

ADMINISTRATION OF AGGREGATE SOURCES INCLUDING EARTH BORROW AND ROCK SUPPLY SOURCES AND HIGHWAY RIGHT-OF-WAY AGGREGATE PRODUCTION

Special Provision No. 199S38

March 2012

Permits and Approvals for Pit and Quarry Operations, Haul Road Maintenance and Repair and Surplus Crushed Material

1.0 Pit and Quarry Operations

Commercial Sources

The operation of commercial sources is excluded from this section of this special provision.

A commercial source (pit, quarry, or both) means a place where aggregate or a product containing aggregate is made available for sale. Commercial sources include:

- a) a licensed source; or
- b) a private source on Crown land, under an Aggregate Permit; or
- c) an established private source on private land, subject to compliance with municipal by-laws and zoning, including a legal non-conforming use, in an area of the province not designated by the Aggregate Resources Act (ARA); or
- d) established private sources in unorganized territory.

For information regarding commercial sources, Contractors may refer to the following sources of information:

- a) Commercial Aggregate and Membership Directory, available through the Ontario Stone, Sand & Gravel Association (OSSGA);
- b) Aggregate License/Permit List, available through the Ministry of Natural Resources (MNR); and
- c) Aggregate Resources Inventory Papers (ARIPs), available through the Ministry of Northern Development, Mines and Forestry (MNDMF).

Non-Commercial Sources

A non-commercial source is an MTO Aggregate Permit source or a temporary pit, quarry, or both, opened and/or operated to only supply aggregates for ministry contracts.

The operation of non-commercial sources supplying aggregates, including earth borrow and rock supply, shall be in accordance with the terms and conditions of either a Wayside Permit, Aggregate Permit or a Letter of Approval issued by the Ministry of Transportation, Ontario (MTO); or a Permit/Lease to Extract Aggregates from Indian Reserve Lands issued by the Department of Indian Affairs and Northern Development (DIAND).

If the Contractor elects to use a non-commercial source, the Contractor shall operate the source in accordance with this special provision, the terms and conditions noted on the Permit/Letter of Approval, the site plan, and the

Aggregate Sources List (ASL), if applicable. Failure to operate a non-commercial source in accordance with these requirements will result in immediate suspension of the Permit/Letter of Approval.

The application for and operation of Wayside Permit or Aggregate Permit sources shall be in accordance with the ARA, RSO. 1990, c. A.8 as amended and Aggregate Resources of Ontario Provincial Standards (AROPS).

Airborne contaminant discharge monitoring and reporting to the Ministry of Environment (MOE) as per O.Reg. 127/01 under the Environmental Protection Act shall be the responsibility of the Contractor operating a non-commercial source. When submitting a report and calculation to MOE, the Contractor shall also submit for each source one copy of the report and associated calculation as per O.Reg. 127/01 to the appropriate Regional Geotechnical Section Head and one copy to the Contract Administrator. The calculations shall be kept confidential. The report shall be available for public inspection as per O.Reg. 127/01.

Highway Right-of-Way Aggregate Production

Excavation and associated processing of earth or rock materials within the highway right-of-way limits is not considered a pit or quarry operation under the ARA if the materials are extracted for aggregate production in conjunction with a provincial highway construction or maintenance project.

Rock material from MTO aggregate sources from outside of the highway right-of-way limits, under the rock supply item, shall only be used for granular production or rock embankment construction on this contract in order to comply with the ARA.

1.1 Wayside Permit Application

The Contractor shall submit the application in accordance with the requirements of the ARA to the appropriate Regional Geotechnical Section Head with a copy of the application to the Contract Administrator. A Landowner Agreement certifying property ownership, permission to extract and rehabilitate the site must be included with the application package. A current Transfer-Deed of Land from the appropriate Land Registry Office must also be submitted with the application.

The Contractor is required to pay all permit fees, excluding the rehabilitation security fee, to The Ontario Aggregate Resources Corporation (TOARC).

1.2 Aggregate Permit Application

For sources shown on the ASL as “MTO”, an Aggregate Permit has already been issued to MTO. Unless otherwise indicated on the ASL, site plans showing rehabilitation requirements and other operational conditions are available to bidders for viewing by appointment at the appropriate Regional Geotechnical Section. Proposed deviation from the site plan or operational conditions must be approved in advance in writing by the Regional Geotechnical Section Head through a site plan amendment.

For sources shown as “Crown” on the ASL, the Contractor shall prepare an application in accordance with the requirements of the AROPS and submit the application to the appropriate Regional Geotechnical Section Head with a copy of the application to the Contract Administrator. When application is made for a source shown on the ASL as “Crown”, which was previously under an MTO Aggregate Permit, the whole of the previous permit area shall be applied for, unless otherwise noted on the ASL.

For sources under Aggregate Permit to MTO, the Contractor is exempt from payment of all fees to TOARC including the royalties. If an Aggregate Permit is issued in the name of the Contractor, payments to TOARC of

the application fee and any applicable annual fees shall be the responsibility of the Contractor, however, the Contractor will be exempt from the payment of royalties.

If trees need to be cut within the permit boundary, either a Forest Resource Licence or a Fuel Wood Permit issued by MNR is required prior to harvesting the trees. The Contractor must contact the applicable MNR district office to determine what licensing or permitting arrangement is appropriate and what requirements must be met before the trees can be cut. All costs related to the scaling, cutting, and removal of the trees, and the destruction of areas where silvicultural treatments (i.e. site preparation, tree planting, tending) have occurred shall be borne by the Contractor.

1.3 Letter of Approval Application

For non-commercial pit and quarry sources on private land outside the areas designated by the ARA, the Contractor must obtain a Letter of Approval from the appropriate Regional Geotechnical Section Head.

The Contractor shall submit an application to the appropriate Regional Geotechnical Section Head with a copy to the Contract Administrator. Additional conditions may be added to the Letter of Approval and/or the site plan by the Regional Geotechnical Section. The application shall contain the following:

- a) A written agreement with the landowner permitting entry, occupation, extraction, and detailing rehabilitation measures.
- b) A site plan showing the following information:
 - i. location of the site;
 - ii. existing conditions, including topography and land use on the site, and the area to be excavated including dimensions;
 - iii. location and dimensions and use of any buildings or other structures, existing or proposed, on the site and/or within 120 m of the site;
 - iv. method and sequence of the extraction operation;
 - v. proposed rehabilitation;
 - vi. existing and proposed drainage and points of discharge to surface water;
 - vii. location and size of existing and proposed stockpiles of overburden and soil and location and size of proposed aggregate stockpile areas;
 - viii. location and type of fences, barriers and signs;
 - ix. all existing and proposed entrances and exits at the site;
 - x. location of the excavation setback limits; and
 - xi. the approximate scale (either 1 cm = 10 m or 1 cm = 20 m).
- c) For aggregate sources not shown on the ASL within a municipality or unorganized territory, the Contractor shall obtain, in writing, the comments of the local municipal council or planning board or the Municipal Services Office, Ministry of Municipal Affairs and Housing (MMAH), as appropriate, and the applicable district/area offices of MNR, MNDMF, and Ministry of Culture regarding potential use of the source.

The Contractor shall abide by the excavation setbacks imposed by municipalities or other controlling agencies. In the absence of such control, the following shall apply:

- a) 15 m from the boundary of a site;
- b) 30 m from any body of water, that is not the result of extraction below the water table;

- c) 30 m from any part of the boundary of the site that abuts a highway; and
- d) 30 m from land in use for residential purposes.

Rehabilitation measures shall conform to the following requirements:

- a) Any topsoil or overburden that is stripped in the operation of any pit or quarry shall be stored on the site in separate stockpiles or earth berms with stable slopes.
- b) All excess material resulting from the Contractor's operation of the pit or quarry shall be managed as specified elsewhere in the contract.
- c) The Contractor shall ensure that all scrap collected on the site will be stored further than 30m from the boundary of the site, and all scrap shall be removed from the site at or before the completion of the contract.
- d) Scrap shall include refuse, debris, scrap metal or lumber, discarded machinery, equipment, and motor vehicles.
- e) Pits and quarries shall be worked to lines and grades indicated on the site plan so as to provide slightly contours and proper drainage. After the final rehabilitation, the slopes of any pit face shall be at least three horizontal metres for every vertical metre where practical. The slopes of any quarry face shall be at least two horizontal metres for every vertical metre where practical. Despite this minimum standard, in some situations, it may be appropriate to retain sheer quarry walls or a series of benches in part of the rehabilitation scheme, thereby creating a more natural escarpment topography and encouraging greater plant and animal diversity.
- f) The topsoil or overburden stockpiled from the pit or quarry operations shall be spread uniformly over the trimmed and graded surfaces, which shall then be seeded and/or planted as indicated on the site plan to prevent erosion. In non-depleted pits and quarries, the Contractor shall not be required to place topsoil or seed in areas that, in the opinion of the Regional Geotechnical Section Head, may remain open for future pit operations. The Regional Geotechnical Section Head will consult with the Contract Administrator prior to making this determination.

1.4 Permit/Lease to Extract Aggregates from Indian Reserve Lands Application

In order to remove aggregate, earth or rock borrow from Indian Reserve Lands, the Contractor must submit an application to DIAND to obtain a Permit/Lease to Extract Aggregates from Indian Reserve Lands.

1.5 Application Review and Approval

For sources shown on the ASL, approval will be granted provided that the Contractor abides by the terms and conditions of this contract, the appropriate application process is completed, and the issuance of the approval is in accordance with the appropriate legislative requirements.

For sources not shown on the ASL or for sources shown on the ASL but with no guarantee of permit issuance, the Contractor cannot assume that a Wayside Permit, an Aggregate Permit, a Letter of Approval or a Permit/Lease to Extract Aggregates from Indian Reserve Lands will be issued.

For sources shown on the ASL requiring a Wayside Permit or as "Crown", the Contractor shall submit to the appropriate Regional Geotechnical Section Head an application, completed in accordance with the requirements

of AROPS for a Wayside Permit or for an Aggregate Permit for a “Crown” source. MTO will determine if the application is complete within twenty (20) calendar days for a Wayside Permit and within fifteen (15) calendar days for an Aggregate Permit. Once the application is determined to be complete, the Contractor shall proceed to complete the required Notification and Consultation Standards as per AROPS within twenty (20) calendar days. Once the Contractor has completed the requirements under the Notification and Consultation Standards, MTO will process the application within twenty (20) calendar days. The permit will be issued if all requirements are met. The Wayside Permit will be issued in the name of the Contractor. The Aggregate Permit will be issued in the name of MTO, or in some cases may be issued to the Contractor for the duration of the contract only.

For sources shown on the ASL requiring a Letter of Approval or a Permit/Lease to Extract Aggregates from Indian Reserve Lands, the Contractor shall submit an application completed in accordance with the requirements of relevant legislation and this special provision. The application will be processed by MTO within twenty (20) calendar days for a Letter of Approval and within twenty-five (25) calendar days by DIAND for a Permit/Lease to Extract Aggregate from Indian Reserve Lands. If all requirements are met, the Letter of Approval or the Permit/Lease to Extract Aggregate from Indian Reserve Lands will be issued in the name of the Contractor.

For any wayside source proposed within the Town of Caledon and not shown on the ASL, the Contractor is required to host a Public Open House.

For sources not shown on the ASL, but requiring a permit, approval or lease for this contract, the same application and approval process shall apply as for sources shown on the ASL.

Re-submission of an application shall require the same time period for decision as the original application.

2.0 Haul Road Maintenance and Repair

Haul road maintenance and repair activities shall apply to the public road, as defined by the Public Transportation and Highway Improvement Act, including a First Nation road, but not to Crown land access roads and haul roads used for the disposal of waste/surplus materials. The road is deemed to be from the source entrance at the public roadway to the nearest provincial highway, regional, or county road.

Haul road maintenance and repair shall apply to commercial aggregate and borrow sources in non-designated areas under the ARA. Haul road maintenance and repair shall also apply to all Crown, Wayside, Letter of Approval, and Indian Reserve Land sources.

MTO will pay for haul road damage to public roads caused by MTO contractors hauling aggregates for MTO capital construction and maintenance work from:

- a) Commercial sources in non-designated areas;
- b) Wayside Permit sources in designated areas;
- c) Letter of Approval sources in non-designated areas;
- d) Aggregate Permit sources held by MTO on Crown land;
- e) Aggregate Permit sources held privately on Crown land; and
- f) Indian Reserve Land sources.

Haul road maintenance and repair shall not apply to Class A or Class B licensed sources in designated areas under the ARA. In these areas, the Contractor is responsible for using roads suitable for haulage of materials. Haul road maintenance and repair shall not apply to the Crown land access road network. Haul road maintenance and repair shall not apply to haul roads used for the disposal of waste/surplus materials from the contract. The Contractor is responsible for the construction and/or maintenance of Crown land access roads and roads used for haulage of waste/surplus materials.

MTO will not pay for haul road damage to public roads caused by MTO contractors hauling aggregates for MTO capital construction and maintenance work from:

- a) Commercial Class A and Class B licensed sources in designated areas;
- b) Roads used for the disposal of waste/surplus materials; and
- c) Crown land access roads.

Inspection of haul roads, where MTO will pay for haul road maintenance and repair, shall be undertaken prior to construction use jointly by the Contract Administrator, Contractor, and Local Municipal Official (Road Superintendent). Photographs or videos shall be taken by the Contract Administrator prior to the haul road being used. Inspection of gravel surface haul roads shall be conducted in accordance with the Manual for Condition Rating of Gravel Surface Roads (MTO, 1983, SP-025). Inspection of surface-treated haul roads shall be conducted in accordance with the Manual for Condition Rating of Surface-treated Pavements (MTO, 1989, SP-021). Inspection of hot mix haul roads shall be conducted in accordance with the Manual for Condition Rating of Flexible Pavements (MTO, 1989, SP-024).

The Contract Administrator shall ensure that the haul road is upgraded, as required, prior to use, and properly maintained during use. Upgrading applies only to structural integrity of the road and quality of the road surface. It excludes significant upgrading of ditching and geometrics of the road. The Contractor shall adhere to load limits on existing structures and/or public roads.

When aggregate or borrow is being hauled and where the haul roads are damaged due to the hauling operations, the Contractor shall, when directed by the Contract Administrator, place such material and perform such work on the haul road as is required to provide safe passage and control of traffic. The Contractor shall, on completion of the hauling operations, place such material and perform such work as ordered by the Contract Administrator to repair the haul road to its pre-contract condition and to the satisfaction of the Contract Administrator and the Local Municipal Official.

Payment for upgrading, maintenance, and repair of haul roads will be made by the Owner to the Contractor for the materials provided and the work performed at negotiated prices.

3.0 Surplus Crushed Materials

MTO's obligation to purchase and compensate for aggregate production shall not apply to materials from a commercial source including Crown land sources owned by others, or a licensed source. MTO's obligation to purchase and compensate for aggregate production shall not apply when the Work required under the tender item is stockpiling only.

MTO's obligation to purchase and compensate for aggregate production shall not apply to aggregate materials produced from within the highway right-of-way limits.

MTO will not compensate the Contractor for the production costs of surplus crushed material for use in hot mix. Where the Contractor produces surplus crushed hot mix material from Crown lands, all excess shall be neatly piled by the Contractor and will remain the property of MTO.

MTO will not provide the Contractor compensation for production costs of excess crushed material in amounts greater than the Guaranteed Surplus Quantity defined below.

The quantity will be measured over scales where possible, otherwise by cross-section.

Where MTO requires the material to be relocated, MTO will pay for such relocation as a Change in the Work.

3.1 Guaranteed Surplus Quantity

Surplus crushed granular material is the amount of Granular A, M, O or B Type II produced by the Contractor in excess of that required to do the Work. The Guaranteed Surplus Quantity is defined as follows:

$$\text{Guaranteed Surplus Quantity} = (1.10 \times \text{Estimated Quantity}) - \text{Actual Quantity}$$

Where the Estimated Quantity is the total quantity indicated in the contract for all uses of the material, subject to any written notice of change given before the excess material was produced and the Actual Quantity is the quantity actually required for the Work.

3.2 Surplus Crushed Granular Material from Private Lands and Indian Reserve Lands

Where the Contractor produces a surplus of crushed material from private lands (those where a Letter of Approval or Wayside Permit is issued) and Indian Reserve Lands, and the Contractor is unable to sell or not permitted to sell the material to a third party, MTO will provide the Contractor compensation for production costs. Compensation will be paid to the maximum of the Guaranteed Surplus Quantity as follows:

When the Actual Quantity is less than the Estimated Quantity:

- a) For that quantity representing the difference between the Estimated Quantity and the Actual Quantity, the purchase price in stockpile shall be \$5.67 per tonne for pit production and \$8.24 per tonne for quarry production, and transportation, if required, will be paid at a negotiated price.
- b) For the quantity representing the difference between the Guaranteed Surplus Quantity and the amount calculated in (a) above, the purchase price shall be \$4.93 per tonne for pit production and \$7.17 per tonne for quarry production.

When the Actual Quantity is between 100 and 110 percent of the Estimated Quantity, the purchase price of the Guaranteed Surplus quantity shall be \$4.93 per tonne for pit production and \$7.17 per tonne for quarry production. No payment will be made for the quantity of granular material that exceeds 110 percent of the Estimated Quantity when the Contractor crushes more than 110 percent of the Estimated Quantity and the Actual Quantity used does not exceed 100 percent of the Estimated Quantity.

Surplus stockpiled material from a Wayside Permit source cannot be sold or removed.

3.3 Surplus Crushed Granular Material from MTO Aggregate Permit Sources on Crown Lands

Where the Contractor produces a surplus of crushed material from MTO Aggregate Permit sources on Crown lands, all excess shall be neatly piled by the Contractor and will remain the property of MTO. MTO will pay the Contractor for crushing and stockpiling the surplus quantity as described in 3.2 above.