



**ONTARIO SOIL
REGULATION
TASK FORCE**

January 20, 2019

Ken Petersen
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing.

Submission on Bill 66 – Restoring Ontario’s Competitiveness Act, 2018, Schedule 10: “Proposed open-for-business planning tool” (ERO # 013-4125)

The Ontario Soil Regulation Task Force is pleased to provide comments regarding the above named posting to the Environmental Registry regarding the open-for-business by-law expressed as Schedule 10 of Bill 66.

OSRTF is a not-for-profit volunteer organization that assists over 20 community groups across southern Ontario working to ensure responsible and sustainable management of excess soils. Every year 25 million cubic meters of excess construction soil from the excavation of subways, condo towers, highways and homes as well as from the rehabilitation of contaminated brownfields goes looking for a place to get dumped. Our members have been monitoring the activities of soil dumps for over 8 years and have identified over 75 such dumps in southern Ontario around the GTA. We have given over 50 deputations to municipalities, provided reports to the Environmental Commissioner of Ontario, and are on MECP’s Excess Soil Engagement Group reviewing proposed regulations for the management of excess construction soil.

Many organizations have submitted comments on Bill 66, many municipal and regional governments have produced critical staff reports, and municipal councils have passed resolutions against bill 66. Aside from the environmental impacts that affect our neighbourhoods and our health, the addition of more employment lands to the excess most municipalities have, the open-for-business by-laws are unnecessary when Ontario’s unemployment rate is low.

The following comments are related to our expertise and interest in the management of excess construction soils.

Schedule 10 Clause 15 “Any prescribed provision.”

MECP has been working for several years through its Proposed Excess Soil Management Policy Framework on to proposed soil regulations that were presented to the Excess Soil Engagement Group this year. This November in Ajax over 200 people from industry, municipalities, and those representing the common citizens attended the 2018 Ontario Excess Soil Symposium from which the key themes were:

- There is broad interest in a Provincial Excess Soil Regulation
- Local reuse is best
- Municipalities should have up-to-date site alteration and fill by-laws
- Innovation and technology are supporting the reuse of excess soil in Ontario.
- Salt-impacted soil currently presents a reuse challenge
- Improving soil quality can provide benefits
- Reducing illegal fill dumping requires a multi-faceted approach
- Knowledge-sharing and collaboration is key to effective and beneficial excess soil reuse

Of particular note, some businesses are already applying the draft regulations to their operations and we note that they are included in the government's recently released environmental policy document.

We would not want to see the excess soil regulations added to the list of provisions that do not apply to an open-for-business planning by-law.

Does not apply: Section 39 of the Clean Water Act.

In essence, this negates any analysis, planning, and prohibitions that protect a municipal water supply.

The level of soil contamination that MECP sets in the Soil, Ground Water and Sediment Standards for Use Under Part XV.1 of the Environmental Protection Act are set, in part, based on the soil to groundwater pathway. Table 2 sets the limits for soil that is deposited over potable ground water, e.g. a municipal source water protection area or the aquifer that a rural resident draws their drinking water from. The importation of soil is often required for a development. Even if the imported soil is monitored and has paperwork that says that it meets Table 2, we, and MECP, are aware of instances where that soil has exceeded Table 2 and thus has the potential to contaminate the ground water. In the very limited number of cases where groundwater sampling has occurred analyses have shown carbon tetrachloride in one drinking water well and cyanide in another aquifer upstream of drinking water wells.

Unregulated soil importation could have consequences for the drinking water of rural residents. The protections of source water must apply to a by-law.

Application of Site Plan Control: 4. Any requirement that is reasonable for and related to the appropriate use of the land and that the municipality considers necessary for the protection of public health and safety.

It has been our experience that the staff and councillors in the smaller rural communities do not have the resources nor expertise to be aware of what is necessary for the protection of public health and safety. They rely on the provincial regulations that have been developed with consultations and with scientific rigor. If those regulations do not apply they can only rely on the information that the development proponent has presented. In submissions related to soil dumps we have found incorrect and misleading statements and would not expect open for business proposals to be any different.

No notice or hearing is required. No appeal.

No notice to the public, only 20 days from passing to coming into force, only 17 days for the Minister to review it, no appeal - in other words, no involvement of the public and very little time or opportunity for mistakes to be corrected. What happened to government for the people, by the people.

The Ontario Soil Regulation Task Force urges the government to withdraw the open-for-business planning tool from Bill 66.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Ian McLaurin". The signature is fluid and cursive, with the first name "Ian" being the most prominent.

Ian McLaurin
Chair, Ontario Soil Regulation Task Force

ian.mclaurin@osrtf.ca