

# A BLUEPRINT FOR CHANGE

A proposal to modernize and strengthen the  
*Aggregate Resources Act* policy framework

ISBN 978-1-4606-6817-7 (Print)

ISBN 978-1-4606-6819-1 (PDF)

# INTRODUCTION

The Ministry of Natural Resources and Forestry (MNRF) is responsible for managing Ontario's aggregate resources. The extraction of aggregates is regulated under the *Aggregate Resources Act* which applies to Crown-owned aggregate and topsoil, aggregate located under natural bodies of water and privately-owned aggregate located on private land (within geographic areas identified in regulation). Approximately 6,400 approvals have been issued under the Act for the operation of pits and quarries. Nearly 60 percent of these pits and quarries are on private land. Most of the aggregate produced in Ontario comes from private land in southern Ontario where most Ontarians live. Studies have shown that our need for aggregate material is expected to increase over the next twenty years (source: State of Aggregate Resources in Ontario, 2010).

Aggregate resources are non-renewable resources like sand, gravel and rock that are needed for the infrastructure that supports the quality of life that Ontarians enjoy today. They are used for the buildings we live and work in, the roads, the airports and subways we use to get from place to place, and for many other necessary services like sewers and power generating stations. Aggregate material is extracted in operations known as pits (where loose material like sand and gravel is being removed) and quarries (where solid bedrock material such as limestone and granite is extracted).

Ontario requires a continued supply of aggregate resources. Yet, it is equally important to recognize and manage the impact extraction operations can have on the environment and on the communities that surround them. These operations are located across our diverse province, and the regulatory framework that manages them must be fair and predictable – and also flexible enough to be effective and relevant in regionally distinct areas. What is needed is a strong, modern *Aggregate Resources Act* policy framework that can support Ontario's needs today and into the future.

This document sets out a blueprint of proposed changes to modernize and strengthen the policy framework (i.e., legislation, regulations, standards and policies) in a way that will achieve four goals:



**STRONGER OVERSIGHT** – by introducing new tools, powers and provisions that improve effectiveness, efficiency and flexibility



**ENVIRONMENTAL ACCOUNTABILITY** – by updating and enhancing application requirements, developing new tools to deal with existing sites and improving record keeping and reporting



**IMPROVED INFORMATION AND PARTICIPATION** – by improving consistency in requirements, enhancing opportunities for involvement and making information more accessible and easier to understand



**INCREASED AND EQUALIZED FEES AND ROYALTIES** – by changing Crown land fees and royalties, indexing fees and royalties, working with municipal organizations to address infrastructure impacts and creating provisions for the future

The Government of Ontario has benefitted from the valuable input of many contributors in developing this blueprint for change. The Standing Committee on General Government (an all-party committee of the Legislative Assembly of Ontario) made 38 recommendations for strengthening the Act, reflecting the information learned and feedback provided through public hearings, written submissions, site visits and research. In response to the Committee's report, the provincial government supported the spirit of those recommendations and adopted a collaborative approach to developing solutions to address them, engaging with key stakeholders, municipal organizations and Aboriginal communities in Fall 2014.

The proposed changes outlined in this document build on the commitments made in the government's response to the Committee's report, as well as, the information gathered during the engagement sessions and work conducted with other provincial ministries.

This document is organized into four sections: key changes proposed for new sites, changes that would apply to existing and future sites, proposed changes to fees and royalties, and changes that would provide future flexibility along with housekeeping amendments. (A summary of all proposed changes can be found in Table 1 on page 3). There will be further opportunities for input on the more detailed proposed changes to the content of the regulatory and policy implementation tools as the process moves forward.

**FIGURE 1: AGGREGATE RESOURCES ACT POLICY FRAMEWORK**

**1**

### **Aggregate Resources Act**

Establishes the Aggregate Resources Trust, sets out requirements for licence and permit approvals, inspection, enforcement and penalties, rehabilitation, and includes regulation making authority.



**2**

### **Ontario Regulation 244/97**

Sets reporting deadlines, annual fees, areas where private land is subject to Act, and requires compliance with Provincial Standards.



**3**

### **Provincial Standards**

Provides application requirements for new sites (e.g., consultation requirements/timeframes, technical studies), standard operating rules and self-compliance reporting requirements.



**4**

### **Policies & Procedures**

Provides guidance and direction on the implementation of the Act, regulations and Provincial Standards.



# HOW TO PROVIDE FEEDBACK ON THE PROPOSED CHANGES

We want to hear from municipalities, Aboriginal communities and organizations, stakeholders, experts and the public about what you think about this blueprint for change. We are especially interested in:

- What you think of the proposed changes
- Which proposed changes are the most or least important to you
- Which parts of the proposal you support or disagree with
- How these changes will affect you (either positively or negatively); and
- Any suggestions you have for improvement

You can provide comments through the environmental registry posting (registry number 012-5444) at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca), or by sending written comments to [ARARReview@ontario.ca](mailto:ARARReview@ontario.ca).





# SUMMARY OF PROPOSED CHANGES TO THE AGGREGATE RESOURCES ACT POLICY FRAMEWORK

<b>1.0</b>	<b>PROPOSED CHANGES FOR ESTABLISHING NEW SITES</b>	<b>7</b>
<b>1.1</b>	<b>Applications for Licences and Permits</b>	<b>8</b>
<b>1.1.1</b>	<b>Enhancements to Requirements for Studies and Information</b>	<b>8</b>
	a. Enhanced requirements for studying impacts related to the natural environment, water, cultural heritage, noise, traffic and dust.	8
	b. New study requirements for applications on agricultural lands	9
	c. Enhanced summary statement requirements for all applications.	10
	d. Updates to site plan information requirements (e.g., establishing a maximum disturbed area) and prescribed conditions.	10
	e. New requirements for applications proposing to extract aggregates from the bed of a lake or river	10
	f. New requirement for plain language summaries of project proposals and technical studies.	10
<b>1.1.2</b>	<b>Update to Notification, Consultation and Communication Requirements</b>	<b>11</b>
	g. New timeframes, notification areas and consultation requirements	11
	h. New provisions regarding notification and consultation with Aboriginal communities	12
	i. Updated communication requirements for applications	12
<b>1.2</b>	<b>Other Provisions Related to Applications</b>	<b>13</b>
	j. New requirements for requests to lower extraction depth below the water table	13
	k. New application for small, temporary extraction operations on farms	13
	l. New requirements for proposals to extract stockpiles of Crown-owned aggregate	14
	m. New permitting requirements for removing stockpiles of aggregate	14
	n. New ability to waive application requirements in unique circumstances	14
	o. New ability to refuse to accept applications on Crown land.	14
	p. Provisions added to allow for peer review requirements for technical studies in the future	15
	q. Create flexibility for grandfathering existing sites in newly designated areas.	15

<b>1.3</b>	<b>New Tools and Approaches For Low-Risk or Non-Commercial Activities . . . . .</b>	<b>16</b>
	r. Enable a new ‘permit by rule’ approach for low-risk activities, removing the requirement to apply for a permit or licence if certain conditions or rules set in regulation are followed. . . . .	16
	s. Establish new rules and maximums for the extraction of aggregates from private land for personal use that will not require a licence . . . . .	17
	t. New ability for ministry to add conditions and time limits to primary purpose exemption orders . . . . .	17
<b>2.0</b>	<b>PROPOSED CHANGES TO THE MANAGEMENT AND OPERATION OF EXISTING AND FUTURE SITES . . . . .</b>	<b>18</b>
<b>2.1</b>	<b>Studies, Information, Site Plans and Conditions. . . . .</b>	<b>19</b>
	u. New provision allowing the ministry to require additional studies, information and updated site plans for existing aggregate sites . . . . .	19
	v. New ability to establish conditions on existing aggregate sites related to source water protection plans . . . . .	19
<b>2.2</b>	<b>Standardizing Tonnage Conditions. . . . .</b>	<b>20</b>
	w. Standardize references and interpretation of tonnage limits across the policy framework, clarifying that the total tonnage limit includes both blended and recycled materials . . . . .	20
<b>2.3</b>	<b>Changes to Reporting and Record-Keeping Requirements . . . . .</b>	<b>21</b>
	x. New reporting requirements for site rehabilitation and for removal of recycled or blended materials . . . . .	21
	y. Establish new requirements for record-keeping on the importation of fill for rehabilitation . . . . .	21
	z. Clarify requirements for detailed record-keeping during operation . . . . .	21
	aa. Streamlining and changing the frequency of self-compliance reports . . . . .	22
<b>2.4</b>	<b>Site Plan and Condition Amendments . . . . .</b>	<b>22</b>
	ab. Clarify requirements for requests for a site plan amendment or a change to a licence or permit condition, enhancing local involvement on significant changes . . . . .	22
	ac. Enable self-filing of amended site plans for minor changes in certain situations . . . . .	23
<b>2.5</b>	<b>Improved Enforcement and Administrative Provisions . . . . .</b>	<b>23</b>
	ad. Remove minimum and increase maximum fines issued for offences under the Act . . . . .	23
	ae. Enhance and clarify provisions for compliance inspection and false reporting. . . . .	24
	af. New and enhanced powers related to ‘no consent’ transfers and revocation in special circumstances . . . . .	24
	ag. Administrative changes to provide liability protection for ministry employees . . . . .	24

<b>3.0</b>	<b>PROPOSED CHANGES TO FEES AND ROYALTIES. ....</b>	<b>25</b>
<b>3.1</b>	<b>Current Fees and Royalties .....</b>	<b>26</b>
<b>3.2</b>	<b>Equalizing and Indexing Fees between Crown and Private Land. ....</b>	<b>27</b>
	ah. Align annual fees for Crown land aggregate permits with those for private land licences. ....	27
	ai. New ability to disburse fees to recipients that have road responsibilities .....	28
	aj. Index fees and royalties to the Consumer Price Index. ....	28
	ak. Changes to royalty charge on aggregate sites with a mining lease and easier to find administrative fees .....	29
	al. New ability to waive fees on private land sites .....	29
<b>3.3</b>	<b>Provisions for the Future .....</b>	<b>30</b>
	am. Create ability to make changes in the future that allow for broadening of the collection, disbursement and use of fees, and for programs to evaluate their effectiveness .....	30
<b>4.0</b>	<b>OTHER PROPOSED CHANGES. ....</b>	<b>31</b>
<b>4.1</b>	<b>Creating Greater Flexibility for the Future. ....</b>	<b>31</b>
	an. New powers to modify the Aggregate Resources Trust agreement and establish performance reporting requirements in the future. ....	32
	ao. Move specific requirements for application, amendments and reporting from the Act to the Regulations or Standards .....	32
	ap. Consolidate all exemptions to the definition of “rock” into one location .....	32
	aq. New ability to establish performance reporting requirements in the future. ....	33
	ar. New ability to establish certification and training programs in the future. ....	33
<b>4.2</b>	<b>‘Housekeeping’ Amendments .....</b>	<b>33</b>
	as. Housekeeping amendments to improve clarity and reflect current practices. ....	33





# 1.0

## **PROPOSED CHANGES FOR ESTABLISHING NEW SITES**

Proposals to establish a new aggregate operation or to expand the boundaries of an existing approval require a new application. Requirements for new applications are set out in the Aggregate Resources of Ontario Provincial Standards (“Provincial Standards”), and a regulation under the Act requires that all applications follow these standards.

## 1.1 Applications for Licences and Permits

This section provides an overview of the changes that are proposed for new aggregate applications for sites on Crown land (requiring an ‘aggregate permit’) and for sites on private land (requiring a licence or wayside permit).







### 1.1.1 Enhancements to Requirements for Studies and Information

Technical study requirements for new applications are set out in the Provincial Standards, established in 1997. In addition to setting out the technical study and information (summary statement) requirements for aggregate applications, the Provincial Standards contain a set of information requirements that must be shown on site plans that accompany applications and standardized conditions that are attached to all new licences and permits that are issued.

Currently applications for the extraction of aggregate material on Crown land and private land share similar requirements for assessing natural environment, water and cultural heritage impacts, but differ on other requirements. While Class A licences on private land currently have greater study requirements (including noise assessments and blast design), there is no current requirement to assess impacts related to agricultural lands, dust or traffic. Aggregate permits (on Crown land) and Class B licences (on private land) are currently not required to submit noise studies or blast design reports.

---

#### KEY PROPOSED CHANGES:

- |  |  |
|--|--|
|  a. Enhanced requirements for studying impacts related to the natural environment, water, cultural heritage, noise, traffic and dust |  d. Updates to site plans information requirements (e.g., establishing a maximum disturbed area) and prescribed conditions |
|  b. New study requirements for applications on agricultural lands   |  e. New requirements for applications proposing to extract aggregates from the bed of a lake or river                     |
|  c. Enhanced summary statement requirements for all applications  |  f. New requirement for plain language summaries of project proposals and technical studies                               |
- 



#### a. Enhanced requirements for studying impacts related to the natural environment, water, cultural heritage, noise, traffic and dust

Requirements for impact assessments to the natural environment and cultural heritage are proposed to be updated to align with current government policies and approaches. Natural environment studies will be enhanced to address coastal wetlands and identified natural heritage systems, and to reflect the requirements of the *Endangered Species Act*. Cultural heritage studies will be required to address cultural heritage resources that have cultural heritage value or interest under the *Ontario Heritage Act*, including built heritage resources, cultural heritage landscapes and archaeological resources.

It is proposed that water impact study requirements be enhanced and required for extraction occurring above the water table as well as those proposing to extract below the water table. Study requirements will adopt a risk assessment approach where the level of risk associated with the proposed activities will determine the scale of impact assessment required. A water impact assessment will be required to address hydrology and hydrogeology, the regional setting of the site in the context of water uses and users, and the potential impacts of all of the water uses/takings needed to support the extraction activity or ancillary uses proposed for the life of the site. The qualified expert conducting the water study will also be required to identify when a cumulative effects study is required, triggering a requirement for information on cumulative effects to be included in the report.



While the submission of aggregate extraction proposals in the vicinity of a municipal drinking supply will continue to be allowed, there will be special provisions in the enhanced water impact study requirements for these sites. Within the '2-year-time of travel zone' to a municipal well (how long it takes water to travel to a municipal well), the findings of the water impact study would also be required to demonstrate that any potential risks to the municipal water supply resulting from the operation and rehabilitation of the site would be mitigated, both while the licence/permit is in effect and after it is surrendered.

In addition, new studies may be required for noise, blast design, traffic and dust. Noise assessment studies will be required for all new sites with nearby sensitive land uses (e.g., residential areas), with the exception of pit operations that have no processing activities (limited to load and haul operations). Blast design reports will be required for all new quarries that involve blasting. New traffic studies will be required for sites seeking a maximum tonnage limit of 100,000 tonnes/yr. or higher. New dust studies will be required for sites seeking a maximum tonnage limit of 500,000 tonnes/yr. or higher.

Where identified in provincial guidance, studies supporting an aggregate application may also be required to consider cumulative effects.



#### **b. New study requirements for applications on agricultural lands**

It is proposed that new agriculture impact studies be required for all sites proposed on prime agricultural lands (Class 1-3) or any lands located within prime agricultural areas as defined by the Provincial Policy Statement 2015. These studies will consider provincial policies/standards (including those pertaining to municipal land use planning) and impacts to soil capability and surrounding agricultural land uses. They would also clearly establish the pre-extraction agricultural capability of the site, the extent to which the lands will be rehabilitated to the same soil capability and the performance measures that would be used to demonstrate success of the rehabilitation plans.

A new pre-extraction agricultural capability (soil capability) statement is proposed to be required for applications over 20,000 tonnes on lands that are in agricultural use but are not within prime agricultural lands/areas (i.e., sites in agricultural use where a full impact assessment is not being required). These statements would be prepared by a qualified expert.





#### **c. Enhanced summary statement requirements for all applications**

Summary statements are descriptive overviews of key elements of the proposal, which may be prepared by the applicant. It is proposed that summary statements be enhanced for all applications and require that information be included on: (a) transportation and traffic, (b) dust management/mitigation, (c) aggregate quantity, quality and the types of products that may be produced and (d) rehabilitation (including compatibility with the surrounding land uses, consideration of municipal land use plans in rehabilitation design, and performance indicators to monitor and report on the progress and success of rehabilitation). Summary statements for traffic and dust would not be required where full impact assessments are required in these areas.



#### **d. Updates to site plan information requirements (e.g., establishing a maximum disturbed area) and prescribed conditions**

The information requirements for site plans that are set out in the Provincial Standards will be updated and requirements will be applied more consistently across all application types. New requirements are proposed to the site plan information that would include establishing a maximum disturbed area for all new sites to minimize disturbance and encourage progressive rehabilitation. This means that all new sites would be required to identify in the site plan how many hectares would be disturbed on the site at any one time. The disturbed area on an aggregate site includes all areas within the boundaries of a licence or permit which has been altered from its original condition and where final rehabilitation in accordance with the Act, the regulations and the site plan has not been completed. This maximum limit on disturbance would become a condition of their site plan approval if the licence or permit is issued. The standard conditions (also called prescribed conditions) that are attached to new sites will also be updated and enhanced. These conditions speak to matters such as blast monitoring, and requirements to obtain approvals under other legislation.



#### **e. New requirements for applications proposing to extract aggregates from the bed of a lake or river**

A new approach is proposed to establish the study and information requirements for applications proposing to extract from the bed of a lake or river. This type of application, although rare, could have impacts to water and other natural environment features. Since the circumstances around these proposals and their potential impacts are expected to be unique, it is proposed that the study and information requirements be customized through a Terms of Reference for each specific site. The Terms of Reference would be prepared and submitted by the applicant and approved by the ministry, providing the necessary flexibility to ensure environmental accountability for these unique proposals.






#### **f. New requirement for plain language summaries of project proposals and technical studies**

In order to assist members of the local community in understanding information contained in an aggregate proposal and support their participation in the application process, new plain language requirements are proposed. A plain language description of the proposed operation will be required for all applications, summarizing the project proposal in an easy to understand manner. In addition, all technical studies will also be required to have executive summaries written in plain language.

## 1.1.2 Update to Notification, Consultation and Communication Requirements

### KEY PROPOSED CHANGES:

-  g. New timeframes, notification areas and consultation requirements
-  i. Updated communication requirements for applications
-  h. New provisions regarding notification and consultation with Aboriginal communities



#### **g. New timeframes, notification areas and consultation requirements**

The Provincial Standards outline timelines and notification requirements for new site applications. Applicants are required to submit information about their public notification and consultation activities, including information about the how they have attempted to resolve any public and agency concerns raised in response to their proposal. Currently, timeframes and public notification and consultation requirements vary based on whether the proposed site is located on Crown or private land. For example, a 20 day comment period for Crown land permit applications vs. a 45 day comment period for private land licence applications.

The timelines, notification and consultation requirements for new applications are proposed to be expanded and requirements between Crown and private land will be better aligned. These new requirements will be based on production thresholds (tonnes of aggregate removed annually) and are summarized in Appendix 1. Applications to extract 1 million tonnes and higher would be required to establish and maintain websites that share application information and agency comments with the public. Applications to extract 3.5 million tonnes and higher, and those proposing to extract from the bed of a lake or river, would be required to establish customized, site-specific requirements for notification and consultation by submitting a Terms of Reference for ministry approval. Within the expanded notification areas, some of the notification and delivery requirements will be simplified (e.g., flyers and mass mailings to residents in the area will be permitted).

The list of agencies to be notified of applications would be updated so that the Ministry of Transportation, Conservation Authorities (where applicable) and source water protection authorities (where applicable) must all be notified for applications proposed to occur on either Crown or private land.

It is proposed that applicants be given new flexibility to provide an extended timeframe for comment at the time an application is advertised. Flexibility will be enabled to allow applicants to request an extension to the two-year time period for resolving concerns on private land applications, where they believe that additional concerns can be resolved with further efforts. The extension would be subject to ministry approval. This flexibility already exists to extend the time period for applications on Crown land.

The ministry would have the ability to waive requirements for site sign posting and newspaper ads in remote or isolated areas, or where they are not feasible to implement. The ministry will also have the ability to waive these requirements where the applicant can demonstrate (pre-application) that they are not likely to reach those interested in the proposal and approve a substituted plan to notify interested parties (e.g., substitute with direct mailings or flyers to a specific area, or using an alternate newspaper that is more broadly read locally).

## i

**h. New provisions regarding notification and consultation with Aboriginal communities**

There is currently no reference to requirements for Aboriginal consultation within the Act. The Provincial Standards currently recognize a need to notify Aboriginal communities of aggregate proposals on Crown land, but do not require such notification on private land (even though it is a current practice to consider Aboriginal notification for private land proposals). Pre-consultation with Aboriginal communities is currently encouraged but not required. Changes are proposed within the legislation to clarify that the Ministry will consider whether adequate consultation with Aboriginal communities has taken place prior to making a decision under the Act. Both Crown and private land application requirements would provide for Aboriginal community notification, and applicants would now be required to provide separate documentation of notification and consultation activities undertaken with Aboriginal communities. A new section will be added to the introduction of the Provincial Standards to clarify that additional consultation with Aboriginal communities may be required beyond the requirements set out in the Provincial Standards, and that it may extend beyond the regulatory timeframes. New content will also encourage pre-consultation with Aboriginal communities, as well as agencies and local residents.

## i

**i. Updated communication requirements for applications**

Requirements for digital information submissions will be added (some paper copies will still be required) and necessary provisions would be established to allow for online digital submissions in the future.









Proposed changes will officially recognize that both regular mail and email will be accepted for objections to an application, as long as a full name and mailing address are provided. Applicants will be required to share digital information and, if requested by local residents or Aboriginal communities, applicants will be required to make paper copies of site plans available at a reasonable location. Advertisements for new applications will be allowed to be placed in free newspapers (using the *Legislation Act* definition of newspaper). Note that, under the *Legislation Act*, “newspaper” means a document that is printed in sheet form, published at regular intervals of a week or less and circulated to the general public, and consists primarily of news of current events of general interest.





## 1.2 Other Provisions Related to Applications

### KEY PROPOSED CHANGES:

- |  |   |  |   |
|--|---|--|---|
|  j. | New requirements for requests to lower extraction depth below the water table |  n. | New ability to waive application requirements in unique circumstances                     |
|  k. | New application for small, temporary extraction operations on farms           |  o. | New ability to refuse to accept applications on Crown land                                |
|  l. | New requirements for proposals to extract stockpiles of Crown-owned aggregate |  p. | Provisions added to allow for peer review requirements of technical studies in the future |
|  m. | New permitting requirements for removing stockpiles of aggregate              |  q. | Create flexibility for grandfathering existing sites in newly designated areas            |



#### j. New requirements for requests to lower extraction depth below the water table

Under the current policy framework, an operation that is limited to extraction above the water table is allowed to submit a site plan amendment to seek approval to extract below the water table. This is proposed to change, so that existing sites that are only approved to extract above the water table will be required to submit a new application for approval to lower their extraction depth to extract aggregate from below the water table.



#### k. New application for small, temporary extraction operations on farms

A new set of application requirements is proposed for small, temporary extractive operations on a farm. Currently, where extraction is occurring on agricultural lands and the primary purpose of the extraction is not to produce aggregate (i.e., the extraction is being done to improve agricultural condition), the ministry can make the determination that a licence is not required. This option will still be available to the ministry and to farmers. A new application type will be available where the purpose of the extraction is two-fold (i.e., to produce aggregate and to improve agricultural condition). This will allow limited amounts of aggregate to be removed from agricultural properties where it can be demonstrated that the agricultural condition on that property will be maintained, the duration of the operation is no longer than 12 months and that no more than 5000 tonnes will be removed from the site.

Licences for temporary extractive operations on a farm would be subject to the same fees as other licences and the fees will be paid up front. Application requirements would include:

- a plain language project summary, including the reasons for the extraction,
- a sketch of the property depicting the location and extent of extraction,
- confirmation from the local municipality that the zoning allows for the operation of a pit,
- a letter of opinion from a qualified expert confirming that the land is currently in agricultural production and that the agricultural condition of the land will be maintained or improved through extraction and simultaneous rehabilitation, and
- a letter of opinion from a qualified expert confirming that the proposed extraction is at least 1.5m above the water table.



#### **l. New requirements for proposals to extract stockpiles of Crown-owned aggregate**

A new set of application requirements is proposed to be established for sites that are only proposing to extract pre-existing stockpiles of Crown-owned aggregate. These sites would be limited to the processing and removal from stockpiles, with no new extraction areas permitted. Application requirements would include:

- a plain language application summary (project description),
- a streamlined site plan/sketch,
- a noise assessment where the site is close to sensitive land uses, and
- a traffic assessment if the maximum tonnage is 100,000 tonnes or higher.



#### **m. New permitting requirements for removing stockpiles of aggregate**

Under the Act, a new permit on Crown land is currently required to remove stockpiles created under a previous aggregate permit, however, the removal of stockpiles created through other activities do not require approval under the Act. A change is proposed that would expand the requirement to obtain an aggregate permit for the processing and removal of stockpiles of Crown-owned aggregate created as a result of other developments. This change would not impact stockpiles created as a part of an old mining operation where the material is being used for mine rehabilitation or stockpiles created from a development project where the ministry has agreed that the material can be used in the development project that generated the aggregate stockpile (e.g., waterpower development).



#### **n. New ability to waive application requirements in unique circumstances**

Currently the Act allows the ministry to waive requirements for compliance with regulations for licensees or permittees, but this provision does not allow for the waiving of application requirements (as the person is not a licensee or permittee yet). This limitation makes it difficult to address emergencies or unanticipated situations. Changes are proposed that would allow the Minister to exempt an individual or company from complying with the regulations, in order to provide the flexibility to waive application requirements in unique or unexpected situations (e.g., emergency, extremely remote sites) or to support the streamlining of processes. For example, in remote areas where aggregate is being used exclusively for internal infrastructure development on a single project and no off-site roads are being used, a traffic study may not be necessary.



#### **o. New ability to refuse to accept applications on Crown land**

Currently, the ministry must fully process all applications received on Crown land, even if the likelihood of issuing a permit is low. Changes are proposed that would have potential applicants check with MNRF before applying and allow the ministry to refuse to accept Crown land applications (e.g., in situations where the permit is not likely to be issued or there is a larger public interest to be considered in resource allocation).



#### p. Provisions added to allow for peer review requirements for technical studies in the future

The Act does not currently include provisions for technical peer reviews of application studies by outside parties. To help the government in more efficiently reviewing applications, new enabling powers will be added to allow the government to make regulations that support peer review requirements for technical studies in the future. These peer reviews would be funded by applicants or through a program funded by aggregate fees. These enabling powers are proposed to allow for the establishment of this type of program in the future; a peer review program is not proposed for implementation at this time. Any future change to implement this provision would consider the need to avoid duplication with the peer review provisions available to municipalities through the land use planning process.



#### q. Create flexibility for grandfathering existing sites in newly designated areas




Currently, when a new area of private land in the province becomes subject to the *Aggregate Resources Act* (i.e., becomes 'designated') and a pit or quarry has been legally operating before designation, they may be eligible for 'grandfathering' provisions to help ensure they can continue operating into the future. In order to be eligible for grandfathering, these sites must be 'established' and municipal zoning must allow for the location of the pit or quarry. The current definition in the Act for 'established' may be too restrictive for northern markets, as it requires that the site has either removed a substantial amount of material in the two years before designation, or has been subject to a mining lease throughout those two years. New powers are proposed that would allow different criteria to be set for the definition of "established pit or quarry" in regulation.

Following designation of new areas of private land under the Act, 'established' sites (sites that have been legally operating prior to designation) must apply for a licence within six months following the designation if they wish to continue operating. If they apply in the first six months, these operations are allowed to continue for an additional 6 months while their licence application is processed (i.e., for a total of 12 months following designation). Changes are proposed to create flexibility for grandfathering processes in newly designated areas by moving the timeframe associated with processing these applications from the legislation to the regulation. To improve certainty for operators while their application is being processed, it is proposed that the timeframe for operation during the processing of applications for grandfathered sites be extended. The extension would mean that aggregate sites subject to grandfathering could operate for up to 30 months following designation (i.e., during the initial 6 month application period + an extended 24 month application processing period) instead of the current 12 month timeframe. Within the 30 month timeframe, operations could continue until a licence is issued or refused by the ministry. Where a decision has been made to refuse to issue the licence because the site does not qualify for grandfathering, operations would still be required to cease immediately.



## 1.3 New Tools and Approaches For Low-Risk or Non-Commercial Activities

### KEY PROPOSED CHANGES:

-  r. Enable a new 'permit by rule' approach for low risk activities, removing the requirement to apply for a permit or licence certain if conditions or rules set in regulation are followed
-  s. Establish new rules and maximums for the extraction of aggregates from private land for personal use that will not require a licence
-  t. New ability for ministry to add conditions and time limits to primary purpose exemption orders



- r. Enable a new 'permit by rule' approach for low-risk activities, removing the requirement to apply for a permit or licence if certain conditions or rules set in regulation are followed**

To improve efficiency and allow the ministry to better focus its resources on higher risk activities, new powers are proposed that would allow regulations to be made that exempt individuals or companies from the requirement to get a permit or licence to extract aggregate, but only if they met specific conditions for that activity. The conditions that must be met would also be set out in the regulation. This approach is sometimes referred to as 'permit by rule.' The conditions attached to an exemption of this type could include, for example: time restrictions, size restrictions (area or depth), a requirement to formally register the activity, restrictions on the type of activity that qualifies (e.g., pit or quarry) and restrictions on who can qualify. Failure to follow the rules or conditions set out in this approach would mean that the activity is an illegal pit or quarry and the operator would be subject to the enforcement and penalty provisions.





**s. Establish new rules and maximums for the extraction of aggregates from private land for personal use that will not require a licence**

If enabled, the 'permit by rule' approach would be used to create set out rules and maximums for the extraction of aggregates on private land for personal use. This type of activity would not require a licence if all of the conditions below would be met:

- The excavation is be carried out by the landowner,
- The aggregate is owned by the landowner,
- The excavation is for unconsolidated material (pit only; e.g., sand and gravel, not bedrock),
- The excavation remains above the water table at all times,
- Excavation faces are maintained at the angle of repose every night,
- Excavated material must remain on the property,
- No processing (i.e., crushing, screening, washing, asphalt plants, concrete plants) allowed, and
- The excavation does not exceed 300 cubic metres within a 5 year period.



**t. New ability for ministry to add conditions and time limits to primary purpose exemption orders**

Primary purpose exemption orders are currently used where aggregate extraction is proposed but the primary purpose of the excavation is not to produce aggregate (e.g., for agricultural land improvement). New powers are proposed that would allow the ministry to add conditions and time limits to primary purpose exemption orders.







# 2.0

## **PROPOSED CHANGES TO THE MANAGEMENT AND OPERATION OF EXISTING AND FUTURE SITES**

This section provides an overview of the changes that are proposed to the *Aggregate Resources Act*, Regulations or Provincial Standards that will impact the management and operation of existing and future aggregate extraction sites.



## 2.1 Studies, Information, Site Plans and Conditions

### KEY PROPOSED CHANGES:



- u. New provision allowing the ministry to require additional studies, information and updated site plans for existing aggregate sites



- v. New ability to establish conditions on existing aggregate sites related to source water protection plans



#### **u. New provision allowing the ministry to require additional studies, information and updated site plans for existing aggregate sites**

New and enhanced powers are proposed that would allow the ministry to require existing sites to submit studies, information and updated site plans. In recognition of the investments that applicants make in carrying out studies and in undertaking consultation and approval processes to support recently approved sites, provisions would also be included to establish regulations that could set out processes and/or factors that must be considered when making a decision to use these new proposed powers. These new powers would be supported with provisions to ensure transparency and fairness (e.g., licensees and permittees would have an opportunity to make submissions opposing the requirement and could offer an alternate approach).



#### **v. New ability to establish conditions on existing aggregate sites related to source water protection plans**

To implement the *Clean Water Act*, source water protection authorities are responsible for making policies to protect drinking water sources and, by doing so, can require that aggregate instruments (e.g., both existing and future licences, permits, site plans) include requirements or conditions that are consistent with those policies – for example, requirements for the storage and handling of fuel. Under the current framework, MNRF can work with affected operators to adjust the approval conditions with their consent, and if required could force a change (subject to hearing provisions) to implement the source water protection policies. New powers are being proposed that would allow for regulations to be made that would establish new conditions that would apply automatically to existing aggregate sites where source water protection plans have identified an aggregate approval as the implementation tool. New fuel storage and handling conditions would also be established in regulation, which would apply to existing sites in vulnerable municipal drinking water protection areas.

## 2.2 Standardizing Tonnage Conditions

### KEY PROPOSED CHANGE:



- w. Standardize references and interpretation of tonnage limits across the policy framework, clarifying that the total tonnage limit includes both blended and recycled materials

Tonnage conditions control the amount of material that can be removed from an aggregate site (a “tonnage limit”) and are generally put in place to mitigate the negative effects of a pit or quarry (e.g., the impacts of truck traffic on municipal infrastructure). Changes are proposed that would standardize the wording and interpretation of tonnage limits on all existing and future approvals.

Specifically, it is proposed that the wording in section 7 of the Act be changed to read ‘removed from site’ rather than ‘removed from pit or quarry’. This will improve consistency in how tonnage conditions are applied. The site plan standards of the Provincial Standards will have identical wording for the tonnage limits for all future sites.

As we improve our ability to use recycled aggregate material and as the specifications for aggregate materials continue to evolve, more aggregate material (imported from other sites) may be brought to pit and quarry sites for blending (i.e., mixing different aggregate materials together) and resale. To ensure the effectiveness of tonnage conditions, tonnage limits should apply to blended and recycled products.

To reflect this, changes are proposed to clarify and, where necessary, amend the wording and interpretation of tonnage conditions on all existing sites in order to ensure that they apply to aggregate removed from the site, and that all aggregate (including stone and sand imported for blending and resale) and recycled materials leaving the site are subject to the total tonnage limit. It is important to note, that while blended and recycled materials would be subject to the annual tonnage limit, they would not be subject to annual fees. This proposed change would have a three-year phase in period for existing sites. This will provide time for the ministry and existing approval holders to identify and address situations where amendments to conditions may be required to align with the proposed interpretation on individual sites.



## 2.3 Changes to Reporting and Record-Keeping Requirements

### KEY PROPOSED CHANGES:



- x. New reporting requirements for site rehabilitation and for removal of recycled or blended materials



- z. Clarify requirements for detailed record-keeping during operation



- y. Establish new requirements for record-keeping on the importation of fill for rehabilitation



- aa. Streamlining and changing the frequency of self-compliance reports



#### x. New reporting requirements for site rehabilitation and for removal of recycled or blended materials

Currently, there is a requirement to report some information on aggregate site rehabilitation efforts as part of the annual compliance reporting cycle and there are no current province-wide requirements to report on the production of recycled aggregate materials. Rehabilitation reporting requirements will be enhanced to include basic information on the nature of the rehabilitation planned for the site, as well as improved progress reporting. This reporting requirement will be incorporated into the self-compliance reporting cycle. It is also proposed that any aggregate material that is recycled or imported for blending and resale that is removed from a site would be included in annual production reporting requirements (although would continue to not be subject to tonnage fees).



#### y. Establish new requirements for record-keeping on the importation of fill for rehabilitation

The importation of fill for the rehabilitation of aggregate sites has been a growing concern over the past few years. To ensure that all sites that are authorized to import fill for rehabilitation are maintaining minimum records, changes are proposed that will require existing sites to keep records of fill (e.g., source, shipper, deposit location) where it is brought onto a site for rehabilitation purposes. It is important to note that the Ministry of the Environment and Climate Change is working with other ministries, including the Ministry of Natural Resources and Forestry, to review the need for excess soil policy in Ontario, as a part of a request for policy review under the *Environmental Bill of Rights*. MNRF will consider the results of this work when finalizing future record keeping requirements related to the importation of fill for rehabilitation on sites regulated under the *Aggregate Resources Act*. This change will address requirements related to fill now and will provide power to improve record keeping and reporting on activities that could impact the environment in the future.



#### z. Clarify requirements for detailed record-keeping during operation

Every aggregate licensee and permittee must keep, for a period of seven years, detailed records on their operation. These detailed records include documentation of the quantity of material removed from the site, inventories of material on the site and information on sales and shipments. Changes are proposed to clarify these existing requirements for keeping detailed records about the operation and to ensure that these record-keeping requirements apply not only to material extracted from the site, but also to imported aggregate materials (e.g., stone and sand brought in for blending and resale) and recycled aggregate materials (e.g., asphalt, concrete).



#### aa. Streamlining and changing the frequency of self-compliance reports

Currently, all approved sites are required to conduct a self-assessment about how operations on their site comply with the rules that are set out in their approval conditions. The assessment must be completed annually and the standardized report forms must be filed with MNRF and municipalities. It is proposed that existing self-compliance assessment reporting requirements be scoped to improve relevancy and that a more efficient 'short form' report be developed for inactive or dormant sites (i.e., sites that are inactive for the entire period since last reporting) that could be used for every second reporting cycle.

It is also proposed that the requirements governing the frequency of self-compliance would change from annual reporting to every 2 years (for Class A licences/permits over 20,000 tonne per year limit) and every 3 years (for Class B licences/permits 20,000 tonnes or less per year limit). Site operators would still have the option to voluntarily report on an annual basis if desired.

## 2.4 Site Plan and Condition Amendments

### KEY PROPOSED CHANGES:



ab. Clarify requirements for requests for a site plan amendment or a change to a licence or permit condition, enhancing local involvement on significant changes



ac. Enable self-filing of amended site plans for minor changes in certain situations



#### ab. Clarify requirements for requests for a site plan amendment or a change to a licence or permit condition, enhancing local involvement on significant changes

To improve consistency and local participation in proposals that involve significant changes, enhancements will be made to the policies and processes for amending site plans and licence or permits conditions for approved sites. Enhancements will include:

- Clarifying that clearly defined administrative amendments (e.g., name and address changes, typographic errors) will not be subject to notification requirements.
- Establishing a list of 'significant' amendments (i.e., those that have potential for significant impact, such as increasing the tonnage limit), that would be subject to a standard set of requirements for circulation and unless the applicant provides written rationale for why the requirements are not appropriate for and submits an alternate proposal for the ministry's consideration. The ministry would accept, reject or request change to the proposal with rationale.
- Establishing criteria (e.g., potential for environmental impact, potential for local interest or impact or impacts to other provincial priorities) to determine notification requirements of proposals (i.e., when to engage adjacent landowners, local residents, Aboriginal communities, other ministries and agencies, or other parties).
- Requiring that all amendment requests be made in writing, with clear descriptions of the amendments being requested, how those amendments change the operation, and an evaluation of the criteria for determining notification requirements. The ministry would accept or request changes to the request with rationale.
- Clarifying that where multiple changes are requested, they would be treated as a single proposal and evaluated in that context.



#### ac. Enable self-filing of amended site plans for minor changes in certain situations

In order to improve efficiency and reduce administration, new powers are being proposed that would enable aggregate licence and permit holders to self-file amended site plans, subject to specific circumstances that would be set out in regulation. In addition, regulations are proposed that would allow licence and aggregate permit holders to self-file amended site plans (i.e., changes would be 'in effect' once the proponent has filed revised plans with the ministry, local municipality and County or Regional municipality) for the following changes, which are currently treated as minor amendments under the ARA policy framework:

- adding or relocating aggregate stockpiles where the stockpiles are not a part of noise or dust mitigation strategy and will be located at least 150m away from residences and 30m away from the boundaries of the site (note that adding new activities to a site plan (e.g., adding approval to recycle aggregate products, would not be permitted through this provision),
- changing the fencing and gates where minimum standards are met (e.g., fence height is a minimum of 1.2m, gate type (no cables)),
- changing the proposed tree species and vegetation cover where the new species are native to Ontario and are not a part of a required mitigation plan (e.g., woodlot or wildlife mitigation measures), and
- adding portable asphalt/concrete plants (as defined under the Provincial Policy Statement, 2014) for the duration of public works contracts (e.g., road development), except where the site plan specifically prohibits processing or plants. (Note: *Environmental Protection Act* approval for such plants would still be required).

## 2.5 Improved Enforcement and Administrative Provisions

### KEY PROPOSED CHANGES:



ad. Remove minimum and increase maximum fines issued for offences under the Act



af. New and enhanced powers related to 'no consent' transfers and revocation in special circumstances



ae. Enhance and clarify provisions for compliance inspection and false reporting



ag. Administrative changes to provide liability protection for ministry employees



#### ad. Remove minimum and increase maximum fines issued for offences under the Act

Penalties are currently set at \$500 (minimum) to a maximum of \$30,000 per day for each day the offence continues plus any monetary benefit acquired as a result of committing the offence. Changes to fines are proposed to better align the Act with other similar legislation. Proposed changes include:

- Increasing fines to a maximum of \$1,000,000, plus an additional \$100,000 for each day the offence continues, and
- Eliminating the minimum fine to allow for the use to tickets (under the *Provincial Offences Act*) with fines less than \$500 for minor offences.



#### **ae. Enhance and clarify provisions for compliance inspection and false reporting**

To recognize the importance of accurate reporting information on aggregate sites to the province and the public, changes will be made to the offence provisions in the Act to clarify that it is an offence to provide false information related to **any** reporting requirement of the Act, the regulations, the site plan, or condition of licence or permit.

A 'Notice of Inspection' or 'Inspection Report' is being used now by Inspectors to document their findings on an aggregate site and identify any remedial actions that might be required. In order to recognize this, new provisions will be added in the Act that recognizes an inspection notice or report as a compliance tool.



#### **af. New and enhanced powers related to 'no consent' transfers and revocation in special circumstances**

Under the Act, the ministry has powers to terminate approval on existing aggregate licences or permits (called 'revocation') if specific circumstances are met. Crown permits can be revoked for non-compliance, lack of use, and in the public interest, however, a licence on private land can only be revoked if there is a non-compliance with the Act, the regulations, or a condition of the licence or site plan. The ministry may also transfer a licence without the consent of the licence holder (called a 'no consent transfer') in specific circumstances, but this power does not exist for Crown land permits.

New powers are proposed for sites using Crown-owned aggregate material that would allow permits to be transferred without the consent of the permit holder. Hearing provisions would be similar to those currently used during revocation and a transfer refusal. In addition, enhancements to current legislative powers are proposed that would improve administrative efficiencies during revocations or no consent transfers in cases where a corporation holding a licence or permit has been cancelled or where an approval holder has died and their estate, while resolved, did not transfer the permit or licence to another party.



#### **ag. Administrative changes to provide liability protection for ministry employees**

There is currently no liability protection for provincial ministry employees operating under the *Aggregate Resources Act*. To improve consistency with other similar legislation, new provisions are proposed that would provide liability protection for provincial ministry employees where they are carrying out their powers or responsibilities under the Act in good faith.



## PROPOSED CHANGES TO FEES AND ROYALTIES

The *Aggregate Resources Act* and its regulations require aggregate operators to pay fees and royalties related to the extraction of aggregate materials. Aggregate licence and permit holders must pay an annual fee that is used to offset the cost of delivering the program. Some annual fees (i.e., for licences on private land) are shared. Additionally, administration fees are also charged when submitting an aggregate application, for the transfer a licence or permit or requesting a major site plan amendment (licence only). Royalties are paid to the Crown for use of Crown-owned aggregate, unless exempted by the Minister or by regulation. The minimum royalty is set in regulation but the rate may be increased based on the location, quantity, type and accessibility of the aggregate and its intended use.

During fall 2015, the province will be working with municipal organizations to gather cost-based information and develop a reporting mechanism to support consideration of an increase to the municipal portion of the annual fees to better address infrastructure costs resulting from aggregate operations. There will be further opportunities for public and Aboriginal input on more detailed content of the regulations, including proposed fees, as we move forward.

## 3.1 Current Fees and Royalties

The current aggregate licence (private land) annual fee is variable, and changes based on both the maximum annual tonnage limit for the site and the amount of aggregate that is removed in a calendar year. The current rates are:

- \$200 or 11.5¢ per tonne, whichever is greater, for sites with a maximum tonnage limit of 20,000 tonnes or less per year (Class B licence),
- \$400 or 11.5¢ per tonne, whichever is greater, for sites with a maximum tonnage limit above 20,000 tonnes per year (Class A licence).

Currently the annual licence fee is disbursed as follows:

- 52% or 6.0¢ per tonne to the local municipality,
- 13% or 1.5¢ per tonne to the County or Regional municipality,
- 4% or 0.5¢ per tonne to the Aggregate Resources Trust (to be used for abandoned site rehabilitation and research),
- Any portion of fee remaining is retained by the provincial government.

The current aggregate permit (Crown land) annual fee is a flat rate of \$200 per year, regardless of the tonnage limit on the permit or the amount of aggregate that is removed from the site in a given calendar year. This fee is solely retained by the provincial government.






The current minimum royalty for Crown-owned aggregate or topsoil is \$0.50/tonne (exemptions exist for Ontario government projects, material for forest access roads and aggregate permit sites that are also subject to a mining lease).

Current Administration Fees:

Approval Type	Application Fee	Transfer Application Fee	Major Site Plan Amendment Fee
Class A licence (private land)	\$1000	\$500	\$500
Class B licence (private land)	\$500	\$300	\$200
Aggregate Permit (Crown land)	\$500	\$300	n/a

## 3.2 Equalizing and Indexing Fees between Crown and Private Land

### KEY PROPOSED CHANGES:

-  ah. Align annual fees for Crown land aggregate permits with those for private land licences
-  aj. Index fees and royalties to the Consumer Price Index
-  ai. New ability to disburse fees to recipients that have road responsibilities
-  ak. Changes to royalty charges on aggregate sites with a mining lease and easier to find administrative fees
-  al. New ability to waive fees on private land sites



### ah. Align annual fees for Crown land aggregate permits with those for private land licences

Changes are proposed to make the annual fee for Crown land sites match the one that is used on private land. This would include aligning the minimum rates to match those on private land and making the rate variable based on the amount of aggregate removed from the site. There will no longer be a flat rate for Crown land permits; instead, fees will include minimum rates and a variable rate. Changes to the variable rates would be phased in over a two year period:

Proposed changes to Crown land fees	Year One	Year Two
Minimum Fee*	<ul style="list-style-type: none"> <li>\$200 (tonnage limit of 20,000 tonnes per year or less)</li> <li>\$400 (tonnage limit of more than 20,000 tonnes per year)</li> </ul>	
Variable Fee*	minimum fee or a variable rate of 6¢ per tonne, whichever is greater	minimum fee or a variable rate of 11.5¢ per tonne, whichever is greater

During the first year, the minimum fee would be shared between municipalities, the Aggregate Resources Trust and the provincial government (as licence fees are), but all fees over the minimum would be directed to the local municipality. This would ensure that local municipalities are receiving fees to offset impacts to roads as early as possible. In the second year, the distribution of fees would be identical to the existing distribution of licence fees.

\*Exceptions to proposed Crown land permit fees:

Scenario		Minimum Fee	Variable Fee
Permit is held by a provincial ministry	Operation occurs where there <b>is no</b> municipality or local roads board	n/a	Only pays 4% of variable fee (i.e., portions directed to Aggregate Resource Trust)
	Operation occurs where there <b>is</b> a municipality or local roads board		Only pays 69% of variable fee (i.e., does not pay portion retained by provincial government)
Material produced from site is used for a provincial project or a forest access road on Crown land that is open to the public	Operation occurs where there <b>is no</b> municipality or local roads board	\$200 or \$400 depending on maximum tonnage limit	Only pays 35% of variable fee (i.e., does not pay fees that would have been directed to municipalities or local roads boards)
	Operation occurs where there <b>is</b> a municipality or local roads board		Full variable rate applies

The new annual fee for Crown land would not replace the current Crown aggregate royalty charges. Both the annual fee and royalty would be charged on Crown land sites.



#### ai. New ability to disburse fees to recipients that have road responsibilities

Currently, where there is no municipality, the municipal portion of the fee is disbursed back to the provincial government. New powers are proposed that would enable regulations to be made disbursing fees to different agencies or organizations that have road responsibilities. Subject to these legislative changes, the municipal portion of the fee would be directed to Local Roads Boards funding where there is no municipality.



#### aj. Index fees and royalties to the Consumer Price Index

To keep pace with inflation, fees and royalties that are set in regulation are proposed to be indexed to the Ontario Consumer Price Index (starting after fee equalization).



#### **ak. Changes to royalty charge on aggregate sites with a mining lease and easier to find administrative fees**

Currently, no royalty is charged where aggregate is being extracted under an aggregate licence or permit where that aggregate material is also subject to a mining lease under the *Mining Act*. Note that royalty is already charged for aggregate removed from these sites that is not subject to the mining lease (e.g., sand and gravel). It is proposed that a royalty would be charged on aggregate sites that are subject to mining leases, starting immediately for new sites, and through a three-year phase in period for existing sites. The phase in for royalty charges for existing sites would start after the fees are equalized between Crown land and private land to allow these operators some time to incorporate the changes into their business plans.

Changes are also proposed to establish existing fees for applications, transfers and amendments in regulation. These fees would be set at the existing rates, with the exception of the major site plan amendment fee for private land sites. The fee for amending a major site plan will be eliminated for a transitional period to facilitate amendments that may be requested during the implementation of proposed changes.



#### **al. New ability to waive fees on private land sites**

New powers proposed that would allow the Minister to waive fees on private land sites. This power to waive fees for Crown land sites already exists. The ability to waive fees may help in the future to deal with unique or unexpected situations, to reflect the use of alternate transportation methods (e.g., rail, water), or to address situations like overburden materials (captured by the definition of aggregate) shifting between abutting sites for rehabilitation purposes.



## 3.3 Provisions for the Future

---

### KEY PROPOSED CHANGE:



- am. Create ability to make changes in the future that allow for broadening of the collection, disbursement and use of fees, and for programs to evaluate their effectiveness
- 

New enhanced powers are proposed that would allow the government to make new regulations in the future to address anticipated needs. These proposed powers are not being proposed for implementation at this time – changes made now would only allow for the potential future establishment of broader fees and programs to evaluate fee structures if the need arises. Enhancing this ability now will ensure that any future changes that might be considered can be undertaken more efficiently and effectively. These new powers would enable future changes to the:

- Collection and disbursement of collected fees to new parties to provide for broader purposes in the future,
- Establishment of future fee charges, collection and distribution on more materials and for broader purposes and programs, such as research, studies, offsetting impacts, influencing behavior, proponent requests and program delivery, and
- Creation of programs to evaluate, track and report on program and funding effectiveness audits for programs that are supported by aggregate fees.



# 4.0

## OTHER PROPOSED CHANGES

### 4.1 Creating Greater Flexibility for the Future

#### KEY PROPOSED CHANGES:



an. New powers to modify the Aggregate Resources Trust agreement and establish performance reporting requirements in the future



ao. Move specific requirements for application, amendments and reporting from the Act to the Regulations or Standards



ap. Consolidate all exemptions to the definition of “rock” into one location



aq. New ability to establish performance reporting requirements in the future



ar. New ability to establish certification and training programs in the future



#### **an. New powers to modify the Aggregate Resources Trust agreement and establish performance reporting requirements in the future**

The Aggregate Resources Trust (the ‘Trust’) was created in 1997 to manage certain administrative functions under the *Aggregate Resources Act*, including the rehabilitation of abandoned aggregate sites (i.e., abandoned sites that were never licenced or permitted under the Act) or revoked aggregate sites (i.e., sites where licences or permits have been revoked) and research. The Trust also administers the collection and disbursement of annual fees. An agreement (the ‘Trust agreement’) sets out responsibilities of the Trust and trustee. The Ontario Aggregate Resources Corporation (TOARC), through the Trust agreement with the Province of Ontario, acts as trustee to look after and administer the Trust.

New powers are proposed that would give the ministry greater authority to modify the existing Aggregate Resources Trust agreement in the future. This provision will ensure that the government will be able to modernize the agreement when needed in order to make changes to delivery responsibilities and achieve accountability objectives. This is an enabling provision that may be used in the future; there are currently no plans to use this provision to modify the Trust agreement at this time.

New powers are also proposed that would allow regulations to be made setting out performance reporting requirements in regulation for any party that carries out work under the authority of the act through an agreement (like the Trust agreement) with the ministry.



#### **ao. Move specific requirements for application, amendments and reporting from the Act to the Regulations or Standards**

This proposed change would shift all provisions in the Act that set out specific requirements for applications, amendments and reporting, into the regulations or standards. This would consolidate the requirements and provide flexibility to modernize in the future. The provisions that would be shifted include:

- Qualifications for Class A licence site plan preparers (section 8(4)),
- Requirements for site plans and reports (sections 8, 9, 25, 36),
- References to notification requirements for licence applications (section 11(1) through 11(4)),
- Requirements that address the frequency of self-compliance reporting and providing copies of the reports to the municipality (sections 15.1 and 40.1),
- Site plan amendment process requirements related to amendments requested by proponents (section 16(5)),
- Wayside permit site plan copy requirements (section 23(4)),
- Reference to notification requirements for wayside permits (section 23(6)),
- Details of where/to whom reports, fees and royalties are submitted to (sections 14(2), 14.1, 31.1(2), 37.1(2), 46(2), 46(2.1) and 46(3)),
- Reference to site plan (section 36(1)), and
- Updating any corresponding references to the above sections.



#### **ap. Consolidate all exemptions to the definition of “rock” into one location**

Currently, the definition of “rock” in the Act excludes one list of materials, and allows for other materials to be excluded through regulation. The regulations contain a second list of materials that are excluded from the definition of “rock”. To improve consistency and enable future streamlining between the *Mining Act* and the *Aggregate Resources Act*, all existing exemptions from the definition of “rock” will be listed together in one location in the Regulations. No changes are proposed to the definition of “rock” itself.



#### **aq. New ability to establish performance reporting requirements in the future**

New powers are proposed that would allow regulations to be made setting out performance reporting requirements in regulation for any party that carries out work under the authority of the act through an agreement with the ministry.



#### **ar. New ability to establish certification and training programs in the future**

New powers are proposed that would enable regulations to be established regarding future programs to certify or train those in aggregate operations, such as the preparation of annual reports or enhancements to existing certification requirements for persons preparing site plans. These enabling powers are proposed to allow for the establishment of this type of program in the future, and are not proposed for implementation at this time.

## **4.2 ‘Housekeeping’ Amendments**

### **KEY PROPOSED CHANGE:**



as. Housekeeping amendments to improve clarity and reflect current practices

To improve clarity, reflect current practices and, ensure that the original intent of the Act is preserved, it is proposed that a series of ‘housekeeping’ changes be made. These changes include:

- Eliminating hearing provisions for revocation of an aggregate permit for Crown resources in the event of non-payment of royalty, thus reflecting the original intent of the Act,
- Clarifying that no approvals are required to extract within a municipal or provincial road right-of-way during initial construction or maintenance of a road within that right-of-way,
- Specifying that the Minister may, rather than must, be party to an OMB hearing for an application, to address situations where the ministry has no outstanding concerns with an applications,
- Specifying that the contact information of individuals participating in an application are a matter of public record, and that applicants must make the notification and consultation records pertaining to an application available to the public upon request,
- Recognizing process differences for proponent-requested changes to licence or permit conditions. Currently, licensees and permittees may request changes, but the legislation contains an unnecessary requirement to provide 30 day notice to the proponent as it would with a ministry-requested change,
- Removing sections that require licensee to serve final copies of approvals and site plans to municipalities (sections 12.2, 18 and 28), as the ministry provides copies of approved versions,
- Removing quotes from the word ‘work’ in the definition of operate,
- Updating references to ‘registered mail’ for service of notices to allow for other traceable delivery mechanisms (e.g., courier), and
- Repealing section 69, which no longer has any effect (addresses replacement site plans from early 90s).

**Your feedback is important. Please provide your comments and suggestions via the *Environmental Bill of Rights* Environmental Registry posting by visiting [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca) and entering posting number 012-5444.**

**Comments can also be submitted by completing a survey at [https://www.surveymonkey.com/r/Blueprint\\_for\\_Change](https://www.surveymonkey.com/r/Blueprint_for_Change).**

All comments are welcome and we ask that you consider the following questions as you respond:

1. What do you feel is the most important proposal put forward in the paper?  
Do you agree with it? If so, why? If not, why not?
2. Do you think that the proposed changes are comprehensive enough?  
If no, what do you think is missing?
3. Do you support the Ontario government in moving forward with the changes as outlined in the paper? If not, which proposals do you not support and why?

If you currently, have recently or plan in the future to operate an aggregate pit or quarry, please consider the following questions as well:

4. Sections 1.0 and 2.0 outline several proposals that will require operators to 'do more' in order to ensure greater accountability for the environment, greater consideration of impacts to local communities and individuals and to ensure greater participation by others in the process.
  - a. Do any of these proposals concern you? Why are you concerned?
  - b. Which proposals will impact you the most? How will they impact you?
5. Sections 1.2, 1.3, and 2.3 include proposals that would increase flexibility, enhance efficiency or reduce 'red tape' (for example, the proposed permit by rule approach proposed in section 1.3r).
  - a. Do any of these proposals concern you? Why are you concerned?
  - b. Will any of these proposals result in a negative impact to your business? If so, How?
  - c. Will any of these proposals make things easier for you? If, so, which ones?
6. A few of the proposed changes (sections 2.5.ad and 2.5.ae) seek to enhance provisions that help to ensure compliance. Are you concerned with any of these proposals? If so, why? If not, do you support them?
7. The paper contains several proposals designed to enable and facilitate additional changes in the future (sections 1.2.p, 1.3.r, 3.3.am, 4.1). While there are no plans to use these new abilities right now, they could be used in the future. Do you have any concerns with these new powers? If so, what are your concerns?
8. Section 3.0 of the paper proposes changes to fees and royalties. Will any of these changes impact your current operations? If so, which ones? Do you support these proposals? If not, why?
9. Is there anything else that you would like us to know about the proposed changes outlined in the paper?

# APPENDIX 1: SUMMARY OF PROPOSED REQUIREMENTS FOR APPLICATIONS

## NOTIFICATION/CONSULTATION

<b>Proposed Requirements for Applications</b> (except small agricultural licence and stockpile only applications)	<b>Initial Review for Completeness (MNRF)</b>	<b>Public/ Agency Comment Period</b>	<b>Notification Area (from Boundary)</b>	<b># of Public Information Sessions</b>	<b>Total Length of Engagement Period</b>
Extraction within the bed of a lake or river	75 days	ToR	ToR	ToR	ToR
3.5 million tonnes and above	75 days	ToR	ToR	ToR	ToR
1 million to < 3.5 million tonnes	60 days	120 days	500m (Pit) 1000m (Quarry)	2	2 Yrs. (Licence) 6 Mo. (Permit)
500,000 to < 1 million tonnes	45 days	90 Days	300m (Pit) 500m (Quarry)	1	2 Yrs. (Licence) 6 Mo. (Permit)
100,000 to < 500,000 tonnes	45 days	90 Days	300m (Pit) 500m (Quarry)	1	2 Yrs. (Licence) 6 Mo. (Permit)
> 20,000 to <100,000 tonnes	30 days	60 Days	300m (Pit) 500m (Quarry)	1	2 Yrs. (Licence) 6 Mo. (Permit)
Maximum 20,000 tonnes	30 days	45 Days	120m (Pit) 300m (Quarry)	1	2 Yrs. (Licence) 6 Mo. (Permit)
Wayside Permit	30 days	45 Days	120m (Pit) 300m (Quarry)	1	2 Yrs. (Licence) 6 Mo. (Permit)

ToR: Determined by Terms of Reference

## REPORTS/CONSULTATION

Proposed Requirements for Applications (except small agricultural licence and stockpile only applications)	Hydrogeological	Natural Environment	Cultural Heritage	Noise Assessment (where sensitive land use nearby)**	Dust Assessment	Traffic Assessment	Blast Design Report (quarries)	Agriculture Impact Assessment (on prime agriculture land/areas)	Plain Language Project Description	Summary Statement*
Extraction within the bed of a lake or river	ToR	ToR	ToR	ToR	ToR	ToR	ToR	ToR	ToR	ToR
3.5 million tonnes and above	■	■	■	■	■	■	■	■	■	■
1 million to < 3.5 million tonnes	■	■	■	■	■	■	■	■	■	■
500,000 to < 1 million tonnes	■	■	■	■	■	■	■	■	■	■
100,000 to < 500,000 tonnes	■	■	■	■	n/a	■	■	■	■	■
> 20,000 to < 100,000 tonnes	■	■	■	■	n/a	n/a	■	■	■	■
Maximum 20,000 tonnes	■	■	■	■	n/a	n/a	■	■	■	■
Wayside Permit	■	■	■	■	n/a	n/a	■	■	■	■

ToR: Determined by Terms of Reference

\* Summary Statement: Transportation and traffic; Dust management/ mitigation; Pre-extraction agricultural (soil capability) on non-prime agriculture lands for applications over 20,000 tonnes; Aggregate quantity, quality and types of products; and Rehabilitation (compatibility, land use planning, performance indicators).

\*\* Does not apply to sites with no processing (load and haul only).





