

Sept 20, 2017

Recycled Aggregate Changes Memo

As part of the review of the Aggregate Resource Act (ARA), there have been changes to the way the ARA counts the tonnage related to recycled aggregates on your site. OSSGA has been in contact with MNRF and we are providing some clarity to questions that have arisen from industry members in regards to tonnage considerations and the levy on recycled aggregate.

Bill 39, Aggregate Resources and Mining Modernization Act, 2017 received royal assent on May 10 of this year. As part of the updated bill, there have been changes to how material, specifically recycled material is classified in relation to your site specific tonnage limits.

These changes to recycled material and tonnage limits are contained in the new section 71.1 of the act. While this section is currently in the ARA it has not yet been proclaimed. OSSGA has been and will continue to work with MNRF in regards to the proclamation date and content of section 71.1. While there is no certainty in when the new section will be proclaimed it is estimated that producers will have 3 years before the new rules are in place.

What is certain is that recycled material will soon count towards your tonnage limits. This means that producers should be looking at the potential impacts this would have to your existing and potential operations and make the necessary adjustments before the new sections comes into effect.

Levy

Regulation 244/97, proclaimed on July 5, 2017, details the changes to the aggregate levy. This new regulation set out the new rate (19.8c/ ton), and the implementation date of January 1, 2018. OSSGA worked hard with our partners at TAPMO and MNRF to change the original implementation date of July 1, 2017.

There has been some question as to whether the levy will incorporate recycled materials into the fee structure.

We have reviewed the updated regulation and discussed with MNRF – **there will be no levy charged on recycled or blended material.** The levy will continue to be charged on primary material only.

The update regulation reads as such:

Note: On January 1, 2019, subsection 2 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 269/17, s. 1 (3))

(1) Subject to the annual indexation adjustment under section 4.1, every licensee shall pay, on or before March 15, 2019 and on or before March 15 of each subsequent year,

- (a) in the case of a Class A licence, an annual fee in an amount equal to the greater of,
 - (i) \$689, or
 - (ii) 19.8 cents per tonne for each tonne of aggregate that was excavated at the site of a pit or quarry during the previous calendar year or earlier, and removed from the site during the previous calendar year; and
- (b) in the case of a Class B licence, an annual fee in an amount equal to the greater of,
 - (i) \$344, or
 - (ii) 19.8 cents per tonne for each tonne of aggregate that was excavated at the site of a pit or quarry during the previous calendar year or earlier, and removed from the site during the previous calendar year. O. Reg. 269/17, s. 1 (3).

Tonnage Limits

As part of the updated ARA a new section has been added that changes the way recycled aggregate is counted towards your site tonnage limit.

We have had conversations with the MNRF, they have stated that “the provision would include all aggregate (including imported aggregate) and recycled aggregate that is removed from the boundary of the site into annual tonnage limits. It would affect any licence or permit that exists on the day the section comes into force.”

They have also encouraged members who have questions about how this will affect their existing and future licenses to contact them.

The update section of the ARA reads as such:

Section Amendments with date in force (d/m/y)

1996, c. 30, s. 55 (1, 2) - 27/06/1997

2017, c. 6, Sched. 1, s. 52 (2, 3) - 10/05/2017; 2017, c. 6, Sched. 1, s. 52 (1, 4-6) - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 6, Sched. 1, s. 53)

Removal of aggregate from site

71.1 (1) This section applies to every pit or quarry in respect of which a licence or permit has been issued under this Act if the licence or permit is valid on the day this section comes into force. 2017, c. 6, Sched. 1, s. 53.

Same

(2) Every licensee or permittee of a pit or quarry shall ensure that the amount of aggregate removed from the site in any calendar year does not exceed the total amount of aggregate that the licensee or permittee is entitled under the licence or permit to excavate at the pit or quarry or remove from the site during the year in question. 2017, c. 6, Sched. 1, s. 53.

Conflict

(3) Subsection (2) prevails over any provision to the contrary in a licence or permit. 2017, c. 6, Sched. 1, s. 53.

Recycled aggregate

(4) In subsection (2),

“aggregate” includes recycled aggregate as that term is defined by regulation. 2017, c. 6, Sched. 1, s. 53.