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Also submitted to the Environmental Registry of Ontario

ERO Number 019-6767 - Proposed changes to the Aggregate Resources Act, Ontario Regulation 244/97

The **Ontario Society of Professional Engineers (OSPE)** is the advocacy body and voice of the engineering profession. Ontario currently has over 85,000 professional engineers, 250,000 engineering graduates, 6,600 engineering post-graduate students, and 37,000 engineering undergraduate students. OSPE is pleased to respond to the ***Proposed changes to the Aggregate Resources Act (ARA), Ontario Regulation 244/97 to expand self-filing activities and a new policy regarding amendments to existing aggregate approvals.***

Introduction

The **Ministry of Natural Resources and Forestry (MNRF)** is proposing regulatory changes to Ontario Regulation 244/97 under the *Aggregate Resources Act* to expand the list of changes that can be made to site plans without ministry approval (subject to conditions) and proposing a policy that would provide direction for changes to licences, permits and site plans where ministry approval is required. OSPE commends the Ministry for taking action on the proposed initiatives and appreciates the opportunity to submit this document.

Applications to amend licenses, permits, and site plans under the ARA:

Section 3.3 (page 5) - Applicable excess soil reuse criteria

It is recommended that:

- Further guidance be provided on the MNRF policy to address situations where the intended final land use is unspecified in the rehabilitation plan.

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Regarding the modifications to the final rehabilitation plan, to align it with the ultimate land use, it is crucial to achieve greater clarity in determining the applicable excess soil reuse criteria, especially when the Site Plan indicates the importation of material for rehabilitation purposes.

Specifically, it would be beneficial to consider if a **Qualified Person (QP)** can take into account the land use setting, and/or surrounding zoning, to infer the anticipated future use. By allowing such considerations, it would enable more informed decision-making and facilitate the application of appropriate excess soil reuse criteria.

Therefore, it is recommended that the MNRF develops supplementary guidance to address these scenarios and provide clear instructions to QPs, and stakeholders involved in the rehabilitation process. This guidance should outline the factors that can be considered when the final land use is not explicitly defined in the rehabilitation plan.

By providing additional clarity and guidance on this matter, it will promote consistency, accuracy, and effective decision-making in the management and reuse of excess soil. It will also help ensure that rehabilitation activities align with the overall land use objectives and minimize any potential adverse impacts.

Section 3.3 (page 6) - Importation of aggregate for blending or resale

It is recommended that:

- Further consultation be undertaken with the Ministry of the Environment, Conservation and Parks (MECP) on differentiating between aggregate and excess soil.

This section refers to the importation of aggregate for blending or resale, and it is important to provide additional guidance on differentiating between aggregate and excess soil. There is a need to clarify the distinction, as products leaving a quarry are exempt from the Excess Soil Regulation. However, it is possible that certain producers may import material that could potentially fall under the definition of excess soil.

To ensure clarity and consistency in interpreting the exemption, further consultation with the **Ministry of the Environment, Conservation and Parks (MECP)** is recommended. Although the exemption was likely intended to apply to virgin aggregate and/or recycled aggregate products derived from clean concrete, it may not cover the blending of excess soil with virgin aggregate.

To address this issue, it is important to engage in additional discussions and seek clarification from the MECP. This will help establish a clear understanding of the intended scope of the exemption and ensure that importation and blending practices align with the regulations.

By seeking further guidance and clarification, we can ensure compliance with the regulatory framework while promoting responsible and sustainable practices within the aggregate industry. This will help prevent any potential misinterpretation or misuse of the exemption, ensuring that both environmental and regulatory objectives are met.

Section 3.3 (page 6) - Importation of excess soil required for slope or grading

It is recommended that:

- Clarification be provided on the importation of excess soil for slope or grading purposes and whether this would constitute a significant or minor amendment to the Site Plan.

The importation of excess soil for slope or grading purposes is an important aspect that requires clarification. Specifically, it is necessary to determine whether this constitutes a departure from the current policy regarding Site Plan changes that allow backfilling to achieve grade, as such changes are not typically considered minor amendments.

By clearly defining the requirements and procedures for Site Plan modifications related to importing excess soil for slope or grading, stakeholders can better understand the regulatory framework and adhere to the appropriate protocols.

Therefore, we kindly request further guidance and clarification from the appropriate authorities, such as the relevant planning departments or regulatory agencies. This will allow for a comprehensive understanding of the requirements and expectations associated with importing excess soil for slope or grading purposes, particularly in relation to Site Plan amendments.

Section 3.3 (page 7) - Substantial amount of material

It is recommended that:

- **Clarification be provided on the definition of a "substantial amount of material".**

In relation to portable asphalt or concrete plants, as well as portable processing equipment, it is crucial to provide additional clarification regarding the definition of a "substantial amount of material." This clarification is necessary to ensure consistent interpretation and compliance with relevant regulations.

Section 4.2 (page 10) - Municipal notifications

It is recommended that:

- **A provision be included that explicitly lists amendments to the Site Plan allowing backfilling to grade with imported materials.**

With regards to municipal notifications, it is recommended to include a provision that explicitly lists what amendments to the Site Plan allow backfilling to achieve grade using imported material, such as excess soil.

This inclusion will ensure that the notification process encompasses all relevant changes and provides transparency to all stakeholders involved.

Proposed Site Plan Amendments Eligible for Self-Filing:

Importation of Recyclable Material (page 2, bullet point 1)

It is recommended that:

- **Definition be given to the allowable amounts of debris and/or byproducts when importing recyclable materials.**

It is crucial to define the allowable amounts of debris and/or byproducts, if any, when importing recyclable materials. For instance, it is common for various streams of glass material to contain non-glass components, such as bits of plastic and organic matter, when sourced from a blue bin recycling stream. Similarly, common streams of concrete material may include rebar and wood, and may exhibit impairments like paint or oily staining.

Portable processing equipment (page 2)

It is recommended that:

- **Clarification be given to the processing of excess soil using equipment permitted under a mobile Environmental Compliance Approval (ECA).**

It is crucial to provide policy guidance that offers clarity of interpretation and establishes clear expectations regarding the processing of excess soil using equipment permitted under a mobile **Environmental Compliance Approval (ECA)**.

This guidance should address two main scenarios: beneficial reuse of excess soil at the **Accepted Resource Area (ARA)** site and the production of recycled aggregate products.



We look forward to working with you to further develop these recommendations. If you have any additional questions, please contact Paola Cetares, OSPE Public Affairs Manager, at pcetares@ospe.on.ca or 416-223-9961 ext. 225.

Sincerely,

A handwritten signature in black ink that reads 'Stephanie Holko'.

Stephanie Holko, P.Eng., MBA
Chair and President
Ontario Society of Professional Engineers

A handwritten signature in black ink that reads 'Sandro Perruzza'.

Sandro Perruzza
Chief Executive Officer
Ontario Society of Professional Engineer