sites with contaminants in land or water be assessed and remediated as necessary prior to any activity occurring on the site associated with the proposed use, such that there will be no adverse effects. In cases where potential contamination is a realistic concern at a site, the RSC can help provide assurance that it has been addressed. In this document, a reference to "non-mandatory" means the RSC is not required under the EPA and RSC regulation.

A non-mandatory RSC may also be used, for example, to support an application for development financing or insurance, and some property owners choose to submit non-mandatory RSCs for filing on their own initiative to help manage their historic contamination risks or to support a property transaction. Again, this is useful where contamination is a realistic concern on a site but may not be necessary in other cases.

Alternative approaches to assess whether potential contamination has been addressed at a property

Where an RSC is non-mandatory, the ministry is supportive of efforts to focus such RSC submissions on properties where there is a clearly identified risk associated with contamination at a property, such as where sampling has identified contaminant exceedances. Where these risks are not clearly present, the ministry encourages the use of alternative approaches to confirm that contamination has been assessed and addressed.

ESAs, whether leading to an RSC or not, are typically prepared to assess the potential for contamination, and if needed, determine contaminant concentrations and distribution through sampling. Prior to requesting ESAs, a municipality or other party may also choose to use a pre-screening mechanism, such as a site screening questionnaire, to determine if an ESA is needed. Regardless of whether an RSC is being filed, ESAs may be completed based on the requirements in the RSC Regulation.

When an RSC is submitted for filing, MECP checks that the RSC submission, including all supporting documents, meets regulatory requirements. If an RSC is not being submitted for filing, organizations may choose an alternative process, such as:

1. Completing an internal review of the ESA(s), using in-house experts, such as engineers or geoscientists; or
2. Requiring an expert peer review. This is often at the expense of the party that was required to complete the ESA(s), but usually using peer reviewers chosen by the party requiring the ESA to be completed (e.g., municipality).

Both options should be considered depending on the level of expertise available in an organization.

In addition to avoiding the time and cost associated with preparing and submitting an RSC for filing, an advantage of reviewing ESAs outside of the RSC filing process (if the RSC is non-mandatory) is that it can provide greater flexibility to consider minor variations from the regulatory requirements that may apply to the completion of ESAs and RSCs.

The RSC Regulation now prohibits the submission of an RSC for filing in certain circumstances, to reflect that non-mandatory RSCs are not always an appropriate tool. The prohibition is described below. Alternative review mechanisms would be necessary in these circumstances and may be considered in any circumstance if the RSC is non-mandatory.

What is the prohibition on RSCs being submitted for filing?

Circumstances when an RSC is prohibited from being submitted

Recognizing there are viable alternatives to requesting RSCs in some circumstances, the RSC regulation prohibits the submission of an RSC for filing that is non-mandatory and is based solely on a phase one ESA.

Specifically, section 11.1 of the RSC Regulation states that no property owner shall submit an RSC for filing in the ESR for the property if the following conditions apply:

1. The submission of an RSC for filing is not required under section 168.3.1 of the EPA, which prohibits persons from changing the use of property in certain ways unless an RSC has been filed in the Registry.
2. The RSC is based solely on the completion of a phase one ESA.
3. No phase two ESA is required for the purposes of submitting the RSC for filing.

This prohibition went into effect in October 2025, when the amendments were filed.

If an RSC had been submitted prior to the prohibition coming into effect and was required to be revised before it could be filed by the ministry, that RSC may be resubmitted for filing.

If none of the exceptions described below apply, an RSC that is non-mandatory and that is based solely on a phase one ESA cannot be submitted to the ministry for filing. In that case, an alternative process, as described above, should be considered.

Exemption from the prohibition for property owners

An exemption to the prohibition allows a property owner to submit a non-mandatory RSC for filing based solely on a phase one ESA, provided it is the property owner's decision alone, and not because of a requirement of another person or organization, such as a municipality or financial institution. For example, the property owner may wish to support the sale of a property or receive limited regulatory liability protection for historic contamination by submitting an RSC for filing.

This exemption is implemented through a written declaration by the property owner. To take advantage of the exemption from the prohibition, the owner of the property submits to the ministry Director a written declaration when submitting the RSC for filing stating that the owner is submitting the RSC for filing voluntarily and not to comply with a requirement imposed on the owner by another person or body. More information on submitting a declaration is at the end of this document.

Transition Period

For the first year after the prohibition comes into force, until October 2025, a non-mandatory RSC that would otherwise be prohibited may still be submitted for filing if it is a requirement of another party that was in place before the prohibition came into effect. A requirement of another person or body includes a requirement in an instrument issued by a public body (e.g., RSC filing is a condition of a draft plan of subdivision) or an agreement that the property owner entered into with another party.

This time-limited exception only applies if the owner of the property submits to the ministry Director a written declaration when submitting the RSC for filing. This declaration would state that the owner is submitting the RSC for filing to comply with a requirement imposed by another party and the requirement occurred before the day this section comes into force. More information on submitting a declaration is below.

Disclaimer:

This document is intended to be a brief summary of some of the requirements of the Environmental Protection Act (EPA) and Ontario Regulation 153/04 (the RSC regulation) made under the EPA. This is for information purposes only and should not be construed as legal advice or substitute for seeking independent legal advice on any issues related to the regulation. Any person seeking to fully understand how the regulation may apply to any of the activities they are engaged in must refer to the regulation. In the event of any inconsistency between the EPA or RSC regulation and this document, the EPA or regulation, as the case may be, will always take precedence.

For more information:

More information on how to submit a declaration is available by contacting enviropermissions@ontario.ca. Additional information may also be made available through the links below.

- Visit the Brownfields Ontario webpage: [Brownfields redevelopment | ontario.ca](https://brownfields.ontario.ca)
- Contact your local MECP district office: [Ministry of the Environment, Conservation and Parks district locator | ontario.ca](#)