



February 16, 2022

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(sent via email to [aggregates@ontario.ca](mailto:aggregates@ontario.ca))

**Re: OSSGA comments on Proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario (019-4801)**

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The Ontario Stone, Sand & Gravel Association (OSSGA) appreciates the opportunity to comment on the Ministry of Northern Development, Mines, Natural Resources and Forestry's (NDMNRF) proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario (ERO 019-4801).

As you know, OSSGA is a not-for-profit association representing over 280 sand, gravel and crushed stone producers and suppliers of valuable industry products and services. Collectively, its members supply the substantial majority of the more than 160 million tonnes of aggregate consumed each year in the province to build and maintain Ontario's infrastructure. OSSGA works in partnership with the public and government agencies at all levels to promote a safe and competitive aggregate industry, contributing to the creation of strong communities.

**OSSGA appreciates the Ministry's attempts to align with O.Reg 406/19 (On-Site and Excess Soil Management) under the *Environmental Protection Act* (EPA) however it is crucial that any regulatory/policy changes by NDMNRF reference or follow O.Reg 406/19, without overlap, red tape, restrictions or contradictions.**

OSSGA has a number of significant concerns with the proposed regulatory changes outlined below.

**General Comments on Proposed Regulatory Changes**

An estimated 25 million cubic metres of excess soil is generated in Ontario every year. New infrastructure projects - necessary to support our growing province - will continue to generate excess soil that will need to be diverted from landfills. Pits and quarries operating under an approved ARA instrument offer an opportunity to not only receive excess soil but more importantly, use it for beneficial reuse (rehabilitation).

The availability and importation of high-quality excess soil presents an opportunity for aggregate producers to conduct enhanced rehabilitation. Currently, the importation of

excess soil for rehabilitation is restricted to the creation of 3:1 or 2:1 slopes. Providing additional flexibility around sloping (by allowing gentler, more farmable slopes) only benefits the future land use.

Additionally, restrictive rehabilitation policy often limits extraction by the amount of material on site available for backfilling. This has resulted in aggregate being left in the ground once the minimum rehabilitation has been completed prior to surrender of the licence. With a surplus of excess soil and four billion tonnes of aggregate that will be needed over the next 25 years, maximizing extraction of aggregate at each site, and maximizing the beneficial reuse of excess soil at pits and quarries is a win-win for the province of Ontario. The Ministry's proposed regulatory changes will not help us achieve this important public policy objective.

### **Proposed Changes for Existing Licence Holders**

OSSGA supports proposed changes for existing licence holders authorized to import fill looking to change to a different soil quality or removing conditions related to sampling/reporting through self-filing. This is an important change that will allow licence holders to make changes to their site plans without the need for Ministry approval.

### **Soil Quality Standards and Additional Requirements for Pits and Quarries**

With O.Reg 406/19 now in effect, the proposed introduction of additional rules/requirements by NDMNRF to support the oversight of importation of excess soil under the ARA is unnecessary and creates additional uncertainties and barriers to conducting rehabilitation.

For example, a PTTW or ECA may be required for an operating aggregate site, however, NDMNRF does not introduce additional restrictions to these instruments and leaves the compliance and oversight to the Ministry of Environment Conservation and Parks (MECP). **The same approach should be taken with the importation of excess soil.**

We provide several examples, outlined below, where NDMNRF is creating a duplication of requirements or introducing additional restrictions for aggregate operators.

Under the proposed policy, NDMNRF is restricting soil placed below the water table to Table 1 which, due to the limited availability of Table 1, severely restricts rehabilitation. It is not appropriate for NDMNRF to be determining acceptable soil quality parameters as-of-right if this has to be specifically determined by a QP in accordance with O.Reg 406/19 based on site-specific conditions. If the quality of soil below the water table is a concern, it would be helpful to understand the nature of the Ministry's concern as the Beneficial Reuse Assessment Tool (BRAT) allows users to modify certain site conditions to develop site specific standards based on science. The use of this tool should be available for aggregate sites looking to place soil below the water table. If a QP determines that it is safe to bring in material other than Table 1, this should be permitted.

We are also concerned about the Ministry's proposal that the use of the BRAT tool would be subject to authorization from the NDMNRF. This is an unnecessary duplication of oversight as it falls under MECP's jurisdiction.

Additionally, the Ministry is proposing that aggregate sites keep written records available on request and retain a QP if placing large quantities of excess soil (>10,000 m<sup>3</sup>) or placing soil below the water table. According to the Ministry, the rationale for these additional requirements is to ensure additional safeguards are in place when large volumes of excess soil cover large areas (i.e. multiple hectares). If a licensee satisfies MECP conditions and requirements for excess fill, the size of the site should be irrelevant. Pits and quarries are already subject to registration (via the excess soil registry) and tracking requirements under O.Reg 406/19 and this data is accessible by NDMNRF. Additional requirements imposed by NDMNRF add additional costs, red tape and delays to rehabilitation.

Under O.Reg 406/19, if liquid soil is brought to a reuse site, there must be a site specific instrument ( i.e. a licence or permit under the ARA) in place that allows liquid soil to be deposited at the site. Specifically under O.Reg 406/19, if liquid soil is brought to a reuse site where there is a site-specific instrument, the site-specific instrument must permit the deposit of liquid soil and may stipulate the operation requirements to properly manage it. However, the Ministry's proposal states that liquid soil will not be authorized for importing under the *Aggregate Resources Act* and that if an aggregate site wishes to import liquid soil to be processed for use, they should continue to see authorization under the EPA. It is not clear why NDMNRF is prohibiting the importation of liquid soil under a site licence as there may be instances where liquid soil from hydrovac trucks (simply aggregate mixed with water) meets Table 1 or another acceptable standard.

**OSSGA's recommendation is that the Ministry remove any reference to additional requirements and restrictions for pits and quarries related to excess soil. Pits and quarries should only be required to follow MECP's rules for soil management and excess soil quality standards.**

**Furthermore, OSSGA recommends that Section 62 of the Site Plans Standards be amended to remove any reference to details of type, volume, testing, tracking and record-keeping on the site plan to allow for flexibility for soil importation. A statement indicating whether any soil, topsoil or fill material will be imported to the site for rehabilitation purposes is sufficient.**

### **Policy 6.00.03**

Currently, rehabilitation is limited to minimum sloping requirements even though the importation of excess soil can be undertaken to minimize the losses of agricultural land and support wise resource use management. Additionally, any changes to contours and/or grades triggers a major site plan amendment. As NDMNRF looks to revise this policy, there are opportunities to encourage enhanced rehabilitation by allowing more flexibility for the beneficial reuse of excess soil, without the onerous requirement to undertake a full circulation and review required as part of a major/significant site plan amendment.



## **Conclusion**

**While we appreciate the Ministry's attempts to align with O.Reg 406/19, we believe that the current proposed approach creates barriers to rehabilitation, adds additional red tape and costs for aggregate producers and further complicates producer responsibilities with respect to excess soil rules and responsibilities.**

Thank you again for the consideration of our comments. We look forward to continuing discussions with the Ministry on the beneficial reuse of excess soil at pits and quarries. Should you have any questions or concerns, please do not hesitate to contact Ashlee Zelek, Director of Environment and Education at 647-727-8778.

Sincerely,

A handwritten signature in blue ink, appearing to read "Norman Cheesman", is written over a light blue circular stamp.

Norman Cheesman  
Executive Director