



Ontario Federation of Agriculture

Ontario AgriCentre

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October 7, 2016

Mr. Jeremy Downe
Invasive Species Program and Policy Advisor
Ministry of Natural Resources and Forestry
Natural Resources Conservation Branch
300 Water Street
Peterborough, ON
K9J 8M5

Dear Mr. Downe;

RE: EBR Registry Number 012-8310 Regulation of invasive species under the Ontario Invasive Species Act 2015.

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 36,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

Given the potential impacts of invasive species on Ontario's agriculture sector, OFA welcomes this opportunity to provide its perspective on the proposed regulation of invasive species.

This regulatory initiative also proposes to deal with Phragmites, Dog Strangling Vine and Japanese Knotweed. We note that Dog Strangling Vine is already scheduled as a noxious weed under the Weed Control Act Regulation 1096. Having a plant fall under the jurisdiction of two distinctly different acts, under the mandate to two separate Ministries, could lead to confusion on the part of those responsible for enforcing these Acts, and to inconsistent application. We recognize that there are inherent limitations in the Weed Control Act, which are not present in the Invasive Species Act. OFA recommends the striking of an oversight committee, with a strong agriculture sector-based representation, to define the situations and circumstances when the Invasive Species Act is used instead of the Weed Control Act.

Proposed prohibitions under section 8(2) would regulate bringing these species into Ontario, propagating them or buying, selling, leasing or trading them, or offering to buy, sell, lease or trade these species. We question if these proposed actions are truly sufficient to address even the further spread of these plants, let alone their eventual eradication from Ontario. OFA recommends that instead the provisions of section 8(1) be applied to Phragmites, Dog Strangling Vine and Japanese Knotweed.

Moving soil from place to place can facilitate the spread of invasive plants, as the soil may contain roots or seeds. Likewise, soil on earth-moving equipment can facilitate the spread of invasive plants. Currently, the Ministry of Environment and Climate Change is developing

policies and mechanisms to ensure that soils moved from place to place are not contaminated. OFA recommend that the regulation of invasive species ensure that the spread and broader establishment of invasive plants is not facilitated through bulk soil movement, or residual on uncleaned equipment.

For at least Phragmites, extensive populations are found on Provincial lands, most notably along provincial highways. Will the Ministry of Transportation self-enforce the Invasive Species Act and this regulation, and take the initiative to eradicate invasive species from lands under its jurisdiction? In the absence of a clear enforcement mandate whereby the Ministry of Natural Resources and Forestry has the clear authority to demand compliance by other provincial Ministries, provincial agencies, Conservation Authorities and municipalities, OFA recommends that these regulations clearly empower Ministry of Natural Resources and Forestry to enforce the Invasive Species Act and these regulations wherever invasive species are found.

Section 23 (Declaration of invaded place):

(5) In addition to exercising any of the powers described in section 19, an inspector who makes an order declaring a place to be an invaded place under subsection (1) may, in the order,

- (a) prohibit any person from having access to the place or restrict access to the place subject to such conditions as may be specified in the order;*
- (b) restrict activities that may take place within or with respect to the place;*
- (c) direct the owner or occupier of the place, if any, as follows:*
 - (i) to do anything specified in the order, or to refrain from doing anything specified in the order, that is for the purpose of reducing the risk of the species spreading,*
 - (ii) to refrain from accessing the place or to prevent others from accessing the place, and*
 - (iii) to keep records of anything the person does or refrains from doing pursuant to the order; and*
- (d) specify a date when the order ceases to have effect.*

Strict applications of these provisions, without due consideration for their impact on farms and farm operations could have serious consequences. Barring a farmer from accessing his or her farm could, in the extreme, lead to livestock or poultry deaths. Delays of even a few days could lead to the loss of one's crops. We fully recognize these are extreme examples. OFA recommends that the Ministry of Natural Resources and Forestry collaborate with the Ministry of Agriculture, Food and Rural Affairs in developing guidelines for the application of Section 23 to farms. We further recommend that the Ministry of Natural Resources and Forestry consult with the Ministry of Agriculture, Food and Rural Affairs before ever issuing a declaration of invaded place for a farm.

Section 27 (Actions to control or eradicate invasive species):

(3) The Minister may cause an inspector, or other person acting on the Minister's behalf, to take any of the following actions in an invasive species control area, or at an invaded place, referred to in clause (1) (a), with respect to an invasive species:

- 1. Use any physical or mechanical means, or apply any chemical treatments or biological control measures, to remove or eradicate the invasive species, even though the use of such means or application of such treatments or measures may result in damage to property or its removal or destruction.*
- 2. Destroy, by any means, anything that may be a carrier of the invasive species.*
- 3. Such other actions as may be necessary, whether or not it results in damage to property or its removal or destruction.*

As with our previous comments pertaining to section 23, we reiterate our cautions on the strict application of these provisions, and our recommendations that the Ministry of Natural Resources and Forestry work with the Ministry of Agriculture, Food and Rural Affairs on the development of guidelines and protocols to address the application of section 27 to farms.

The regulatory proposal also considers general exemptions related to emergency response, incidental catch and preserved specimens. OFA has no objections to providing general exemptions related to these activities.

OFA offers no comments on the proposed regulation of either fish or aquatic invertebrates as invasive species under the Ontario Invasive Species Act 2015.

The proposed regulation would also list a number of aquatic plants; namely hydrilla, Brazilian Elodea, Water Soldier, European Water Chestnut and Parrot Feather. Many of these aquatic plants could plug agricultural drainage ditches, necessary to farms so that excess water can be removed from soils, facilitating earlier planting of crops, leading to higher crop yields. OFA welcomes the listing of these aquatic plants, with an eye to application of physical, mechanical, chemical or biological means to eradicate these species, particularly where they are interfering with the efficient operation of agricultural drainage ditches.

The Ontario Federation of Agriculture welcomes this opportunity to provide its perspective on the Regulation of invasive species under the Ontario Invasive Species Act 2015. We look forward to the incorporation of our recommendations in a forthcoming Invasive Species Act regulation.

Sincerely,



Don McCabe
OFA President

DM/pj

cc: The Honourable Kathryn McGarry; Minister of Natural Resources and Forestry
The Honourable Jeff Leal; Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors