



# Quarry Legislation Review

## Discussion Guide





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## Introduction

The Department of Natural Resources is reviewing the legislation that regulates quarry materials in the province. Input from stakeholders and the public is an essential element in updating legislation to ensure it meets the needs of industry and residents of the province.

This discussion guide provides an overview of how the province currently regulates quarry materials and identifies the areas of the legislation that the department is seeking input on.

You can have your say on the quarry legislation review by downloading this discussion guide and completing the questions, completing the online questionnaire, or by sending a separate written submission. Written submissions or completed discussion guide questions can be submitted electronically to [QuarryReview@gov.nl.ca](mailto:QuarryReview@gov.nl.ca) or in hardcopy format to the address below.

Mailing address:

Mineral Lands Division,  
Department of Natural Resources,  
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The collection of information is under the authority of section 61(c) of the Access to Information and Protection of Privacy Act, 2015, for the purpose of collecting public feedback on the current Quarry Legislation and ways to improve it. All feedback will be considered as officials prepare recommendations for modernizing the legislation.

Any personal information that may be received will be governed in accordance with the Access to Information and Protection of Privacy Act, 2015 and will only be used for the purpose of informing the comprehensive review of the Quarry Legislation.



If you have any questions about how this information will be collected, used, and disclosed or on the review process, please contact the Quarry Legislation Review by email at [QuarryReview@gov.nl.ca](mailto:QuarryReview@gov.nl.ca) or call 709.729.6410.

## Background

Quarry materials are non-renewable resources that include sand, gravel, rock, clay and soil in their natural state and are used in the construction and agricultural industries. The vast majority of quarry materials produced in Newfoundland and Labrador are mineral aggregates such as sand, gravel, crushed stone and blasted rock used for construction. While the majority of the aggregates produced in Newfoundland and Labrador are used within the province, the number of projects and proposals to export construction aggregate is increasing. In most cases, quarry materials are extracted and processed from either unconsolidated surficial formations or consolidated bedrock formations.

Quarry materials are generally low value, heavy and bulky products, and as a result, moving quarry materials long distances significantly increases the cost to consumers, as well as air emissions and wear of local infrastructure (e.g., roads, bridges, etc.).

The legislation surrounding quarry materials includes:

- Quarry Materials Act, 1998 - [www.assembly.nl.ca/legislation/sr/statutes/Q01-1.htm](http://www.assembly.nl.ca/legislation/sr/statutes/Q01-1.htm)
- Quarry Materials Regulations - [www.assembly.nl.ca/legislation/sr/regulations/rc960804.htm](http://www.assembly.nl.ca/legislation/sr/regulations/rc960804.htm)

The purpose of the quarry materials legislation is to provide access to quarry materials through various instruments (e.g., quarry permits), collect royalties, and regulate quarry activity.

Over the past approximately 5 years, the department has implemented a number of new processes aimed to help modernize the program such as the standardization of the quarry permit application process, the implementation of online payment options for royalties and fees, the Way Forward Initiatives to pilot initiatives to recycle/repurpose non-renewable resources for quarry applications and the implementation of a new quarry



compliance inspection reporting process. While these initiatives have greatly improved various aspects of the program, revised legislation is required to address the range of issues that have been identified and improve overall service delivery. As a result, the department is undertaking a comprehensive review of the quarry legislation.

This review will examine broad policy and operational issues associated with the quarry legislation with a focus on:

- supporting the development of quarry resources in a manner that is responsible, sustainable and competitive;
- increased openness, accountability, predictability and transparency;
- identifying efficiencies for industry; and
- enhancing private-sector investments and job growth.

The department is anticipating that this comprehensive review may result in significant changes to the legislation and welcomes all comments and suggestions relating to the way quarries are, or should be, regulated, and any other issues surrounding the management, development and regulation of quarry materials in the province.

## Questions

The following introductory questions are meant to gather initial feedback and opinions on those interested in this legislation review and the quarry legislation process. Please select the answer(s) that apply.

### 1. I am answering these questions as a(n):

- Member of the public
- Member of an Indigenous community
- Construction company / operator of a quarry
- Member of an industry association or business interest group
- Government official (municipal, provincial, or federal)
- Other \_\_\_\_\_

**2. I reside in the following region of Newfoundland and Labrador or outside the province:**

- Avalon or Burin Peninsula
- Clarenville – Bonavista – Gander – New-Wes-Valley
- Grand Falls-Windsor – Baie Verte
- Coast of Bays
- Stephenville – Channel - Port-aux-Basques
- Corner Brook – Rocky Harbour
- St. Anthony – Port-au-Choix
- Labrador
- Outside the province

**3. I am most interested in the areas of the legislation related to:**

- Access to quarries and quarry materials
- Impacts on towns, infrastructure, etc.
- Environmental impact of quarries
- Rehabilitation of quarry sites
- Other: \_\_\_\_\_ (please specify)

**4. In your opinion, the purpose of the Quarry Materials Act is (Select all that apply):**

- to manage the quarry resources of Newfoundland and Labrador;
- to regulate quarry operations;
- to ensure rehabilitation of areas from which quarry materials have been excavated;
- to minimize adverse impact on the environment in respect of aggregate operations
- All of the above,
- None of the above
- Other: \_\_\_\_\_ (please specify)

**5. Which of the following should be considered part of the administration of the Act (select all that apply)?**

- advise departments and municipalities on planning matters related to quarry materials
- initiate research related to technical matters relating to the quarry industry
- estimate the demand for quarry materials and establish policies for the supply of quarry materials
- collect, analyze and publish statistics related to the aggregate industry
- initiate studies related to the uses of quarry materials and the economics and operations of the quarry industry
- initiate studies on environmental and social matters related to quarries and quarry operations
- initiate studies related to abandoned quarries and rehabilitation
- None of the above
- Other: \_\_\_\_\_ (please specify)



## Quarry Material Definition

The legislation currently defines a **quarry material** as:

“a substance used in its natural form for civil construction or agricultural purposes and includes clay, sand, gravel, rock, soil, peat and slag but does not include slate, marble, granite and similar stone used as dimension stone; and in the Labrador portion of the province, a quarry material also includes a mineral rock or stone capable of being cut or polished for use as an ornament, personal adornment or decoration.”

Under this definition, quarry materials are defined by the proposed end-use of the material (i.e., civil construction or agricultural use) rather than the mode and scale of the operation. The definition of a quarry material for the Labrador portion of the province also includes rock that is used for carvings and jewelry; the extraction of those materials on the island portion of the province for similar uses is regulated by the Mineral Act and Mining Act.

Under this definition, quarry materials include, but are not limited to, materials such as:

- sand and gravel used as backfill, winter sand, concrete sand,
- rock (crushed rock, bedrock) that is blasted and/or excavated and crushed for road construction and maintenance (e.g., asphalt aggregate, rip rap, Class A, Class B),
- armour stone (i.e., boulders) used for wharf protection (e.g., breakwater projects), and
- peat used for agricultural/horticultural purposes, hydro-carbon contamination absorbent and as an energy (heat) source.

Sand and gravel is typically excavated directly from the surficial deposits and processed; bedrock may be excavated directly (e.g., ripping) or first drilled and then blasted with explosives prior to excavation and processing. Processing may include crushing, screening, washing and stockpiling of quarry materials using various types of equipment such as excavators, front-end loaders, primary, secondary, and tertiary crushers including complete conveyer systems to allow production of various aggregate end-products.

### Materials not covered by the Act:

Examples of materials that are not covered by the definition of a quarry material include:

- dimension stone
- mineral placer deposits
- industrial minerals
- recycled aggregates (e.g., concrete, asphalt, etc.)
- rocks collected for craft and hobby art purposes (e.g., painting rocks as decorations, carving stone, pebble art work, etc.)

### Dimension Stone:

Currently, all dimension stone projects are regulated by the Mineral Act where development and extraction of dimension stone requires a mining lease. Feedback suggests dimension stone project development may be encouraged by the reduced legislative requirements under the Quarry Materials Act. A jurisdictional review found that approximately half the provinces and territories in the country recognize dimension stone as a “mineral” requiring a Mining Lease.

Under the current definition, dimension stone is not considered a quarry material despite the similarities in the methods for extracting quarry materials and dimension stone. Dimension stone is natural rock material such as marble, granite, limestone, gabbro, anorthosite and slate that is extracted, typically in large prismatic blocks, and then sawed and finished to specification. After cutting (+/- polishing), these materials are used in the primary construction of buildings and monuments and also for decorative facing materials applied to the exterior and interior of buildings (e.g., tiles, countertops, gravestones, flagstone, etc.).

Dimension stone requires minimal post-processing to prepare the materials for market and their ultimate use. In comparison, minerals such as gold, silver, nickel, etc. require substantial post-processing (e.g., crushing, leaching, magnetic separation, concentrating, milling, refining, , etc.) to extract the minerals from the rock prior to the delivery to market.

### Idea to Consider

An example of a revised definition of quarry material to consider is:

“a substance used in its natural form including gravel, sand, clay, earth, peat, soil, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other prescribed material.”

### Questions

What materials should be regulated by the Quarry Materials Act? Please explain.

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Please provide any comments you have on the proposed revised definition of a quarry material?

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## Quarry Materials Tenure Classifications

The Quarry Materials Act currently provides access to quarry materials through the following tenure types:

- Quarry Permits and Quarry Leases
- Beach Permits
- Subordinate Quarry Permits
- Quarry Materials Exploration Licenses

### Quarry Permits and Quarry Leases

A review of the Act suggests the spirit of the legislation intended quarry permits to be issued as short-term instruments (i.e., issued up to one year, and not renewable or transferrable), and quarry leases to be subsequently issued under long-term instruments (i.e., 5 – 20 year term). The legislation has not been administered this way in the 20 years since it was enacted, and as a result, long-term quarry sites are being issued under application standards suitable for small, short-term operations. The types of non-compliance issues commonly identified in quarries and the degree of non-compliance suggests the requirements to obtain and maintain quarry permits are not appropriate for the development and long-term management of quarry sites.

There are numerous differences in the requirements to obtain quarry permits and quarry leases, the most significant of which is the requirement for quarry lease holders to submit development, rehabilitation and closure plans, provide a legal survey, and post financial assurance (via security bond) for closure and final rehabilitation of the site.





### Quarry Permit Requirements

Payment of annual rental fee (on Crown Land)

Annual Production Reporting and payment of royalties

Submission of completed Quarry Permit Application

- Basic locational information
- Details on types of activities proposed (e.g., drilling/blasting, crushing, screening, etc.)
- Details on types of materials to be removed (e.g., rock, sand, stockpiled material, etc.)

Payment of annual application fee

### Quarry Lease Requirements

Payment of annual rental fee (on Crown Land)

Annual Production Reporting and payment of royalties

Submission of completed Quarry Permit Application

- Basic locational information
- Details on types of activities proposed (e.g., drilling/blasting, crushing, screening, etc.)
- Details on types of materials to be removed (e.g., rock, sand, stockpiled material, etc.)

Submission of Development Plans every 5 years

- Site plans
- Plans of how the site will be developed
- Detailed, surveyed topographical map
- Annual updates/status reports

Submission of Rehabilitation and Closure Plan

- Details on how the site will be rehabilitated (e.g., sketches, cross-sections, details on volumes of available topsoil, etc.)

Posting of financial assurance

- Financial assurance (via security bond) for total estimated site rehabilitation costs.

Legal Survey of quarry boundary



There are currently approximately 2,400 quarry permits and 80 quarry leases issued within the Province. Operators have acknowledged that many sites held as quarry permits are required for long term use as they are renewed year-after-year. Therefore, there is an opportunity to revise the quarry tenure classification system to ensure sites are approved under more appropriate standards.

### **Idea to Consider**

#### Quarry Permits:

- Eliminate the one-year quarry permit option.

#### Quarry Leases:

- Application and maintenance requirements to be a compromise between existing quarry permit and quarry lease requirements.
- Replace requirement to submit development plans under the Mining Act with the requirement to submit site plans similar to that which is required in Ontario which may include maps/descriptions of the following:
  - Map showing the general location of the proposed quarry with reference to existing site conditions (e.g., vegetation, entrances/exits, excavation faces, nearby land uses and waterbodies, etc.);
  - Maps showing the sequence and direction of proposed quarry development, location of material to be stockpiled, final extraction elevation, proposed berms;
  - Details on the sequence and direction of progressive rehabilitation and final rehabilitation; and
  - Cross-sections of existing conditions and the rehabilitation of the site.
- Quarry leases to be subdivided into various categories. Site plan requirements would be developed to reflect the type of operation and scope of the project.
- Requirement to submit financial assurance for rehabilitation.
- Note: existing permits would be transferred to quarry leases over a period of time (e.g., the next 5 years).

## Questions

Under the current legislation, quarry permits can be issued for up to one year. Should quarry sites be approved for longer than one year at a time?

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What information or documentation should be required for an application for quarry site? Should this vary depending on the size, duration or type quarry proposed?

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### Subordinate Quarry Permits

The department currently issues subordinate quarry permits (SQPs) as a means of allowing a third party to excavate and remove quarry material from a site held by another company/individual under a quarry permit. An issued subordinate permit allows a company to operate at a site, under the terms and conditions of the host permit, to remove a specified volume of material for a period of up to one year. The applicant is required to specify the amount of material to be extracted and pay the royalties on that material upon application.

Given that the management of a quarry site is ultimately the responsibility of the quarry permit holder, the issuance of a subordinate quarry permit is subject to the approval of the quarry permit holder.

The department recognizes that companies adhere to varying standards relating to safety and the environment. Work conducted by a third-party under a SQP may negatively impact the integrity or reputation of the host company/individual. The legislation currently grants quarry lease holders full autonomy to determine who may operate within their quarry, but the department is involved in determining who operates within a quarry permit.

While the SQP is a mechanism that is often used by clients, feedback to date suggests it is duplication of a regulatory process.

### Idea to Consider

Eliminate subordinate quarry permits, and in turn, grant the responsibility of site management to the permit holder; this is currently the process for quarry leases. If an individual or company wishes to obtain material from another permit holder, they must work with the permit holder to come to an agreement; government would have no involvement.

### Question

What are the benefits and/or challenges of the subordinate quarry permit process?

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### Beach Permits

Under the current legislation, a beach permit may be issued for non-mechanized removal of sand, cobbles and boulders from beaches for agricultural or civil construction purposes. Beach rocks used for craft purposes (e.g., hobby crafts, decorations, etc.) does not meet the end-use requirement to be considered a quarry material (i.e., not for civil construction or agricultural purposes), and are therefore not regulated by the department. The removal of beach material can contribute to increased impacts and vulnerability from climate change, and coastlines generally have a high potential for the discovery of historic resources. Municipal zoning regulations commonly prohibit the removal of material from beaches. As a result, beach permits are rarely issued by the department.

There have been numerous questions and social media discussions relating to the removal of beach pebbles and cobbles for use by local crafts people as there are local businesses that create artwork using beach material (e.g., framed beach pebble artwork) and a growing community of people who collect and paint beach rocks. Although materials collected are generally in small quantities (e.g., 5 gallon buckets) and do not require mechanized removal (e.g., excavators), the cumulative effect over time will undoubtedly contribute to destabilization and erosion of the province's coastlines.

### Idea to Consider

Eliminate beach permits, or any form of tenure that would authorize the removal of beach material from the province's coastlines from the legislation.

or

Issue approvals to extract small amounts of material for recreational purposes (e.g., arts and crafts, clay for pottery, etc.) through an application process similar to the "Notification of Work" process that is currently in place for the Mineral Exploration Approvals program. A 'notification application' could include generic information pertaining to the location, type and volume of material to be extracted. Each application would be reviewed and standard terms and conditions applied. Upon review, any projects exceeding the limits of material that could be applied for under the "notification of work" process would be directed to apply for the appropriate instrument as required (e.g., quarry permit or lease).

or

Do not regulate beach material removed for hobby, craft or recreational purposes.

### Questions

What are the benefits and/or potential impacts of removing beach sand, cobbles and boulders from the province's coastlines?

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Should government regulate the removal of beach rocks used for hobby, craft or recreational purposes? Please explain.

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## Quarry Materials Exploration Licences

Quarry permits and quarry leases grant a proponent exclusive rights to extract and remove aggregate from a site, whereas Quarry Material Exploration Licences (QMELs) provide only exclusive rights to carry out exploration for quarry materials and apply for a quarry permit or a quarry lease in a given area.

Most quarry operators in the province apply for quarry permits to obtain aggregate for general purposes and do not require exploratory work to determine the quantity and quality of aggregates. However, some operators require aggregates to meet particular engineering specifications (e.g., concrete sand) and need to evaluate resource areas to establish whether there is a long-term supply of that material.

An application for a QMEL requires the following:

- a proponent must submit an application outlining the area they want to explore based on the National Topographic System (“NTS”) grid, similar to Mineral Licences (e.g., 500 metre blocks based on North Atlantic Datum (“NAD”) 1927 grid and must not exceed 5000 hectares per licence.
- This application must be accompanied by a rental fee of \$0.10 per hectare.

Feedback to date suggests QMELs are not being used for their intended purpose; instead, they are being used to control vast tracts of land for extended periods of time and prevent others from obtaining quarry permits and leases in an area.

The department’s goal in terms of managing quarry resources is to ensure resources are accessible to ensure competition in the aggregate market.

### Ideas to Consider

Revise the application criteria surrounding the terms of issuance of QMELs.

- For example, reduce the maximum size of a licence, increase the fees, limit the number of licenses that can be held per NTS sheet, limit the number of times a licence can be re-issued
- Change the application such that applications are not based on the UTM grid (would be more similar to the way permit/lease applications are submitted)

or

Eliminate QMELs from the legislation. Instead, implement an application process similar to the Exploration Approval process with reduced reporting requirements. Companies holding Exploration Approvals for an area could be offered a first right of refusal on any quarry permits being applied for during the duration of that approval.



## Questions

What are the benefits of Quarry Materials Exploration Licences?

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How can government more effectively regulate the exploration of quarry materials to ensure resources are accessible to maintain competition in the aggregate market?

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## Quarry Application Process

An application for a quarry site consists of the submission of general information regarding the activities proposed at the site, locational information, and details pertaining to nearby topographical features and uses:

- location (proposed boundary outlined by a digital mapping file);
- size of area to be quarried;
- details on how the site will be accessed;
- whether the site is required for short-term (project specific) or long-term (multiple projects/years) use;



- property ownership details;
- contract details (if being used to supply material for a contract);
- type of material to be extracted (e.g., rock, sand, gravel, etc.);
- operations to occur at the site (e.g., drilling and blasting, screening, crushing, etc.);
- details on where the material will be used (e.g., general geographical location);
- details on the intended end use of the material (e.g., winter sand, concrete sand, asphalt production); and
- identification of potential land use issue or concerns such as:
  - visibility of site;
  - vegetation cover of site;
  - nearby waterbodies or wetlands; and
  - nearby structures or residences or other land uses.

Each application form, along with a digital shape file of the proposed quarry boundary, is referred to other government departments and agencies for comments. The purpose of the referral process is to identify potential land use conflicts and to ensure each permit is issued with the appropriate site-specific conditions/stipulations. After a two-week referral period, the comments are reviewed and a decision whether to issue a permit or reject the application is made. In some instances, an application requires additional work (e.g., registration for Environmental Assessment, obtaining other permits/approvals outside of Natural Resources) that results in the process taking longer.

The Department of Natural Resources frequently receives inquiries from the public, municipalities and other government departments regarding the number of quarry sites an individual or company may hold. Feedback to date suggests companies/individuals should be required to provide justification as to why a particular site is required, particularly when quarries are proposed within municipalities or adjacent to sensitive areas (e.g., near provincial park boundaries).

Government departments and agencies have identified that more detailed quarry applications are required to allow for an appropriate assessment of the proposed site to ensure potential issues and land use conflicts

are identified and addressed prior to issuing a permit. Additional information, such as the following, has been requested:

- the proposed depth of extraction;
- operational schedule for extraction;
- type and amount of heavy equipment to be used;
- annual operational schedule;
- duration of the operation;
- purpose of the quarry;
- justification for why the quarry is required in that location;
- alternative locations considered; and
- rehabilitation plans.

## Ideas to Consider

Revise the application process to ensure all the necessary information and level of detail required by each referral agency is provided to allow for a thorough review by the referred government departments and agencies.

and

Other jurisdictions (e.g., Ontario) have implemented policies regarding matters to be considered in issuing/refusing quarry tenure (see Ministry of Natural Resources, Government of Ontario – Aggregate and Petroleum Resources Policy on “Matters to be Considered in Issuing/Refusing a Licence” – Policy No. A. R. 2.01.10). Consider implementing regulations or policies that specify the types of matters to be considered prior to issuance of quarry tenure such as:

- Effect of the operation on the environment.
- Effect of the operation on nearby communities.
- Comments from the municipality which the proposed site is located.
- Suitability of progressive and final rehabilitation plans.
- Possible effects on ground and surface water resources.
- Possible effects on agricultural resources.
- Planning and land use considerations.
- Main haulage routes and proposed truck traffic to and from the site.
- Quality and quantity of aggregates on site.
- Applicant's past history of compliance.
- Other matters considered appropriate (e.g., justification on why the site is required).

## Questions

Should an applicant be required to justify why a specific quarry is required? Why or why not?

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What matters should be considered when deciding whether to approve an application for a quarry?

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## Quarry-Related Issues and Concerns

The development and operation of quarry sites can impact the environment, adjacent land uses and the economic potential of an area. Quarry sites that are poorly developed and/or are not operated in compliance with the legislation affect the public's perception of the professionalism of the industry and reflect poorly on regulators.

Complaints and issues most often received by the department regarding quarry development and operations include concerns relating to:

- effects on water resources and municipal and private water supplies;
- effects on water-dependent natural heritage and hydrological features including watercourses and wetlands;
- displacement of forests and other vegetation in the quarry area;
- effects on fisheries and fish habitat and habitat of species at risk;
- noise and vibration impacts on sensitive uses through equipment operation, blasting and traffic;
- air quality impacts, primarily from dust;
- impacts on cultural heritage, built heritage features and cultural heritage landscapes including archaeological and paleontological resources;
- effects on agriculture;
- visual and landscape effects;

- traffic effects on haul routes including bridges;
- safety concerns via hauling through communities;
- indiscriminate dumping in quarry sites by locals and/or quarry operators;
- use and occupation of active and abandoned quarry sites by recreational vehicles (e.g., campers, atv's);
- safety concerns regarding excavation faces and proximity to other land uses (e.g., trails);
- issuance of quarry permit on private land (i.e., lands not registered with the Department of Fisheries and Land Resources, Crown Lands Division); and
- impacts on other land uses in an area (e.g., tourism, agricultural uses, renewable energy development, etc.).

More appropriate application standards, improved compliance initiatives (e.g., recently implemented Quarry Compliance Assessment Reports), and updated policies will help to minimize the negative social, economic and environmental impacts of quarries.

### Ideas to Consider

Improve compliance initiatives (e.g., recently implemented Quarry Compliance Assessment Reports) as a means to help minimize the negative social, economic and environmental impact of quarries.

and

Implement more prescriptive regulations and policies that clearly specify the requirements for operating and maintaining a quarry site under the Act, and implement more impactful consequences for non-compliance.

### Question

What quarry-related issues are of greatest concern to you? How can the legislation be revised to address these concerns?

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## Maintenance of Quarry Tenure

### Cancellation of a Quarry Permit

The legislation states that the Minister may cancel a permit under the following conditions/circumstances:

- where the quarry is not being operated in compliance with the Act
- in order to manage the quarry material resource
- to avoid a conflict of land uses
- where a permit has been issued in error

### Ideas to Consider

A permit/lease may be subject to cancellation when:

- the quarry is not being operated in compliance with the Act, and/or
- the continuance of the permit is not in the best interest of the public, and/or
- a substantial amount of quarry material has not been removed over a certain period of time, and/or
- the permittee is insolvent, or is an individual who is deceased and the estate has been closed and the executor of the estate discharged, or the permittee is a corporation that has dissolved.

### Question

In what instances should a permit be considered for cancellation?

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### Surrendering and Transfer of a Quarry

Under the current legislation, there is no criteria/specifications allowing for the surrender or transfer of a quarry permit. Internal policies have allowed for this to occur, but it is not supported by legislation. It is recommended that the revised legislation include specifics to allow for this to occur.

While the legislation specifically states that quarry permits are not assignable or transferrable, quarry leases “may be assigned or sublet to another person with the consent of the Minister, which consent shall not be unreasonably withheld”. Additional criteria surrounding the transfer of quarry tenure is being considered.



## Ideas to Consider

Allow the surrender of a quarry permit/lease subject to the following:

- on being satisfied that the permittee's annual permitting fees and rehabilitation security payments, and special payments if applicable, have been paid; and
- that acceptable site rehabilitation has been performed.

Allow the transfer of a quarry permit/lease subject to the following:

1. Upon application to transfer:
  - on being satisfied that the permittee's annual permitting fees and rehabilitation security payments, and special payments if applicable, have been paid; and
  - the quarry permit/lease is compliant with the Quarry Materials Act.
2. Transfer without consent if:
  - the permittee is insolvent;
  - the permittee is an individual who is deceased and the estate has been closed and the executor of the estate discharged;
  - the permittee is a corporation that has been dissolved; or
  - it is in the public interest to do so.
3. A transfer of a quarry permit/lease may be rejected when:
  - the issuance, transfer or continuation of the permit to be contrary to the public interest;
  - a substantial amount of quarry material has been removed from the site under the permit during the previous twelve months; and
  - the permittee has contravened this Act, the regulations, or conditions of the permit.





### Questions

Should the legislation allow for the transfer and/or surrender of a quarry permit/lease? Explain.

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Under what circumstances should the surrender or transfer of a quarry site be permitted?

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### Access to Resources and Resource Management

The department issues approximately 2,500 quarry permits annually. Approximately 2,200 of these permits are re-issued quarry permits (permits that expire and must be re-applied for annually). The department receives approximately 200 applications per year for new quarry sites. Thus, despite the somewhat constant number of quarry permits being issued annually by the department, there are approximately 200 new quarry sites approved each year. The department is aiming to encourage efficient land use and discourage the proliferation of new 'holes in the ground' through revised legislation.

Operators generally hold quarry sites in geographic locations near their base of operations and thus, quarry resources are typically controlled by local companies. If an 'outside' contractor wants to bid on a project, they must have a quarry in the area, or have a good working relationship with someone who does. As a result, whenever larger projects are open for bidding, the department generally receives an influx of applications for new quarry sites in anticipation of being awarded the contract. Many of these newly issued quarry permits, especially those in remote areas, are used for a specific contract, and then left dormant for many years until another project arises in the area.

The department is seeking to implement initiatives that (1) more effectively manage the province's quarry resources, (2) improve the number of sites that are rehabilitated and quality of the rehabilitation work completed, (3) encourage equal business opportunities for contractors, and (4) ensure suitable materials with appropriate physical properties are available for government projects.

### **Ideas to Consider**

1. Identification by the Department of Natural Resources of areas where the issuance of quarry permits should be closely managed by the department to ensure short- and long-term regional availability of high quality aggregate resources. Areas would be chosen based on criteria including their aggregate potential (i.e., potential to host sand and gravel or suitable bedrock), their availability for permitting (i.e., lower potential for land use conflict), and their accessibility.
2. Quarry management zones controlled by the Department of Natural Resources via a fashion similar to the Exempt Mineral Lands under the Mining Act (e.g., Exempt Quarry Areas) to ensure proper management and development of the resource. In these areas, the issuance of quarry permits and leases would not be by a free-entry system but based on proposals reviewed by Natural Resources.
3. Province-wide quarry sites held by provincial government (e.g., Department of Natural Resources, Department of Transportation and Works) that have been assessed and pre-approved for provincial government projects. Sites would be made available to all operators awarded government contracts, thus providing equal business opportunities to contractors.
4. Implementation of a quarry tenure type that allows for the issuance of permits for the purpose of supplying material for government contracts (e.g., Ontario's wayside permits). The approvals would be temporary in nature and would require full site rehabilitation upon completion of the contract.
5. Implementation of a policy to allow for the cancellation and/or rehabilitation of quarry sites that have been dormant for a specified number of years. Upon cancellation, the site would be available for applications by others or the operator would be ordered to complete final rehabilitation and closure.

## Questions

What initiatives do you recommend to ensure the strategic development and management of the provinces quarry resources?

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How can the legislation be improved to ensure it supports equal opportunities for everyone?

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## Monitoring and Enforcement

The department has three Quarry Materials Compliance Officer ('Inspector') positions located throughout the province (Pasadena, Grand Falls-Windsor and St. John's) which are responsible, under sections 14 and 15 of the Act, for inspecting quarry sites for compliance with legislation and the terms and conditions of a permit or lease.

Quarry Compliance Officers identify non-compliance issues via site inspections and direct necessary remedial work via directives and Stop Orders. Non-compliance issues are identified by routine site inspections, or through follow-up of complaints or concerns received from other government departments, the public and other stakeholders. A person convicted of an offence under the Act is liable on summary conviction resulting in a fine and/or imprisonment.

Under the Quarry Materials Act, anyone who completes the following without an issued quarry permit/ subordinate quarry permit or quarry lease is guilty of an offence and is liable on summary conviction:

- excavate, dig for, remove or carry away quarry materials;
- prepare a site for the removal of quarry materials; or
- where the land is vested in the Crown, bring equipment to or use equipment to a site that could be used to excavate quarry materials.

Charges and fines under the Act are currently:

- On summary conviction
  - First offence - \$2,000 to \$10,000 or 30 – 90 days of imprisonment, or both fine and imprisonment;
  - Subsequent offence - \$10,000 - \$50,000 or 30 days to 6 months of imprisonment, or both fine and imprisonment.
- A person who fails to comply with a Stop Order is liable on summary conviction to:
  - a fine of not less than \$10,000 and not more than \$50,000; or
  - imprisonment for not less than 30 days and not more than 6 months;
  - or to both the fine and imprisonment; and
  - every continuance for a day or for part of a day of a contravention is a separate offence.

### Ideas to Consider

Implement more impactful consequences for non-compliance (e.g., raise the fines associated with convictions; implement a ticketing program, etc.)

**and/or**

Implement a “Notification of Work” form to be filed with the department 48 hours prior to commencing work in an area to assist inspectors in prioritizing inspections and scheduling field work.

**and/or**

Implement an online portal where quarry infractions can be reported anonymously. Any reported infractions would be collected by the department and prioritized for follow-up.

### Questions

What is required to increase your confidence in effectiveness of the regulation of quarry operations?

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Are the repercussions for non-compliance and offences adequate? Please explain.

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## **Production Reporting and Royalties**

The department requires the submission of a Production Report Form (also referred to as Statutory Return Forms) for each issued quarry permit, subordinate quarry permit and quarry lease on an annual basis. Information collected from these forms is also shared with Natural Resources Canada for statistical purposes. Permit holders are required to report the total amount of material excavated and removed from the site within the calendar year, with details pertaining to the types of operations, the types of quarry materials excavated and sold, and the value of those materials. A royalty (currently \$0.75 per cubic metre of material removed from the site), is due at the end of the calendar year and is reported on an honor system. While the department, through the Compliance Officers, conducts estimates on production volumes, detailed reviews (e.g., auditing, drone surveys, etc.) would be necessary to accurately determine the volume of material that has been excavated from each quarry site.

The royalty/tax regime for quarry materials excavated from a mining lease issued for the extraction of minerals as defined by the Mineral Act has been questioned in the past. As a result, it has been determined that the legislation surrounding this type of activity must be more prescriptive.

An example of the Ontario legislation surrounding this activity is:

“The royalty payable under this section shall be paid even if the aggregate is excavated from land that is subject to a mining lease.”

Current annual reported production typically results in approximately \$3M in royalties. In other jurisdictions, royalties paid on quarry materials fund other projects and/or support local municipalities which improve the relationships with local municipalities and the public.

The department is considering initiatives that encourage more accurate production reporting and support projects that foster relationship-building and build trust with the public.



### Ideas to Consider

Implement a revised royalty/tax regime that varies depending on:

- the type of material extracted, and/or
- the volume of material extracted, and/or
- the material is for domestic or exported markets.

Update the legislation to clearly specify the royalty requirements for materials extracted from mining operations regulated by the Mining Act.

- e.g., “The royalty payable under this section shall be paid even if the aggregate is excavated from land that is subject to a mining lease.”

and/or

Implement the use of drones and/or an auditing function in the legislation to ensure accurate production reporting.

### Questions

What changes would you make, if any, to the royalty regime in place for the extraction of quarry materials in the province?

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How can the department encourage accurate production reporting?

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## Quarry Rehabilitation and Closure

In the past, many contractors and operators had limited knowledge of the legislation which led to unpermitted and non-compliant quarry activity. Under the current legislation, there is limited capacity to enforce rehabilitation of a quarry permit once tenure has expired. As a result, a significant number of abandoned quarries remain un-rehabilitated across the province.

Un-rehabilitated and poorly rehabilitated quarry sites have a negative visual impact in communities and along highway corridors, pose safety concerns, contribute to water quality impairment (e.g., siltation of waterbodies), and are often targeted for indiscriminate dumping or unauthorized occupation (e.g., campers, ATV's, etc.). Quarries that are not properly rehabilitated fragment the natural landscape and contribute to a decline in the biodiversity associated with the area (e.g., plants, animals, invertebrates, fungi, lichen, etc.) and can lead to a decline in the ability of the area to support species native to the area. Abandoned and un-rehabilitated quarry sites may also negatively affect a company's reputation when conducting work in close proximity to these sites. Many other jurisdictions have standardized requirements for the rehabilitation and closure of a quarry site and the consequences for not abiding by these conditions, which are outlined by the legislation, are effective in deterring individuals/companies from abandoning a site.

### Financial Assurance for Quarry Rehabilitation

Some jurisdictions require that all quarry sites have financial assurance (i.e., security bond) in place with government to ensure that, in the event that a site is abandoned before satisfactory rehabilitation work is

completed, the funds are available for government to close and rehabilitate the site. The required amount of financial assurance is calculated based on the third-party cost to conduct full site rehabilitation and closure at any point throughout the duration of the approval. There is no instrument under the current legislation to require financial assurance for quarry sites. The Mining Act does however have an instrument to request financial assurance, and therefore financial assurance is required on quarry leases which are regulated by both the Quarry Materials Act and the Mining Act.

Feedback to date strongly supports implementing a requirement to post bonding for all proposed quarry sites – regardless of the term or tenure.

### Ideas to Consider

- Introduce a Rehabilitation Order to direct rehabilitation of a quarry site, even after tenure has expired. Failure to abide by a Rehabilitation Order may result in fines or charges.
- Require the posting of financial assurance (i.e., security bond) for all issued quarry sites to ensure funds are in place to conduct rehabilitation should a company/individual fail to conduct the work.
- Initiate a program to address historically abandoned quarry sites. The province manages a similar program for Orphaned and Abandoned Mine Sites, where abandoned mining operations are assessed and prioritized for rehabilitation by the province based on a risk matrix.

### Questions

How does the presence of abandoned, un-rehabilitated quarry sites impact you?

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How can revised legislation improve the rehabilitation of quarries?

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## Appeal Mechanism

The mechanism/process currently in place to appeal a decision on quarry-related matters consists of a court appeal. It has been recommended that an appeal process outlined by legislation may be more effective and efficient in dealing with quarry-related decisions.

In some jurisdictions, the legislation clearly outlines a formalized internal appeal process which can consist of an adjudication board (e.g., similar to the Mineral Rights Adjudication Board) or an internal committee designated to review these matters.

### Ideas to Consider

Implement an internal review committee consisting of independent representatives from the department and representatives from other related departments or agencies including those who make recommendations on quarry applications.

or

Implement an adjudication board, similar to the Mineral Rights Adjudication Board. Under the Mineral Act, the Mineral Rights Adjudication Board hears and resolves disputes related to the Act and Regulations. This includes matters relating to the right to stake claims, issuance of licenses to claims, matters arising from the cancellation of mineral licenses and mining leases, and decisions by the Minister of Natural Resources relating to the transfer, mortgage or assignment of mineral licenses. The board is appointed by the Lieutenant-Governor in Council and consists of three people, at least one of which is a barrister and acts as the chairperson, and one of whom is experienced in mining. The board is only convened when a grievance is brought forward.

### Questions

Are you satisfied with the appeal mechanism provided by the current legislation (i.e., court appeal)? Please explain.

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What other types of appeal mechanisms would you recommend, if any, for the resolution of quarry-related matters?

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## Conservation and Recycling

The department is working to promote the conservation of non-renewable natural resources and the recycling of secondary materials under Action 2.16 (Pilot an Initiative to Recycle/Repurpose Non-Renewable Resources for Quarry (Mine) Applications) as part of The Way Forward.

Government is seeking opportunities to promote the reduction, reuse and recycling of quarry materials and the use of innovative materials. As with other jurisdictions across Canada (e.g., Ontario), the Department of Natural Resources in conjunction with the Department of Transportation and Works and other levels of government should seek

to ensure:

- the use of primary quarry materials is minimized and recycled aggregate content is maximized where possible and that the results from these projects are well documented;
- government-funded construction projects promote innovations in resource conservation; and
- the province leads by example.

Some of the initiatives the department is currently supporting via The Way Forward initiatives include:

- Recycling of concrete and asphalt;
- Using remediated soils for quarry site rehabilitation;
- Re-purposing dredged material (e.g., kelp, beach material) for quarry rehabilitation; and
- Utilization of mine waste rock for construction aggregate.

## Ideas to Consider

Implement strategies to increase aggregate recycling and the development of a record to track these actions.

Promote the reduction, reuse and recycling and the use of innovative building materials in government-funded construction projects.

Work with professional associations to identify impediments and/or obstacles discouraging more effective use of innovative building materials.

Support the identification of pilot projects to develop innovative approaches that employ the “three R” principles (reduction, reuse and recycling).

## Question

What strategies do you recommend to encourage the conservation of non-renewable resources and/or the recycling of secondary materials such as asphalt, concrete and remediated soils?

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## Transparency and Communication

The Government of Newfoundland and Labrador is moving towards “Digital By Design” which will include increased requirements for electronic data sharing and applications. To support this movement, the department is seeking opportunities to improve the quality and availability of information pertaining to the province’s quarry resources and is evaluating applications that will enhance the overall service delivery of the quarry program.

Some of the department’s recent initiatives to modernize the quarries program include the introduction of standardized inspection reporting, the requirement to provide digital boundaries (e.g., polygons) of quarry sites and a streamlined quarry permit application process with live status updates via a Google spreadsheet.

The department is currently exploring the abilities and adaptability of a program that is commonly used in government for similar applications and is being used for the upgrade to the department’s online staking system for mineral claims. This program would allow quarry clients to set-up accounts to manage their quarry permits, automatic emails to notify of expiring of quarry permits/leases, online payments, online applications with GIS capability and online referrals.

Historically, documentation such as copies of permits, letters and directives were sent from the department via Canada Post. In recent years, the department has transitioned to electronic-focused document delivery wherever possible. Documentation such as Stop Orders however, must be delivered either in person, posted at the site or sent via registered mail as per the Act.



### Ideas to Consider

- Implement an online quarry administrative portal to maintain quarry tenure, submit applications, inspection reporting, etc.).
- Posting of specific quarry-related documentation online for view by the public (e.g., quarry permit/lease boundaries, copies of permits/leases, copies of issued Quarry Compliance Assessment Reports, etc.).
- Allow for the delivery of any notice or document issued in accordance with the Act by personal delivery, email, registered mail or courier.
  - Service made by registered mail or courier shall be considered received 5 days after the day the notice is mailed or is received by courier.
  - Service made by email shall be considered received on the day after the day it was forwarded.

### Questions

What initiatives would you recommend government implement to increase the level of transparency of the quarry program?

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What types of quarry-related information would you like to see more clearly communicated? Please explain.

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### **Additional Input**

We welcome your responses and insights on the questions presented in this discussion guide and any other additional comments or suggestions relating to any other aspects of the quarry legislation that may evoke modernized, updated and improved quarry materials legislation.

We thank you for your interest and encourage you to remain engaged as we shape the future of quarry operations in the province.

#### **Question**

Do you have any additional comments or suggestions relating to any other aspect of the quarry legislation?

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