



May 14, 2020

Proposed amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act

ERO #019-1303

Introduction

The Township of Puslinch (Township) is located in the southern region of Wellington County with a population of approximately 7,500 residents who enjoy the rural environment of the Township combined with the convenient access to many urban centres and amenities. Business and industry is attracted to the Township for its proximity to Highway 401 that provides convenient access to major markets.

The Township has three urban areas including Aberfoyle, Arkell and Morriston and contains a number of small rural clusters interspersed throughout the predominately rural township. Highway 401 bisects the Township from east to west. A developed Industrial Park links the urban areas of Aberfoyle and Morriston.

Aggregate extraction is underway on a very large scale in our small municipality. There are approximately 27 pits currently licenced and actively extracting aggregates from our community. Obviously extraction rates vary, however several licences currently permit extraction of significant tonnages. Currently, 6 pits are licenced to extract 1,000,000 tonnes annually each. Currently, 1 pit is licenced to extract 1,000,000 tonnes annually. Currently 2 pits are licenced by the Province for unlimited annual tonnages.

Over the last 6 years, on average approximately 3.9 million tonnes were extracted from within our Township and exported down our roads to markets and users located across southern Ontario, predominantly to the GTA. The last two years average approximately 4.5 million tonnes annually. Given what the Province has already licenced these operations, it is clear that annual total extraction volume could increase significantly.

We are having significant challenges with the premature degradation of our transportation infrastructure as a result of this intense truck traffic, most specifically with our roads and bridges. One bridge for example which is on a high-volume gravel truck route had to be closed in 2019 due to infrastructure failure which was in large part the result of the heavy truck traffic. We simply did not have the funds available to upgrade and replace the bridge as required. The current aggregate levy and property taxation system are neither fair nor adequate.

All that said, we are a small municipality that is obviously very heavily impacted by aggregate extraction, by any measure. The impacts are real, and significant. We strongly believe that the current approval regime and financial model is not sustainable. We believe that we can provide the perspective of real, long term experience. We strongly feel that better regulations, oversight, site design and approvals, and operating plans are all critical in dealing with one-time resource extraction that leaves permanent and significant impacts on the host community.

We respectfully offer the following constructive suggestions for your consideration.



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The Province has indicated that the proposed changes are intended to modernize the way aggregate resources are managed and promote economic growth within the aggregate industry while also protecting the environment and addressing community impacts. The government has framed the proposed changes around key themes that were heard throughout the consultation process. Those key themes include:

- Ensure environmental protection, particularly related to water resources;
- Increase opportunities for community engagement on applications;
- Improve access to aggregates;
- Cut red tape by reducing duplication and inefficiencies that create barriers to the industry; and
- Ensure pit and quarry rehabilitation.

Given the extensive aggregate extraction operations underway in our municipality, any amendments to the regulatory and approval framework for aggregate operations are vitally important to us. As such, we have spent a considerable amount of time and effort on developing and compiling comments which we feel are critical for the Province to address. We will summarize our general comments below in three main sections:

Part 1 – General Comments on the overall proposed amendments, presenting them in three sections:

- Items which we support, along with a few related suggestions
- Items which we have concerns with
- Items which we are disappointed with

Part 2 – Specific / Technical comments

- Itemized chart with specific references

Part 3 – Appendices of Comments from our partners which are supported and endorsed by Puslinch Council.

- Schedule A - Wellington County Summary Table
- Schedule B – Lake Erie Source Protection Committee
- Schedule C - AMCTO / John McNie



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PART 1 - GENERAL COMMENTS

SUPPORT – we support the general nature or apparent intent of the following items.

1. Water Reporting Requirements

- a. We support the requirement for a water report for all new below water table operations to include how applicable source water protection policies are being addressed and consideration of the preparation of a water budget (Section 1.1.1).
 - The Ministry should also consider a requirement for a cumulative impact assessment in the water report. This is a particularly important environmental consideration when the proposed operation is in an area where there is an existing concentration of aggregate extraction operations as is the case in our community.
 - If the Province feels a water report for all new below water table operations, is appropriate, surely they would agree with us that the same reporting requirement should apply to existing below water table operations.

2. Rehabilitation Requirements

- a. We support the proposed changes to the rehabilitation reporting requirements for operators. The Ministry has proposed enhancements to annual compliance reports which will require operators to provide more information about their progressive rehabilitation efforts on a site (Section 3.2.1).
 - The Ministry should consider if no rehabilitation has occurred over the reporting period to require justification about why rehabilitation has not occurred on a site and what is being done to complete the required rehabilitation.
 - The Ministry should also consider adding questions in the compliance report that link rehabilitation requirements to Agricultural Impact Assessments and Greenbelt Plan maximum disturbed area provisions, where applicable.

3. Revised Approvals for Above Water Extraction

- a. We are supportive of the revised application process for above water table extraction converting to below the water table extraction. The Province has proposed changes which would require a more robust amendment process for these type of conversions. This process would include the submission of a water report, a formal notification and circulation to agencies and surrounding land owners, and provides the ability for these amendments to be referred to the Local Planning Appeal Tribunal (Section 3.3.3).
 - The Ministry should consider aligning the requirements for expansions to existing below water table extraction with the requirements outlined in section 3.3.3 of the consultation document. This alignment would ensure all expansions into the water table are treated consistently and obtain appropriate technical review and municipal input.



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CONCERNS - we have concerns with the general nature or apparent intent of the following items

1. Fencing

- a. The proposed change which would allow operators to not provide a fence around the licenced boundary of an aggregate site. The Province is proposing to move to a process where the operator would have to satisfactorily demarcate the boundary of the site and take measures to prevent inadvertent access to the site.
 - i. In the interest of public safety, we respectfully suggest that the Ministry leave the requirement for a fence to be installed around the licenced boundary of an aggregate site as a minimum requirement. A fence addresses matters listed by the Ministry such as clear demarcation of site boundaries and prevents inadvertent access. We cannot envision a justification for not having fencing.

2. Notices of Applications

- a. The proposed change which would allow how notice can be given for all aggregate licence applications. The Ministry is proposing to allow flexibility to only notify through digital media sources, such as online newspapers (Section 1.3.2).
 - i. In the interest of clarity, disclosure, and full public engagement, the Ministry should maintain the requirement to notify in printed media sources as not all people utilize or have reliable access to the internet. This change will result in people not being appropriately notified about applications.

3. Operations Compliance

- a. The proposed Framework appears to give more responsibility to producers to ensure their aggregate extraction operations are in compliance with applicable rules and regulations
 - i. We share a broad concern that the Province is shifting to self-enforcement model. There is a lack of information in the Provincial posting demonstrating how the Ministry will ensure a sufficient level of oversight is being provided to ensure the additional flexibility is not being misused.

Disappointed - we are disappointed with the general nature or apparent intent of the following items

1. Revenue Structure

- a. There are no proposed changes to the revenue structure for aggregate sites including property assessment treatment and taxes as well as aggregate fees and royalties. The current structure is not adequate, fair, or sustainable given the actual impacts on local municipalities of aggregate operations.

2. Tax Assessments

- a. We share the disappointment that serious work needs to take place regarding the property assessment regime. Aggregate operators are required to break down the acreage of their sites into different classifications for which assessment and property taxes are based upon. These are not regularly reviewed or verified and numerous local examples have highlighted serious compliance issues with some operators who have not been reporting accurately, resulting in lower assessments and taxes than appropriate.



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- b. Municipalities are spending hundreds of thousands of tax dollars and hundreds of hours of staff time litigating and verifying this assessment regime. We strongly urge the Province to make necessary changes to the aggregate fee structure in Ontario.
3. Dormant Sites.
 - a. The Province did not take the opportunity to address the issue of dormant sites. Municipalities have been consistently raising concerns about these sites and no meaningful action has been taken. This proposal appears to make it easier for dormant sites to continue to exist by providing a less burdensome compliance reporting process (Section 3.2.1).
4. Planning Process and Site Plans Disconnect
 - a. There is currently no requirement for an applicant to use the same set of site plans for the Licensing process as they did for the planning process. While some applicants may run these processes in parallel there is no policy or legislative requirement for the two processes to run at the same time or even for the site plans to reflect any of the issues addressed as part of the rezoning process. So therefore, these currently must be understood as two completely independent processes. As a result, neither municipal planners nor Councils can place any value on the site plans and conditions provided as part of the rezoning process since the applicant could simply submit a different set to the MNRF for the license after the zoning has been approved. Even if a zoning and licence are sent before the LPAT for a decision, there is nothing to prevent the site plans from being significantly amended after the decision without notification to the municipality.
 - b. In addition, there are also cases where site plan details or monitoring conditions that were critical to a municipal planning decision, OMB or LPAT decision have either been removed, altered or disregarded by the operator or MNRF.
 - c. To address this concern it would be good to create a new set of Prescribed Conditions on Site Plans that are identified as "Municipally Significant" which would be the site specific details that the municipality relied upon as part of the planning approval process. This could include the monitoring of off-site features or the phasing of below water extraction or significant mitigation measures unique to that site to protect off site features. Since these conditions were significant to the planning approval process these Municipally Significant conditions would require the approval of the local municipality to have any of these conditions amended or removed.
5. Technical Standards for Noise Impacts
 - a. Noise impacts on neighbours are considered during both the application and monitoring process. The use of Leq5 or Leq10 does not adequately characterize the noise impacts to neighbours from loading trucks with pit run, from trucks driving past a house or the slamming of a tail gate. Since these types of measures average the noise levels over a set period of time they work well for things like highways or machinery noise such as crushers or screeners which is largely continuous with some highs and lows. However, not all pits have either a crusher or a screener so the impact of intermittent high db. sources in an otherwise quiet environment is not fairly characterized. It would be a good change to set a maximum db. level to insure that the neighbours are truly protected. Peak noise levels need to be addressed as well. The current use of averaging



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is effectively equivalent to dilution which the Province does not permit in other environmental legislation.

6. Real-time monitoring of noise and Dust

- a. It should be possible to do some real-time monitoring similar to the real-time monitoring of water levels. Currently noise levels are measured once per year. Considering that operations can vary greatly on a site during the year it is hard to imagine that one sample per year can provide enough proof that the neighbours are being adequately protected. Similarly with dust this is largely complaint driven by neighbouring residents. However, dust from aggregate operations can also have a negative effect on crops and livestock but neither are able to call the MNRF for assistance. So it would be helpful to have some type of sampling or monitoring that could determine the dust burden that leaves the site on an annual basis to determine if their dust control measures have been adequate.

7. Outdoor storage of salt and pickled sand

- a. The Grand River Source Water Protection Committee report expressed a concern regarding the use of chloride based dust control for pits located in a Source Water Protection Area. Yet, new and existing operations in these SPA's are allowed to stock-pile large amounts of road salt outside on the pit floor for blending with sand. This would appear to present a greater risk to the groundwater than dust suppressants so we believe that the standards should be modified to also prohibit the outdoor storage of salt and pickled sand in any pit and require that this activity can only take place inside an appropriate facility. Much like is done at municipal facilities with their supplies of salt, salt/sand, and Chloride.

8. LPAT

- a. It appears that the appeal to LPAT can only be done by the Minister. The justification for this is unclear. Municipalities should have the ability to appeal to LPAT as well. Failing to do so can limit the ability for local comment on local matters with significant local impacts which seems contrary to one of the Province's stated key theme of "Increase opportunities for community engagement on applications"



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PART 2 – SPECIFIC / TECHNICAL COMMENTS

As this part of our submission, given the technical and specific nature of the comments, we felt it best to present them in chart form. We specifically reference the item #, if we support or have concerns, and a brief explanation thereof.

| Item | Support | Concern | Comment |
|---|---------|---------|---|
| 1.1 Study and Information Requirements | | | Cumulative effects assessment for below water table applications not covered. Agree with the comments provided in Appendix A of the Lake Source Protection Committee Report SPC 20-04-18 |
| 1.1.1 Water Report | | X | Agree with the comments provided in Appendix A of the Lake Source Protection Committee Report SPC 20-04-18 |
| 1.1.2 Cultural Heritage Report | X | | No comments |
| 1.1.3 Natural Environment Report | X | | Agree with the comments provided in Appendix A of the Lake Source Protection Committee Report SPC 20-04-18 |
| 1.1.4 Agricultural Impact Assessment | X | X | Agree with Wellington County comments ie. We are supportive of the change to require AIA's for new operations that are within a provincial plan area. We question why an AIA is not a provincial wide requirement for new operations in prime agricultural and rural areas? |
| 1.1.5 Blast Design Report | | X | Blast design report should be required for any sized quarries as the impact to the residents is the same. |
| 1.1.6 Summary Statements | X | | Agree with Wellington County comments ie. We support the change which would require summary statements for all proposed pits and quarries on private and crown land to contain planning and land use considerations. |
| 1.1.7 Application Requirements for Extraction from land under Water | | X | Same comment as 1.1 above |
| 1.1.8 Forestry Aggregate Pits | X | | No comment |



| Item | Support | Concern | Comment |
|---|---------|---------------------|---|
| 1.2.1 Site Plan Standards – Improving Flexibility | | X X X | <p>Site plans for existing sites should be updated to include the same information as required in the Summary Statement for new sites <u>and</u></p> <p>Agree with Wellington County comments ie.</p> <p>We are concerned with the change which would allow certain items to not be identified on the site plan.</p> <p>We are concerned that this change will reduce a municipalities ability to effectively communicate to the public certain aspects of an industrial operation. The site plan is the only tool municipalities can use to convey that information and ensure compliance by the operator.</p> <p>We are also concerned with the proposal to remove the requirement for a fence around licenced areas on private land. This should be a minimum requirement as it addresses matters listed by the Ministry such as clear demarcation of site boundaries and prevents inadvertent access to the site.</p> |
| 1.2.2 Site Plan Standards – Modernization | X | | <p>Agree with Wellington County comments ie.</p> <p>We support the proposed changes which would clarify the definition of “operate” and improve how site plans are prepared (e.g. georeferenced) and submitted.</p> |
| 1.2.3 Qualified Professionals to Prepare Site Plans | X | | <p>Agree with Wellington County comments ie.</p> <p>We are supportive of the change to add Professional Planners to the list of qualified professional who can prepare a Class A Site Plan.</p> |



| Item | Support | Concern | Comment |
|--|---------|---------------------|--|
| 1.2.4 Prescribed Licence and Permit Conditions (New Sites) | | X X X | Monitoring, threshold exceedance actions and notification requirements should be included as a mandatory condition for new licences and permits. Retain current requirement to mitigate noise at source with appropriate noise attenuation devices and site design regardless of receptor location to ensuring that noise at residence does not exceed background noise level <u>and</u> Agree with Wellington County comments ie. We are concerned with the proposed changes which would remove the requirement to obtain other ministerial approvals as a prescribed condition for an aggregate licence or permit. Other ministerial approvals often contribute necessary information needed in the consideration of a licence or permit and should be required as a condition. |
| 1.3.1 Notification and Consultation Timeframes | X | X X | Extension beyond 2 years should be granted to applicants on private land to resolve objections only and should not be indefinite <u>and</u> Agree with Wellington County comments ie. We support the extension of time agencies and interested parties have to review and comment for all applications on private and crown lands. The Ministry should consider a longer review period given the complexity of study material and peer review requirements and the scheduling of municipal Council meetings. |
| 1.3.2 Notification and Consultation Process | | X X | Municipality should also be consulted <u>and</u> Agree with Wellington County comments ie. We are concerned with the proposed changes which would provide licence applicants the flexibility to post notices solely through digital sources. Not all people utilize or have reliable access to the internet. This change will result in people not being appropriately notified about applications. Notices in printed media should be required. |



| Item | Support | Concern | Comment |
|---|---------|---------|--|
| 1.3.3 Objection Process on Private land | | X X | Persons and municipality should be given the right to appeal the Ministry's decision to the LPAT if their concerns were not adequately addressed. Need to see objection form before will accept 20 days to respond ie. supporting documentation required in objection form may require more than 20 days to obtain such as a study. |
| 1.3.4 Circulating New Applications to Agencies | | X | Municipality should also be consulted. |
| 2.1 Excavation from Private Land or Land Owned by a Farm Business | X X | X X | Conformance with municipal bylaws must be included <u>and</u> Agree with Wellington County comments ie. We generally have no objections with the changes, but request that as part of the registration process for a licence exemption, applicants be required to circulate municipalities. We are supportive of the clear timeline for when remediation must occur. |
| 3.1.1 Miscellaneous Changes | | X | Disagree with fence removal |
| 3.1.2 Dust | X | | No comment |
| 3.1.3 Blasting | | X | No flying debris should leave the property regardless of location of receptor |
| 3.1.4 Recycling | | X | If recycling is an accessory activity it should not be equal to tonnage of site but less than 50% |
| 3.2.1 Compliance Assessment Reports | X | X X | Periodic audits must be done of self assessment reports by independent 3rd party <u>and</u> Agree with Wellington County comments ie. We are supportive of the changes proposed in this section. We particularly support operators providing more information about their rehabilitation efforts on sites. We are concerned with the change in this section which appears to make it easier for dormant sites to continue to exist by providing a less burdensome compliance reporting process |



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| Item | Support | Concern | Comment |
|---|---------|-------------|--|
| 3.2.2 Rehabilitation Reporting | | X X X | Any imported fill must meet the criteria for the intended use of the site Rehabilitation must be to previous use unless approved by municipality Final rehabilitation must be signed off by an appropriate specialist <u>and</u> Agree with Wellington County comments ie. The Ministry should add additional questions about why rehabilitation is not occurring on a site, if it is not. There should also be questions in the compliance report that links to AIA rehabilitation requirements and to Greenbelt Plan disturbed area provisions. |
| 3.3.1 Site Plan Amendment Process | | X X | Circulation of the proposed amendment "should be" and not a "may be" to municipality (see 3.3.4) Need to define what is significant change requiring Municipal comments If plan is amended without consultation need process to object |
| 3.3.2 Amendment to Expand into a Road Allowance | X | | -no comment |



| Item | Support | Concern | Comment |
|--|---------|-------------------------------------|---|
| 3.3.3 Amendment to Expand an Existing Site Below the Water Table | | <p>X</p> <p>X</p> <p>X</p> <p>X</p> | <p>Agree with the comments provided in Appendix A of the Lake Source Protection Committee Report SPC 20-04-18 <u>and</u></p> <p>Agree with Wellington County comments ie. However, we would recommend that the Ministry revise this section to:</p> <ul style="list-style-type: none"> - Include a requirement for a cumulative impact assessment, particularly when there are a concentration of aggregate operations surrounding the proposed site. - Extend the notification period beyond 60 days for agencies and the interested parties. The sensitivity and technical nature often requires Council input and peer review support. The limited time frame makes developing meaningful comments a challenge. - Align the requirements for expansions to existing below water table extraction with the requirements outlined in section 3.3.3 of the consultation document. This alignment would ensure all expansions into the water table are treated consistently and receive a thorough technical and public review process. |
| 3.3.4 Self-Filing of Site Plan Amendments | X | <p>X</p> <p>X</p> | <p>Agree with copy to municipality <u>and</u></p> <p>Agree with Wellington County comments ie. While we see merit in allowing some minor amendments to be handled through a self-filing process, there is a concern that these amendments will go without consideration of potential impacts external to the site (e.g. relocation of a haul route or processing equipment on the site).</p> <p>We are also concerned that this process does not lend itself to transparency and engagement with the public (One of the key themes heard through consultation).</p> |



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PART 3 – Appendices of Comments from our partners supported and endorsed by Puslinch Council

We also strongly believe in a community and collaborative approach. Additionally, a number of our colleagues and partners have offered comments on these proposed amendments. Our Council has supported the concerns and comments by others which are provided in the attached Schedules:

Schedule A - Wellington County Summary Table

Schedule B – Lake Erie Source Protection Committee

Schedule C - AMCTO / John McNie



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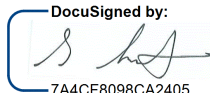
Conclusion

In conclusion, we share the opinion of our partners that while there are some areas of concern with the proposed regulatory changes, we are generally pleased that the Ministry is addressing water resource protection and progressive site rehabilitation. However, we would recommend that the Ministry carefully consider the increased level of flexibility for operators in pit and quarry site management.

As a municipality we clearly acknowledge the importance of a continued supply of aggregates for the Province. We do so with the understanding, as indicated in the Ministry's consultation document, that *"it is equally important to recognize and manage the impact excavation operations can have on the natural environment and on the communities that surround them"*. We believe that given the decades of aggregate extraction which have taken place in our community, we are well versed and keenly experienced and are able to offer meaningful helpful input to the Province from the municipal perspective.

We continue to have serious concerns with the inadequacy of property assessments, taxation, including self-reporting and compliance of site attributes which result in local residents and businesses subsidizing the private aggregate industry for their profits acquired across Ontario. There is a great opportunity now to reduce red tape (a provincially stated objective) and provide fair revenues to municipalities if this is reviewed.

Sincerely,

DocuSigned by:

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Glenn Schwendinger
CAO/Clerk
Township of Puslinch



SCHEDULE A - WELLINGTON COUNTY SUMMARY TABLE

| County Response to Proposed Amendments | | | | |
|--|---|---------|---------|--|
| Policy | | Support | Concern | Comment |
| Section 1 – Proposed Changes for Applications to Establish a New Site | | | | |
| Part 1.1: Study Information Requirements | | | | |
| 1.1.1 | Water Report | X | | We are generally supportive of the changes proposed under this section. However, language should be added around the assessment of cumulative impacts where multiple operations exist. |
| 1.1.2 | Cultural Heritage Report | X | | We have no concerns. |
| 1.1.3 | Natural Environment Report | X | | We have no concerns. |
| 1.1.4 | Agricultural Impact Assessment | X | | We are supportive of the change to require AIA's for new operations that are within a provincial plan area. We question why an AIA is not a provincial wide requirement for new operations in prime agricultural and rural areas? |
| 1.1.5 | Blast Design Report | X | | We have no concerns. |
| 1.1.6 | Summary Statements | X | | We support the change which would require summary statements for all proposed pits and quarries on private and crown land to contain planning and land use considerations. |
| 1.1.7 | Application Requirements for Extraction from land under Water | X | | We have no concerns. |
| 1.1.8 | Forestry Aggregate Pits | X | | We have no concerns. |
| Part 1.2: Site Plan and Licence/ Permit Conditions | | | | |
| 1.2.1 | Site Plan Standards – Improving flexibility | | X | <p>We are concerned with the change which would allow certain items to not be identified on the site plan. We are concerned that this change will reduce a municipalities ability to effectively communicate to the public certain aspects of an industrial operation. The site plan is the only tool municipalities can use to convey that information and ensure compliance by the operator.</p> <p>We are also concerned with the proposal to remove the requirement for a fence around licenced areas on private land. This should be a minimum requirement as it addresses matters listed by the Ministry such as clear demarcation of site boundaries and prevents inadvertent access to the site.</p> |

| County Response to Proposed Amendments | | | | |
|---|--|----------------|----------------|---|
| Policy | | Support | Concern | Comment |
| 1.2.2 | Site Plan Standards – Modernization | X | | We support the proposed changes which would clarify the definition of “operate” and improve how site plans are prepared (e.g. georeferenced) and submitted. |
| 1.2.3 | Qualified Professionals to Prepare Site Plans | X | | We are supportive of the change to add Professional Planners to the list of qualified professional who can prepare a Class A Site Plan. |
| 1.2.4 | Prescribed Licence and Permit Conditions (New Sites) | | X | We are concerned with the proposed changes which would remove the requirement to obtain other ministerial approvals as a prescribed condition for an aggregate licence or permit. Other ministerial approvals often contribute necessary information needed in the consideration of a licence or permit and should be required as a condition. |
| Part 1.3: Notification and Consultation Requirements | | | | |
| 1.3.1 | Notification and Consultation Timeframes | X | | We support the extension of time agencies and interested parties have to review and comment for all applications on private and crown lands. The Ministry should consider a longer review period given the complexity of study material and peer review requirements and the scheduling of municipal Council meetings. |
| 1.3.2 | Notification and Consultation Process | | X | We are concerned with the proposed changes which would provide licence applicants the flexibility to post notices solely through digital sources. Not all people utilize or have reliable access to the internet. This change will result in people not being appropriately notified about applications. Notices in printed media should be required. |
| | | X | | We are supportive of the other changes in this section. |
| 1.3.3 | Objection Process on Private Lands | X | | We are generally supportive of this change, however, it should be made clear to all parties that comments made during the notification period will not result in a formal objection. |

| County Response to Proposed Amendments | | | | |
|--|--|----------------|----------------|---|
| Policy | | Support | Concern | Comment |
| 1.3.4 | Circulating New Applications to Agencies | X | | We support that the Ministry will continue to explore opportunities to reduce duplication and improve efficiency during the application review process. |
| Section 2- Prescribed Rules for Minor Excavation | | | | |
| 2.1 | Excavation from Private Land or Land Owned by a Farm Business | X | | We generally have no objections with the changes, but request that as part of the registration process for a licence exemption, applicants be required to circulate municipalities. We are supportive of the clear timeline for when remediation must occur. |
| 2.2 | Excavation within a Highway Right of way for Road Construction | X | | We support this change. |
| Section 3- Proposed Changes to How New and Existing site are Managed and Operated | | | | |
| Part 3.1- Operating Requirements for All Sites (New and Existing) | | | | |
| 3.1.1 | Miscellaneous Changes | | X | We disagree with the removal of the requirement for a fence to be installed around a licenced operation. |
| 3.1.2 | Dust | X | | We support this change. |
| 3.1.3 | Blasting | X | | We support this change. |
| 3.1.4 | Recycling | X | | We generally support this change, but would encourage the Ministry to provide additional clarity around these uses through future updates to its recycling policy, especially in the area of groundwater protection. |
| Part 3.2 – Annual Compliance Reporting | | | | |
| 3.2.1 | Compliance Assessment Reports | X | X | <p>We are supportive of the changes proposed in this section. We particularly support operators providing more information about their rehabilitation efforts on sites.</p> <p>We are concerned with the change in this section which appears to make it easier for dormant sites to continue to exist by providing a less burdensome compliance reporting process.</p> |

| County Response to Proposed Amendments | | | | |
|---|--|----------------|----------------|---|
| Policy | | Support | Concern | Comment |
| 3.2.2 | Rehabilitation Reporting | X | | We are generally supportive of the proposed changes under this section. The Ministry should add additional questions about why rehabilitation is not occurring on a site, if it is not. There should also be questions in the compliance report that links to AIA rehabilitation requirements and to Greenbelt Plan disturbed area provisions. |
| Part 3.3- Site Plan Amendments | | | | |
| 3.3.1 | Site Plan Amendment Process | X | | While we generally have no concerns with the proposed changes in this section, agencies should always be circulated for comments on proposed site plan amendments. |
| 3.3.2 | Amendment to Expand into a Road Allowance | X | | We are supportive of the proposed changes in this section. |
| 3.3.3 | Amendment to Expand an Existing Site Below the Water Table | X | | <p>We are generally supportive of the changes to the amendment process that will be required for operators looking to go from an above water table extraction operation to below water table extraction operation.</p> <p>However, we would recommend that the Ministry revise this section to:</p> <ul style="list-style-type: none"> - Include a requirement for a cumulative impact assessment, particularly when there are a concentration of aggregate operations surrounding the proposed site. - Extend the notification period beyond 60 days for agencies and the interested parties. The sensitivity and technical nature often requires Council input and peer review support. The limited time frame makes developing meaningful comments a challenge. - Align the requirements for expansions to existing below water table extraction with the requirements outlined in section 3.3.3 of the consultation document. This alignment would ensure all expansions into the water table are treated consistently and receive a thorough technical and public review process. |

| County Response to Proposed Amendments | | | | |
|---|--------------------------------------|----------------|----------------|---|
| Policy | | Support | Concern | Comment |
| 3.3.4 | Self- Filing of Site Plan Amendments | | X | <p>While we see merit in allowing some minor amendments to be handled through a self-filing process, there is a concern that these amendments will go without consideration of potential impacts external to the site (e.g. relocation of a haul route or processing equipment on the site).</p> <p>We are also concerned that this process does not lend itself to transparency and engagement with the public (One of the key themes heard through consultation).</p> |



SCHEDULE B – LAKE ERIE SOURCE PROTECTION COMMITTEE

LAKE ERIE REGION SOURCE PROTECTION COMMITTEE

REPORT NO. SPC-20-04-14

DATE: April 30, 2020

TO: Members of the Lake Erie Region Source Protection Committee

SUBJECT: Proposals to amend O.Reg.244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act (EBR 019-1303)

RECOMMENDATION:

THAT the Lake Erie Region Source Protection Committee receives report SPC-20-04-14 – Proposals to amend O.Reg.244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act (EBR 019-1303) – for information;

AND THAT this report be forwarded to the Ministry of Natural Resources and Forestry through Environmental Registry Number 019-1303.

REPORT:

On September 20, 2019, the Ministry of Natural Resources and Forestry (MNRF) released a proposal on the Environmental Registry (ERO 019-0556) recommending changes to the provincial aggregate resources framework. Changes to the Aggregate Resources Act were made effective December 10, 2019.

On February 12, 2020, the MNRF posted a proposal on the Environmental Registry (ERO 019-1303) recommending amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act. The proposal recommends changes for applications to establish a new aggregate extraction sites, prescribed rules for minor excavations, and how new and existing sites are managed and operated, including amendments to expand an existing site below the water table.

The public comment period for the proposed changes initially was open until March 30, 2020. The commenting period has been extended until May 15, 2020. A description of the currently proposed amendments can be found on the Environmental Registry of Ontario (<https://ero.ontario.ca/notice/019-1303>).

Impacts from quarrying activities on sources of municipal drinking water have been a longstanding concern of the Lake Erie Source Protection Committee (SPC). A letter, dated March 31, 2010, was sent to the Honourable John Gerretsen, Minister of the Environment, requesting that O. Reg. 287/07 be amended to add *excavation below the water table that breaches the confining layer protecting an aquifer* to the list of drinking water threats. The Ministry denied the request in a letter dated September 2, 2010, stating that aggregate operations alone are not associated with pathogens or chemicals that could impact municipal drinking water sources.

On February 3, 2011, the SPC requested that the Province identify rehabilitation activities at an aggregate operation within a vulnerable area of a municipal drinking water system where fill material is placed, or that allows ponding of water, as a local drinking water threat. The placement of fill as a local threat was denied by the Ministry in a letter dated July 19, 2011. A response to the request for a local threat with respect to ponding of water is still outstanding.

Over the years, the SPC has continued to emphasize the importance of addressing aggregate extraction activities below the water table within vulnerable areas of a municipal drinking water supply. On April 30, 2015, the SPC sent a letter to the Honourable Bill Mauro, Minister of Natural Resources and Forestry, on behalf of all 19 Source Protection Committee chairs, expressing concern that the Clean Water Act has failed to adequately consider aggregate extraction activities that break through an aquitard and into the water table or which alter the vulnerability of wellhead protection areas or intake protection zones.

More recently, the discussions have centred around the ongoing review of the Aggregate Resources Act and regulations. In December 2015, the SPC provided comments on the “Blueprint for Change – A proposal to modernize and strengthen the Aggregate Resources Act policy framework”. Two of the key recommendations included the prohibition of extraction activities within the 2 year time of travel (WHPA-A and B) of municipal drinking water wells and the prohibition of extraction below the water table where a breach of the aquitard could impact municipal drinking water sources (report SPC-15-12-03). The SPC reiterated its comments in December 2016 as part of commenting on Bill 39 that proposed changes to the Aggregate Resources Act (report SPC-16-12-06).

The current proposal does not appear to provide any actual changes to the Aggregate Resources Act (ARA) Regulations. It provides a summary of proposed changes to the ‘Standards’ for ARA applications. As a result, it is challenging to assess the potential effect the proposal may have on water and natural resource systems within the watershed.

There are some changes in this proposal related to a new requirement for a document called a ‘Water Report’. This report appears to replace and incorporate the Hydrogeological Report that is currently a requirement in the Standards. The ERO document identifies a proposal to require a qualified professional to complete the Water Report. Lake Erie Region staff support this recommendation. In addition, the proposal appears to require various technical studies for below water table applications including new or amended applications.

Please note that comments provided in this report include both Grand River Conservation Authority (GRCA) comments as well as specific comments related to the protection of municipal drinking water sources. A similar report including these comments has been presented to the GRCA board on April 24, 2020. Below is a brief summary of key comments:

- Pre-consultation with agencies such as conservation authorities and municipalities should be a mandatory requirement to ensure that ‘terms of reference’ for technical reports are completed or new aggregate or quarry sites or amendments to existing applications to go below the water table. This would ensure that applications include the required technical information prior to municipal and agency review and that they can be reviewed in a timely and efficient manner.
- MNRF should develop cumulative effects assessment and data collection and sharing regulations and criteria for new aggregate or quarry sites for below water table extraction. At this time, there is no mention of cumulative effects assessments in the ERO proposal.

- In 2010, a document entitled “Cumulative Effects Assessment Best Practices Paper for Below-Water Sand and Gravel Extraction Operations in Priority Subwatersheds in the Grand River Watershed” was released. The document was completed in consultation with various provincial ministries and representatives of the Ontario Stone Sand and Gravel Association. It provides a framework for cumulative impacts to be assessed in a consistent manner and to guide decisions makers, such as municipal governments and the MNRF and Ministry of Environment, Conservation and Parks with responsibilities in this area. Eleven priority subwatersheds within the Grand River watershed were identified.
- The Best Practices Paper identified the need for a comprehensive data collection and data management process. This was to be developed and maintained by MNRF in consultation with the partners to facilitate collecting the appropriate data and sharing this information with aggregate resource applicants. This data process has yet to be established and it would provide an opportunity for a transparent and open-data sharing framework to permit all external stakeholders with access to information related to below water table aggregate and quarry applications and operations.
- A requirement for applications to be consistent with provincial or local Technical Guidelines needs to be included in the ARA Technical Standards. This would include studies that identify and evaluate impacts to water or natural environment resource systems.
- Lake Erie Region staff support the identification of source protection vulnerable areas and activities and how source protection plans and policies are addressed. To better protect municipal drinking water supplies, staff recommend the Ministry consider the following:
 - A water budget should be required for all applications proposing below water extraction
 - Water Report requirements should include an assessment of potential impacts to sources of drinking water, in particular for proposed below water extraction (e.g., breaching of aquitard), and propose any necessary measures to prevent, where possible, mitigate, or remediate any negative impacts.
 - All aggregate extraction should be prohibited in Wellhead Protection Area (WHPA) A and B, not just extraction activities by private land owners and farm businesses
 - Chloride based dust suppressants should be prohibited where dust suppression is required at aggregate sites located within source water protection areas

In addition to this report, **Appendix A** provides detailed comments on the proposal and we request the Province consider the Lake Erie Region Source Protection Committee comments in their review of the ARA Standards.

Prepared by:



Ilona Feldmann
Source Protection Program Assistant

Approved by:



Martin Keller, M. Sc.
Source Protection Program Manager

Appendix A

Detailed comments on the proposal to amend O.Reg.244/97
and the Aggregate Resources of Ontario Provincial
Standards under the Aggregate Resources Act (EBR 019-
1303)

Attachment 1 – SPC-04-13

Proposed amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act

(ERO#019-1303)

| Section 1 – Proposed Changes for Applications to Establish a New Site Part 1.1: Study and Information Requirements | |
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| Missing from Proposal | |
| <p>Cumulative Effects Assessment for below water table applications</p> | <ul style="list-style-type: none"> • Cumulative effects assessments should be conducted in areas of the province where there are concentrations of existing licences or new applications for licences to extract below the water table. The detailed water and hydrogeological assessments prepared by qualified professionals should be conducted for any existing licence that applies for an amendment of a license to extract below the water table and for new below water table applications. This would demonstrate that there will be no offsite or onsite impacts to the quantity and quality of local water resources that sustain natural environment features and address municipal interests in the protection of local municipal drinking water sources. These studies should also prescribe detailed pre and post extraction water and natural environment monitoring requirements for these areas. Depending on site characteristics, other studies should also be required for below water table extraction such as Environmental Impact Studies and other evaluations. • Examples of cumulative effects assessment include: <ul style="list-style-type: none"> ○ the measurement of cumulative effects, e.g. multiple water taking impacts related to staging of extraction from license to license (not only within the limit of a single license); ○ a subwatershed scale study for areas of the province under pressure for below water table extraction, with consistent baseline monitoring prior to an application and initiation of extraction; ○ monitoring reports that are compatible from license to license in scope and criteria that will be consolidated by MNRF, or another agency, to ensure that short and long term impacts are measured, evaluated and mitigated and information is shared on an open data platform. |
| <p>Data Management and Provincial Open Data Directive</p> | <ul style="list-style-type: none"> • This proposal includes an option to use data from other applications (see notes below). The Standards should include a requirement for applicants to provide their data to the province in an electronic submission and they should also be granted access to data collected by other parties in the vicinity of an application. • The province has establish an Open Data Directive and should implement a comprehensive data collection and data management process for current aggregate sites monitoring information and |

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| | <p>information submitted with Aggregate Resources Act (ARA) applications. In 2010 the province, the Ontario Stone Sand and Gravel Association (OSSGA) and GRCA released a paper that includes data management “Cumulative Effects Assessment Best Practices Paper for Below-Water Sand and Gravel Extraction Operations in Priority Subwatersheds in the Grand River Watershed”. It was proposed that this database be developed by MNR in consultation with various stakeholders to facilitate collecting the appropriate data and sharing this information with aggregate resource applicants. This data process has yet to be established and it would provide an opportunity for a transparent and open data sharing framework to permit external stakeholders with access to information related to below water table aggregate and quarry applications and operations. The standards should include a requirement for application information to be submitted electronically and agreement that it will be shared with other parties.</p> |
| Technical Guidelines | <ul style="list-style-type: none"> • The standards provide a base list of information to be provided and a list of the type of analysis that should be provided to support an amendment or new application. Although it is proposed that a Qualified Person complete reports, there is a wide variation in the information that is collected and analysed. This leads to delays in the review and commenting process that could be avoided or minimized through clearer requirements. The standards should be amended to include a requirement for studies to be completed in accordance with provincial Technical Guidelines (as update). Examples include: Natural Heritage Reference Manual, Technical Guide - River & Stream Systems: Erosion Hazard Limit, Technical Guide - River & Stream Systems: Flooding Hazard Limit, etc. • Where there is a gap or no Provincial technical guidelines (e.g. water budget, cumulative effects assessment, hydrogeological assessment) a Technical Guideline that has been approved by a municipality and/or Conservation Authority should be considered as technical guideline that is applicable to ARA applications. The standards should include a reference to this effect. |
| Pre-consultation Requirement in the Consultation process | <ul style="list-style-type: none"> • Pre-consultation with agencies such as conservation authorities and municipalities should be a mandatory requirement to ensure that satisfactory terms of reference are prepared for technical reports for new aggregate or quarry sites. This would ensure that applications are complete i.e. include the appropriate pre-extraction monitoring, plans, technical information etc. This activity is required in similar applications processes such as a subdivision application under the Planning Act and it enables an efficient and timely review of applications by municipalities and agencies. |
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| Proposal | GRCA Comments |
| 1.1.1 Water Report | <p>Determination of Water Table:</p> <ul style="list-style-type: none"> • Support that water table must be determined for all applications and determined based on maximum predicted elevation of the water |

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| | <p>table</p> <ul style="list-style-type: none"> • There can be significant variations in the natural environment from year to year and an evaluation based on one year of data can be misleading. Many technical reports to support planning applications and other proposals of a similar scale to most aggregate applications are based on two to five years of data collection. The proposal to only require one year minimum groundwater monitoring to establish level of water table (and other water and natural features) should require a minimum two (2) years of surface water and natural resources monitoring and continuous groundwater level monitoring for proposed above water extraction, and a minimum three (3) years of this monitoring for proposed below water extraction. • The current wording in the proposal to allow determination of the water table from existing monitoring data and from adjacent sites is problematic. How old can existing monitoring data be? How far away can adjacent monitoring sites be? Water table should be determined on the basis of current monitoring on site. <p>Requirement of a Water Report:</p> <ul style="list-style-type: none"> • It is unclear what is proposed: Will the Provincial Standards be revised to eliminate the requirement for a Hydrogeological 1 and 2 report and require a new Water Report? Will the natural environment report requirements be modified? The province should clearly define the level of detail and assessment of impacts, in particular with respect to protecting municipal drinking water sources, water budget, and cumulative impacts. • Proposed Water Report should require avoidance of impacts where possible, or mitigation, not just feasibility of mitigation. The PPS requires that municipalities protect, improve and restore the quality and quantity of water. Since land use planning mechanisms for review of ARA applications have been modified, the ARA standards and technical guidelines will need to be in line with PPS requirements to ensure the appropriate criteria is in place to protect for an adequate quality and quantity of water in communities and assess and prevent any potential threat or impacts to source water and local municipal drinking water supplies. • Assessment of impacts should be in line and defined with the same criteria as the current growth plan requirements for natural resource systems (that relate to water, e.g. fish habitat) and assessment of water resource systems, e.g. seepage areas, wetlands, significant groundwater recharge areas and highly vulnerable aquifers including some source water protection areas. These areas include 'key hydrological features' such as <u>all</u> wetlands including <u>unevaluated</u> wetlands. An analysis completed in 2016 in the Grand River watershed reviewed the wetlands mapped by the GRCA and MNRF, and there are approximately 12,255 hectares of wetlands in the Grand River watershed that have not been evaluated by MNRF. There may be a minor variation in this statistic due to work |
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| | <p>completed in Aylmer District. It is likely that some wetland areas in or near known aggregate resource areas would be evaluated as Provincially Significant Wetlands and the absence of evaluation at this time may result in the inadequate assessment of these features if the standards only refer to Provincially Significant Wetlands. An option for the province to consider is completing the evaluations in south-central Ontario where wetland loss has been most significant over the past several decades with a focus on areas with aggregate resources.</p> <ul style="list-style-type: none"> • Content requirement for Water Report should spell out and include criteria for when a water budget is required. E.g., applications proposing below water extraction should always require a water budget. Water budgets should include the full extent of the proposed excavation and use best available modelling techniques for a comprehensive and up to date assessment. A Technical Guideline for Water Budget analysis is required and this guideline should be included by reference in the Standards. • GRCA supports the proposal that a qualified person to prepare a water report must be a P.Geo or P.Eng. However, the impact analysis of the application in relation to water and natural features will require a qualified person in ecology as well. • GRCA supports the identification of source protection vulnerable areas and activities and how source protection plans and policies are addressed. In addition, Water Report requirements should include an assessment of potential impacts to sources of drinking water, in particular for proposed below water extraction (e.g., breaching of aquitard), and propose any necessary measures to prevent, where possible, mitigate, or remediate any negative impacts. • The standards should include the identification of the presence of an aquitard to a municipal drinking water supply on or near the site and a detailed assessment on how the application will avoid any impacts to the aquitard. |
| 1.1.3 Natural Environment Report | <ul style="list-style-type: none"> • GRCA is concerned that only ‘significant’ features need to be identified and assessed. For proposed sites in Southern Ontario, all natural heritage features (e.g., all wetlands including unevaluated wetlands) should be identified and assessed as part of the Natural Environment Report. • It is unclear how the Natural Environment Report will align with the PPS and the four Provincial Plans. Requirements that are the same as other provincial plans that are related to Water or the Natural Environment Report should be included in the revised Provincial Standards. |
| 1.1.6 Summary Statement | <ul style="list-style-type: none"> • It is unclear what planning and land use considerations will be included in the summary statement and how they will be addressed should they not align. • If a new pit or quarry application creates a new Significant Drinking Water Threat under the Clean Water Act, this information and how it |

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| | <p>will be addressed should be included in the Summary Statement.</p> <ul style="list-style-type: none"> • Site plans for existing sites should be updated to include the same information as required in the Summary Statement for new sites. This should include the identification of Significant Drinking Water Threats under the Clean Water Act and how they will be addressed. |
| Part 1.2: Site Plan and Licence/Permit Conditions | |
| 1.2.1 Site Plan Standards – Improving Flexibility | <ul style="list-style-type: none"> • In addition to setbacks, listed items (e.g., scrap storage area) should still be required to not be located within natural features |
| 1.2.2 Site Plan Standards – Modernization | <ul style="list-style-type: none"> • If a new pit or quarry imports excess soil to facilitate rehabilitation on site and is located within a Wellhead Protection Area A or B, the standard will need to specify that excess soil importation must be ‘clean’ fill. This may require a reference to a specific Table or MECP criteria in the standards. |
| 1.2.4 Prescribed Licence and Permit Conditions (New Sites) | <ul style="list-style-type: none"> • Monitoring, threshold exceedance actions and notification requirements should be included as a mandatory condition for new licences and permits. |
| Part 1.3: Notification and Consultation Requirements | |
| 1.3.2 Notification and Consultation Process | <ul style="list-style-type: none"> • Pre-consultation should be a mandatory requirement for all new applications to ensure the applicant and agencies (province, municipalities, conservation authorities) can discuss the proposed extraction activities and ensure the application will be complete when submitted (see comments above). |
| 1.3.3 Objection Process on Private Land | <ul style="list-style-type: none"> • Only the Ministry of Natural Resources and Forestry may refer outstanding objections to the Local Planning and Appeal Tribunal (LPAT). Persons and agencies (e.g. conservation authorities and municipalities) should be given the right to appeal the Ministry’s decision to the LPAT if their concerns, e.g., protecting the natural environment or municipal drinking water sources, have not been adequately addressed through the application process. |
| 1.3.4 Circulating New Applications to Agencies | <ul style="list-style-type: none"> • Proposal includes circulation to conservation authorities for them to determine whether the application has the potential to impact the control of flooding, erosion or other natural hazards. Under agreements with municipalities, conservation authorities may also provide further comments to a municipality for their consideration. Conservation authorities may also be adjacent landowners or provide comments as a watershed management agency; e.g. cumulative effects within a basin or subwatershed. • Conservation authorities, in their capacity as a source protection authority, should also comment on any potential impact to sources of municipal drinking water, given that the protection of sources of drinking water has been included as a mandatory program under the Conservation Authorities Act. |

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| Section 2 – Prescribed Rules for Minor Excavations | |
| Part 2.1: Excavation from Private Land or Land Owned by a Farm Business | |
| | <ul style="list-style-type: none"> The Ministry is proposing that private land owners and farm operations be allowed to extract aggregates if they meet certain rules set out in regulation. Among other requirements, aggregate extraction would not be allowed in a Wellhead Protection Area (WHPA) A and B. To strengthen the protection of municipal drinking water sources, <u>all</u> aggregate extraction activities should be prohibited in a WHPA A and B. |
| Section 3 – Proposed Changes to How New and Existing Sites are Managed and Operated | |
| Part 3.1: Operating Requirements for All Sites (New and Existing) | |
| 3.1.2 Dust | <ul style="list-style-type: none"> The proposal would require all licence holders to mitigate dust to prevent it from leaving the site. Dust suppressants are often chloride based. The application of these chemicals would result in chloride leaching into the ground, recharging water supply aquifers, and increasing chloride levels in private and municipal supply wells. Where dust suppression is required at aggregate sites located within source water protection areas, chloride based dust suppressants should be prohibited. |
| Part 3.3: Site Plan Amendments | |
| 3.3.1 Site Plan Amendment Process | <ul style="list-style-type: none"> Site plan amendments should also be able to be initiated by the Province, in cases where new information becomes available. The Province should have the ability to require the licensee or permit holder to complete technical studies to address new information. For example, for existing licence or permit holder that never had any technical reports, i.e., dormant or inactive licenses (for a number of years) or very old licences/permits or where the technical reports are outdated, the Province should have the ability to require new technical assessments to address changing and new information. To prevent licences/permits from getting outdated, licenses/permits should have expiry dates. Renewal periods could be up to 10 years similar to PTTW, ensuring site plans reflect changing environmental and regulatory conditions. |
| 3.3.3 Amendment to Expand on Existing Site Below the Water Table | <ul style="list-style-type: none"> Supplemental report to widen existing below water extraction area should only be allowed for limited widening of area, e.g. widening into road allowance. Larger scale widening should be considered the same as a new application. Clarification on what is intended by the term 'widening' is needed, i.e. should not include adjacent private lands. There should be no exemption to preparing a Natural Environment Report as expanding extraction to below the water table may impact natural features and their function, e.g., fish habitat impact; items that are likely addressed in the Natural Environment Report. |

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| | <ul style="list-style-type: none"> • It is unclear what happens after the two (2) year period when the applicant submits documentation. Other than - the Ministry may refer outstanding objections to the Local Planning and Appeal Tribunal (LPAT), the proposal is silent on how and when the Ministry will make a decision on the site plan amendment, the role of Ministry staff and criteria for referring outstanding objections to the LPAT. • The proposal is also unclear whether the reference to the LPAT removes the Environmental Tribunal approval role. |
| <p>General Comments</p> | |
| <p>Proposed amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act (ERO#019-1303)</p> | <ul style="list-style-type: none"> • It is anticipated that the general concepts outlined in the consultation paper will be incorporated into draft Provincial Standards. As a next step the province is encouraged to provide the proposed draft Provincial Standards as they would appear in provincial documents for public consultation. This would provide an opportunity for a comprehensive review to determine if there are components of the standards that need clarification to achieve the desired result of a streamlined review process that also protects the natural environment. It is clear that Technical Guidelines are necessary components of the ARA process and should be updated or created in several areas. • Several municipalities and conservation authorities have developed technical guidelines that could be accessed and modified as required to accelerate the development of MNRF technical guidelines for ARA applications. |



SCHEDULE C - AMCTO / JOHN MCNIE


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[Municipal Careers \(/Municipal-Careers\)](#)

February 2020

Proposals to Amend Standards and Regulation under the Aggregate Resources Act

2020-02-19 11:47:43 AM

CATEGORIES: [Planning \(/Advocacy-Policy/Policy-Updates?topicCatID=24\)](#), [Licensing & Law Enforcement \(/Advocacy-Policy/Policy-Updates?topicCatID=54\)](#)

As a result of recent changes in Bill 132, *Better for People, Smarter for Business Act*, 2019, the Ontario government is proposing regulatory changes under the *Aggregate Resources Act* and its Provincial Standards.

The government says these changes are proposed to modernize the way aggregate resources are managed and promote economic growth within the aggregate industry while protecting the environment.

The proposals are open for feedback until March 30th. Comments can be submitted through the Environmental Registry Posting (<https://ero.ontario.ca/notice/019-1303>) or sending comments via email to aggregates@ontario.ca (<mailto:aggregates@ontario.ca>).

Below is a summary of the proposed changes that may be of relevance to Ontario's local governments:

Section 1 – Proposed Changes for Applications to Establish a New State

1.1.1. Water Report

It is proposed to clarify how the water table is determined, who is qualified to prepare a water report, and enhance the information required as part of the report

Proposed changes to clarify current requirements for the assessment of impacts to water are as follows:

- A new requirement would be added to summarize how local source water protection plans and policies are addressed. Applicants would be required to identify:
 - If the proposed operation is within a Wellhead Protection Area A or B;
 - If activities proposed at the site have the potential to cause a significant threat to local source water – this would reference plans or policies under the *Clean Water Act*;

- If the proposed extraction has the potential for changes to the vulnerability within a Wellhead Protection Area; and
- the potential for impacts to the sustainability of a municipal water taking if the proposed site is in a Wellhead Protection Area for Quantity (WHPA-Q).

1.3.2 Notification and Consultation Process

It is proposed to change the notification and consultation process for the public and provide more options to applicants.

Proposed changes include:

- Requiring Class A license applicants (i.e. authorizations to remove more than 20,000 tonnes per year on private land) to notify residents located within 150 metres of a proposed pit or within 500 metres of a proposed quarry. Such applicants would continue to notify landowners within 120 metres of the proposed pit or quarry.
- More options relating to the method of notification by the license applicants would be now allowed.
- Applicants are to obtain landowner contact information from municipalities for the required notification process

1.3.4 Circulating New Applications to Agencies

It is proposed to update the list of agencies (e.g. municipalities) to reflect current government organization and responsibilities so that the applicant can circulate the application as required by the Provincial Standards.

The approach would not require agencies to review aspects of applications that are beyond their mandate. For example: applicants would be required to circulate the application to Conservation Authorities (CA), if one exists, to determine whether the proposed site is within their area of regulation. If it is, the CA would review whether the application has the potential to impact the control of flooding, erosion, or other natural hazards.

The Ministry of Natural Resources and Forestry will explore with its municipal partners and other ministries to see “how applications can be reviewed to reduce duplication during the review and improve efficiency”.

Section 2 – Prescribed Rules for Minor Excavations

2.2 Excavation within a Highway Right of Way for Road Construction

It is proposed that it be made clear in regulation that municipalities or the Crown would not require a license or permit to excavate aggregate if the following conditions are met:

- The aggregate is being excavated as part of a public road construction project; and
- The excavation is occurring within the established right of way of a highway owned by a municipality or the Crown.

Section 3 – Proposed Changes to How New and Existing Sites are Managed and Operated

3.2.1 Compliance Assessment Reports

The Ministry is proposing changes to the compliance assessment reporting form, which are submitted to the Ministry and local municipality(ies). Changes include:

- Combining the form for reporting on both licenses and permits;
- Developing a “smart form” that would pre-populate sections of the form based on previously submitted information;
- Streamlining the required assessment info for sites that have been inactive for 3+ years;
- Enhancing the rehabilitation information required; and
- Making changes needed to reflect other proposals in the document.

The Ministry is also proposing to allow the assessment to be completed earlier in the year from April 1st to September 15th. The report submission deadline would remain as September 30th.

Currently, the assessment must take place from May 1st and September 15th.

3.2.2 Rehabilitation Reporting

It is proposed to require pit or quarry operators to report additional information on progressive and final rehabilitation activities. Additional information can include requiring operators to state which phase of their planned evacuation they are in and the rehabilitation activities they have undertaken that year (i.e. seeding, planting of trees, etc.).

The Ministry is working on additional guidance for operators and municipalities, such as best management practices for rehabilitation.

3.3.1 Site Plan Amendment Process

It is proposed to clarify in regulation that the following information be submitted to the Ministry if an existing license or aggregate permit holder would like to request an amendment to their site plan:

- Name, address, geographic location, and license/permit number
- A description of the proposed amendment(s)
- A description of how the proposed amendment(s) will change the operation; and
- The reason for the request(s)

Depending on the request, additional information, such as new or updated studies to assess potential implications, may be required. The circulation of the proposed amendment(s) to municipalities, other agencies, and interested parties for comment may also be required.

The Ministry will continue to forward copies of the revised site plans to local municipalities where the pit or quarry is located.

3.3.2 Amendment to Expand into a Road Allowance

It is proposed to require the following information and notification as part of an amendment application to expand into a road allowance that is directly adjacent to an existing pit or quarry on private land.

Documentation will have to demonstrate that the municipality with jurisdiction over the road allowance supports the application or that the landowner does.

Applications will have to be circulated to landowners within 120 metres of the boundary of the road allowance area proposed and be circulated to any agencies identified by the Ministry. A posted notice and a sign would also be required to make the public aware of the proposed expansion.

Landowners, the public, and agencies would be given 60 days to comment on the proposed expansion and applicants would work to resolve comments before submitting a final application to the Ministry for approval.

3.3.3 Amendment to Expand an Existing Site Below the Water Table

It is proposed to set application requirements in regulation for existing pits and quarries on private land that apply to the Ministry for a site plan amendment to extract below the water table.

Among the requirements, applicants will circulate the amendment application to the following parties:

- Landowners within 120 metres of the boundary of the existing pit or quarry;
- The Ministry of Natural Resources and Forestry;
- The Ministry of the Environment, Conservation and Parks;
- The local municipality where the site is located;
- The county or region where the site is located, if applicable;
- The CA in whose jurisdiction where the site is located; and
- The Niagara Escarpment Commission, if applicable.

Information would also be required to describe how the proposed amendment align with any relevant Provincial Policy Statement or Provincial Plan policies.

Applicants would need to submit documentation of the notification and consultation process to the Ministry within 2 years of notifying landowners and agencies of the proposal. The Ministry may refer objections to the Local Planning and Appeal Tribunal for a hearing and decision on the application.

3.3.4 Self-Filing of Site Plan Amendments

It is proposed to allow existing operators to make changes to site plan amendments for self-filing without Ministry review or approval. Self-filing was selected as they are routine changes that reflect normal operations of pits and quarries.

A holder of a license or aggregate permits will need to confirm a series of conditions that the amendment will not result in. License or permit holders will only be eligible for this proposal if they are up to date on payments of annual fees and royalties and all required annual compliance and production reports are filed.

Municipal approval will also have to be obtained (where required) on building and structures on private land.






The revised site plan will be submitted to the Ministry and a copy to the local municipality and the county/region in which the site is located will have to be provided.

For more information, please see below:

Proposals to amend O. Reg. 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act (https://prod-environmental-registry.s3.amazonaws.com/2020-02/Proposals_ARA_Reg_Standards%20FINAL.pdf)

ERO: Proposal to Amend O. Reg. 244/97 and Provincial Standards (<https://ero.ontario.ca/notice/019-1303>)

AMCTO: Government Passes Bill 132 (<https://www.amcto.com/Blog/December-2019/Government-Passes-Bill-132,-Better-for-People,-Sma>)

SHARE:  ([https://www.linkedin.com/shareArticle?mini=true&url=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under&title=Proposals to Amend Standards and Regulation under the Aggregate Resources Act](https://www.linkedin.com/shareArticle?mini=true&url=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under&title=Proposals%20to%20Amend%20Standards%20and%20Regulation%20under%20the%20Aggregate%20Resources%20Act))  (<https://www.facebook.com/sharer/sharer.php?u=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under&src=sdkpreparse>)  (<http://twitter.com/home/?status=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under>)  (<https://plus.google.com/share?url=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under>)  (<mailto:someone@example.com?Body=https://www.amcto.com/Blog/February-2020/Proposals-to-Amend-Standards-and-Regulation-under>)

Comments

Blog post currently doesn't have any comments.

Considerations regarding the Provincial Proposal to amend the Aggregate Resources Act, February, 2020.

General point: provincial policy proposals continue to use vague words allowing considerable leeway in interpretation, such as significant, may be, routine, areas, other.

Section 1, New Sites (NS), Water: - water budgets “may be” required*
- Cons Auth. reduced oversight**

Section 1, NS: Culture: -relies entirely on strength of local Heritage Policy Framework.*** (*township action potential*)

Section 1, NS, Agriculture: - prime agricultural “areas” require minimum size to rate protection. Puslinch has multiple small prime agricultural areas and significant secondary. If even primary is left unprotected, the township could rapidly lose the minimum total ag area required to support ag infrastructure of seed, feed, equipment, builders, cooperatives.***

Section 1, NS, Summary: very useful addition but relies on strength of pre-existing land use plans/ considerations. Note Rockwood. **
(*township action potential*)

Section 1, NS, Standards: -not mentioned in AMCTO report, important because permits unrestricted movement of storage, equipment, even potentially buildings and removes requirement for fences. *** (*township action potential*)

Section 1, NS, Notification/ Consult, Circulating: -AMCTO report doesn't mention addition of extensions to 2 year application deadline, so potentially an application can stay open forever, i.e. until opposition fades.**

-Cons Authority

comments now restricted to “core” i.e. flooding, erosion or other natural hazards. *

Section 3, Existing Sites (ES), Compliance: -called streamlining but removes requirement for compliance reports for pits dormant 3 years of greater. Especially important to Puslinch as encourages mothballing sites until maximum economic gain, i.e. minimal transport distance.***

Section 3, ES, Rehabilitation: -just side note re wording again. Part of compliance report is a description of final rehab activities and "if known final intended use". How can the former proceed without the latter?

Section 3, ES, Amendments: - side note re wording. Supposedly clarifying by requiring more information. includes 4 items, see AMCTO report, most basic info possible.

- expansion into road allowances. This is critical for Puslinch, especially in areas such as Concession2. Pits have already had their area parameters expanded far beyond the original area licensed and now they want the last few yards. Truly nothing left, just water for rehabilitation. ***** (*township action potential*)

- vertical planning, AMCTO report doesn't mention that if no surface area expansion, then don't need envt, cultural, heritage of blast reports. Critical for Puslinch as areas where gravel lies over bedrock could become quarries without further municipal input and any reports requested would be at municipal cost.***** (*township action potential*)

- *need to recognize importance of this vertical planning aspect even though trying to sell as no change. There is a significant onus change just like the costs of reports. When added into the ease of surface area and duration changes and the self-filing changes below, essentially no aspect of the original parameters under which a license is granted remains guaranteed. Sensible aggregate companies will now apply for licenses with a minimum of area, depth and duration and the most community attractive site plan, knowing this minimizes grounds for license opposition, while imposing no real limitations.*

Section 3, ES, Self-filing: -removes requirement for ministry approval for "routine changes", then list "routine" to include every aspect of original site plan submitted with license application, including stockpiles, entrances and exits, internal roads, scrap storage, portable processing equipment, asphalt/concrete plants and buildings unless municipal approval req. ***** (*township action potential*)

Section 3, ES, Recycling: - included under self-filing, AMCTO report doesn't mention recycling, especially important for Puslinch as raises possibility of sites becoming industrial recycling operations without municipal input. Only condition is some extraction concurrent with recycling and maximum tonnage not to exceed aggregate tonnage. Again

note wording, where recycling must stop when final rehab is complete. How can final rehab be complete if extraction must be concurrent with recycling let alone complete final rehab with ongoing recycling?

******(township action potential)*

Final Points: AMCTO doesn't mention "Implementation Timing". It's interesting to note all the pro-aggregate actions are to be implemented immediately with the other actions to follow (6 months to a year or greater).

- Micro-operational license phasing is the new phrase for easing the passage of zoning changes and license applications. Buy 400 acres and apply for 80 acres of above ground extraction with wide community buffers and low truck haulage numbers. Exhaust the 80 and move to phase 2 for another 80, repeat in phases 3, 4 and 5 and then extend vertically in phase 6 as well as including road allowances etc.

Deadline for comment: March 30, 2020.