

Navigating the New Excess Soils Regulations for OSWCA Members

ENVIRONMENTAL MANAGEMENT AND COMPLIANCE
ECOLOGY
HYDROGEOLOGY

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Introduction

- December 4, 2019 a new On-site and Excess Soil Management Regulation (406/19) was released
- Phased approach with some regulatory requirements coming in to effect July 1, 2020 and January 1, 2021
- Amendments were made to the Records of Site Condition Regulations (O.Reg. 153/04) on December 4, 2019

Introduction - Outline

- Times these regulations come up
- A summary of the changes
- What do these changes mean for you
- How to move forward



Watermain Project

- Upgrades to watermains to meet demand
- Sensitive Site
- Reuse or landfill?



Sanitary Sewer Project

- Increased demand
- Post ≠ Pre quality
- Construction contamination
- QP required



Road/Trench Project

- Barrier wall
- Salt and “natural” impacts
- Reuse of soil
- Minimal disposal

EXCESS SOIL Regulation O. Reg. 406/19 (): July 1, 2020

Important Definitions

Project: any project that involves the excavation of soil and includes:

- (a) any form of development or site alteration,
- (b) the construction, reconstruction, erecting or placing of a building or structure of any kind,
- (c) the establishment, replacement, alteration or extension of infrastructure, or
- (d) any removal of liquid soil or sediment from a surface water body

EXCESS SOIL Regulation O. Reg. 406/19 (): July 1, 2020

Important Definitions

Project area: a single property or adjoining properties on which the project is carried out

EXCESS SOIL Regulation O. Reg. 406/19 (): July 1, 2020

Important Definitions

Project Leader: the person or persons who are ultimately responsible for making decisions relating to the planning and implementation of the project

Summary of EXCESS SOIL Regulations:

July 1, 2020

Excess soil not waste

EXCESS SOIL Regulations:

July 1, 2020

Reuse site that is governed by an instrument (i.e. by-law):

- Quality Requirements
- End Use Constraints
- Volume Constraints

EXCESS SOIL Regulations:

July 1, 2020

Reuse site that is NOT governed by an instrument (i.e. by-law):

- Final Placement Standards
- Beneficial Purpose
- Quantity Limits
- Qualified Person

EXCESS SOIL Regulations:

July 1, 2020

On-Site and Excess Soil Management

- Transportation
- Depositing Soil at a reuse site:
 - at least 10,000 m³ for final placement
 - Not applicable to infrastructure projects
 - not infrastructure and not less than 10,000m³ of soil)

EXCESS SOIL Regulations:

July 1, 2020

Small volumes (up to 350m³) and independent volumes (350m³+))

Restrictions:

- Environmentally Sensitive Areas, nearest water body
- Potable vs. Non-Potable
- Depth to Groundwater and Overburden thickness
- Land use (i.e. Agriculture)

EXCESS SOIL Regulations:

July 1, 2020

Salt Impacted Soils can be reused if:

- salting is expected (i.e. parking lots, roads etc.)
- non potable - Industrial/commercial
- More than 1.5m below the surface
- More than 30m of water
- More than 100m of a drinking water well
- More than 2m above the water table
- Not where crops/pasture activities occur
- Notification & sampling is required

EXCESS SOIL Regulations:

July 1, 2020

Environmental Compliance Approval for waste (O. Reg. 347) is not required under certain regulatory rules

- Contractors will be able to haul dry or liquid excess soils without an ECA
- Contractors can process low risk soils on-site
- Contractors can transfer up to 10,000m³ to temporary storage sites
- Infrastructure can use site specific standards and don't have to be reused in 2 years

EXCESS SOIL Regulations:

January 1, 2022

Public registry

Tracking System if registered

Registered Site Requirements (completed by a QP) :

- Assessment of Past Uses
- Sampling and Analysis Plan
- Excess Soil Characterization Report
- Excess Soil Destination Assessment Report

EXCESS SOIL Regulations:

January 1, 2022

Exemptions for the registry and planning rules include:

- 100m³ or less
- Emergency
- Infrastructure projects - fit state of repair
- not from an enhanced investigation project
- Topsoil (Municipal Act) transported directly as topsoil reuse

EXCESS SOIL Regulations:

January 1, 2022 and January 1, 2025

- 2022: Tracking and Inspection of every load for large reuse sites
- 2025: Clean soil can not be deposited at landfill sites unless it is used for cover or beneficial use for landfill functions
- Grandfather clause: contracts before January 1, 2021

Summary of New Regulations:

Immediate Changes O. Reg. 153/04

- Salt and traction control ... not contamination
- Drinking water ... not contamination
- Naturally occurring ... not contamination
- Building Conversions ... ground floor uses

Summary of New Regulations:

Immediate Changes O. Reg. 153/04

- Temporary Roads ... don't need a Record of Site Condition
- Hydroponics ... industrial
- Delineation [not your problem]

Summary of New Regulations:

Phased Changes July 1 2020 O. Reg. 153/04

- Potable vs. non-potable ... need municipal consent to use non-potable *[but you don't care]*
- Excess Soil (defined by reg) can be used at a Record of Site Condition Property *[you kind of care]*
- Religious Buildings ... institutional land use *[but you don't care]*

What Does it all Actually Mean???

- Written consent required for reuse sites effective **July 1, 2020**
- Qualified Persons QPs required to classify soil quality
- Excess Soil may be reused: not a waste and beneficially reused
- Soil needs to meet quality and quantity requirements
- Two categories
 - Generic
 - Site Specific
- Tracking and registry official start **January 1, 2022** with exemptions
- **Illegal to landfill clean soil after January 1, 2025**

What about the trucks?

- only be collected and transported in a vehicle that can do so safely and without nuisance
- Bodies need to be able to withstand abrasion and corrosion
- Need to be leakproof and covered
- Liquid valves need a locking system and need to be locked when unattended
- Owner/operator of the vehicle must be present when transferring liquid

What about Tracking?

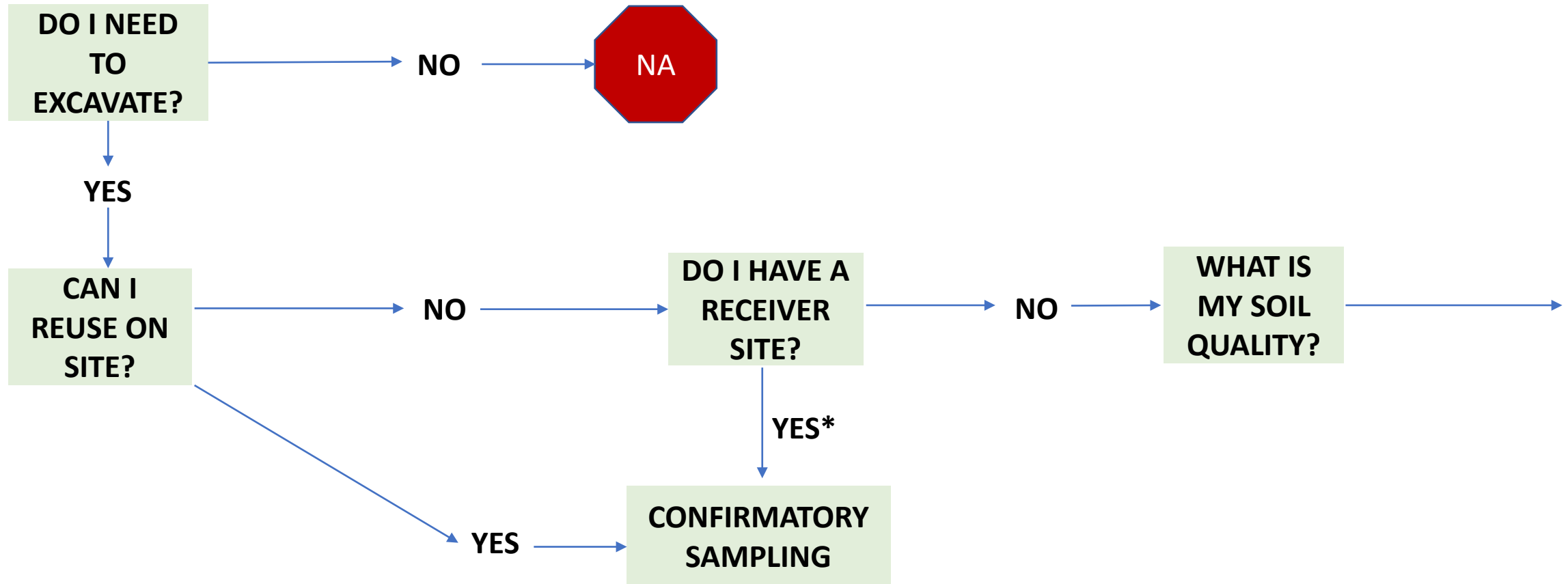
- The following information *must* be provided to a provincial officer if requested (verbally until 2022):
 - Location loaded
 - Date and time loaded
 - Quantity in load
 - Name of individual aware of quality of load
 - Name of corporation, partnership or firm transporting including the driver's name and the number of plates issues for the vehicle
 - Location the load is being deposited

What about Infrastructure work?

Exemptions and allowances

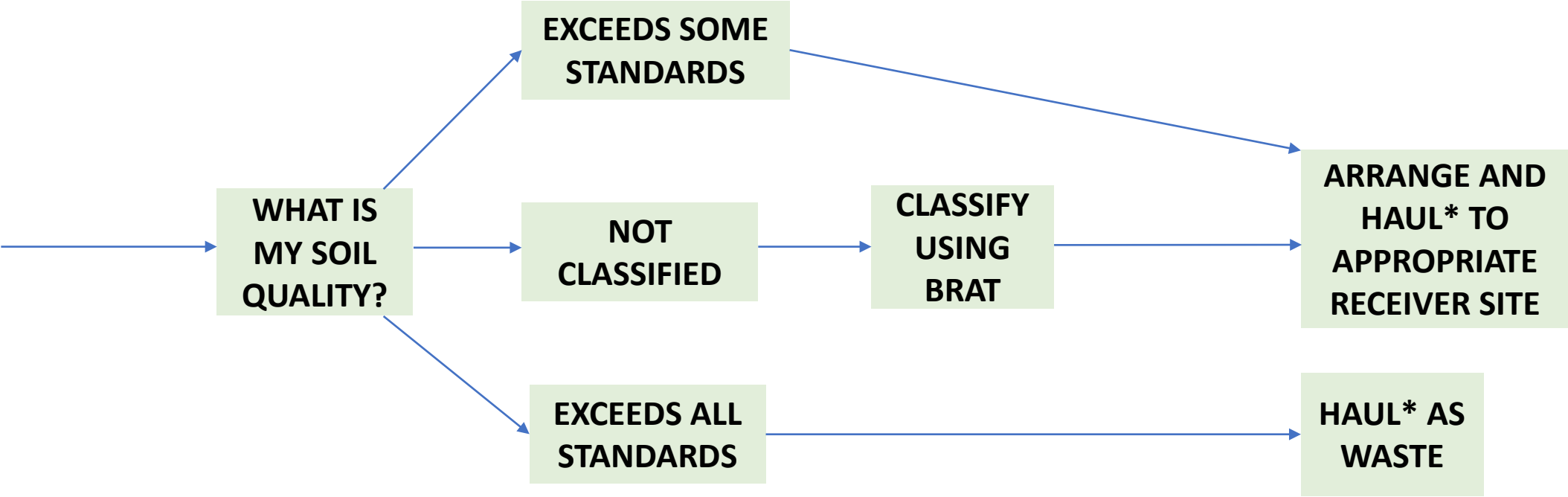
- Reuse sites do not need to file a notice on the registry (2022)
- Limited to the length of time needed to complete the project
- Moving soil from infrastructure project to infrastructure project owned by the project leader

What is your path ahead?



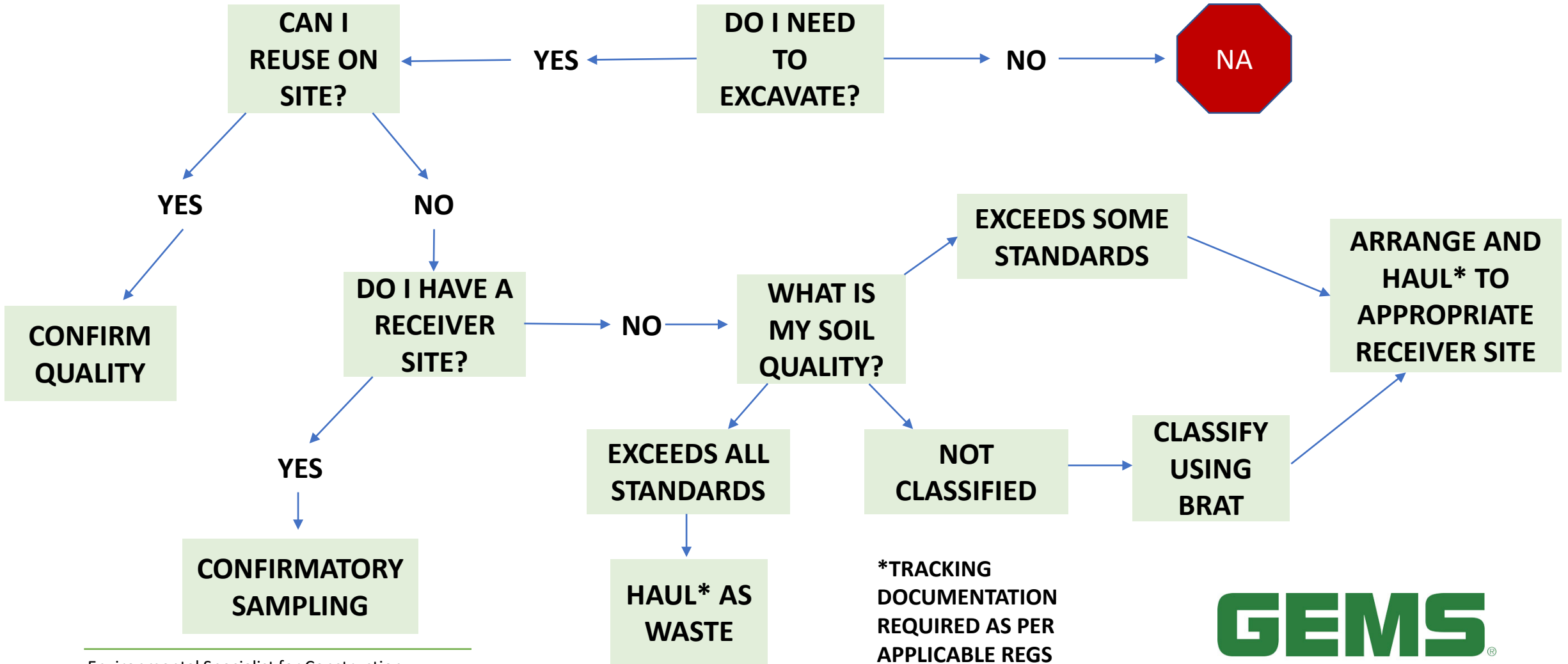
***TRACKING DOCUMENTATION REQUIRED AS PER APPLICABLE REGS;
CONFIRMATORY SAMPLING COMPLETED PRIOR TO LEAVING SOURCE SITE**

What is your path ahead?



***TRACKING DOCUMENTATION REQUIRED AS PER APPLICABLE REGS**

What is your path ahead?



*TRACKING DOCUMENTATION REQUIRED AS PER APPLICABLE REGS

GEMS Opinion - Why Care?

- Liability rolls down to contractors
 - Most of the liability will fall with the owners of the soil – Project leader?
 - Not clear if can owners delegate ownership of soil (& liability) to contractors by contract
 - Contractors are at the discretion of the Owner's QP(s) and the Receiver's QP(s)
- Better option – tracking where dirt ends up and who's responsible (pays) when something isn't right [**less likely to land on you when there's a paper trail**]
- More flexibility for you and sourcing backfill material – more paper work



Results,
Not Advice

Thank you! Questions?