**2.1 Excavation from Private Land or Land Owned by a Farm Business**

The following proposal is related only to excavations that would be exempted in regulation if a set of prescribed rules are followed. No changes are being proposed to the definition of a pit or quarry under the Act.

**Proposed Approach**:

The ministry is proposing that persons or farm operations on private land that meet specific criteria would not need to obtain a licence from the ministry if they follow rules set out in the regulations. Those taking advantage of these rules in regulation would need to register their activity with the ministry by completing and submitting a form confirming that they meet the conditions set out in regulation. As part of the registration, the location of the excavation site would need to be documented (e.g., with ground-level photographs, satellite images from Google Maps, GPS coordinates). Failure to follow the rules or conditions set out in regulation would mean that the activity is not authorized under the ARA and may be subject to enforcement action.

Regardless of whether or not a person would be eligible for an exemption under the Aggregate Resources Act, other approvals may apply (e.g., Planning Act, Municipal Act, Environmental Protection Act). It would be the responsibility of those undertaking the excavation to ensure that they obtain any required approval(s) (i.e., this would not exempt a person from other requirements or approvals).

All documentation related to the excavation and/or related to ensuring that the above regulatory conditions are met would need to be obtained prior to beginning the excavation and retained by the person registering for the exemption throughout the duration of the excavation and for seven years following completion of the rehabilitation. Documentation would need to be provided to MNRF for inspection upon request.

The following conditions would need to be met in order for the excavation to qualify for exemption:

• Only unconsolidated material (e.g., sand and gravel) is being excavated.

• No blasting or processing of aggregate (e.g., crushing, washing, etc.) is occurring.

• The excavation remains above the water table; however, if while excavating the water table is unintentionally intercepted, the excavation area would need to be immediately backfilled with 1.5 metres of the same excavated material.

• The excavation does not occur within:

o 30 metres of the property boundary,

o 90 metres of any part of the property boundary that abuts neighbouring land in use for residential purposes,

o 90 metres of a sensitive receptor (e.g., residences, hospitals, schools),

o 30 metres of a body of water,

o 30 metres of septic system or a water well,

o 15 metres of a plugged petroleum well

or 30 metres from an active petroleum well,

o a category A or B wellhead protection area under the Clean Water Act,

o an area where development is prohibited by a conservation authority.

While undertaking the excavation, the individual or farm business would be required to ensure that:

• Sediment from the excavation is prevented from entering any water body.

• The working face is sloped at the angle of repose or the vertical height of the working face is not more than 1.5 metres above the maximum reach of equipment being used.

• The excavation will only occur over a period of up to three consecutive calendar years.

• Within one year of the final year of excavation, the excavation area is rehabilitated to its former land use or rehabilitated by sloping all faces to a minimum of 3:1 and vegetated to prevent erosion.

• Only one excavation is occurring on a property at any one time (a previous excavation would be considered completed once rehabilitation of the excavation site has occurred). Note: that once rehabilitated, a site excavated under this rule could not be excavated again. Additional conditions that would only be applied to aggregate excavation on private land for personal use:

• The aggregate being excavated would be for the person’s private use and would not be used in relation to an aggregate-related business or commercial enterprise and is not sold by the individual.

• The excavation could only be undertaken by or on behalf of the landowner on their own private property.

• No more than 300 cubic metres would be excavated.

• The area of excavation would not exceed 0.5 hectares.

• Excavated aggregate would not be removed from the property from which it was excavated or would only be moved between adjacent properties owned by the same landowner. Additional conditions that would only be applied to aggregate excavation from land by a farm business:

• The excavation would occur on an agricultural property owned or leased by a registered farm business.

• Excavated aggregate would not be removed from the property from which it was excavated or would only be moved to another property owned by the same registered farm business.

• No more than 1000 cubic metres would be excavated.

*A 300 cubic metre excavation site would roughly fill three in-ground pools (7x12*

*meter) or 24 average tri-axle dump trucks.*

*A 1000 cubic metre excavation would equal about 81 average tri-axle dump truck*

*loads*