

May 15, 2020

Resource Development Coordinator
Ministry of Natural Resources and Forestry
Natural Resources Conservation Policy Branch – Resource Development Section
300 Water Street
2nd Floor, South Tower
Peterborough, ON
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Submitted by email: aggregates@ontario.ca

RE: ERO 019-1303 Proposed Amendments to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act

R.W. Tomlinson Limited (Tomlinson) is an Eastern Ontario based company providing a range of services including; aggregates, asphalt, concrete ready mix, construction, land development and environmental services. Tomlinson is well established in aggregate resources, and owns and operates over 20 licensed pits and quarries across Ontario. Aggregates are the foundation of our company and Ontario. As such, the proposed changes to the Act and Regulation is of most importance to the operation, wealth, and sustainability of our business.

Tomlinson supports the Province's efforts to update and improve the Provincial Standards that regulate our industry. Tomlinson appreciates the opportunity to comment on the Ministry of Natural Resources and Forestry's (MNRF) proposed amendments to Ontario Regulation 244/97 (ERO No. 019-1303), and looks forward to continued dialog. Furthermore, Tomlinson has been providing input through our industry association OSSGA and we support their submissions.

Positive Changes

We support most of the proposed changes including:

- Reducing Duplication of Review agencies should stick to their mandate.
- Addressing Consistency with the Provincial Policy Statement (PPS) and the Four Provincial Plans
- Facilitating extraction of aggregate in a road allowance with municipal consent
- Self-filing for minor amendments (the list should be expanded)
- Boundary demarcation proposals
- Improved flexibility for site plan requirements
- Expanded list of persons certified to prepare ARA site plans
- Improvements to the annual Compliance Assessment Reporting

Areas of Concern

There are a number of areas that Tomlinson sees as problematic presented in the proposed changes to the Regulations, some of the more impacting changes are described below:

1.1.1 Water Report

With respect to monitoring and definition of water table relative to pit or quarry floor elevations Tomlinson is opposed to any changes in definitions that would raise the water table bench mark (currently called "established water table") without reducing the 1.5 m buffer to the designed pit floor.

There is no scientific basis for this and the implication is a reduction of availability from licenced pits and quarries

1.2.2 Site Plan Standards – Modernization

With respect to hours of operation, hour restrictions should only apply to activities that generate significant noise as demonstrated in NPC 300. Noise mitigation is already prescribed by the MECP. The ARA regulations should refer to NPC-300, and simply state that these regulations must be met. Activities, such as maintenance, sales, loading, and site improvements should continue to be allowed to occur outside of the site plan hours if they can be shown to be innocuous, and have little influence on the surrounding environments.

1.2.4 Prescribed Licence and permit Conditions

The proposal is to remove conditions related to approval requirements under other legislation. To be clear, the site plan should only reference the possible need to obtain these documents not list any specific details about them. It's good information to include on site plans so everyone knows what documents are associated with the license and operating the site.

1.3.1 Notification and Consultation Time Frames

In our experience and knowledge of other producers protocols, public consultation begins long before the license application has been submitted, allowing additional time for agencies and public to comment on the proposed aggregate license plan. Furthermore, should an Official Plan and/or Zoning Bylaw amendment be required, this allows additional opportunity for agency and public comment and appeal. Extending the consultation process to 60 days is unnecessary.

1.3.2 Notification and Consultation Process

We would like to see more information about the proposed changes to the ARA licence application notification and consultation requirements. A more comprehensive review of the regulations and MNRF policy related to the consultation, objection, attempt to resolve and LPAT referral processes is warranted. It is unclear why the notification distance would be increased to 150 meters. As stated above, in many cases an Official Plan and/or Zoning Bylaw amendment have been completed and public consultations has begun long before the license has been submitted. Furthermore, if the land is designated as reserve or extraction in the zoning bylaw, it should be no surprise that a licensed aggregate site will exist at some point. Notification of residents over 120m is redundant. Furthermore, public notification already includes posting a sign(s) at the site, news paper (French and English), and a public open house. As such, it is our opinion that there is plenty of communication.

1.3.3 Objection Process on Private Land

If MNRF is going to make changes that will facilitate more objections (increased notice, accepting email objections, removing requirements for registered mail etc) then there needs to be corresponding changes to Standards and policy that sets reasonable expectations for how these objections are ultimately resolved. We do not support notices to residents (landowners mailing and public newspaper has proven to be adequate). Based on our direct experience we think that an appeal or objection fee should be required to maintain an objection and cause an LPAT hearing. Objections that have no technical merit, meaning objectors whom simply do not like pits and quarries should not be referred to LPAT especially when the applicable agencies have withdrawn their objections. Too often producers are forced to purchase the objectors home, above market value, in order for the objector to withdraw their objection. The MNRF needs to be able to decipher between valid/invalid objections, and not refer all objection to LPAT.

3.1.1 Miscellaneous Changes

The MNRF has proposed to make changes to the storage of scrap on site. Some producers operate their business out of their pit or quarry, meaning their office, shop or garage are operated out of that site. Consideration for

types of scrap and where it is stored on site must be evaluated. Scrap may include damaged loaders or haul trucks and parts, highway trucks and parts etc. There should be an allowance for this type of storage.

3.1.2 Dust

The MNRF is proposing to require all licenses and permit holders to mitigate dust from leaving the site. This is a requirement of the prescribed conditions, and regulated by the MECP. Dust mitigation is a requirement of an Environmental Compliance Approval, and includes best practice plans for mitigating fugitive dust. As such, this is an overlap which should be reconsidered.

3.1.4 Recycling

Tomlinson works diligently to produce recycled materials that meet and/or exceed specifications. By doing so, Tomlinson has been able to divert annually approximately 100,000 tonnes of concrete, 195,00 tonnes of asphalt and 1,000 tonnes of glass from local landfills. We are proud of this achievement and we are committed to continuously providing environmentally conscious and high quality products. Furthermore, in many cases these products are stored below grade due to the lack of space elsewhere on site. All aggregate sites which discharge water are required to have an Environmental Compliance Approval to do so. As such, discharges from these sites is monitored regularly to ensure no impact to receiving water courses.

We need MNRF's help to continue these endeavors. Our licensed pits and quarries are ideal places to conduct recycling activities. These activities should not be restricted to solely accessory uses where the municipal zoning allows stand alone or after-use recycling. In many municipalities the land use is designated for this type of operation. The need for locations to process recycled aggregates will grow as resources are pushed further away. If a closer to market pit or quarry can extend it's lifespan by recycling this, without a doubt, is better for the economy and environment.

Tomlinson thanks you for considering these comments and we would be pleased to discuss further as required.

Sincerely,



Rob Pierce
Senior Vice President, Planning and Development
R.W. Tomlinson Limited