

[Français](#)

Aggregate Resources Act

R.S.O. 1990, CHAPTER A.8

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Definitions and Minister's order concerning excavations

1. (1) In this Act,

“abandoned pits and quarries” means pits and quarries for which a licence or permit was never in force at any time after December 31, 1989; (“puits d’extraction et carrières abandonnés”)

“aggregate” means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other prescribed material; (“agrégats”)

“Board” means the Ontario Municipal Board; (“Commission”)

“Commissioner” means the Mining and Lands Commissioner; (“commissaire”)

“earth” does not include topsoil and peat; (“terre”)

“environment” means the air, land and water, or any combination or part thereof of the Province of Ontario; (“environnement”)

“established pit or quarry” means,

- (a) a pit or quarry from which a substantial amount of aggregate has been removed within the two-year period before the part of Ontario in which the pit or quarry is located was designated under subsection 5 (2), or
- (b) land that was leased under the *Mining Act* throughout the two-year period before the part of Ontario in which the land is located was designated under subsection 5 (2); (“puits d’extraction établi ou carrière établie”)

“excavate” includes the preparation of land for excavation and removal of hills, sand dunes, knolls, stones and rocks other than metallic ores from the general surface of the ground; (“excaver”, “extraire”)

“final rehabilitation” means rehabilitation in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit performed after the excavation of aggregate and the progressive rehabilitation, if any, have been completed; (“réhabilitation définitive”)

“highway” has the same meaning as in the *Public Transportation and Highway Improvement Act* and includes an unopened road allowance; (“voie publique”)

“inspector” means an inspector designated under section 4; (“inspecteur”)

“land under water” means the bed, bank, beach, shore, bar, flat or water of or in any lake, river, stream or other waterbody or adjoining any channel or entrance thereto but does not include a waterbody resulting from excavation of aggregate below the water table; (“terrain immergé”)

“licence” means a licence for a pit or quarry issued under this Act; (“permis”)

“licensee” means a person who holds a licence; (“titulaire de permis”)

“management” means the provision for the identification, orderly development and protection of the aggregate resources of Ontario; (“gestion”)

“Minister” means the Minister of Natural Resources; (“ministre”)

“Ministry” means the Ministry of Natural Resources; (“ministère”)

“operate”, when used in relation to a pit or quarry, means “work” and includes all activities associated with a pit or quarry that are carried out on the site; (“exploiter”, “travaux”)

“permit” means an aggregate permit or a wayside permit issued under this Act; (“licence”)

“permittee” means a person who holds a permit; (“titulaire de licence”)

“person” includes a public authority; (“personne”)

“pit” means land or land under water from which unconsolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or structure on the excavation site or in relation to which an order has been made under subsection (3); (“puits d’extraction”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“progressive rehabilitation” means rehabilitation done sequentially, within a reasonable time, in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit during the period that aggregate is being excavated; (“réhabilitation progressive”)

“public authority” means the Crown or an agent of the Crown, a municipality, a local board as defined in the *Municipal Affairs Act* or a local roads board; (“autorité publique”)

“quarry” means land or land under water from which consolidated aggregate is being or has been excavated, and that has not been rehabilitated, but does not mean land or land under water excavated for a building or structure on the excavation site or in relation to which an order has been made under subsection (3); (“carrière”)

“regulations” means the regulations made under this Act; (“règlements”)

“rehabilitate” means to treat land from which aggregate has been excavated so that the use or condition of the land,

(a) is restored to its former use or condition, or

(b) is changed to another use or condition that is or will be compatible with the use of adjacent land; (“réhabiliter”)

“road” has the same meaning as highway; (“route”)

“rock” does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, talc, wollastonite and other prescribed material; (“roches”)

“site” means the land or land under water to which a licence or permit or an application therefor relates; (“lieu”)

“Treasurer” means the Treasurer of Ontario and Minister of Economics; (“trésorier”)

“zoning by-law” means a by-law passed under section 34 or 38 of the *Planning Act* or any predecessor of them and includes an order made under clause 47 (1) (a) of that Act or any predecessor of it and zoning control by a development permit issued under the *Niagara Escarpment Planning and Development Act*. (“règlement municipal de zonage”) R.S.O. 1990, c. A.8, s. 1 (1); 1994, c. 23, s. 61; 1994, c. 27, s. 126 (1, 2); 1996, c. 30, s. 1 (1-6); 1997, c. 26, Sched.; 2002, c. 17, Sched. F, Table.

(2) Repealed: 1996, c. 30, s. 1 (7).

Order that an excavation is not a pit or quarry

(3) The Minister, if of the opinion that the primary purpose of an excavation is not for the production of aggregate, may in his or her absolute discretion by order declare that the land or land under water on which the excavation is situate is not a pit or quarry for the purposes of this Act. R.S.O. 1990, c. A.8, s. 1 (3).

Notice to municipality

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed order

under subsection (3), including reasons therefor, upon the clerk of the local municipality in which the excavation is located and, where applicable, upon the clerk of the upper-tier municipality for their information and comment. R.S.O. 1990, c. A.8, s. 1 (4); 2002, c. 17, Sched. F, Table.

Delay in relief

(5) The Minister may not issue the order until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. R.S.O. 1990, c. A.8, s. 1 (5).

PART I GENERAL

Purposes of Act

2. The purposes of this Act are,
- (a) to provide for the management of the aggregate resources of Ontario;
 - (b) to control and regulate aggregate operations on Crown and private lands;
 - (c) to require the rehabilitation of land from which aggregate has been excavated; and
 - (d) to minimize adverse impact on the environment in respect of aggregate operations.
- R.S.O. 1990, c. A.8, s. 2.

Administration of Act

3. (1) The Minister is responsible for the administration of this Act and the regulations. R.S.O. 1990, c. A.8, s. 3 (1).

Idem

- (2) In administering this Act, the Minister may,
- (a) initiate research related to technical matters pertaining to,
 - (i) the aggregate industry, including the transportation of aggregate and the rehabilitation of pits and quarries,
 - (ii) underground mining of aggregate, and
 - (iii) aggregate excavation from beneath water;
 - (b) initiate studies of geological deposits that may yield aggregate of commercial qualities and quantities;
 - (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
 - (d) collect, analyze and publish statistics related to the aggregate industry;

- (e) initiate studies related to the uses of aggregate and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregate;
- (g) initiate studies related to abandoned pits and quarries;
- (h) initiate studies on environmental and social matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries;
- (k) employ any person to perform work in connection with any matter mentioned in this Act; and
- (l) consult with ministries, municipalities and agencies. R.S.O. 1990, c. A.8, s. 3 (2).

Inspectors

4. (1) The Minister may designate in writing any person as an inspector for the purposes of this Act. 1996, c. 30, s. 2.

Powers of inspectors

- (2)** An inspector, for the purpose of carrying out assigned duties,
- (a) may enter, at any reasonable time, any land, vessel or business premises that is or appears to be used or has or appears to have been used in respect of a pit or quarry or any activity or use related to aggregate or rehabilitation;
 - (b) may require the production of a licence, a permit, any record or document respecting aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof;
 - (c) may, upon giving a receipt therefor, remove any licence, permit, record or document produced under clause (b) and make copies thereof; and
 - (d) may, alone or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. R.S.O. 1990, c. A.8, s. 4 (2).

Copies

(3) An inspector who makes a copy under clause (2) (c) shall do so with dispatch and shall promptly return the original licence, permit, record or document. R.S.O. 1990, c. A.8, s. 4 (3).

Idem

- (4)** Any copy made as provided in clause (2) (b) or (c) and certified to be a true copy by

the inspector who carried out the inspection is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original licence, permit, record or document and its contents. R.S.O. 1990, c. A.8, s. 4 (4).

Application

5. (1) This Act and the regulations apply to,

- (a) all aggregate and topsoil that is the property of the Crown or that is on land the surface rights of which are the property of the Crown;
- (b) Repealed: 1996, c. 30, s. 3 (1).
- (c) private land in parts of Ontario that are designated under subsection (2); and
- (d) all land under water. R.S.O. 1990, c. A.8, s. 5 (1); 1996, c. 30, s. 3 (1).

Designation of parts by regulation

(2) The Lieutenant Governor in Council may make regulations designating parts of Ontario for the purpose of clause (1) (c). R.S.O. 1990, c. A.8, s. 5 (2).

(3) Repealed: 1996, c. 30, s. 3 (2).

Act binds the Crown

6. This Act binds the Crown except where it specifically states otherwise. R.S.O. 1990, c. A.8, s. 6.

Aggregate Resources Trust

6.1 (1) The Minister shall establish in writing a trust to be known in English as the Aggregate Resources Trust and in French as Fonds des ressources en agrégats. 1996, c. 30, s. 4.

Terms of Trust

(2) The Trust shall provide for the following matters, on such terms and conditions as may be specified by the Minister:

1. The rehabilitation of land for which a licence or permit has been revoked and for which final rehabilitation has not been completed.
2. The rehabilitation of abandoned pits and quarries, including surveys and studies respecting their location and condition.
3. Research on aggregate resource management, including rehabilitation.
4. Payments to the Crown in right of Ontario and to municipalities in accordance with the regulations.
5. Such other matters as may be specified by the Minister. 1996, c. 30, s. 4; 2002, c. 17,

Sched. F, Table.

Trustee

(3) The Minister shall appoint a person who is not employed by the Crown as trustee of the Trust and may provide for the trustee's remuneration from the funds of the trust. 1996, c. 30, s. 4.

Not part of C.R.F.

(4) Money received or held by the Trust does not form part of the Consolidated Revenue Fund. 1996, c. 30, s. 4.

Right of entry for rehabilitation

(5) If a licence or permit has been revoked and final rehabilitation of the land to which it relates has not been completed, agents of the Trust are entitled to enter the land to carry out such rehabilitation as the trustee considers necessary. 1996, c. 30, s. 4.

Rehabilitation expenses

(6) Any amount spent by the Trust on the rehabilitation of land is a debt due to the Trust by the most recent licensee or permittee, as the case may be. 1996, c. 30, s. 4.

Payments to Trust

(7) Any amount payable to the Trust is a debt due to the Trust. 1996, c. 30, s. 4.

Annual report

(8) The Trust shall report annually to the Minister on the financial affairs of the Trust. 1996, c. 30, s. 4.

Tabling of report

(9) The Minister shall submit the report to the Lieutenant Governor in Council and shall table the report in the Legislative Assembly. 1996, c. 30, s. 4.

Other reports

(10) The Trust shall provide the Minister with such other reports and information as he or she may request. 1996, c. 30, s. 4.

Transfer from former rehabilitation security accounts

(11) On the day section 4 of the *Aggregate and Petroleum Resources Statute Law*

Amendment Act, 1996 comes into force, all money held in an account described in section 52 of this Act, as it read immediately before the coming into force of section 4, is transferred to the Trust. 1996, c. 30, s. 4.

Refund

(12) On or before the first anniversary of the coming into force of section 4 of the *Aggregate and Petroleum Resources Statute Law Amendment Act, 1996*, the Trust shall refund to the person in whose name the account was held such amount as the Minister may direct. 1996, c. 30, s. 4.

PART II LICENCES

Licences required

7. (1) No person shall, in a part of Ontario designated under section 5, operate a pit or quarry on land that is not land under water and the surface rights of which are not the property of the Crown except under the authority of and in accordance with a licence. R.S.O. 1990, c. A.8, s. 7 (1).

Application for licence

- (2) Any person may apply to the Minister,
- (a) for a Class A licence to remove more than 20,000 tonnes of aggregate annually from a pit or quarry; or
 - (b) for a Class B licence to remove 20,000 tonnes or less of aggregate annually from a pit or quarry. 1996, c. 30, s. 5.

Application fee

(3) The Minister may establish and charge a fee for each application under subsection (2). 1996, c. 30, s. 5.

(4) Repealed: 1996, c. 30, s. 5.

Additional information

(5) The Minister may require an applicant for a licence to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. R.S.O. 1990, c. A.8, s. 7 (5).

Site plans for licences

8. (1) Every application for a licence shall include a site plan in accordance with the regulations. 1996, c. 30, s. 6 (1).

(2) Repealed: 1996, c. 30, s. 6 (1).

(3) Repealed: 1996, c. 30, s. 6 (1).

Site plan

(4) Every site plan accompanying an application for a Class A licence must be prepared under the direction of and certified by a professional engineer who is a member of the Association of Professional Engineers of Ontario, a land surveyor who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister. R.S.O. 1990, c. A.8, s. 8 (4).

(5) Repealed: 1996, c. 30, s. 6 (2).

(6) Repealed: 1996, c. 30, s. 6 (2).

Plans property of the Crown

(7) Every site plan submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. R.S.O. 1990, c. A.8, s. 8 (7).

Report for licences

9. (1) Every application for a licence shall include a report in accordance with the regulations. 1996, c. 30, s. 7.

Reports property of the Crown

(2) Every report submitted with an application under this section becomes the property of the Crown upon the licence applied for being issued. R.S.O. 1990, c. A.8, s. 9 (2).

Zoning by-laws

10. An applicant for a licence must furnish information satisfactory to the Minister describing the zoning by-laws applicable to the site and adjacent lands. R.S.O. 1990, c. A.8, s. 10.

Procedure, application for licence

11. (1) If an application for a licence complies with this Act and the regulations, the Minister shall require the applicant to comply with the prescribed notification and consultation procedures. 1996, c. 30, s. 8.

Completion of notification procedures

(2) The applicant shall notify the Minister when the prescribed notification procedures are

complete. 1996, c. 30, s. 8.

Objections

(3) Any person may, during the prescribed consultation procedures, give the applicant and the Minister written notice stating that the person has an objection to the application and specifying the nature of the objection. 1996, c. 30, s. 8.

Resolution of objections

(4) During the prescribed consultation procedures, the applicant shall attempt to resolve the objections. 1996, c. 30, s. 8.

Referral to Board

(5) The Minister may refer the application and any objections to the Board for a hearing, and may direct that the Board shall determine only the issues specified in the referral. 1996, c. 30, s. 8.

Parties

(6) The parties to the hearing are the applicant, the persons who made the objections, the Minister and such other persons as are specified by the Board. 1996, c. 30, s. 8.

Combined hearing

(7) The Board may consider an application and objections referred to the Board under subsection (5) and a related appeal to the Board under the *Planning Act* at the same hearing. 1996, c. 30, s. 8.

Powers of Board

(8) The following rules apply if an application is referred to the Board:

1. The Board may hold a hearing and direct the Minister to issue the licence subject to the prescribed conditions and to any additional conditions specified by the Board, but the Minister may refuse to impose an additional condition specified by the Board if he or she is of the opinion that the condition is not consistent with the purposes of this Act.
2. The Board may hold a hearing and direct the Minister to refuse to issue the licence.
3. If the Board is of the opinion that an objection referred to it is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay, the Board may, without holding a hearing, on its own initiative or on a party's motion, refuse to consider the objection. If consideration of all the objections referred to the Board in connection with an application is refused in this way, the Board may direct the Minister to issue the licence subject to the prescribed conditions. 1996, c. 30, s. 8.

Decision by Minister

(9) If an application is not referred to the Board under this section, the Minister shall decide whether to issue or refuse to issue the licence. 1996, c. 30, s. 8.

Refusal by Minister

(10) If the Minister refuses to issue a licence under subsection (9), he or she shall forthwith serve notice of the refusal, including reasons, on the applicant. 1996, c. 30, s. 8.

Entitlement to hearing

(11) An applicant who is served with a notice under subsection (10) is entitled to a hearing by the Board if the applicant, within 30 days after being served, serves the Minister with a notice that a hearing is required. 1996, c. 30, s. 8.

Hearing

(12) Within 30 days after being served with notice that a hearing is required, the Minister shall refer the matter to the Board for a hearing. 1996, c. 30, s. 8.

Parties

(13) The parties to the hearing are the applicant, the Minister and such other persons as are specified by the Board. 1996, c. 30, s. 8.

Application of subs. (8)

(14) Subsection (8), except paragraph 3, applies to a proceeding before the Board under subsection (12). 1996, c. 30, s. 8.

No petition or review

(15) Sections 43 and 95 of the *Ontario Municipal Board Act* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Board under this section. 1996, c. 30, s. 8.

Matters to be considered by Minister

12. (1) In considering whether a licence should be issued or refused, the Minister or the Board, as the case may be, shall have regard to,

- (a) the effect of the operation of the pit or quarry on the environment;
- (b) the effect of the operation of the pit or quarry on nearby communities;
- (c) any comments provided by a municipality in which the site is located;

- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- (e) any possible effects on ground and surface water resources;
- (f) any possible effects of the operation of the pit or quarry on agricultural resources;
- (g) any planning and land use considerations;
- (h) the main haulage routes and proposed truck traffic to and from the site;
- (i) the quality and quantity of the aggregate on the site;
- (j) the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and
- (k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 12; 1996, c. 30, s. 9 (1, 2); 2002, c. 17, Sched. F, Table.

Annual compliance reports

[\(2\)](#) Despite clause (1) (j), the Minister or the Board shall not have regard to a contravention of this Act or the regulations that was disclosed by the applicant in an annual compliance report under section 15.1 or 40.1, if the applicant complied with clause 15.1 (5) (a) or clause 40.1 (5) (a), as the case may be, in respect of the contravention. 1996, c. 30, s. 9 (3); 2000, c. 26, Sched. L, s. 1 (1).

Zoning by-law prohibition on licence

[12.1 \(1\)](#) No licence shall be issued for a pit or quarry if a zoning by-law prohibits the site from being used for the making, establishment or operation of pits and quarries. 1999, c. 12, Sched. N, s. 1 (1).

Doubt as to zoning

[\(2\)](#) If the Minister is in doubt as to whether a zoning by-law prohibits the site from being used for the making, establishment or operation of pits and quarries, he or she may serve on the applicant a notice to that effect. 1999, c. 12, Sched. N, s. 1 (1).

Application to court

[\(3\)](#) An applicant who is served with a notice is entitled, within 30 days after the notice is served, to make an application to the Superior Court of Justice for a judgment declaring that no zoning by-law prohibits the site from being used for the making, establishment or operation of pits and quarries. 1999, c. 12, Sched. N, s. 1 (1).

Copies to municipalities

[12.2](#) If a licence is issued, the licensee shall serve a copy of the licence and a copy of the

final site plan on the clerk of each municipality in which the site is located. 1996, c. 30, s. 10; 2002, c. 17, Sched. F, Table.

Conditions on licence, procedure

13. (1) When a licence is issued, the Minister may include in the licence such conditions as he or she considers necessary. 1996, c. 30, s. 11.

Changes of conditions

(2) The Minister may, at any time, add a condition to a licence or rescind or vary a condition of a licence. 1996, c. 30, s. 11.

Notice of change

(3) If the Minister proposes to add a condition to a licence after its issue or to rescind or vary a condition of a licence, he or she shall forthwith serve notice of the proposal, including reasons,

- (a) on the licensee; and
- (b) if, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, on the clerk of each municipality in which the site is located. 1996, c. 30, s. 11; 2002, c. 17, Sched. F, Table.

No action until 30 days elapsed

(4) A licensee and any municipality served with notice under subsection (3) may provide the Minister with comments within 30 days after service of the notice and the Minister shall take no action until the 30 days have elapsed. 1996, c. 30, s. 11.

Exception

(5) The Minister may take the proposed action before the 30 days have elapsed if comments have been received from all persons notified and if the licensee waives the right under subsection (6) to require a hearing. 1996, c. 30, s. 11.

Entitlement to hearing

(6) A licensee who is served with a notice under subsection (3) is entitled to a hearing by the Board if the licensee, within 30 days after being served, serves the Minister with a notice that a hearing is required. 1996, c. 30, s. 11.

Hearing

(7) Within 30 days after being served with notice that a hearing is required, the Minister shall refer the matter to the Board for a hearing. 1996, c. 30, s. 11.

Parties

(8) The parties to the hearing are the licensee, the Minister and such other persons as are specified by the Board. 1996, c. 30, s. 11.

Powers of Board

(9) The Board may direct the Minister to carry out, vary or rescind his or her proposal. 1996, c. 30, s. 11.

No petition or review

(10) Sections 43 and 95 of the *Ontario Municipal Board Act* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Board under this section. 1996, c. 30, s. 11.

Where no hearing

(11) If the licensee does not require a hearing under subsection (6), the Minister may carry out the proposal. 1996, c. 30, s. 11.

Annual licence fee

14. (1) Every licensee shall pay an annual licence fee in the prescribed amount within the prescribed time. 1996, c. 30, s. 11.

Payments to Trust

(2) The annual licence fee shall be paid to the Aggregate Resources Trust. 1996, c. 30, s. 11.

Duties of licensees

15. Every licensee shall operate the licensee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the licence. R.S.O. 1990, c. A.8, s. 15.

Annual compliance report

15.1 (1) Every licensee shall, in accordance with the regulations, submit an annual report to the Minister for the purpose of assessing the licensee's compliance with this Act, the regulations, the site plan and the conditions of the licence. 1996, c. 30, s. 12.

Copy for municipality

(2) The licensee shall give a copy of the report to the clerk of each municipality in which the site is located. 1996, c. 30, s. 12; 2002, c. 17, Sched. F, Table.

Retention of reports

(3) During the term of the licence, the licensee shall retain a copy of every report submitted under this section. 1996, c. 30, s. 12.

Examination

(4) Any person may examine an annual compliance report during the Ministry's normal office hours and, on payment of such fee as may be established by the Minister, the person is entitled to a copy of the report. 1996, c. 30, s. 12.

Disclosure of contravention

(5) If an annual compliance report discloses a contravention of this Act, the regulations, the site plan or the conditions of the licence,

- (a) the licensee shall,
 - (i) within a period of 90 days after the report is submitted to the Minister or within such longer period as may be specified by the Minister, take such steps as may be necessary to remedy the contravention, and
 - (ii) immediately stop the doing of any act that forms part of the contravention; and
- (b) if the licensee complies with subclause (a) (ii), no prosecution shall be commenced in respect of the contravention, and no notice may be served by the Minister under section 20 or 22 in respect of the contravention,
 - (i) during the period described in subclause (a) (i), or
 - (ii) after the period described in subclause (a) (i), if the licensee complies with subclause (a) (i) within that period. 1996, c. 30, s. 12.

Suspension of licence

- (6) A licence shall be deemed to have been suspended if,
- (a) the licensee fails to submit an annual compliance report in accordance with this section; or
 - (b) the licensee's annual compliance report discloses a contravention of this Act, the regulations, the site plan or the conditions of the licence and the licensee fails to comply with subclause (5) (a) (i) or (ii). 1996, c. 30, s. 12.

Reinstatement; failure to submit

(7) A licence that was deemed to have been suspended under clause (6) (a) shall be deemed to be reinstated if the licensee submits the annual compliance report to the Minister.

1996, c. 30, s. 12.

Reinstatement; failure to comply with cl. (5) (a)

(8) A licence that was deemed to have been suspended under clause (6) (b) shall be deemed to be reinstated if the licensee,

- (a) takes such steps as are necessary to remedy the contravention that was disclosed in the annual compliance report, if the licensee failed to comply with subclause (5) (a) (i); or
- (b) stops the doing of the act that formed part of the contravention, if the licensee failed to comply with subclause (5) (a) (ii). 1996, c. 30, s. 12.

Amendment of site plans

16. (1) The Minister may, at any time, require a licensee to amend the site plan. 1996, c. 30, s. 13.

Same

(2) A licensee may amend the site plan at any time, after obtaining the Minister's written approval. 1996, c. 30, s. 13.

Same

(3) The Minister may require any amended site plan to be prepared under the direction of and certified by a person referred to in subsection 8 (4). 1996, c. 30, s. 13.

Application fee

(4) The Minister may establish and charge fees for applications for approval under subsection (2). 1996, c. 30, s. 13.

Notice

(5) If the Minister proposes to require the amendment of a site plan or proposes to approve the amendment of a site plan, he or she shall forthwith serve notice of the proposal, including reasons,

- (a) on the licensee; and
- (b) if, in the opinion of the Minister, the matter is of importance and it is appropriate to do so, on the clerk of each municipality in which the site is located. 1996, c. 30, s. 13; 2002, c. 17, Sched. F, Table.

No action until 30 days elapsed

(6) A licensee and any municipality served with notice under subsection (5) may provide the Minister with comments within 30 days after service of the notice and the Minister shall take no action until the 30 days have elapsed. 1996, c. 30, s. 13.

Exception

(7) The Minister may take the proposed action before the 30 days have elapsed if comments have been received from all persons notified and, in the case of a proposal to require the amendment of a site plan, if the licensee waives the right under subsection (8) to require a hearing. 1996, c. 30, s. 13.

Entitlement to hearing

(8) A licensee who is served with notice under subsection (5) of a proposal to require the amendment of a site plan is entitled to a hearing by the Board if the licensee, within 30 days after being served, serves the Minister with a notice that a hearing is required. 1996, c. 30, s. 13.

Hearing

(9) Within 30 days after being served with notice that a hearing is required, the Minister shall refer the matter to the Board for a hearing. 1996, c. 30, s. 13.

Parties

(10) The parties to the hearing are the licensee, the Minister and such other persons as are specified by the Board. 1996, c. 30, s. 13.

Powers of Board

(11) The Board may direct the Minister to carry out, vary or rescind his or her proposal. 1996, c. 30, s. 13.

No petition or review

(12) Sections 43 and 95 of the *Ontario Municipal Board Act* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Board under this section. 1996, c. 30, s. 13.

Where no hearing

(13) If the licensee does not require a hearing under subsection (8), the Minister may carry out the proposal. 1996, c. 30, s. 13.

17. Repealed: 1996, c. 30, s. 14.

Transfer of licence

18. (1) On application, the Minister may transfer a licence. 1996, c. 30, s. 15.

Fee

(2) The Minister may establish a fee for each application under subsection (1). 1996, c. 30, s. 15.

Consent

(3) If the applicant is the licensee or has the licensee's consent to the transfer, the following rules apply:

1. The Minister may transfer the licence.
2. If the Minister proposes to refuse the transfer, he or she shall forthwith serve notice of the proposal on the applicant (and on the licensee, if they are different persons), with reasons. 1996, c. 30, s. 15.

No consent

(4) If the applicant does not have the licensee's consent to the transfer, the following rules apply:

1. If the Minister proposes to transfer the licence, he or she shall forthwith serve notice of the proposal on the licensee, with reasons.
2. If the Minister proposes to refuse the transfer, he or she shall forthwith serve notice of the proposal on the applicant, with reasons. 1996, c. 30, s. 15.

Entitlement to hearing

(5) An applicant or licensee who is served with notice under subsection (3) or (4) is entitled to a hearing by the Board if the applicant or licensee, within 30 days after being served, serves the Minister with a notice that a hearing is required. 1996, c. 30, s. 15.

Hearing

(6) Within 30 days after being served with notice that a hearing is required, the Minister shall refer the matter to the Board for a hearing. 1996, c. 30, s. 15.

Parties

(7) The parties to the hearing are the applicant, the licensee, the Minister and such other persons as the Board specifies. 1996, c. 30, s. 15.

Powers of Board

(8) The Board may direct the Minister to carry out or rescind his or her proposal. 1996,

c. 30, s. 15.

No petition or review

(9) Sections 43 and 95 of the *Ontario Municipal Board Act* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Board under this section. 1996, c. 30, s. 15.

If no hearing required

(10) If no hearing is required under subsection (5), the Minister may carry out the proposal. 1996, c. 30, s. 15.

Notice after transfer

(11) When the Minister transfers a licence, the person to whom it was transferred shall serve notice of the transfer on the clerk of each municipality in which the site is located. 1996, c. 30, s. 15; 2002, c. 17, Sched. F, Table.

Surrender of licence

19. The Minister may accept the surrender of a licence on being satisfied that the licensee's annual licence fees and rehabilitation security payments, and special payments if applicable, have been paid and that rehabilitation has been performed in accordance with this Act, the regulations, the site plan, if any, and the conditions of the licence. 1996, c. 30, s. 16.

Revocation of licence

20. (1) The Minister may revoke a licence for any contravention of this Act, the regulations, the site plan or the conditions of the licence. 1996, c. 30, s. 17.

Advance notice

(2) The Minister shall not revoke a licence unless, at least 90 days before the licence is revoked, the Minister serves on the licensee notice of the intention to revoke the licence. 1996, c. 30, s. 17.

Notice to licensee

(3) When the Minister revokes a licence, he or she shall forthwith serve notice of the revocation, including reasons, on the licensee. 1996, c. 30, s. 17.

Entitlement to hearing

(4) A licensee who is served with a notice under subsection (3) is entitled to a hearing by the Board if the licensee, within 30 days after being served, serves the Minister with a notice

that a hearing is required. 1996, c. 30, s. 17.

Application

(5) Subsection (4) does not apply if the licence is being revoked because of a contravention of subsection 14 (1). 1996, c. 30, s. 17.

Hearing

(6) Within 30 days after being served with notice that a hearing is required, the Minister shall refer the matter to the Board for a hearing. 1996, c. 30, s. 17.

Parties

(7) The parties to the hearing are the licensee, the Minister and such other persons as are specified by the Board. 1996, c. 30, s. 17.

Powers of Board

(8) The Board may confirm the revocation of the licence or direct the Minister to rescind the revocation. 1996, c. 30, s. 17.

No petition or review

(9) Sections 43 and 95 of the *Ontario Municipal Board Act* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Board under this section. 1996, c. 30, s. 17.

21. Repealed: 1996, c. 30, s. 17.

Suspension of licence

22. (1) The Minister may suspend a licence for any period of time, for any contravention of this Act, the regulations, the site plan or the conditions of the licence, effective as soon as the notice mentioned in subsection (2) is served upon the licensee. R.S.O. 1990, c. A.8, s. 22 (1); 1996, c. 30, s. 18 (1, 2).

Notice of suspension

(2) Notice of suspension of a licence, including the reasons therefor, shall be served upon the licensee and, where applicable, upon the clerk of each municipality in which the site is located for their information. R.S.O. 1990, c. A.8, s. 22 (2); 2002, c. 17, Sched. F, Table.

Further particulars of notice

(3) The notice mentioned in subsection (2) shall inform the licensee of the period of the

suspension, of the action the licensee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the licensee has complied with the notice to the satisfaction of the Minister, and that, if the licensee does not comply with the notice within the period of the suspension, the Minister may revoke the licence. R.S.O. 1990, c. A.8, s. 22 (3).

Revocation

(4) If a licensee whose licence has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the licence, in which case section 20 applies. R.S.O. 1990, c. A.8, s. 22 (4); 1996, c. 30, s. 18 (3).

PART III WAYSIDE PERMITS

Application for wayside permit

23. (1) Any public authority, or any person who has a contract with a public authority, that requires aggregate for a temporary project from a source in a part of Ontario designated under section 5 that is not under licence or permit may apply to the Minister for a wayside permit to operate a pit or quarry. R.S.O. 1990, c. A.8, s. 23 (1); 1996, c. 30, s. 19 (1).

Licence not required

(2) Subsection 7 (1) does not apply to a person who has a wayside permit. R.S.O. 1990, c. A.8, s. 23 (2).

Limitation

(3) An application under subsection (1) shall not be considered unless, in the Minister's opinion,

- (a) the aggregate is required for a project of road construction or road maintenance;
- (b) the aggregate is to be obtained from outside the limits of the right of way of the highway; and
- (c) adequate provision can be made as conditions of the permit to ensure a method of operation and rehabilitation so as to cause only a temporary inconvenience to the public. R.S.O. 1990, c. A.8, s. 23 (3); 1996, c. 30, s. 19 (2).

Requirements for permit

(4) Every application for a wayside permit shall be accompanied by five copies of the site plan referred to in section 25. R.S.O. 1990, c. A.8, s. 23 (4).

Additional information

(5) The Minister may require an applicant for a wayside permit to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. R.S.O. 1990, c. A.8, s. 23 (5).

Procedure

(6) If an application for a wayside permit complies with this Act and the regulations, the Minister shall require the applicant to comply with the prescribed notification and consultation procedures. 1996, c. 30, s. 19 (3).

24. Repealed: 1996, c. 30, s. 20.

Site plans for wayside permits

25. (1) The site plan accompanying an application for a wayside permit shall be in accordance with the regulations. 1996, c. 30, s. 21.

(2) Repealed: 1996, c. 30, s. 21.

Property of the Crown

(3) Every site plan submitted with an application under this section becomes the property of the Crown upon the permit applied for being issued. R.S.O. 1990, c. A.8, s. 25 (3).

Matters to be considered by Minister

26. The Minister in considering whether to issue or refuse a wayside permit shall have regard to,

- (a) any comments provided by the municipalities in which the site is located;
- (b) the effect of the operation of the pit or quarry on the environment and nearby communities;
- (c) the amount of aggregate estimated to be removed from the site;
- (d) the estimated cost of the aggregate for the project as compared with that from any alternative source of supply;
- (e) the proper management of the aggregate resources of the area;
- (f) any previous wayside permits for the site and adjacent lands;
- (g) the rehabilitation of the site and its compatibility with adjacent land;
- (h) any possible effects on ground and surface water resources;
- (i) any proposed aesthetic improvements to the landscape;
- (j) the main haulage routes and proposed truck traffic to and from the site; and
- (k) such other matters as are considered appropriate. R.S.O. 1990, c. A.8, s. 26.

Where wayside permits prevail over zoning by-laws

27. (1) The Minister may in his or her discretion issue a wayside permit even if the location of the site contravenes a zoning by-law; in that case, the by-law does not apply to the site while the permit is in force. 1996, c. 30, s. 22.

Limitation

(2) No wayside permit shall be issued if the issuance will result in more than one wayside permit for one site at any time. R.S.O. 1990, c. A.8, s. 27 (2).

Niagara Escarpment Planning Area

(3) Despite subsection (1), no wayside permit shall be issued for a site in the Niagara Escarpment Planning Area, as defined in the *Niagara Escarpment Planning and Development Act*, unless the location of the site complies with a development permit issued under that Act. R.S.O. 1990, c. A.8, s. 27 (3).

Exception

(4) Despite subsection (1), no wayside permit shall be issued for a site zoned and developed for residential use or zoned as an area having particular environmental sensitivity. R.S.O. 1990, c. A.8, s. 27 (4).

Regulations limiting issuance

(5) The Lieutenant Governor in Council may make regulations governing and limiting the issuance of wayside permits. R.S.O. 1990, c. A.8, s. 27 (5).

Copies to municipalities

28. If a wayside permit is issued, the permittee shall serve a copy of the permit and a copy of the final site plan on the clerk of each municipality in which the site is located. 1996, c. 30, s. 23; 2002, c. 17, Sched. F, Table.

Duties of permittees

29. Every wayside permittee shall operate the permittee's pit or quarry in accordance with this Act, the regulations, the site plan and the conditions of the permit. R.S.O. 1990, c. A.8, s. 29.

Conditions on permit and amendment of site plan

30. (1) When a wayside permit is issued, the Minister may include in it such conditions

as he or she considers necessary. 1996, c. 30, s. 24.

Variation of conditions

(2) The Minister may, at any time, add a condition to a wayside permit or rescind or vary any condition of a wayside permit. R.S.O. 1990, c. A.8, s. 30 (2).

Amendment of site plans

(3) The Minister may at any time require a wayside permittee to amend the site plan. 2000, c. 26, Sched. L, s. 1 (2).

Same

(4) A wayside permittee may amend the site plan at any time with the approval in writing of the Minister. 2000, c. 26, Sched. L, s. 1 (2).

Notice to municipalities

(5) The Minister, after taking any action under subsection (2), (3) or (4), shall serve notice of what he or she has done, including reasons, on the permittee and, where applicable, on the clerk of each municipality in which the site is located for their information. 2000, c. 26, Sched. L, s. 1 (2); 2002, c. 17, Sched. F, Table.

Expiration of permit

31. (1) A wayside permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. R.S.O. 1990, c. A.8, s. 31.

Extension

(2) The Minister may, before a wayside permit expires, extend the expiration date if the project has not been completed and requires more aggregate from the same site. 2000, c. 26, Sched. L, s. 1 (3).

Fee

31.1 (1) The holder of a wayside permit shall pay the prescribed fee within such time as may be specified by the Minister. 1996, c. 30, s. 25.

Payment to Trust

(2) The fee shall be paid to the Aggregate Resources Trust. 1996, c. 30, s. 25.

Suspension or revocation

32. (1) The Minister may, at any time, suspend or revoke a wayside permit for any contravention of this Act, the regulations, the site plan or the conditions of the permit, effective as soon as the notice mentioned in subsection (2) is served upon the permittee. R.S.O. 1990, c. A.8, s. 32 (1); 1996, c. 30, s. 26 (1).

Notice to municipalities

(2) Notice of suspension or revocation of a permit, including reasons therefor, shall be served upon the permittee and, where applicable, upon the clerk of each municipality in which the site is located for their information. R.S.O. 1990, c. A.8, s. 32 (2); 2002, c. 17, Sched. F, Table.

(3) Repealed: 1996, c. 30, s. 26 (2).

Suspension — further particulars of notice

(4) The notice mentioned in subsection (2) shall inform the permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit. R.S.O. 1990, c. A.8, s. 32 (4).

Suspension — consequence of no remedial action

(5) If a permittee whose permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the permit. R.S.O. 1990, c. A.8, s. 32 (5).

Delegation

32.1 (1) The Minister may authorize any employee or class of employees of the Ministry of Transportation to exercise any power or perform any duty that is granted to or vested in the Minister under this Part. 1996, c. 30, s. 27.

Limitations

(2) The Minister may limit an authorization made under subsection (1) in such manner as he or she considers advisable. 1996, c. 30, s. 27.

PART IV (S. 33) REPEALED: 1996, C. 30, S. 28.

PART V AGGREGATE PERMITS

Aggregate permits

34. (1) No person shall, except under the authority of and in accordance with an aggregate permit, operate a pit or quarry,

- (a) to excavate aggregate or topsoil that is on land the surface rights of which are the property of the Crown, even if the surface rights are leased to another person;
- (b) to excavate aggregate or topsoil that is the property of the Crown from land under water;
- (c) to excavate aggregate or topsoil that is the property of the Crown in a part of Ontario that is not designated under section 5; or
- (d) to excavate aggregate that is not the property of the Crown from land under water.
R.S.O. 1990, c. A.8, s. 34 (1); 1996, c. 30, s. 29 (1).

Idem

(2) The excavation of aggregate or topsoil resulting from non-aggregate mineral extraction from a placer deposit is considered to be the operation of a pit for the purpose of subsection (1). R.S.O. 1990, c. A.8, s. 34 (2).

Idem

(3) The removal from the site of stockpiled aggregate or topsoil that is the property of the Crown and was excavated under an aggregate permit is considered to be the operation of a pit for the purpose of subsection (1). R.S.O. 1990, c. A.8, s. 34 (3).

Applications for aggregate permits

(4) Any person may apply to the Minister for an aggregate permit to operate a pit or quarry. R.S.O. 1990, c. A.8, s. 34 (4); 1996, c. 30, s. 29 (2).

Application fee

(4.1) The Minister may establish and charge a fee for each application under subsection (4). 1996, c. 30, s. 29 (3).

Waiver of fee

(4.2) The Minister may waive the requirement to pay an application fee. 1996, c. 30, s. 29 (3).

When a licence is required instead of an aggregate permit

(5) A person who, except for this subsection, would apply for an aggregate permit shall

apply for a licence if,

- (a) the site is in a part of Ontario designated under section 5;
- (b) the site is partly on land the surface rights of which are the property of the Crown and partly on land the surface rights of which are not the property of the Crown; and
- (c) the Minister directs the person in writing to apply for a licence. R.S.O. 1990, c. A.8, s. 34 (5).

[\(6\)](#) Repealed: 2000, c. 26, Sched. L, s. 1 (4).

Exemption

[\(7\)](#) Subsection (1) does not apply in respect of land that is subject to a resource management plan or similar document under another Act administered by the Minister, if the person,

- (a) is exempted from subsection (1) by the Minister; or
- (b) belongs to a class of persons exempted from subsection (1) by the regulations. 1996, c. 30, s. 29 (4).

Same

[\(8\)](#) A person who is exempted from subsection (1) by subsection (7) shall operate the pit or quarry in accordance with the regulations. 1996, c. 30, s. 29 (4).

[35.](#) Repealed: 1996, c. 30, s. 30.

Site plan

[36. \(1\)](#) Every application for an aggregate permit shall include a site plan in accordance with the regulations. 1996, c. 30, s. 31.

Additional information

[\(2\)](#) The Minister may require an applicant for an aggregate permit to furnish additional information in such form and manner as is considered necessary, and, until the information is furnished, further consideration of the application may be refused. 1996, c. 30, s. 31.

[\(3\)](#) Repealed: 1996, c. 30, s. 31.

[\(4\)](#) Repealed: 1996, c. 30, s. 31.

[\(5\)](#) Repealed: 1996, c. 30, s. 31.

[\(6\)](#) Repealed: 1996, c. 30, s. 31.

[\(7\)](#) Repealed: 1996, c. 30, s. 31.

[\(8\)](#) Repealed: 1996, c. 30, s. 31.

Plans property of the Crown

(9) Every site plan submitted with an application under this section becomes the property of the Crown upon the aggregate permit applied for being issued. R.S.O. 1990, c. A.8, s. 36 (9).

Limitation

36.1 No aggregate permit shall be issued for sand and gravel if the sand and gravel has been included in a placer mining claim under the *Mining Act*, unless the non-aggregate mineral has been removed from the placer deposit. 1996, c. 30, s. 32.

Conditions on permit and amendment of site plan

37. (1) When an aggregate permit is issued, the Minister may include in the permit such conditions as the Minister considers necessary. 1996, c. 30, s. 33.

(2) Repealed: 1996, c. 30, s. 33.

(3) Repealed: 1996, c. 30, s. 33.

(4) Repealed: 1996, c. 30, s. 33.

(5) Repealed: 1996, c. 30, s. 33.

Changes in conditions

(6) The Minister may at any time add a condition to an aggregate permit or rescind or vary any condition of such a permit. R.S.O. 1990, c. A.8, s. 37 (6).

Amendment of site plans

(7) Subject to sections 43 and 44, the Minister may at any time require an aggregate permittee to amend the site plan. R.S.O. 1990, c. A.8, s. 37 (7).

Idem

(8) An aggregate permittee may amend the site plan at any time with the approval in writing of the Minister. R.S.O. 1990, c. A.8, s. 37 (8).

Annual permit fee

37.1 (1) Every holder of an aggregate permit shall pay an annual permit fee in the prescribed amount within the prescribed time. 1996, c. 30, s. 34.

Payments to Trust

(2) The annual permit fee shall be paid to the Aggregate Resources Trust. 1996, c. 30, s. 34.

Waiver of fee

(3) The Minister may waive the requirement to pay an annual permit fee. 1996, c. 30, s. 34.

Public authority

38. The Minister, if of the opinion that it is in the public interest, may authorize a public authority with a project that requires aggregate or topsoil or any person who has a contract with a public authority for such a project to excavate and remove undisturbed aggregate or topsoil in the ground that is the property of the Crown from a site that is subject to an aggregate permit. R.S.O. 1990, c. A.8, s. 38.

39. Repealed: 1996, c. 30, s. 35.

Duties of permittees

40. Every aggregate permittee shall carry on the operation in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit. R.S.O. 1990, c. A.8, s. 40.

Annual compliance report

40.1 (1) Every holder of an aggregate permit shall, in accordance with the regulations, submit an annual report to the Minister for the purpose of assessing the permittee's compliance with this Act, the regulations, the site plan and the conditions of the permit. 1996, c. 30, s. 36.

Copy for municipality

(2) The permittee shall give a copy of the report to the clerk of each municipality in which the site is located. 1996, c. 30, s. 36; 2002, c. 17, Sched. F, Table.

Retention of reports

(3) The permittee shall retain a copy of every report submitted under this section during the term of the permit. 1996, c. 30, s. 36.

Examination

(4) Any person may examine an annual compliance report during the Ministry's normal office hours and, on payment of such fee as may be established by the Minister, the person is entitled to a copy of the report. 1996, c. 30, s. 36.

Disclosure of contravention

(5) If an annual compliance report discloses a contravention of this Act, the regulations, the site plan or the conditions of the permit,

- (a) the permittee shall,
 - (i) within a period of 90 days after the report is submitted to the Minister or within such longer period as may be specified by the Minister, take such steps as may be necessary to remedy the contravention, and
 - (ii) immediately stop the doing of any act that forms part of the contravention; and
- (b) if the permittee complies with subclause (a) (ii), no prosecution shall be commenced in respect of the contravention, and no notice may be served by the Minister under clause 43 (1) (b) or section 45 in respect of the contravention,
 - (i) during the period described in subclause (a) (i), or
 - (ii) after the period described in subclause (a) (i), if the permittee complies with subclause (a) (i) within that period. 1996, c. 30, s. 36.

Suspension of permit

(6) A permit shall be deemed to have been suspended if,

- (a) the permittee fails to submit an annual compliance report in accordance with this section; or
- (b) the permittee's annual compliance report discloses a contravention of this Act, the regulations, the site plan or the conditions of the permit and the permittee fails to comply with subclause (5) (a) (i) or (ii). 1996, c. 30, s. 36.

Reinstatement; failure to submit

(7) A permit that was deemed to have been suspended under clause (6) (a) shall be deemed to be reinstated if the permittee submits the annual compliance report to the Minister. 1996, c. 30, s. 36.

Reinstatement; failure to comply with cl. (5) (a)

(8) A permit that was deemed to have been suspended under clause (6) (b) shall be deemed to be reinstated if the permittee,

- (a) takes such steps as are necessary to remedy the contravention that was disclosed in the annual compliance report, if the permittee failed to comply with subclause (5) (a) (i); or
- (b) stops the doing of the act that formed part of the contravention, if the permittee failed to comply with subclause (5) (a) (ii). 1996, c. 30, s. 36.

Transfer of permit

41. On application and on payment of such fee as may be established by the Minister, the Minister may transfer an aggregate permit. 1996, c. 30, s. 37.

Surrender of permit

41.1 The Minister may accept the surrender of an aggregate permit on being satisfied that the permittee's annual aggregate permit fees and rehabilitation security payments, and special payments if applicable, have been paid and that the rehabilitation has been performed in accordance with this Act, the regulations, the site plan, if any, and the conditions of the permit. 1996, c. 30, s. 37.

Revocation, refusal to issue or transfer

- 42.** The Minister may,
- (a) refuse to issue an aggregate permit;
 - (b) refuse to transfer an aggregate permit; or
 - (c) revoke an aggregate permit,

if,

- (d) the Minister considers the issuance, transfer or continuation of the permit to be contrary to the public interest;
- (e) in the opinion of the Minister, a substantial amount of aggregate or topsoil has not been removed from the site under the permit during the previous twelve months; or
- (f) the permittee has contravened this Act, the regulations, a site plan or a condition to which the permit is subject. R.S.O. 1990, c. A.8, s. 42; 1996, c. 30, s. 38.

Notice to applicant or permittee

- 43. (1)** If the Minister,
- (a) refuses to issue an aggregate permit to excavate aggregate or topsoil that is not the property of the Crown;
 - (b) revokes an aggregate permit;
 - (c) Repealed: 1996, c. 30, s. 39 (1).
 - (d) Repealed: 1996, c. 30, s. 39 (1).
 - (e) proposes to add, rescind or vary a condition of an aggregate permit; or
 - (f) proposes to require the amendment of a site plan,

the Minister shall serve forthwith notice thereof including the reasons therefor upon the

applicant or permittee. R.S.O. 1990, c. A.8, s. 43 (1); 1996, c. 30, s. 39 (1).

Time of taking effect

(2) Any action of the Minister under clause (1) (a) or (b) is effective as soon as the notice is served upon the applicant or permittee and, despite the fact that the applicant or permittee requires a hearing by the Commissioner, remains effective until the Minister takes action under subsection 44 (5). R.S.O. 1990, c. A.8, s. 43 (2); 1996, c. 30, s. 39 (2).

No action until 30 days elapsed

(3) The Minister shall take no action proposed under clause (1) (e) or (f) until the thirty days referred to in subsection 44 (1) have elapsed. R.S.O. 1990, c. A.8, s. 43 (3); 1996, c. 30, s. 39 (3).

Where no hearing

(4) The Minister may carry out a proposal under clause (1) (e) or (f) if the proposal is not referred to the Commissioner. R.S.O. 1990, c. A.8, s. 43 (4); 1996, c. 30, s. 39 (4).

Hearing

44. (1) An applicant or aggregate permittee who is served with a notice mentioned in subsection 43 (1) is entitled to a hearing by the Commissioner if the applicant or permittee, within thirty days after being served, serves the Minister with a notice that a hearing is required. R.S.O. 1990, c. A.8, s. 44 (1).

Application

(1.1) Subsection (1) does not apply if the permit is being revoked because of the contravention of section 37.1 or subsection 46 (2). 1996, c. 30, s. 40.

Hearing

(2) The Minister, if served with a notice under subsection (1), shall, within thirty days after being served, refer the matter to the Commissioner for a hearing. R.S.O. 1990, c. A.8, s. 44 (2).

Recommendation by Commissioner

(3) The Commissioner shall hold a hearing on a matter referred under subsection (2) and, after the hearing, make a recommendation to the Minister. R.S.O. 1990, c. A.8, s. 44 (3).

Idem

(4) The Commissioner shall specify the parties to the hearing. R.S.O. 1990, c. A.8,

s. 44 (4).

Decision by Minister

(5) After considering the recommendation of the Commissioner, the Minister may take such action as the Minister considers appropriate and shall serve notice of the decision on the parties to the hearing. R.S.O. 1990, c. A.8, s. 44 (5).

Decision final

(6) The decision of the Minister is final. R.S.O. 1990, c. A.8, s. 44 (6).

Suspension of permit and revocation

45. (1) The Minister may suspend an aggregate permit for any period of time,

- (a) for any contravention of this Act, the regulations, the site plan or the conditions of the permit; or
- (b) if, in the opinion of the Minister, the continuation of the operation under the permit will likely cause damage to property or is contrary to the public interest. R.S.O. 1990, c. A.8, s. 45 (1); 1996, c. 30, s. 41.

Time of taking effect

(2) The suspension shall be effective as soon as the required notice is served upon the permittee. R.S.O. 1990, c. A.8, s. 45 (2).

Notice of suspension

(3) Notice of a suspension of an aggregate permit, including the reasons therefor, shall be served upon the permittee. R.S.O. 1990, c. A.8, s. 45 (3).

Further particulars of notice

(4) The notice of suspension shall inform the aggregate permittee of the period of the suspension, of the action the permittee must take or desist from taking before the suspension will be lifted, that the suspension will be lifted as soon as the permittee has complied with the notice to the satisfaction of the Minister, and that, if the permittee does not comply with the notice within the period of the suspension, the Minister may revoke the permit. R.S.O. 1990, c. A.8, s. 45 (4).

Revocation

(5) If a permittee whose aggregate permit has been suspended has not taken or desisted from taking the action as required within the period of the suspension, the Minister may revoke the aggregate permit, in which case sections 43 and 44 apply. R.S.O. 1990, c. A.8, s. 45 (5).

Royalties

46. (1) The Minister shall determine the royalty per tonne that each aggregate permittee removing from the site aggregate or topsoil that is property of the Crown must pay, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the aggregate or topsoil and its intended use. R.S.O. 1990, c. A.8, s. 46 (1).

Returns and payment

(2) Every aggregate permittee shall make a return to the Aggregate Resources Trust, when required by the Minister, showing the quantity of material removed from the site and enclosing the required royalty payment payable to the Trust. 1996, c. 30, s. 42.

Deposit

(3) The Minister may require an aggregate permittee to pay a deposit to the Aggregate Resources Trust, in an amount determined by the Minister, for the payment of any royalty that is due or that may become due under subsection (1). 1996, c. 30, s. 42.

(4) Repealed: 1996, c. 30, s. 42.

Exemption from royalty payment

- (5)** No royalty is payable by an aggregate permittee,
- (a) who is exempted from payment by the Minister; or
 - (b) who belongs to a class of permittees exempted from payment by the regulations.
- R.S.O. 1990, c. A.8, s. 46 (5).

Licensee removing Crown aggregate or topsoil pays royalties

(6) Subsections (1) to (5) apply to a licensee who removes from the site aggregate or topsoil that is the property of the Crown as if the references to “aggregate permittee” were references to “licensee”. R.S.O. 1990, c. A.8, s. 46 (6).

Delegation

46.1 (1) The Minister may authorize any employee or class of employees of the Ministry of Transportation to exercise any power or perform any duty that is granted to or vested in the Minister under this Part. 1996, c. 30, s. 43.

Limitations

(2) The Minister may limit an authorization made under subsection (1) in such manner as

he or she considers advisable. 1996, c. 30, s. 43.

PART VI REHABILITATION

Application of Part

47. This Part does not apply to a pit or quarry or part thereof that is covered by water that is not the result of excavation of aggregate below the water table. R.S.O. 1990, c. A.8, s. 47.

Duty to rehabilitate site

48. (1) Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit to the satisfaction of the Minister. R.S.O. 1990, c. A.8, s. 48 (1).

Minister's order requiring rehabilitation

(2) On being satisfied that a person is not performing or did not perform adequate progressive rehabilitation or final rehabilitation on the site in accordance with subsection (1), the Minister may order the person to perform, within a specified period of time, such progressive rehabilitation or final rehabilitation as the Minister considers necessary, and the person shall comply with the order. 2000, c. 26, Sched. L, s. 1 (5).

49. Repealed: 1999, c. 12, Sched. N, s. 1 (2).

Rehabilitation security payments

50. (1) Licensees and permittees shall make rehabilitation security payments in the prescribed amounts and within the prescribed times. 1996, c. 30, s. 45.

Newly designated lands, special payments

(2) When a regulation is made under subsection 5 (2) designating a part of Ontario that was not previously designated, the Lieutenant Governor in Council may, by a regulation made at the same time as the regulation under subsection 5 (2), require the holders of licences and permits relating to sites in the newly designated area to make special payments, in the prescribed amounts and within the prescribed times, in addition to their rehabilitation security payments. 1996, c. 30, s. 45.

Payments to Trust

(3) Rehabilitation security payments and special payments shall be paid to the Aggregate Resources Trust. 1996, c. 30, s. 45.

[51.](#) Repealed: 1996, c. 30, s. 45.

[52.](#) Repealed: 1996, c. 30, s. 45.

[53.](#) Repealed: 1996, c. 30, s. 45.

[54.](#) Repealed: 1996, c. 30, s. 45.

Entry upon site for rehabilitation

[55. \(1\)](#) A licensee, permittee, former licensee or former permittee who does not, without this subsection, have the right to enter upon a site not rehabilitated in accordance with this Act, the regulations, the site plan and the conditions of the licence or permit may enter upon the site and perform such rehabilitation as the Minister considers necessary. R.S.O. 1990, c. A.8, s. 55 (1).

[\(2\)](#) Repealed: 1996, c. 30, s. 46.

[56.](#) Repealed: 1996, c. 30, s. 47.

PART VII OFFENCES AND PENALTIES

Offences

[57. \(1\)](#) Every person who operates a pit or quarry except under the authority of a licence or permit is guilty of an offence. R.S.O. 1990, c. A.8, s. 57 (1).

Application

[\(1.1\)](#) Subsection (1) does not apply if the person is authorized by subsection 34 (7) to operate the pit or quarry without an aggregate permit. 1996, c. 30, s. 48.

Contravention of licence, permit or site plan

[\(2\)](#) Every person who contravenes or permits the contravention of the site plan or a condition of the licence or permit is guilty of an offence. R.S.O. 1990, c. A.8, s. 57 (2).

Contravention of Act or regulations

[\(3\)](#) Every person who contravenes this Act or the regulations is guilty of an offence. R.S.O. 1990, c. A.8, s. 57 (3).

Obstruction of inspectors

[\(4\)](#) Every person who hinders or obstructs an inspector in the performance of the inspector's duties or furnishes the inspector with false information or refuses to furnish the

inspector with information is guilty of an offence. R.S.O. 1990, c. A.8, s. 57 (4).

Penalty

58. (1) Every person who commits an offence under section 57 is liable on conviction to a fine of not less than \$500 and not more than \$30,000 for each day on which the offence occurs or continues. R.S.O. 1990, c. A.8, s. 58 (1); 1996, c. 30, s. 49.

Penalty increased by monetary benefit

(2) The maximum fine provided under subsection (1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the convicted person as a result of the commission of the offence. R.S.O. 1990, c. A.8, s. 58 (2).

Order for compliance

59. In any prosecution under this Act, the court may, in addition to imposing a fine under section 58, make such order as the court considers proper to obtain compliance with this Act, the regulations, the site plan or any condition of a licence or permit. R.S.O. 1990, c. A.8, s. 59.

Limitation period

59.1 A proceeding in respect of an offence under section 57 shall not be commenced more than five years after the date on which the offence was, or is alleged to have been, committed. 1996, c. 30, s. 50.

PART VIII (SS. 60 AND 61) REPEALED: 1996, C. 30, S. 51.

PART IX MISCELLANEOUS

Record keeping

62. (1) Every licensee or permittee shall keep, for a period of seven years, detailed records of the operation for which the licence or permit has been issued, including copies of all documents relating to sales and shipments. R.S.O. 1990, c. A.8, s. 62 (1).

Inspection of records

(2) Every licensee or permittee shall make available for inspection by any person authorized for the purpose of this Act all the records required to be kept under subsection (1). R.S.O. 1990, c. A.8, s. 62 (2).

Change of name or address

62.1 Every licensee and every permittee shall give notice in writing to the Minister and to the Aggregate Resources Trust of any change in the name or address of the licensee or permittee within 14 business days after the change. 2000, c. 26, Sched. L, s. 1 (6).

Restraining orders

63. (1) If it appears to the Minister that any person is not complying or does not intend to comply with this Act or the regulations or a site plan or a condition of a licence or permit, despite the imposition of any penalty for non-compliance, the Minister may apply to a judge of the Superior Court of Justice for an order directing the person to comply. R.S.O. 1990, c. A.8, s. 63 (1); 1999, c. 12, Sched. N, s. 1 (3).

Idem

(2) Upon an application under subsection (1), the judge may make such order as he or she considers proper. R.S.O. 1990, c. A.8, s. 63 (2).

Appeal

(3) An appeal lies to the Divisional Court from an order made under subsection (2). R.S.O. 1990, c. A.8, s. 63 (3).

Service of notices

64. (1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address for service appearing on the records of the Ministry. R.S.O. 1990, c. A.8, s. 64 (1).

Idem

(2) Service made by registered mail shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, and for cause beyond that person's control, receive the notice until a later date. R.S.O. 1990, c. A.8, s. 64 (2).

Joint effect

65. This Act and the regulations are in addition to and not in substitution for regulations made under the *Occupational Health and Safety Act* respecting mines and mining plants or any provisions substituted therefor at any time. R.S.O. 1990, c. A.8, s. 65.

Act overrides municipal by-laws, etc.

66. (1) This Act, the regulations and the provisions of licences and site plans apply despite any municipal by-law, official plan or development agreement and, to the extent that a municipal by-law, official plan or development agreement deals with the same subject-matter as this Act, the regulations or the provisions of a licence or site plan, the by-law, official plan or development agreement is inoperative. 1999, c. 12, Sched. N, s. 1 (4).

Same

(2) Subsection (1) applies even if the by-law, official plan or development agreement came into force before the day subsection 1 (4) of Schedule N to the *Red Tape Reduction Act, 1999* came into force. 1999, c. 12, Sched. N, s. 1 (4).

Power to pass by-laws restricted

(3) Except as provided in paragraph 142 of section 210 of the *Municipal Act*, being chapter M.45 of the Revised Statutes of Ontario, 1990, as that paragraph read immediately before its repeal by the *Municipal Act, 2001*, no by-law passed under that Act may prohibit or require a licence for the carrying on or operating of a pit or quarry or wayside pit or quarry. 1999, c. 12, Sched. N, s. 1 (4); 2002, c. 17, Sched. F, Table.

Same

(4) Subsection (3) applies even if the by-law came into force before the day subsection 1 (4) of Schedule N to the *Red Tape Reduction Act, 1999* came into force. 1999, c. 12, Sched. N, s. 1 (4).

No requirement for development permit under *Planning Act*

(5) A requirement for a development permit imposed by a development permit system established under subsection 70.2 (1) of the *Planning Act* does not apply to a site for which a licence or permit has been issued under this Act. 1996, c. 30, s. 52.

Retroactivity

(6) Subsection (5) applies even if the development permit system came into effect before the coming into force of section 52 of the *Aggregate and Petroleum Resources Statute Law Amendment Act, 1996*. 1996, c. 30, s. 52.

Regulations

- 67. (1)** The Lieutenant Governor in Council may make regulations,
- (a) respecting the management of the aggregate resources of Ontario;
 - (b) prescribing material as aggregate;
 - (b.1) prescribing material as not being rock;

- (c) prescribing duties of inspectors;
- (d) governing applications for licences and permits, including their contents, form and preparation;
- (e) governing site plans, including their contents, form and preparation;
- (f) governing reports under subsection 9 (1), including their contents, form and preparation;
- (f.1) prescribing notification and consultation procedures associated with applications for the issuance or transfer of licences or permits;
- (f.2) prescribing conditions that apply to licences or permits;
- (f.3) prescribing the amounts or the method of determining the amounts of annual licence fees, wayside permit fees, annual permit fees, rehabilitation security payments and special payments, and prescribing the times within which they shall be paid;
- (f.4) requiring interest to be paid on any amount required to be paid under this Act that is not paid or is not paid within the required time, and prescribing the rate of interest;
- (f.5) requiring and governing the payment to the Crown in right of Ontario and to municipalities of specified portions of the annual licence fees, wayside permit fees, annual permit fees and royalties paid to the Aggregate Resources Trust, and specifying the portions;
- (g) requiring and providing for the records and information that must be kept and returns that must be filed by municipalities to which fees are disbursed;
- (h) prescribing the percentage of the total of the annual licence fees and wayside permit fees collected that may be allocated to the purposes of rehabilitation and research, as described in paragraphs 1, 2 and 3 of subsection 6.1 (2);
- (h.1) exempting a class or classes of persons from subsection 34 (1);
- (i) respecting the control and operation of pits and quarries;
- (j) prescribing the minimum royalty for aggregate that is the property of the Crown and providing for the payment thereof;
- (k) exempting a class or classes of aggregate permittees from the payment of royalties;
- (l) Repealed: 1996, c. 30, s. 53 (3).
- (m) governing the rehabilitation of pits and quarries;
- (n) Repealed: 1996, c. 30, s. 53 (3).
- (o) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (o.1) governing annual compliance reports required by sections 15.1 and 40.1, including their contents, form, preparation and submission;
- (p) prescribing forms for the purposes of this Act and providing for their use;
- (q) Repealed: 1996, c. 30, s. 53 (5).
- (r) respecting any matter considered necessary or advisable to carry out the intent and

purpose of this Act. R.S.O. 1990, c. A.8, s. 67; 1994, c. 27, s. 126 (3); 1996, c. 30, s. 53 (1-5); 2002, c. 17, Sched. F, Table.

General or particular

(2) A regulation made under this section may be general or particular in its application. 1996, c. 30, s. 53 (6).

Adoption by reference

(3) A regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or guideline, as it reads at the time the regulation is made or as amended from time to time. 1999, c. 12, Sched. N, s. 1 (5).

Relief from compliance

68. (1) The Minister, if of the opinion that it is not contrary to the public interest, may, in writing, relieve any licensee or permittee from compliance in whole or in part with the regulations. R.S.O. 1990, c. A.8, s. 68 (1).

Idem

(2) The relief granted under subsection (1) is subject to such conditions as are set out in the instrument giving it. R.S.O. 1990, c. A.8, s. 68 (2).

Idem

(3) The Minister may at any time rescind or vary any relief granted under subsection (1) upon written notice thereof to the licensee or permittee. R.S.O. 1990, c. A.8, s. 68 (3).

Notice

(4) The Minister, if the matter appears to warrant it, shall serve notice of a proposed relief under subsection (1), including reasons therefor, upon the clerk of each municipality in which the site is located for their information and comment. 2002, c. 17, Sched. F, Table.

Delay in relief

(5) The Minister may not grant relief until the Minister is served with comments by the municipalities or thirty days after service of the notice by the Minister, whichever occurs first. R.S.O. 1990, c. A.8, s. 68 (5).

Licence replacing licence or permit under previous Act

69. If a licensee is issued a licence to replace a licence or permit under the *Pits and*

Quarries Control Act, being chapter 378 of the Revised Statutes of Ontario, 1980, ten copies of the site plan referred to in section 8 or such lesser number as the Minister indicates must be served upon the Minister within six months after the licensee has been served with a demand therefor by the Minister or by the 1st day of January, 1994, whichever occurs first. R.S.O. 1990, c. A.8, s. 69.

70. Repealed: 1996, c. 30, s. 54.

Pits and quarries in newly designated areas

71. (1) This Act and the regulations apply to every established pit and quarry in a part of Ontario designated under subsection 5 (2). R.S.O. 1990, c. A.8, s. 71 (1).

Determination by Minister in cases of doubt

(2) The Minister may, in his or her absolute discretion, determine, in cases where doubt exists, whether a pit or quarry is an established pit or quarry. R.S.O. 1990, c. A.8, s. 71 (2).

Right to operate for limited period without licence or permit

(3) Despite subsection 57 (1), a person with an established pit or quarry in a part of Ontario designated under subsection 5 (2) may continue to operate the pit or quarry without a licence or permit until the six-month period next following the date of the designation expires. R.S.O. 1990, c. A.8, s. 71 (3).

Right to operate for limited period without licence

(4) Despite subsection 57 (1), a person who applies for a licence during the six-month period following the day of the designation under subsection 5 (2) may operate an established pit or quarry without a licence,

- (a) if the Minister does not serve a notice on the applicant under subsection 12.1 (2), until the licence is issued or refused or until the 12-month period following the day of the designation expires, whichever occurs first;
- (b) if the Minister serves a notice on the applicant under subsection 12.1 (2), until the licence is issued or refused. 1996, c. 30, s. 55 (1).

Licence to be issued

(5) The Minister, if satisfied that the application under subsection (4) is in respect of an established pit or quarry and that the location of the land on which the pit or quarry is situate complies with all relevant zoning by-laws, shall issue a licence under this Act to the applicant even if the requirements of section 8 have not been met. R.S.O. 1990, c. A.8, s. 71 (5).

Site plans

(6) The licensee shall serve on the Minister copies of the site plan referred to in section 8 within six months after the Minister serves a demand for the copies on the licensee. 1996, c. 30, s. 55 (2).

Application

(7) Despite subsection (1), section 9, subsections 11 (1) to (8) and 11 (10) to (15), and section 12 do not apply to an application made under subsection (4). 1996, c. 30, s. 55 (2).

Same

(8) Despite subsection (1), subsections 11 (1) to (8) and 11 (10) to (15) do not apply to an application for an established pit or quarry made during the two-year period that follows the day of the designation. 1996, c. 30, s. 55 (2).

Waiver

(9) The Minister may waive the requirement for a report under section 9 for any application under subsection (8). R.S.O. 1990, c. A.8, s. 71 (9).

Person deemed licensee from date of designation

(10) For the purposes of this Act and the regulations, every person who has been issued a licence for an established pit or quarry in a part of Ontario that is designated under subsection 5 (2) shall be deemed to be a licensee from the date of the designation. R.S.O. 1990, c. A.8, s. 71 (10).

Quarrying near Niagara escarpment

72. (1) Subject to subsection (2), despite the fact that a licence or permit has been issued, no person shall operate a quarry nearer to the natural edge of the Niagara escarpment than 200 metres measured horizontally. R.S.O. 1990, c. A.8, s. 72 (1).

Idem

(2) No person holding a licence for a quarry under the *Pits and Quarries Control Act*, being chapter 378 of the Revised Statutes of Ontario, 1980, on the 1st day of January, 1990 and who is issued a licence for the quarry under this Act shall operate the quarry nearer to the natural edge of the Niagara escarpment than ninety metres measured horizontally. R.S.O. 1990, c. A.8, s. 72 (2).

Determination of natural edge

(3) For the purposes of subsection (1) or (2), the natural edge of the Niagara escarpment is the natural edge determined by the Minister. R.S.O. 1990, c. A.8, s. 72 (3).

Licence or permit prevails

73. For the purposes of section 27, if the location of a pit or quarry for which a licence or wayside permit has been issued contravenes a zoning by-law, the licence or permit prevails and the by-law does not apply to the site. R.S.O. 1990, c. A.8, s. 73.

Aggregate deemed removed

74. For the purposes of this Act, aggregate that is not removed from the site as aggregate but is used on the site,

- (a) in the manufacture of cement, concrete blocks, concrete pipes, bricks, asphalt, concrete mix or any other product; or
- (b) in the construction or maintenance of a structure or road, other than a road constructed primarily for the operation of a pit or quarry,

shall be deemed to have been removed from the site. R.S.O. 1990, c. A.8, s. 74.

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