



Ontario Federation of Agriculture

Ontario AgriCentre

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June 23, 2017

Mr. Sanjay Coelho, Senior Policy Analyst
Ministry of the Environment and Climate Change
40 St. Clair Ave. West
Floor 10
Toronto, ON
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Dear Mr. Coelho:

RE: EBR Registry Number 013-0299 Excess Soil Management Regulatory Proposal

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.

A number of years ago, the Middlesex Federation of Agriculture posted the following message on a billboard. Now that Ontario is developing an Excess Soil Management Regulation, we believe it is worthwhile to reflect on its message;

Man, despite all his accomplishments, owes his entire existence to six inches of topsoil and the fact that it rains.

Quoting from the Ontario Ministry of Agriculture, Food and Rural Affairs' 2016 "Sustaining Ontario's Agricultural Soils" paper, Minister Leal wrote;

Healthy soil is the basis for a strong, sustainable agri-food system. Healthy soils support the production of healthy food which in turn contributes to healthy Ontarians and a strong economy. All Ontarians benefit from healthy soil through the local foods we enjoy, the raw materials we need to develop our bioeconomy, and the environmental benefits that farmers provided through their stewardship of Ontario's rich agricultural soils.

While Ontario covers a vast and diverse area, 1.07 M sq. km. or 415,598 mi², with distinctly different geographic regions and their associated soils, we must not lose sight of the stark reality that only 4.6% of Ontario's land base is capable of supporting any agricultural production. Less than 4.6% contains our most productive soils; Class 1, 2 or 3.

Currently there are almost 7 billion people in the world. Estimates project the global population rising to over 9 billion by 2050, just 33 years from now. Feeding ourselves and contributing to feeding the world on an ever reducing supply of productive agricultural land is a formidable challenge. Ontario must maintain as much of its limited arable land as possible in agricultural production. We must ensure our actions and policies do not jeopardize our ability to produce food, fibre and fuel in perpetuity from our limited agricultural land base.

The 2016 census shows another decline in the area being farmed over its 5 year span. Ontario farms cover 12.3 million acres, down 319,700 acres from the previous census. Regardless the reason, Ontario cannot continue to sustain this loss while maintaining our ability to produce a higher volume food, fibre and fuel. Sustained losses of agricultural land makes achieving the Premier's Challenge to double agriculture's annual growth rate and create 120,000 jobs by 2020 extremely difficult, if not outright impossible.

The Ontario Federation of Agriculture fully supports the overarching principle of beneficial reuse of excess soils. Excess soil could be used to enhance the quality of the rehabilitation undertaken at licensed pits and quarries. To that end, we request that the regulations facilitate this use of excess soils. Furthermore, we request that the regulation will include requirements to separate top soils and subsoil at the source site as well as in stockpiles. Ontario must not facilitate in any way, the mixing of top soil and subsoil.

The Ontario Federation of Agriculture fully supports the proposed exemption (page 10 of the Proposed Excess Soil Regulatory Package consultation paper) from the requirements for an Excess Soil Management Plan for soils originating from a project outside a settlement area. We believe that the amount of soil coming from outside a settlement area will be small, and free from potential contaminants. Requiring an Excess Soil Management Plan in these circumstances would impose an unnecessary regulatory burden.

Schedule C of the Proposed Excess Soil Regulatory Package proposes special excess soil requirements for reuse on agricultural land. We endorse the proposed limitations related to excess soil reuse on agricultural land with the caveat that a clear definition of agricultural land be included in the regulation. To that end, OFA recommends that agricultural land include **both** "prime agricultural land" as defined in the 2014 Provincial Policy Statement (PPS), as well as "rural lands" either being used or capable of being used for "agricultural purposes", as defined in the PPS.

In some instances, farmers add sand to their soil to enhance soil aeration, particularly where the native soil is clay. The Proposed Excess Soil Regulatory Package needs to fully accommodate activities such as this, where the farmer's goal is a soil that permits increased productivity through aeration and improved drainage. OFA recommends that soil enhancement activities, such as adding sand, be permitted under the Proposed Excess Soil Regulatory Package.

Man-made ponds to store water to irrigate crops are common on farms devoted to growing a range of fruits and vegetables. Where common, the Ministries of Agriculture, Food and Rural Affairs and Natural Resources and Forestry jointly review irrigation pond requests to ensure that the pond has a legitimate agricultural use, and its size relates to the area of the farm requiring irrigation. Irrigation ponds tended to range in size from 514 m³ (672 yd³) to 23,233 m³ (30,387 yd³) [average 4,565 m³ or 5,970 yd³], well in excess of the 1000 m³ in the cited regulation. The material excavated to excavate, enlarge or clean out an irrigation pond tends to the sand market. It is not excess soil. The Ontario Federation of Agriculture strongly recommends that the excavation of soil in the course of digging a new irrigation pond, enlarging an existing irrigation pond, or cleaning out an existing irrigation pond be fully exempt from the Ministry of the Environment and Climate Change's excess soils regulations. Normal farm practices such as the construction, enlargement or maintenance of irrigation ponds must be unequivocally exempt from all aspects of an Excess Soil Regulation.

The Ministry Natural Resources and Forestry “A Blueprint for Change” 2015 discussion paper, proposals to modernize and strengthen the Aggregate Resources Act policy framework proposed exemptions for “small, temporary aggregate extraction” related to improve the agricultural condition of a farm property, such as the removal of unproductive sandy knolls, and “aggregate extraction” for personal use be recognized at fully outside the scope of any excess soils regulation. In our response to the Environmental Bill of Rights Registry posting (012-5444), the Ontario Federation of Agriculture fully supported these two initiatives. In that light, we strongly recommend that the proposed excess soil regulations clearly and unequivocally exempt these activities.

With reference to the section of the Regulatory Package document on “Exemptions” (pages 10 and 11), paragraph 2 makes no mention of excess soil in the context of maintenance and repair of existing municipal drains, or the construction of new drains, under the Drainage Act. Municipal drains are infrastructure. As such, the construction of new drains or the maintenance or repair of existing municipal drains should be exempt. The Ontario Federation of Agriculture strongly recommends that excess soils generated from the construction, maintenance and repair of drainage works constructed under the Drainage Act be exempt from this regulation and the requirements for an Excess Soil Management Plan.

Potential regulatory text on pages 19 and 27 speaks to records of excess soil movement. The Ontario Federation of Agriculture supports rigorous record keeping of excess soil movement. However, from the text it is not clear how long records of excess soil movement are they to be kept, or by whom, source site, receiving site, transporter, or some or all? The Ontario Federation of Agriculture recommends that records of excess soil movement be thorough, readily accessible from a single source and be kept for 10 years. Future buyers of properties that received excess soil deserve to know this. The Ontario Federation of Agriculture recommends that there be a notation on the deed of all receiving sites indicating that the property received excess soil, the total amount received and the receiving dates.

Healthy, productive soil underpins the productivity and diversity of the bounty of Ontario farms. A well-crafted excess soil regulation will help to ensure that future generations will continue to enjoy the bounty of Ontario farms.

Sincerely,



Keith Currie
President

cc: Hon. Glen R. Murray, Minister of the Environment and Climate Change
Hon. Jeff Leal, Minister of Agriculture, Food and Rural Affairs
Hon. Kathryn McGarry, Minister of Natural Resources and Forestry
OFA Board of Directors