



Legislative and Planning Services
Planning Services
Halton Region
1151 Bronte Road
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February 24, 2022

Cathy Curlew
Resources Development Section
Ministry of Northern Development, Mines, Natural Resources
and Forestry
300 Water St, 2nd Floor S,
Peterborough, ON K9J 3C7

(delivered by email)

**RE: Response to Proposed Regulatory Changes for the beneficial Reuse of Excess Soil at Pits and Quarries in Ontario
ERO Posting No. 019-4801**

Dear Ms. Curlew:

Halton Region staff is writing in response to the above proposal on the Environmental Registry of Ontario, posted January 10, 2020. Thank you for the opportunity to comment on the Ministry's proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario.

Proposed Ontario Regulation 244/97 changes

The proposal describes amendments to ensure O. Reg. 244/97 requirements are consistent with those made in the Environmental Protection Act. Halton Region is in receipt of several major aggregate proposals for below-water extraction in areas designated as highly vulnerable aquifers, which are utilized by local residents as their primary drinking water supplies. As the applications were filed prior to the current ERO posting, the Ministry should require any filed *Aggregate Resources Act* applications to amend their site plans to align with the strictest conditions in the amended O. Reg. 244/97.

By point in the ERO posting:

- 1a) The most stringent (Table 1) quality standards for all excess soil placed below the water table should be applied. This is critical to the protection of groundwater resources and those who rely on those resources for drinking water. Comments below related to requiring written confirmation by a Qualified Professional (as defined by the *Environmental Protection Act*) additionally apply to this comment.

Regional Municipality of Halton

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- 1c) The use of the Excess Soils Quality Standards under O. Reg. 406/19 should be used in all circumstances. An objective standard should be established for determining, “when no other alternative is available,” so as to allow a site-specific standard to be used. In order to provide maximum protection to the natural environment, these objective criteria should be narrow, strictly based on feasibility and should not take into account cost or commercial considerations.
- 2) The oversight measures proposed (written records available on request that identify the source site, quality, quantity, and placement of excess soil received for reuse at the site, plus requiring a Qualified Person as defined by the *Environmental Protection Act* to provide written confirmation on quality and placement for large quantities of excess soil or if placing excess soil below the water table) are good and supportable. There is no reason why a Qualified Person cannot provide similar such reporting for all placement of excess soil as part of the written record being proposed. Also, there should be requirements for a records retention period, and ease of access to these records.
- 3) Licence holders could have the ability to make self-filed amendments—but only where the amendment to bring site plans into compliance with the proposed standards in O. Reg. 244/97. Any change that proposes to increase the amount of excess soil or other material for rehabilitation, or maintains or adds to a non-compliant situation, needs must to be subject to review and approval by the Ministry, including review and comment by the host municipalities and local community through appropriate means.

There are several licensed pits in Halton Region that have been inactive for a number of years. Some have been subjected to intermittent soil relocation/regrading despite being considered fully graded and naturalized in previous Compliance Assessment Reports. The Region receives occasional complaints from local residents concerning new “unapproved” activities at such sites. Residents are concerned that maintaining *Aggregate Resources Act* licences at otherwise dormant sites may lead to importation of excess soil, where such activity had not been allowed in the past. It is important that proper consultation with local agencies and residents takes place in the event of a site plan amendment to allow changes to approved grading with the use of excess soil.

Replacement for Policy A.R. 6.00.03 (Importation of Inert Fill)

On future/proposed sites, transparency should be ensured and secured through the inclusion of proposed quantities of excess soil to be imported on all proposed rehabilitation plans. The principle that the primary use of mined-out aggregate sites must not be the deposit of excess soil. To that end, aggregate licence proponents should specify proposed future uses that are appropriate and realistic in the circumstances and are not designed to facilitate or maximize the opportunity to import excess soil.

On existing approved sites, the general principles put forward in the ERO posting are supported. Four additions are recommended:

1. Any existing sites where soil placement is permitted below the water table should be required to meet Table 1 standards
2. Reporting prepared by a Qualified Person as defined by the *Environmental Protection Act* should be required for all placement of excess soil as part of the written record being proposed

3. A records retention period and ease of access requirements for the proposed fill reports should be specified
4. Significant changes, including any proposed increase in the amount of fill to be imported, should be circulated to the host municipalities and other relevant agencies for comment

The proposal indicates that proponents looking to fill-to-grade as part of rehabilitation will be required to consider impacts to the community from the fill operation and prolonged life of the site. Depending on the scale of the pit or quarry in question, filling to grade could take years or even decades and entail long-term impacts to host communities. In these circumstances, a mined out pit or quarry could take on a new life as an entirely different land use. While a good inclusion, a stronger enhancement would be for the Ministry establish a threshold amount of soil importation that is permissible under an *Aggregate Resources Act* licence. Anything beyond this threshold should have to be imported after surrender of an aggregate licence and in compliance with municipal approvals.

Conclusion

Rather than providing for a “neutral” impact, the Ministry should look to ensuring any changes result in overall positive improvements to the environment. Provincial and Regional policy demand enhancements, not just neutrality. In line with previous submissions, the Ministry should include requirements for greater independence in producing and reporting test results (fill deposition generally being overseen by the Ministry of the Environment, Conservation and Parks). In turn, this will secure positive improvements on both social and economic matters. Testing for cleanliness of imported fill continues to be a pressing priority for residents in Halton Region.

Thank you once again for considering these comments on this important issue. For further questions and correspondence on this file, please do not hesitate to contact me (joe.nethery@halton.ca, 905-825-6000, ext.3035).

Sincerely,



Joe Nethery, MCIP, RPP
Manager of Priority Development Projects