June 2024

Ontario

Applications to amend licences, permits, and site plans under the *Aggregate Resources Act*

1.0 Purpose

Amendments are changes to existing authorizations under the *Aggregate Resources Act*, and can include changes to:

- site plans;
- conditions of a licence, aggregate permit, or wayside permit; or
- any other information normally included on licences, aggregate permits, or wayside permits (e.g., name of operator, address, etc.).

Amendments vary in type and complexity, ranging from administrative changes to significant changes to operations or rehabilitation. When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation will often be required.

The purpose of this policy is to:

- provide information and direction on applying for amendments;
- guide Ministry of Natural Resources and Forestry (ministry) decision-making regarding amendment applications (including what constitutes a significant amendment); and
- provide direction on notification and consultation requirements for significant amendments.

2.0 Applying for amendments

Licensees and permittees may apply to the ministry to amend their licence or permit, a condition of their licence or permit, or their site plan.

2.1 Documentation and required information

Amendment applications must be submitted using the Amendment Form. The Amendment Form and any additional information should be submitted following the instructions listed on the Form.

The Amendment Form must include:

- a description of the proposed amendment(s); and,
- the reasons for the amendment(s).

If a site plan is proposed to change, a sketch or draft site plan page(s) showing the proposed changes must also be provided. The ministry will review the Amendment Form and accompanying documents and determine if additional information is needed to assess the application.

The information provided with an amendment application should clearly describe the proposed changes and identify any potential impacts resulting from the proposed changes. Measures to address impacts should be recommended by the applicant where potential impacts are identified.

Additional information or reports may be requested by the ministry if the information provided does not clearly identify and address potential impacts. Applications will not be processed further until the requested information is received.

The types of information that may be requested by the ministry will fall into the same general categories as for new licence and permit applications but will be tailored to the proposed amendments and the specific areas where potential impacts are of concern. The scope of information requested will ultimately depend on the size and complexity of the proposed amendments. Complex applications may require technical reports or information similar to what is required for new licences and permits.

If an operator is unsure of what additional information may be needed, they may inquire with the ministry prior to submitting their application.

2.2 Amendments under section 13.1 and section 13.2

The *Aggregate Resources Act* and its regulation and standards include specific application requirements for two types of amendments:

i. going from above water table extraction to below water table extraction in a part of a site not approved to do so (s.13.1 and s.37.2 of the Aggregate Resource Act); and
ii. expanding the boundary of a licence into an adjacent road allowance (s.13.2 of the Aggregate Resources Act).

Applications for these amendments must include certain information and technical reports specified in the Aggregate Resources of Ontario Amendment Standards and must complete the notification and consultations requirements in Ontario Regulation 244/97 and the Aggregate Resources of Ontario Circulation Standards.

2.3 Amendments that do not require approval

Many amendments require ministry approval, however there are some small or routine types of site plan changes that can be made without ministry approval, provided specific conditions set out in regulation are met. These are informally known as self-filed amendments. Although no ministry approval is required, the licensee or permittee must provide ('file') the amended site plan to the ministry.

Amendments that are eligible for self-filing and the requirements for self-filing are set out in sections 7.2 through 7.6 of Ontario Regulation 244/97.

2.4 Amendments that require a new licence/permit application

Some changes cannot be processed by amending an existing licence, permit, or site plan. Instead, they require a new licence or permit application.

A new licence or permit application is required to:

- change a Class B licence to a Class A licence;
- expand a licence or permit boundary (except a licence expansion into a road allowance under s.13.2 of the Act); and
- change from a pit to a pit and quarry.

3.0 Ministry review of applications

Once the ministry receives an Amendment Form and supporting documents, it will review the application to determine if additional information or reports are required to assess the application.

3.1 Significant changes to operations or rehabilitation

Significant changes to operations or rehabilitation are changes that fundamentally alter operations at an aggregate site or how the aggregate site is to be rehabilitated. When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation will often be required.

The ministry will determine if an amendment application proposes significant changes to operations or rehabilitation and will advise the applicant of any parties that must be notified of

the application.

A key consideration for significance will be the magnitude of impact, or potential to impact, resources, or features such as ground or surface water resources, agricultural resources, cultural heritage resources, and natural heritage features, or nearby communities. Amendments that substantially increase or have the potential to substantially increase impacts to resources, features or to nearby communities, will in most cases be considered significant changes.

If the proposed amendments are related to activities that are already approved and will not substantially change the impacts that are already occurring or the risk of potential impacts that could occur, they are unlikely to be a significant change.

3.2 Examples of significant changes

The examples below are some of the of changes to operations or rehabilitation that are likely to be significant. Such examples are not an exhaustive or determinative list. Whether changes are significant will ultimately depend on the scale and magnitude of the changes, in particular changes to impacts.

In general, significant changes to the operations or rehabilitation will include those that substantially:

- increase the annual tonnage condition or increase the amount of material coming to or leaving the site
- increase the limits of extraction, including depth of extraction
- change or delay progressive or final rehabilitation, including final land use
- reduce protective setbacks or buffers (e.g., excavation within the distances specified in section 10.3(2) of O. Reg. 681/94 under the *Environmental Bill of Rights*, *1993*)
- change phasing of extraction or increase the amount of disturbed area at a site
- increase hours of operation
- increase amounts of noise or vibration affecting nearby receptors
- increase the amount of dust affecting nearby receptors

3.3 Examples: changes that are not significant

The following examples would normally be considered as non-significant changes to operations or rehabilitation under the circumstances specified, provided no other concerns have been

identified. There may be circumstances in which amendments in this list are determined by the ministry to be a significant change to operations or rehabilitation. This list of examples is provided as a guide and is not intended to be exhaustive or determinative.

Table: Operational changes

Amendment	Circumstances
Removing common setbacks between existing operations	Operators (and landowners, if different) have consented in writing.
Excavation within setbacks/buffers	Excavation will not be within the distances to certain features/hazards specified in 10.3(2) of O.Reg. 681/94 (*Environmental Bill of Rights, 1993*)
Excavation within 30 m of a road or highway	Provided the applicant can demonstrate that the relevant road authority supports the change.
Increase to maximum annual tonnage of up to 5% of the original tonnage	Provided the maximum annual tonnage has not increased in the last 5 years. Note that for Class B licences the maximum tonnage cannot exceed 20,000 tonnes annually under any circumstance.
Temporary increase to maximum annual tonnage	The increase is not more than 10% of maximum annual tonnage for the site, or 100,000 tonnes, whichever is less. Where the increased tonnage will supply a contract for a municipal or provincial road project, the increase will be effective for the duration of the contract. Otherwise, the increase will be effective for a period of one year. Applicants making more than one request in a five-year period may be directed by the ministry to apply for a permanent tonnage increase. Note – for Class B licences, the maximum tonnage cannot exceed 20,000 tonnes annually under any circumstance.
Importation of aggregate for blending or resale	Amount of imported material is not more than 20,000 tonnes or 20% of maximum annual tonnage for the site, whichever is less.
Importation of excess soil for required slope or grading	Provided it can be demonstrated that there is insufficient material available onsite. Where final slopes/grades requirements specified on the site plan are not specific (e.g., “minimum of”), sloping of 3:1 for pits and 2:1 for quarries will be assumed

Lowering or removing berms	If the berm(s) are no longer needed for their intended purpose (e.g., noise attenuation or other impacts)
Raising or creating new berms	If required to attenuate noise or other impacts and does not require importation of material for their construction.
Removal of excess topsoil	Provided the applicant can demonstrate the topsoil is not required for site rehabilitation.
Changes to gates/fencing	Changes conform with minimum fencing/gate requirements in O.Reg. 244/97 (*Aggregate Resources Act*)
Shrinking or reducing limits of extraction, including raising final extraction elevation	Provided the total extraction area decreases, no new extraction areas are added to the extraction limits and the rehabilitation plan is not substantially changed.
Reducing hours of operation	Provided the new operating hours do not start earlier or end later in the day than the current operating hours.
A temporary increase in the hours of operation	Provided: • The applicant demonstrates that the change complies with the established local municipal noise bylaw(s) • Applicants making more than one request in a five-year period may be directed by the ministry to apply for a permanent increase to the hours of operation.
Installing portable asphalt or concrete plants	Provided that: • Environmental Compliance Approvals, if required, have been obtained • Permitted by municipal zoning for site (e.g., as an accessory use)

Installing portable processing equipment	Provided that: • Equipment is for the beneficiation of onsite material • Environmental Compliance Approvals, if required, have been obtained • Permitted by municipal zoning for site (e.g., as an accessory use)
Administrative changes to information on licences or permits	Used to retain administrative accuracy and includes: • A typographical error or incorrect statement • A change of address • Licence/permit holder name change • Amalgamation of companies • Reduction of a licence/permit area

Table: Rehabilitation changes

Amendment	Circumstances
Surrender of rehabilitated areas	Areas to be surrendered that satisfy requirements of the rehabilitation plan.
Surrender of unextracted and undisturbed areas	Areas to be surrendered that have not been extracted or disturbed.
Changes to final slopes or grading	Provided that only material which originated onsite (e.g., overburden/ unmarketable material) is used
Changes to a final rehabilitation plan to align with a final land use that is approved by a planning authority (e.g., municipality, Niagara Escarpment Commission)	The applicant can demonstrate that the new final land use has been approved by the relevant land use planning authority. An example of this type of amendment is where the municipality has approved a plan of subdivision for an area that includes the pit/quarry.
Changes to vegetation cover or tree species	Provided that: • Vegetation/tree species is compatible with proposed final land use • Vegetation/tree species were not originally chosen to address concerns raised during a prior application process

3.4 Changes to licence, permit, or site plan conditions

Conditions on licences and permits and notes or conditions on site plans can reflect the culmination of considerable review and discussion between applicants and other parties during the licensing and permitting process. Certain conditions may have been included on the licence, permit, or site plan to address:

i. Concerns raised by the public, Indigenous communities, municipalities, or provincial or federal agencies;

ii. Recommendations from technical reports that supported a prior application.

All implications of making changes to such conditions will need to be carefully considered and appropriate consultation with the original parties involved may be required.

3.4.1 Tribunal and Joint Board conditions

Conditions of a licence or site plan may have been added by a decision of the Ontario Land Tribunal or its predecessors, or by a decision of a Joint Board, to address issues heard by the Tribunal or Joint Board as part of the hearings process. Requests to change any of these types of conditions will be considered only in exceptional cases and where other means of addressing an issue are not feasible.

There may also be conditions on a licence or site plan that relate to issues heard at the Tribunal or Joint Board, but which were not specifically required by the Tribunal or Joint Board. All implications of making changes to such conditions will need to be carefully considered and appropriate consultation with the original parties involved may be required.

3.4.2 "Prescribed Conditions"

Between June 27, 1997 and March 31, 2021, all licences and permits that were applied for and issued, were subject to a mandatory set of conditions known as "Prescribed Conditions". These conditions were set out, at the time, in the Aggregate Resources of Ontario: Provincial Standards, Version 1.0, and were attached as a schedule to the licence or permit when the licence or permit was issued. In general, the ministry will not consider changes to these mandatory conditions. Licensees or permittees facing exceptional circumstances related to these conditions should contact the ministry to discuss possible solutions.

3.4.3 Conditions of Licence and Permit

Conditions of a Licence and Permit are now outlined in the Regulation and apply to all licence and permits issued on or after April 1, 2021. Such conditions should not be rescinded, varied, or amended.

3.5 Site inspection

The ministry may, at its discretion, conduct a site inspection at any time during the amendment application process.

4.0 Notification and Consultation Process

When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation will often be required. Notification and consultation provide an opportunity for the notified parties to explain how their interests may be impacted by the proposal, and to suggest ways to mitigate the impacts from the proposed changes.

Notification and consultation under the *Aggregate Resources Act* is a proponent-led process. The applicant (i.e., proponent) is responsible for notifying parties to be consulted. The ministry will identify the agencies to be notified and, if applicable, will inform the applicant that landowners must also be notified. It will be the applicant's responsibility to determine the names and addresses for the purpose of sending notices.

Posting applications for significant amendments on the Environmental Registry for public comment may also be required. Regulations under the *Environmental Bill of Rights*, *1993* determine when applications must be posted to the registry.

4.1 Notification package

If notification and consultation are required, the ministry will advise applicants of the parties to be notified. The applicant shall serve notice to the parties identified by the ministry using registered mail, courier, or personal service. Notification sent by registered mail or courier is deemed to be received 5 days after it is mailed, or received by the courier for delivery.

The applicant will provide notified parties with the final version of the Amendment Form. Any other documents supporting the application, such as the sketch or draft site plan or reports, do not need to be circulated with the Amendment Form, however notified parties must be made aware that these additional documents are available at their request.

4.2 Notified parties

Parties to be notified may include government ministries, agencies or municipalities that have a direct interest in the proposal on account of their mandate or subject matter expertise (see Table below).

Notified parties may also include neighboring landowners (within 120 m of a site) or prior commentors or objectors, depending on the proposed changes. Consideration for whether notice will be given to landowners will be based primarily on the potential for the landowners to experience significant change in impacts. In general, only landowners that may be directly impacted by the proposed changes will need to be notified.

If an applicant proposes significant changes to any aspect of a licence, permit or site plan that was originally established to satisfy the comments or objections of a person or agency, the ministry will consider and, where appropriate, require that the applicant attempt to notify and consult with those that originally provided comment.

When it is not practical or possible to give notice to a prior commenter or objector, alternatives may be considered. For example, where a neighboring landowner was originally notified but has since moved, the ministry may require that notice be sent to the current landowner.

Table: Examples of Ministry/Agency/Municipality Notification

Agency/Ministry	When notification may be required
Local and upper tier municipality where the site is located	Significant amendments that relate to municipal interests or jurisdiction, including but not limited to: • planning and land use • traffic and haul routes • natural heritage • source water protection • community impacts
Ministry of the Environment, Conservation and Parks	Significant amendments with potential impacts related to: • noise, dust, or vibration • surface or groundwater resources • endangered or threatened species Significant amendments at an aggregate site within 120m of a provincial park or conservation reserve.
Ministry of Transportation	Significant amendments that may have potential to impact provincial roads, highways, or provincial right of way within 120 metres

Ministry of Heritage, Sport, Tourism, Culture Industries	Significant amendments that may have potential to impact archaeological heritage, cultural heritage landscapes, or built heritage.
Ministry of Agriculture, Food & Rural Affairs	Significant amendments to rehabilitation that would: i. result in prime agricultural area(s) not being restored to the same average soil quality; and/or ii. affect recommendations of an Agricultural Impact Assessment
Ministry of Mines	Significant amendments to quarry permits that may have potential to impact mining rights holders under the *Mining Act*.
Conservation Authority with jurisdiction over the area	Significant amendments that may have potential to create negative impacts related to flooding, erosion, or other natural hazards.
Niagara Escarpment Commission	All amendments for sites within the Niagara Escarpment Plan Area, unless the Niagara Escarpment Commission has already approved the amendments.
Fisheries and Oceans Canada	Significant amendments that may have potential to impact fish habitat.
Utility owners	Significant amendments that may have potential to impact a utility corridor on or within 120m of the site.
Other public land users or occupiers (aggregate permits only)	Significant amendments that may have potential to impact other uses/users or occupations/occupiers of public land.

4.3 Impacts considered under other regulatory processes

Amendments may require approvals under other legislation, in addition to their approval under the *Aggregate Resources Act*. To avoid duplication of processes under different regulatory frameworks, the ministry will consider the extent to which impacts or concerns with the changes have been considered and addressed through other approvals. Where other approval processes provided opportunity for public input and have substantially addressed any impacts or concerns, additional notification and consultation under the *Aggregate Resources Act* may not be required.

4.4 30-day comment period

Regulations require notified parties to send comments to the applicant and the ministry within 30 days of receiving notice. Comments that are not sent within the 30-day comment period may not be considered.

4.5 Addressing comments

Applicants are expected to make reasonable efforts to consider and, where feasible, address comments sent by notified parties during the 30-day comment period. Following the comment period, the applicant will provide the ministry with a description of the steps taken to address the comments received. An explanation should be provided for comments that could not be addressed.

4.6 Environmental Registry

Regulations under the *Environmental Bill of Rights, 1993* require that the ministry post certain amendments to licences and licence site plans to the Environmental Registry for comment. Amendments to licences or licence site plans will typically be posted for 30 days. Ideally, the 30-day posting on the Environmental Registry will be same 30-day period given to notified parties. However, where this is not possible, the ministry will align the two 30-day periods as closely as possible. Comments submitted through the Environmental Registry process will be considered by the ministry in making a decision. Based on comments received, the ministry may request the applicant to provide information that may aid the ministry in making a decision.

5.0 Considerations

When deciding to approve or to refuse an amendment application the ministry will consider any possible effects relating to the proposed amendment. This includes ensuring that the request is not contrary to the purposes of the *Aggregate Resources Act* and that adverse impacts are minimized. Other relevant considerations may also be identified by the ministry based on the specific details of an amendment application.

5.1 Planning and land use

When processing amendments under the Act, the ministry will have regard to the Provincial Policy Statement (PPS) and/or policies contained in the relevant provincial plans. Generally, the ministry will not approve amendments that would be inconsistent with the PPS, a provincial plan, or if the amendment would significantly increase the extent of an existing inconsistency with the PPS or provincial plan. However, where decisions affect planning matters, they must be

consistent with the PPS and conform with provincial plans in accordance with subsection 3(5) of the Planning Act.

5.2 *Niagara Escarpment Planning and Development Act*

If the site is in an area subject to the Niagara *Escarpment Planning and Development Act*, the applicant should inquire with the Niagara Escarpment Commission (NEC) to determine whether a development permit is required. The ministry will not approve an amendment in an area subject to the *Niagara Escarpment Planning and Development Act* without either an approval from the NEC or confirmation that an approval is not required.

5.3 Source water protection

If the site is in a Source Protection Area under the *Clean Water Act*, *2006*, and the applicant is proposing changes that are subject to mandatory policies in the applicable source protection plans, the applicant must provide details on how relevant source water protection policies will be followed and how associated mitigation measures will be implemented.

5.4 Comments received

The ministry will consider the nature and scope of the comments received by the applicant and whether they are reasonable and/or constructive. The ministry will also consider if the applicant was reasonable in their efforts to consider and, where feasible, address the comments. Comments that are unrelated to the proposed amendments or that do not specifically address the proposed amendments may be excluded from consideration. Similarly, comments that appear not to be made in good faith, are frivolous or vexatious, or are solely for the purpose of delaying the application process, may not be considered.

5.5 Duty to consult

Under section 3.1 of the *Aggregate Resources Act* and in accordance with the Crown's constitutional obligations, the ministry is required to consider whether adequate consultation with Indigenous communities has been carried out before exercising any power under the Act that has the potential to adversely affect Aboriginal or treaty rights. The ministry may delegate aspects of consultation with Indigenous communities to applicants to understand any potential adverse impacts on asserted or established Aboriginal and treaty rights.

The ministry will assess the adequacy of consultation efforts and determine whether additional consultation is required or whether any accommodation measures should be implemented to avoid, minimize, or mitigate potential adverse impacts.

The notification and consultation requirements described in this policy are separate and distinct from the Crown's constitutional obligation to consult with Indigenous peoples. The ministry will continue to assess whether proposed amendments have the potential to adversely impact Aboriginal or treaty rights and will consult with Indigenous communities, where required. Consultation with Indigenous communities may be required in addition to any public notification or consultation that are required by this policy and may be required in circumstances where public notification or consultation are not.

5.6 Refusing an amendment application

If the ministry refuses an amendment application, reasons for the refusal will be provided to the applicant. The resubmission of an application that was previously refused by the ministry will be treated as a new application unless stated otherwise by the ministry.

Decisions of the ministry are final. However, if the ministry refers an application under section 13.1 of the Act (lowering depth of extraction below the water table) to the Ontario Land Tribunal, the applicant is entitled to a hearing. In such cases the Tribunal will determine the issues specified in the referral.

6.0 Finalizing site plan amendments

The applicant remains bound by the existing site plan until any change(s) have been made to the site plan and approved by the ministry.

6.1 Submission of the final site plan

If the ministry approves an amendment application that requires only simple changes to a site plan, the changes may be made by hand on the site plan and authorized by the ministry approver.

If the changes are not simple, the applicant must reproduce relevant pages of the site plan reflecting the approved changes and submit the final version to the ministry. The applicant cannot implement the approved changes until the final site plan has been accepted by the ministry.

Parts of the site plan that must be redrawn are required to be redrawn to the applicable site plan standards. If the site plan is for a Class A licence or an aggregate permit that would authorize more than 20,000 tonnes annually, the final site plan must be certified by a professional who meets the criteria set out in 0.2(3) of O.Reg. 244/97.

6.2 Distribution of the amended final site plan

After the final site plan has been approved by the ministry staff will distribute copies of relevant pages of the amended site plan to relevant parties or agencies, including: the licensee/permittee, the local municipality, and where applicable, the County/Regional municipality, Niagara Escarpment Commission, local Conservation Authority, Ministry of Labour, Immigration, Training and Skills Development, Ministry of Agriculture, Food and Rural Affairs, Fisheries and Oceans Canada, Ministry of Transportation, Ministry of the Environment, Conservation and Parks, Ministry of Mines, and any party that received the original site plan.

7.0 Future changes to this policy

Changes or clarifications to this policy may be approved as an addendum to this document or be issued as a separate ‘policy bulletin’, the content of which may be incorporated into this policy document at a later date. Changes may undergo public consultation, depending on their nature and extent.

This policy replaces the following policies and procedures:

- POL 2.02.00 Adding, Rescinding or Varying a Licence Condition
- PRO 2.02.00a Adding, Rescinding or Varying a Licence Condition: By Licensee
- POL 2.02.02 Licence Amendments
- PRO 2.02.02 Licence Amendments
- POL 3.03.00 Adding, Rescinding or Varying a Wayside Permit Condition
- PRO 3.03.00a Adding, Rescinding or Varying a Wayside Permit Condition: By Permittee
- POL 4.03.01 Adding, Rescinding or Varying an Aggregate Permit Condition
- PRO 4.03.01a Adding, Rescinding or Varying an Aggregate Permit Condition: By Permittee
- POL 2.03.00 Licence Site Plan Amendments: By Licensee
- PRO 2.03.00 Licence Site Plan Amendments: By Licensee
- POL 3.04.00 Wayside Permit Site Plan Amendments
- PRO 3.04.00a Wayside Permit Site Plan Amendments: By Permittee
- POL 4.04.00 Aggregate Permit Site Plan Amendments
- PRO 4.04.00a Aggregate Permit Site Plan Amendments: By Permittee