



AMO's Response to the Proposed Regulatory Changes for the Beneficial Reuse of Excess Soil at Pits and Quarries in Ontario (ERO posting 019-4801)

Submission to the Ministry of Northern Development, Mines,
Natural Resources and Forestry

February 24, 2022



On behalf of the Association of Municipalities of Ontario (AMO), we are pleased to provide comments on the Ministry's proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario (ERO #019-4801).

We appreciate that the Ministry is updating ministry requirements to align and be consistent with the Ministry of the Environment, Conservation and Parks' On-Site and Excess Soil Management regulation (O. Reg 406/19) under the *Environmental Protection Act*.

The ability for the Ministry to now determine suitable soil quality and how the rules are applied at aggregate sites is also appreciated. We believe that the new risk-based quality standards and rules for the safe reuse of excess soil will help ensure quality of imported soil is based on site conditions and end use of land.

We are encouraged to see the additional requirements being proposed to ensure that safeguards are in place (i.e. proof of quality and suitability of placement) when large volumes of excess soil cover large areas. We also support the proposal that aggregate sites be required to retain a Qualified Person to confirm the soil quality is suitable and oversee the final placement if it is placing large quantities (e.g. more than 10,000m³) of excess soil, and/or if placing excess soil below the water table.

Any below-grade water table extraction and/or fill must be done in a way that does not increase liability of municipal Councils under the *Safe Drinking Water Act* and/or the *Clean Water Act*. Despite allowing Table 1 (highest quality) fill under this proposal, this process must still be done with the utmost care and compliance.

The Ministry of the Environment, Conservation and Parks (MECP) plays a critical role in the compliance and enforcement of many pieces of legislation including the *Aggregate Resources Act* (ARA). AMO is concerned that without a strong enforcement regime, these rules will and cannot be adequately enforced.

For example, it will be vital to ensure that the changes (if approved), to remove conditions relating to sampling, reporting and approval requirements that are not consistent with the new framework under the *Environmental Protection Act* (EPA) do not have unintended consequences for municipalities with aggregate sites within and surrounding their boundaries.

There is also a need to educate municipal Councils and staff on roles and responsibilities around aggregate management and enforcement, including who is liable at what stage. More information could also be provided to show how these proposed rules would relate to a municipality's site alteration by-law for future and existing aggregate sites.

Finally, records should be retained in a central, easy to access format, and kept for longer than seven years (e.g. see record-keeping timelines for brownfield and the *Cemetery Act*). While the fill brought into pits and quarries may have materials in them that may not be detected under current testing methods, the long-term effect of their impacts will only be revealed/known in 10 to 30 years.

Thank you for considering AMO's concerns with respect to this matter. If you have any questions, please contact Amber Crawford, Senior Advisor, at acrawford@amo.on.ca.