



**TOWN OF MILTON  
REGION OF HALTON  
SITE ALTERATION BY-LAW  
AGRICULTURE EVALUATION  
FINAL**

Prepared for:

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## I BACKGROUND

DBH Soil Services Inc was retained by the Town of Milton to assist in the ongoing review and update to its Site Alteration By-Law. The current by-law (By-Law No 33-2004 – A by-law to protect and conserve topsoil and for prohibiting or regulating the alteration of property within the Town of Milton and to repeal by-law No. 23-96) hasn't been updated from 2004. An update is required to align with applicable and current regulations including the Provincial regulations regarding excess soil management.

This part of the update addresses details related to potential exemptions from the by-law which may include activities related to regular or 'normal farm practices'.

A 'normal farm practice' is defined in the Farming and Food Production Protection Act (FFPPA) and Nuisance Complaints (1998) as:

- a. *"is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or*
- b. *makes use of innovative technology in a manner consistent with proper advanced farm management practices".*

The Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) states in the Importation of Soil onto Agricultural Land Factsheet (Agdex # 510, October 2016) that:

*There is no definitive list of normal farm practices. A practice may be ruled as a normal farm practice at a particular location under a particular set of circumstances; the same practice could be ruled as not a normal farm practice at a different location under a different set of circumstances.*

As indicated above, OMAFRA has identified that there is no definitive list of normal farm practices, and that a practice may be considered as normal at a particular location and under particular circumstances. In an effort to understand normal farm practices within the Town of Milton a survey was undertaken of agricultural operators to determine what types of materials, volumes of materials, circumstances for the importation/exportation from rural and farmlands.

## 2 METHODOLOGY

This agricultural study involves a multiphase approach for assessing and documenting how a Site Alteration By-Law may affect agricultural operations.

The first phase of the study includes a literature review to determine the policies related to 'normal farm practices', and how other municipalities have addressed the terminology.

The second phase of the study includes the creation of a survey to be answered by the rural and agricultural communities.

A third phase includes the administration of the survey and the collection of the survey results.

A fourth phase of the study includes a review of the survey results, the creation of a report summarizing the survey results, and providing the Town of Milton with the findings and recommendations in an effort to update the by-law to facilitate 'normal farm practices.'

## 3 FINDINGS

Background data and present-day existing Site Alteration By-Laws were collected from a variety of data sources including municipal websites, Provincial policy, and online data.

### 3.1 LITERATURE REVIEW

A literature review was completed on numerous municipal site alteration by-laws, from a variety of geographical/geopolitical locations in Ontario, with particular emphasis on areas immediately adjacent to the Greater Toronto Area (GTA). It is in these areas adjacent to the GTA where there have been the greatest impacts of site alteration, particularly in regard to the placement of unregulated fill materials into the agricultural and rural areas, and the alteration of surficial drainage leading to flooding on lands adjacent to the areas of fill.

#### 3.1.1 PROVINCIAL POLICY, LAW, AND REGULATIONS

The *Farming and Food Production Protection Act (FFPPA, 1998)* provides two main themes for agriculture.

- Farmers are protected from nuisance complaints provided they are following normal farm practices.
- No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation.

The *Nutrient Management Act (NMA, 2002)* indicates that any practice that is consistent with a regulation made under the NMA is a normal farm practice.

The *Municipal Act (MA, 2001)* permits municipalities to pass by-laws to prohibit and regulate site alteration such as the dumping of fill, removal of topsoil, alteration of grade of the land, requirement for permits, and to impose the conditions of a permit to include plans related to grading, filling, removal of topsoil and site rehabilitation.

More recently, the Province of Ontario established *Ontario Regulation 406/19 – On-Site and Excess Soil Management (under the Environmental Act, R.S.O. 1990, C.E. 19)*. Reg. 406/19 came into effect on January 1, 2022, and was suspended in part (decision posted on April 21, 2022) until January 1, 2023.

### **3.1.2 SITE ALTERATION BY-LAWS**

The review of site alteration by-laws included both upper tier and lower tier municipal documents.

Each relevant site alteration by-law was collected in digital or paper format for examination as part of this study.

Each by-law included a definition for ‘normal farm practices’ similar in form as to what was provided in the FFPPA, basically relating to a ‘routine or common procedure’.

Many of the newer by-laws incorporate the necessity of complying with the Ministry of Environment standards for clean Fill (as is described in the *Environmental Protection Act (EPA)*, R.S.O. 1990, c.E.19, as amended).

It was noted that many of the by-laws include a standard type of farm exemption relating to the removal of topsoil as an incidental part of a normal agricultural practice such as sod-farming, greenhouse operations, and nurseries for horticultural products. However, this type of exemption does not include the removal of topsoil for sale.

It was also noted that many of the by-laws do not provide any comment related to volumes of materials under any circumstance.

### **3.1.3 SURVEY**

The premise of this agricultural study was to assist in defining what a ‘normal farm practice’ is with respect to the agricultural activities in the Town of Milton.

The review of the various site alteration by-laws confirmed that the definition for ‘normal farm practice’ has been derived from the FFPPA, without exception.

In an effort to provide a more detailed or site specific/local definition for ‘normal farm practice’, it was determined that the logical approach would be to discuss the issue with the local agricultural and rural community. A survey was developed in an effort to narrow the definition of ‘normal farm practice’ for the Town of Milton.

The survey asks the basic questions related to the movement of materials into, out from, and within an agricultural or rural parcel. The questions were created to identify if materials have been moved, and if so, what materials, how much, reason for moving the materials, the source of the material, testing, and the potential change of onsite and offsite drainage patterns.

A copy of the basic questions is included as Appendix A.

The Town of Milton administered the survey through their internet website (<https://www.letstalkmilton.ca/site-alteration-by-law>).

### **3.1.4 SURVEY RESPONSES**

The Town of Milton provided a copy of the responses in raw format, and through a graphical/text document format. A copy of the graphical/text document has been provided in Appendix B.

#### **Importation**

A total of 25 responses were obtained through this process. Of the 25 respondents, 20 (80%) indicated that they have imported materials on their property. There were 17 respondents that indicated they imported gravel, 13 respondents imported topsoil, with lower numbers of respondents indicating the importation of subsoil, fill, manure, soil amendments, and other.

The volumes of materials imported varied from less than 10 m<sup>3</sup> (9.1 percent) to more than 1000 m<sup>3</sup> (27.3 percent). The reasons for importing materials varied from filling in low spots, adding soil amendments, creating/regrading laneways, construction, gardening, filling for trays for bedding plants, habitat restoration, manure spreading.

A review of the 21 responses for testing of materials prior to importing ranged from supplier tested, soil broker, local quarry, independent monitor, known sources, or took the word of the supplier.

The sources of the imported materials from 21 respondents included local farmer (9), developer (1), contractor (7), construction site (5), unknown (1) and other (15).

The 23 responses to a change in water infiltration in the area where the imported materials were placed included no (78.3 percent), yes (8.7 percent), and unsure (13.0 percent). These responses seem appropriate considering the reasons for importing fill

materials. With respect to contractor and construction site sources, these likely relate to the construction related activities cited by some as the purpose for importing fill.

The 23 responses to a change in drainage patterns on adjacent properties included no (95.7 percent) and yes (4.3 percent).

### **Exportation**

A total of 25 responses were obtained through this process. Of the 25 respondents, 20 (80%) indicated that they had not exported materials from their property. Only 5 responses to the question of the type of material exported were provided. Of the 5 responses, there was 1 response for topsoil, 1 response was for fill material, and 5 responses included manure. There were a few responses that included multiple material exportation.

The volumes of materials exported varied from less than 10 m<sup>3</sup> (50.0 percent), 50 to 200 m<sup>3</sup> (33.3 percent), and greater than 1000 m<sup>3</sup> (16.7 percent)

A review of the 6 responses for the reason for exporting materials indicated that 4 of the 6 responses relate to the removal of manure. There was 1 response for excess fill material, and 1 response for use in gardens.

### **Onsite Material Movement**

There were 25 responses to the question regarding the movement of materials within/on a property. A total of 16 responses (64.0 percent) indicated that materials have been moved within/on a property. The remaining 9 responses (36.0 percent) indicated that no materials had been moved within/on a property.

There were 17 responses to the types of materials that have been moved within or on a property. Topsoil (13 responses), and manure (12 responses) were the predominant reason for movement of materials within or on a property. These responses were followed by gravel (9 responses), subsoil (7 responses), fill (4 responses), compost, soil amendments, and other (each with 3 responses).

The volumes of materials moved within or on property ranged from less than 10 m<sup>3</sup> (11.8 percent), 10 to 50 m<sup>3</sup> (23.5 percent), 50 to 200 m<sup>3</sup> (35.3 percent), 200 to 1000 m<sup>3</sup> (11.8 percent), and greater than 1000 m<sup>3</sup> (17.6 percent).

A total of 17 responses were provided for the reasons for moving materials within or on a property included filling in low spots, construction, contour farming, digging a pond, spreading of manure, creating storage away from a barn, and grading.

A total of 25 responses were provided for the question regarding a change to water infiltration (caused by compaction, or different soil textures). A total of 16 responses

(76.2 percent indicated that there was no change, while 3 responses (14.3 percent) indicated that there was a change, and 2 responses (9.5 percent) indicating that they were unsure if there was a change in drainage.

### **3.1.5 CONCLUSIONS OF THE SURVEY**

One of the purposes of the survey was to assist in developing a more specific definition of 'normal farm practices' for the importation, exportation, and general movement of materials into, out of, and within an agricultural or rural property.

The survey was specific in trying to determine the reasons for material movement (import, export, within/on) for a property, the type of material, and the volume of material with respect to an agricultural operation. The survey also examined the idea of material testing or 'trust' of a supplier.

A number of reasons for material movement were provided, not all of which relate to normal farm practices (e.g., construction). There was also variation in the types of materials. The volumes of the material also varied.

The survey indicated that the importation of materials is a common occurrence. The exportation of materials is not as common, with an 80% response indicating that materials are not exported. The major exported material was manure. The survey indicated that the movement of materials within a property (in other words the movement of material that is not imported or exported) is fairly common with 64% of the responses indicating that materials are moved onsite.

The survey identified numerous materials that were imported including topsoil, subsoil, fill, gravel, manure, soil amendments and other, with the greatest responses to topsoil and gravel. The major export was manure. The survey identified that topsoil, gravel and manure were documented as a common occurrence.

The survey provided different purposes for material movement including the application of manure on the particular property, the application of manure on a different property, filling in low areas, construction projects, and soil amendments.

The survey also indicated that there was minimal change in drainage on adjacent properties due to importation of materials, and that generally there few changes to water infiltration on the property. It should be noted that in some instances, the purpose of importing materials was to change drainage patterns on a property.



## 4 RECOMMENDATIONS

Based on the literature review and responses to the survey, it is recommended to continue to use the 'normal farm practices' definition from the FFPPA within the updated Site Alteration By-Law, as the use of this term is not easily defined further.

It is recommended that the site alteration by-law incorporates compliance with the respective Federal and Provincial Statutes, regulations, and respective policies, regardless of whether the user is an urban dweller, or a farm operator.

It is recommended that terms such as 'bona fide farmer', or 'bona fide agricultural operation' be well defined, if these terms are to be used in the by-law.

It is recommended that the site alteration by-law include language that has an agricultural context such as the following components of the *Model Site-Alteration By-Law for Ontario Municipalities* (Ontario Soil Regulation Task Force, August 8, 2016):

- 1) *No person shall undertake a site alteration which may result in:*
  - *Adverse erosion and environmental impacts on and off-site*
  - *Blockage of a swale, ditch, or watercourse*
  - *Siltation in a watercourse, wetland, or storm sewer*
  - *Transportation of silt to adjacent, neighbouring, or downstream properties*
  - *Flooding or ponding on adjacent lands*
  - *Flooding or ponding caused by a watercourse overflowing its banks*
  - *Detrimental effect on the quality and quantity of water in a well*
  - *A detrimental effect to the growth and or harvest of fruit, vegetables or crops, landscaping, and gardens*
  - *Contamination of or the degradation of the environmental quality of land.*
- 2) *The existing Topsoil on lands subject to Site Alterations shall be preserved by removing and stockpiling it for use as final cover prior to the performance of any Site Alteration work, as applicable.*
- 3) *Any large-scale site alterations for farming for the purposes of improving lands currently used for agriculture should have field studies prepared by a Professional Agrologist to assess the existing Canada Land Inventory (CLI), and to provide comment on the potential for improvement of the lands. The determination of existing CLI will require an onsite soil survey and CLI evaluation, with mapping at an appropriate scale.*
- 4) *All imported Fill and Topsoil, regraded or distributed on a Receiving Site, shall not introduce any new contaminant, and shall not increase the concentration of an existing contaminant on the lands.*

- 5) *No person shall undertake any Site Alteration that may adversely affect the quality or quantity of water in a well, pond or watering hole intended for use as a source of water for agriculture or human consumption on a property with an adjoining property boundary, or any other property.*
- 6) *For site alteration on agricultural lands, a soil fertility report, signed by a professional engineer/soil scientist, confirming that the site alteration will not result in a reduction in the overall soil fertility.*

It is my opinion that these recommendations are not only consistent with best management practices but are also consistent with 'normal farm practices'.

It is recommended that the site alteration by-law include exceptions for agriculture that define when the removal of topsoil is considered as part of a normal farm practice. An example of such wording is found in the *Corporation of the Township of King By-Law Number 2021-039 – A By-law to prohibit and Regulate Site Alteration and Movement of Fill in the Township.*

*A by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products.*

*The exception in respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange, or other disposition.*

This recommendation is consistent with 'normal farm practices' and this type of wording has been noted in other site alteration by-laws.

These suggestions, although general in nature, address many of the concerns expressed by the Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) when discussing site alterations, or the importation of soils, and impacts on adjacent lands. OMAFRA has provided comment on site alteration and soil importation in the above-mentioned factsheets, with the greatest concerns related to maintaining, improving, or enhancing soil quality, without causing the degradation of on-farm soil quality. OMAFRA indicated a best practice for importation of soils by the use of good planning including checking local by-laws, retaining the services of a professional with expertise in soil analysis, knowing the quality of the existing soils and proposed soil for importation, to comply with all regulatory requirements, and to follow best management practices for soil importation.

Further, OMAFRA refers to the Ministry of Environment and Climate Change (MOECC) document, *Management of Excess Soil – A Guide for Best Management Practices* as a

guidance document to handle excess soil generated from large scale projects. As stated previously, it is recommended that the site alteration by-law directs the user to have regard for and compliance with the respective Federal and Provincial Statutes, regulations, and respective policies, regardless of whether the user is an urban dweller, or a farm operator.

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## **APPENDIX A**

### AGRICULTURAL QUESTIONS

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## **Importing Materials**

- 1) Do you, or have you, imported materials on your property?  
(Yes/No)
- 2) What type of materials have you imported?  
(Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other)
- 3) What volume of materials have you imported?  
( $< 10 \text{ m}^3$ ,  $10 \text{ to } 50 \text{ m}^3$ ,  $50 \text{ to } 200 \text{ m}^3$ ,  $200 \text{ to } 1000 \text{ m}^3$ ,  $> 1000 \text{ m}^3$ )
- 4) What was the reason/purpose for importing the materials?  
(i.e.: Filling in low spots in fields, altering drainage by changing field topography, Raising field elevations, Contour farming, Construction of new buildings/additions/manure pits, Soil amendments, Tile drainage, Other)
- 5) What steps did you take to ensure that the materials were not contaminated?  
(materials were tested (By material supplier or you?), On the word of supplier? other)
- 6) What was the source of the imported material? (Local farmer, Developer, Contractor, Construction site, Unknown, Other)
- 7) Was there any change to water infiltration in the area where the imported material was placed? (Caused by compaction, or different soil textures when comparing existing soils to imported materials.) (Y/N)
- 8) Did the importation and placement of materials cause drainage issues on adjacent properties? (Y/N)

## **Exporting Materials**

- 9) Do you, or have you, exported materials from your property?  
Yes/No
- 10) What type of materials have you exported?  
Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other
- 11) What volume of materials have you exported?  
 $< 10 \text{ m}^3$ ,  $10 \text{ to } 50 \text{ m}^3$ ,  $50 \text{ to } 200 \text{ m}^3$ ,  $200 \text{ to } 1000 \text{ m}^3$ ,  $> 1000 \text{ m}^3$
- 12) What was the reason/purpose for exporting the materials?  
Excess materials, Sale of materials, Construction of new buildings/additions/manure pits, Soil amendments, moving manure from one farm to another, Tile drainage, Other

### **Movement of Materials Within a Parcel/Property**

I3) Do you, or have you, moved materials within/on your property?

Yes/No

I4) What type of materials have you moved?

Topsoil, Subsoil, Fill, Gravel, Compost, Manure, Soil Amendments, Other

I5) What volume of materials have you moved?

< 10 m<sup>3</sup>, 10 to 50 m<sup>3</sup>, 50 to 200 m<sup>3</sup>, 200 to 1000 m<sup>3</sup>, > 1000 m<sup>3</sup>

I6) What was the reason/purpose for moving the materials?

Filling in low spots in fields, altering drainage by changing field topography,  
Raising field elevations, Contour farming, Construction of new  
buildings/additions/manure pits, Soil amendments, Tile drainage, Other

I7) Was there any change to water infiltration in the area where the moved material was placed? (Caused by compaction, or different soil textures when comparing existing soils to imported materials.

## **APPENDIX B**

### AGRICULTURAL SURVEY RESPONSES

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# Site Alteration By-law Survey

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## **SURVEY RESPONSE REPORT**

01 April 2022 - 22 April 2022

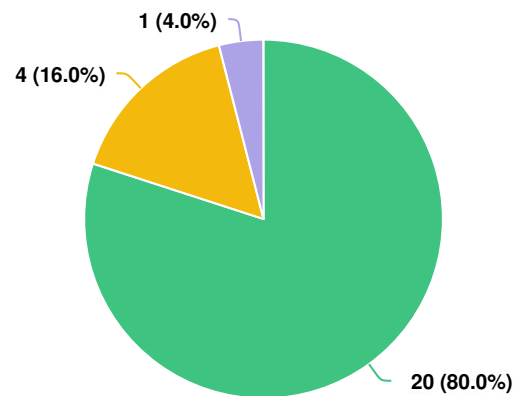
### **PROJECT NAME:**

Site Alteration By-law



# SURVEY QUESTIONS

**Q1** Do you, or have you, imported materials on your property?

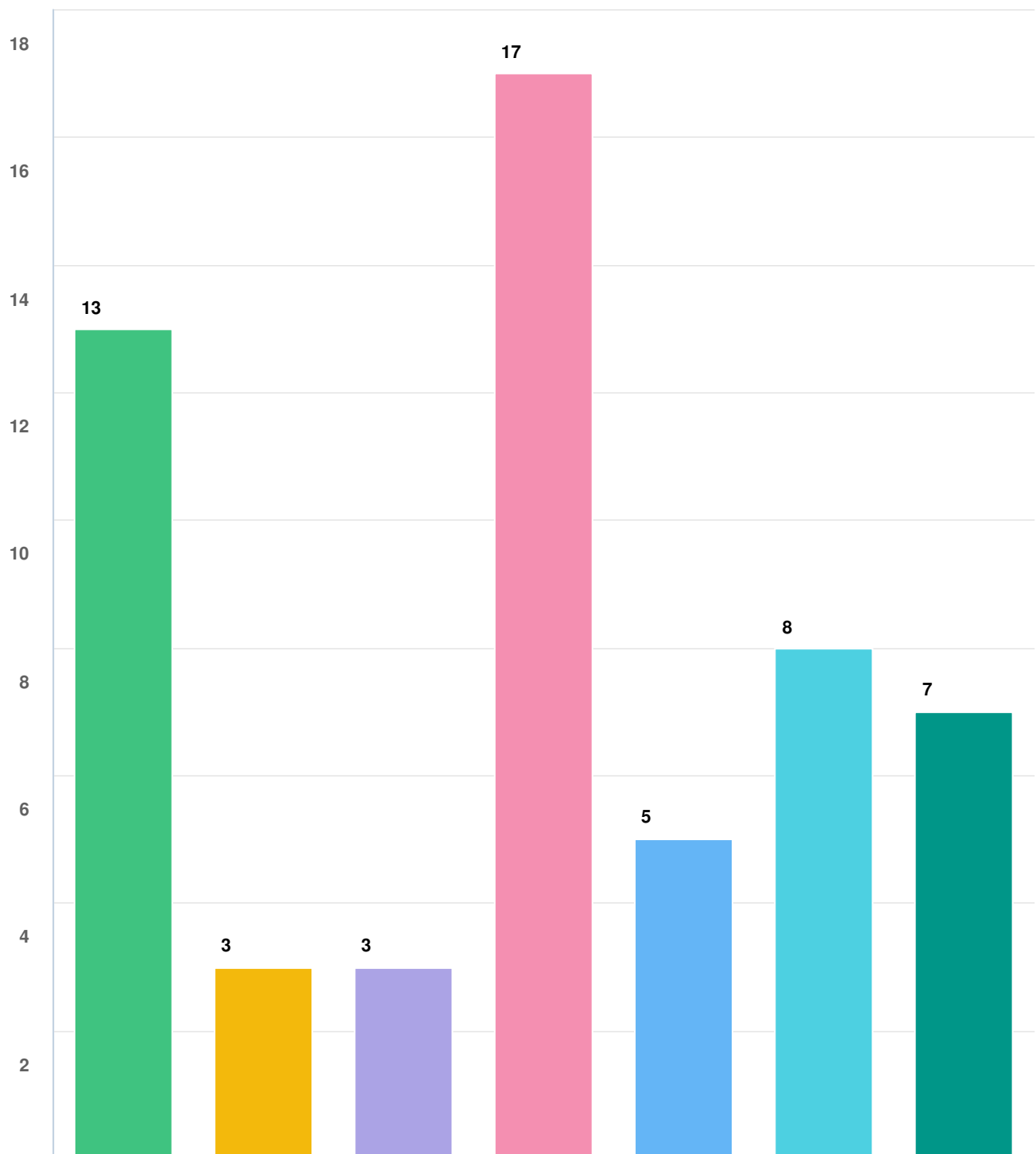


**Question options**

☒ Yes ☐ No ☐ Unsure

*Mandatory Question (25 response(s))*  
*Question type: Radio Button Question*

**Q2** What type of materials have you imported? Choose all that apply.



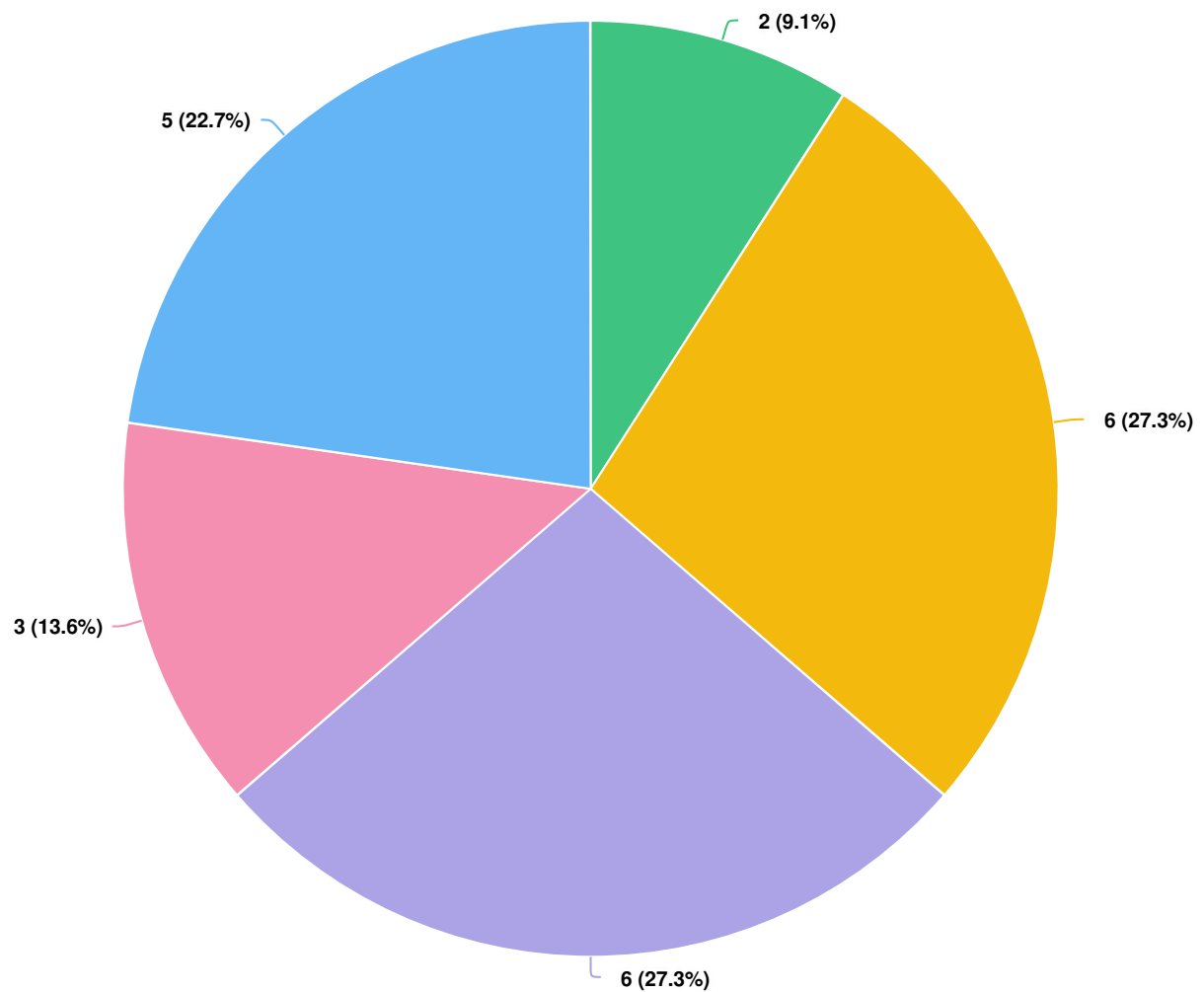
**Question options**

● Topsoil ● Subsoil ● Fill ● Gravel ● Manure ● Soil amendments ● Other (please specify)

*Optional question (22 response(s), 3 skipped)*

*Question type: Checkbox Question*

**Q3** What volume of materials have you imported?



**Question options**

● Less than 10m3    ● 10 to 50m3    ● 50 to 200m3    ● 200 to 1,000m3    ● Greater than 1,000m3

Optional question (22 response(s), 3 skipped)

Question type: Radio Button Question



**Q4 | What was the reason/purpose for importing materials? (for example, filling in low spots in fields, altering drainage by changing field topography, raising field elevations, contour farming, construction of new buildings/additions/manure pits, soil amendments, tile drainage, etc.)**

Anonymous

4/01/2022 01:16 PM

Filling in low spots Altering Drainage Construction/Demolition of buildings Filling in Riding Arena (Sand)

Anonymous

4/01/2022 06:53 PM

Lime to balance ph. Manure for organic amendments. Laneways for equipment traffic. Topsoil for landscaping to soften sudden changes in slopes that damage newer larger equipment platforms.

Anonymous

4/04/2022 12:46 PM

Construction of new buildings for 16,000 sq ft barn Construction of manure pads 17 inches thick so no contamination leaks into the soil

Anonymous

4/05/2022 07:26 PM

construction of building, driveways

Anonymous

4/06/2022 04:50 PM

Gravel Around Buildings

Anonymous

4/13/2022 01:41 PM

Building

Anonymous

4/18/2022 01:43 PM

various - fill for low areas, nutrients for the soil, tile drainage, driveway/entrance to field, etc

Anonymous

4/18/2022 07:15 PM

Lane and yard fill, barnyard fill before concrete poured, building construction, mixing cement for repairs, septic tank weeping beds

Anonymous

4/20/2022 11:38 AM

gravel for laneway compost for fields and garden

Anonymous

4/20/2022 11:44 AM

Gardening

Anonymous

4/20/2022 12:10 PM

For filling of trays for bedding plants

Anonymous

4/20/2022 12:13 PM

Compost for soil amendments , gravel for laneways

Anonymous

4/20/2022 12:17 PM

Construction Habitat restoration Grading Weed/moisture control

Anonymous

4/20/2022 01:44 PM

Farm laneways and parking areas Building construction drainage Soil amendments (manure), mulch

Anonymous

4/20/2022 02:05 PM

Gravel for laneway and parking, good soil for landscaping around buildings, and soil fertilizer on fields.

Anonymous

4/20/2022 03:34 PM

We are a farm and this is part of normal farm practices Managing manure, concrete pads all part of our nutrient management

Anonymous

4/20/2022 06:55 PM

when it comes to gravel or road chippings it was for road maintenance around the yard or feild gateways. As for manure it was for keeping the soil in better fertility.

Anonymous

4/20/2022 09:52 PM

Improving topsoil, bring in topsoil to improve depth of Ap horizon

Anonymous

4/21/2022 08:05 AM

new building, soil management

Anonymous

4/21/2022 08:32 AM

Construction, driveway maintenance, low spots, gardens, equestrian footing for riding rings and paddocks

Anonymous

4/21/2022 09:08 AM

Soil amendments increase the nutrient levels for growing off crops

Anonymous

4/21/2022 12:52 PM

construction of new building and filling in low spots, raising field elevation

**Optional question** (22 response(s), 3 skipped)

**Question type:** Essay Question

**Q5 | What steps did you take to ensure that the materials were not contaminated (materials were tested by material supplier or you, on the word of supplier, etc.)?**

Anonymous

4/01/2022 01:16 PM

Tested by supplier

Anonymous

4/01/2022 06:53 PM

All materials engineered or from a livestock operation or certified by the soil broker.

Anonymous

4/04/2022 12:46 PM

Used a local concrete and gravel company. If dufferin cement and Nelson quarry are shipping contaminated products then all of Halton construction including all new roads are in trouble. I think you MUST be checking out contamination with the big companies sending out goods and not looking at further restrictions of local farms. Or maybe you legally can not put those kinds of restrictions on commercial corporations? Well my farm is a corporation and I practice farming according to the rules and regulations of OMAFRA.

Anonymous

4/05/2022 07:26 PM

word of supplier, mostly brought in gravel from local pit

Anonymous

4/06/2022 04:50 PM

Clean Gravel--Depended on Supplier

Anonymous

4/13/2022 01:41 PM

Trucks were monitored by an independant company

Anonymous

4/18/2022 01:43 PM

knew where they were coming from, asked for documentation

Anonymous

4/18/2022 07:15 PM

None, take word of supplier

Anonymous

4/20/2022 11:44 AM

Took word of supplier

Anonymous

4/20/2022 12:10 PM

Reputable suppliers.

Anonymous

4/20/2022 12:13 PM

None. Compost came from region of peel, and gravel is gravel from licensed pit

Anonymous

4/20/2022 12:17 PM

Long term relationships with vendors

Anonymous

4/20/2022 01:44 PM

Supplier information

Anonymous

4/20/2022 02:05 PM

none

Anonymous

4/20/2022 03:34 PM

We are in big trouble if Nelson quarry and duferin cement are carrying poison in their payloads.

Anonymous

4/20/2022 06:55 PM

none because my understanding was it had been used in similar settings from what I had observed. As for manure it was applied at reasonable rates that would not effect ground water.

Anonymous

4/20/2022 09:52 PM

Site visit where the material was coming from

Anonymous

4/21/2022 08:05 AM

word of supplier

Anonymous

4/21/2022 08:32 AM

word of supplier - we deal with reputable commercial suppliers who have many years of experience

Anonymous

4/21/2022 09:08 AM

Material tested by supplier under guidance of Halton Region and the Prov of Ontario

Anonymous

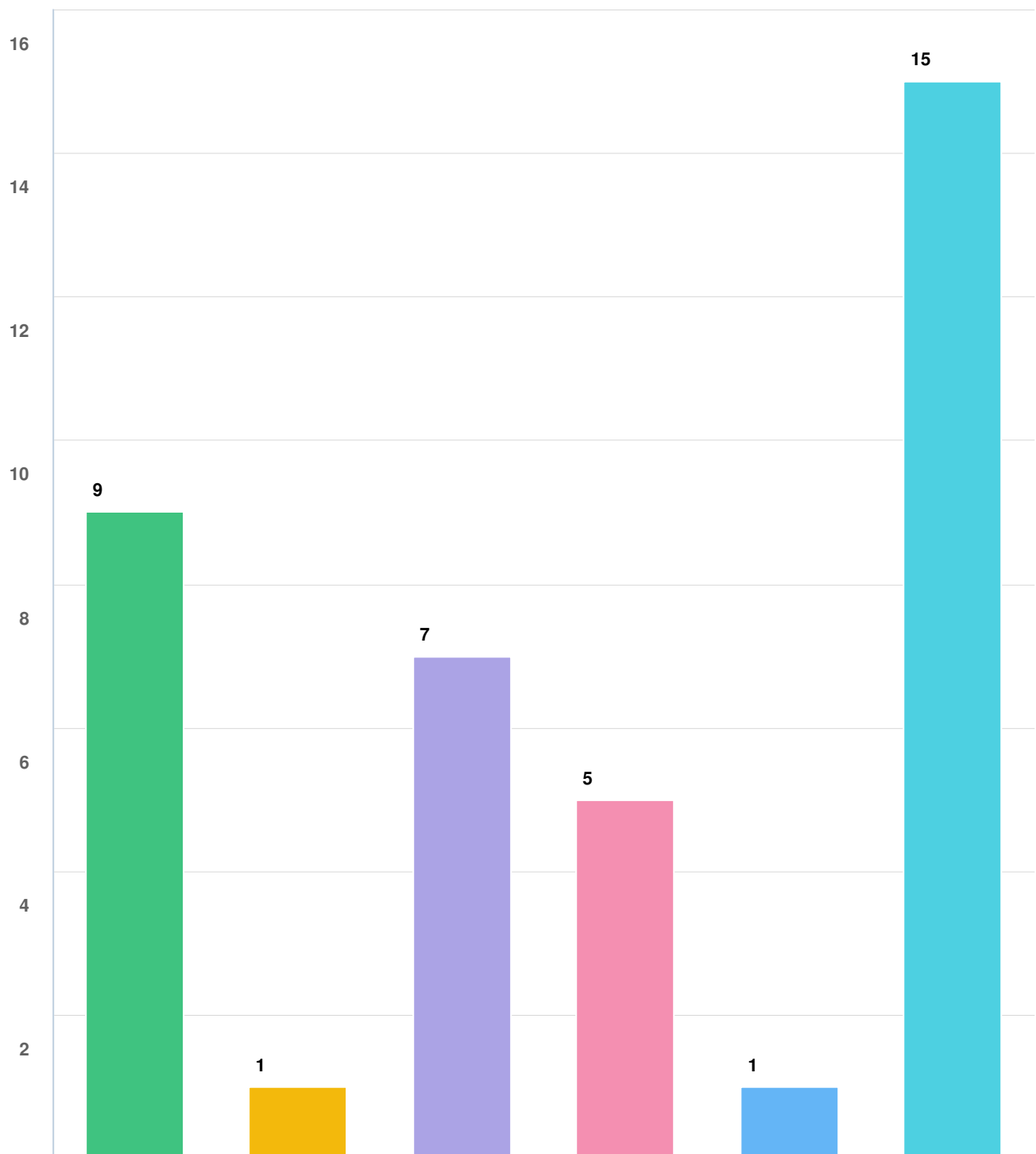
4/21/2022 12:52 PM

Addresses for source materials provided and validated.

**Optional question** (21 response(s), 4 skipped)

**Question type:** Essay Question

**Q6** What was the source of the imported material? Choose all that apply.



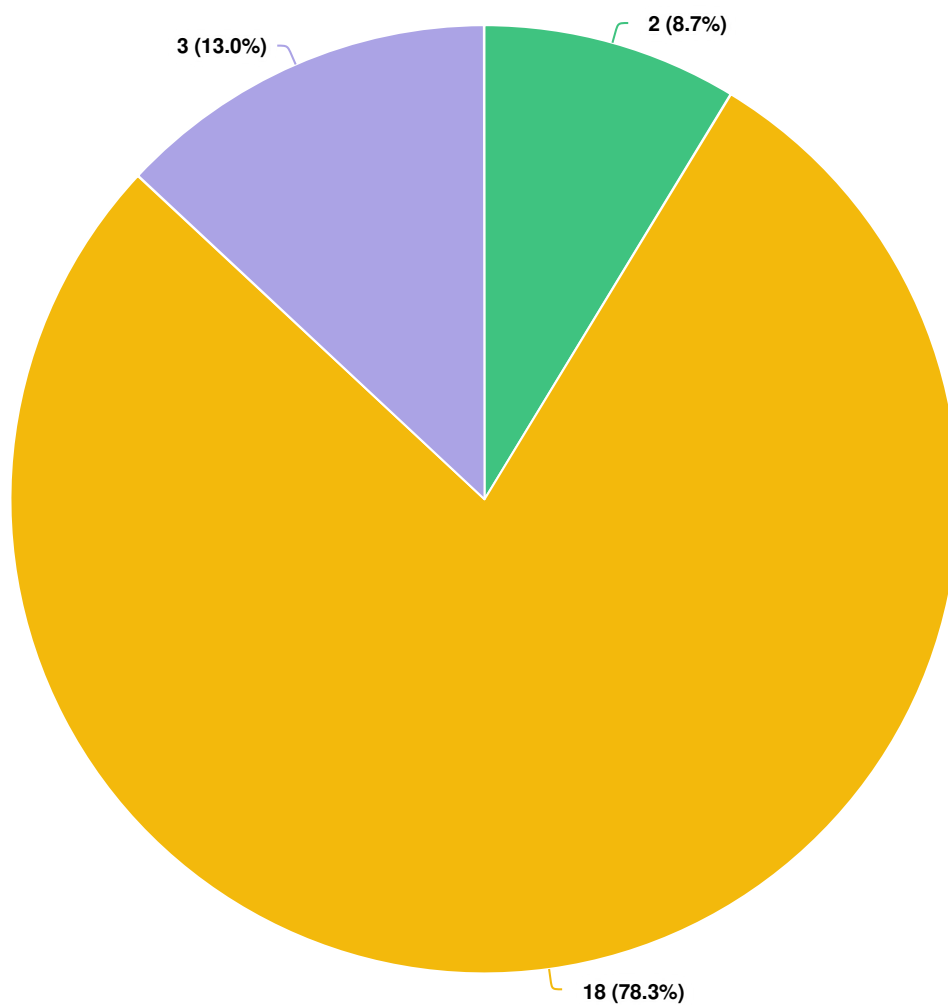
**Question options**

Local farmer Developer Contractor Construction site Unknown Other (please specify)

Optional question (21 response(s), 4 skipped)

Question type: Checkbox Question

**Q7** Was there any change to water infiltration in the area where the imported material was placed (caused by compaction, or different soil textures when comparing existing soils to imported materials)?



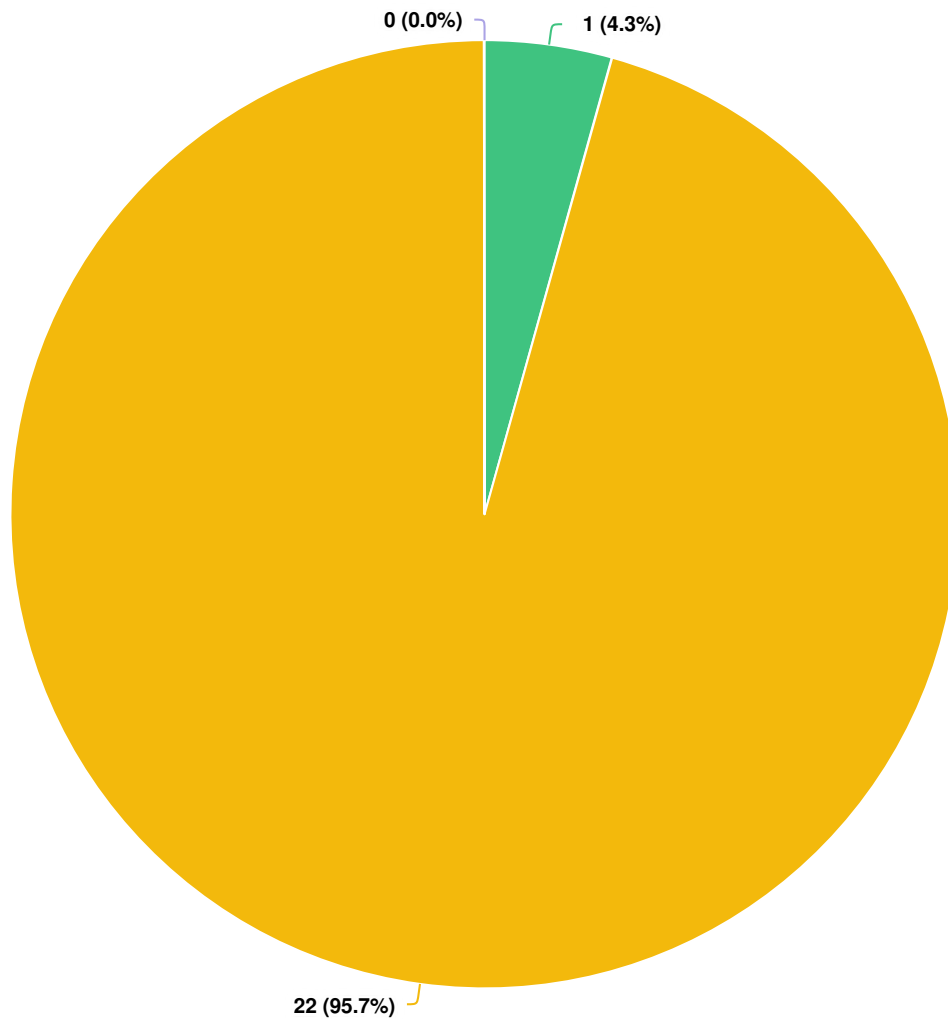
**Question options**

☒ Yes ☐ No ☐ Unsure

*Optional question (23 response(s), 2 skipped)*

*Question type: Radio Button Question*

**Q8 Did the importation and placement of materials cause drainage issues on adjacent properties?**



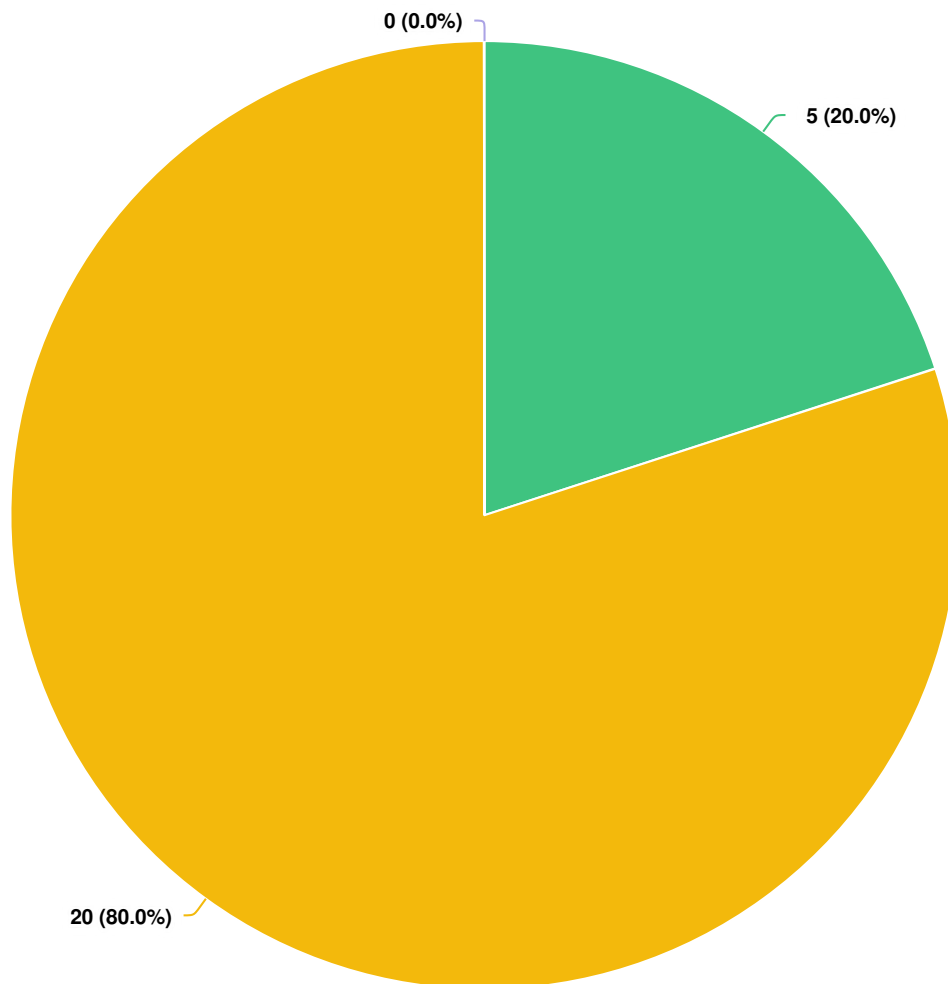
**Question options**

☒ Yes ☒ No ☐ Unsure

*Optional question (23 response(s), 2 skipped)*

*Question type: Radio Button Question*

**Q9** Do you, or have you, exported materials from your property?



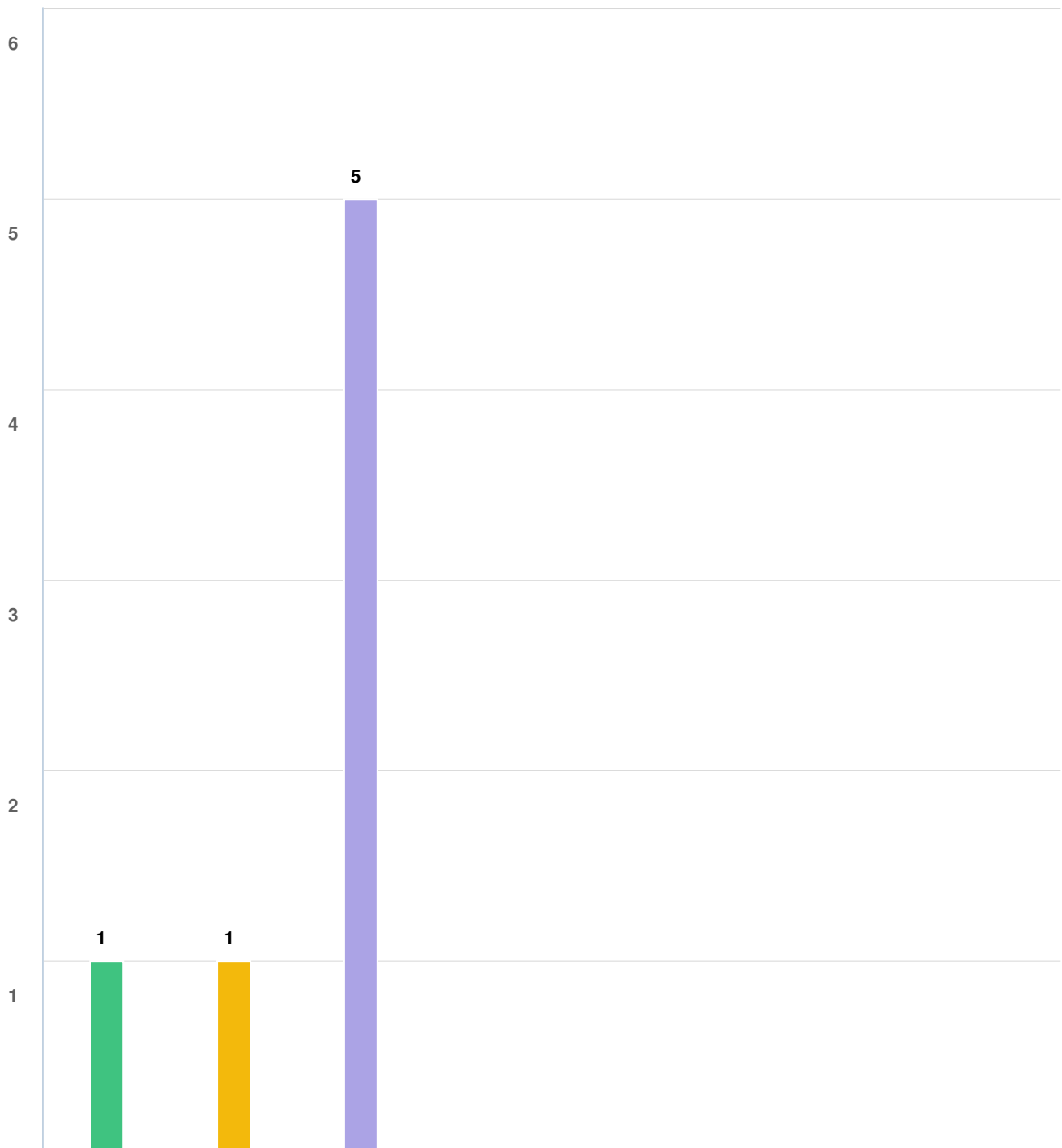
**Question options**

☒ Yes ☐ No ☐ Unsure

Mandatory Question (25 response(s))  
Question type: Radio Button Question



**Q10** What type of materials have you exported? Choose all that apply.



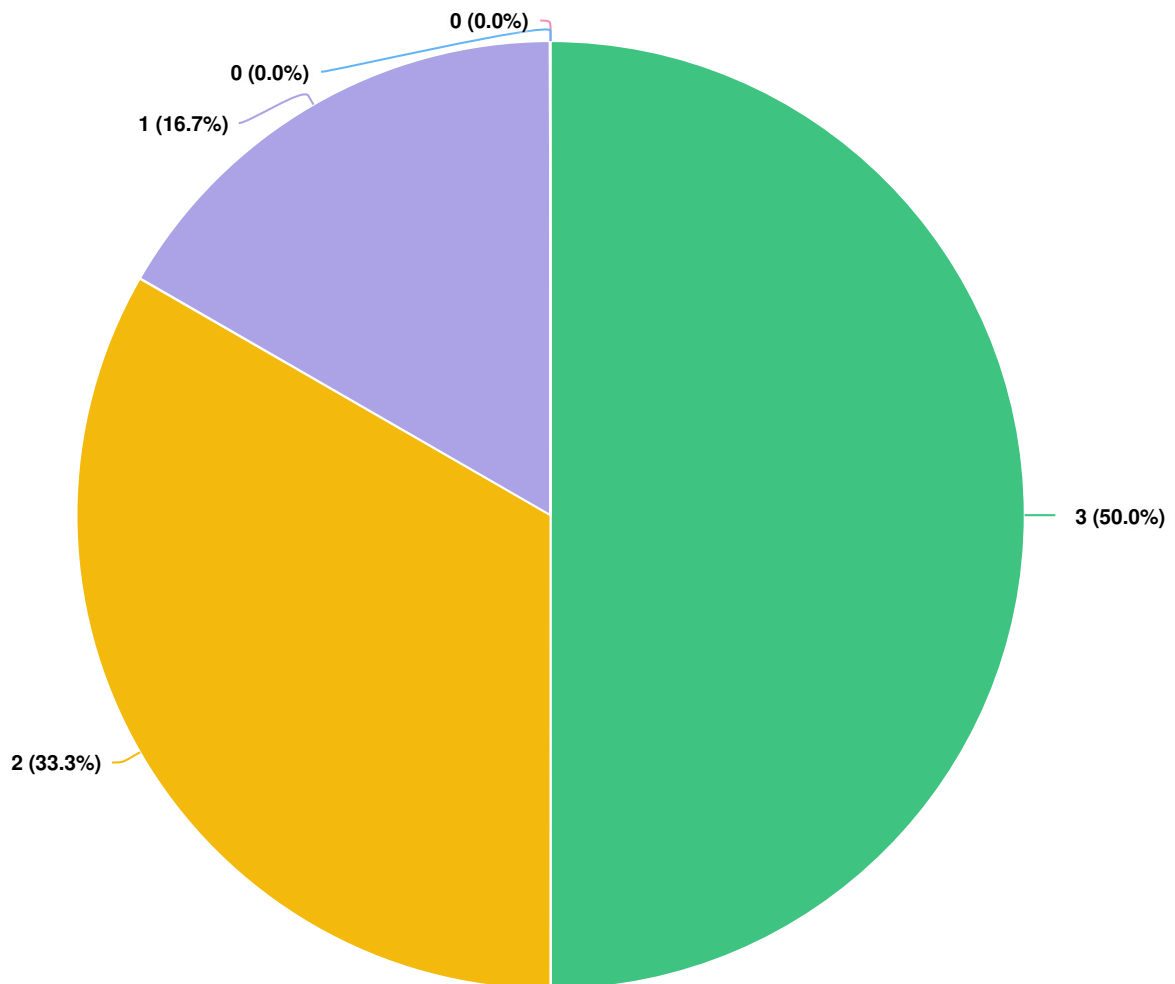
**Question options**

- ☒ Topsoil ☒ Fill ☒ Manure ☐ Subsoil ☐ Gravel ☐ Compost ☐ Soil amendments ☐ Other (please specify)

Optional question (5 response(s), 20 skipped)

Question type: Checkbox Question

**Q11** What volume of materials have you exported?



**Question options**

● Less than 10m3   ● 50 to 200m3   ● Greater than 1,000m3   ● 10 to 50m3   ● 200 to 1,000m3

*Optional question (6 response(s), 19 skipped)*  
*Question type: Radio Button Question*

**Q12** What was the reason/purpose for exporting the materials? For example, excess materials, sale of materials, construction of new buildings/additions/manure pits, soil amendments, moving manure from one farm to another, tile drainage, etc.

Anonymous

4/01/2022 01:16 PM

Moving manure out of Fairgrounds to local farms Removal of soil/fill for construction purposes

Anonymous

4/05/2022 07:26 PM

moving manure off farm for 20+ year

Anonymous

4/18/2022 07:15 PM

For use in gardens by neighbours

Anonymous

4/20/2022 11:44 AM

Excess material

Anonymous

4/20/2022 06:55 PM

We had 3 farms that we used the manure on in a rotating basis to keep the amount per acre within reason. and to be able to accommodate the cycle of the producing farmer.

Anonymous

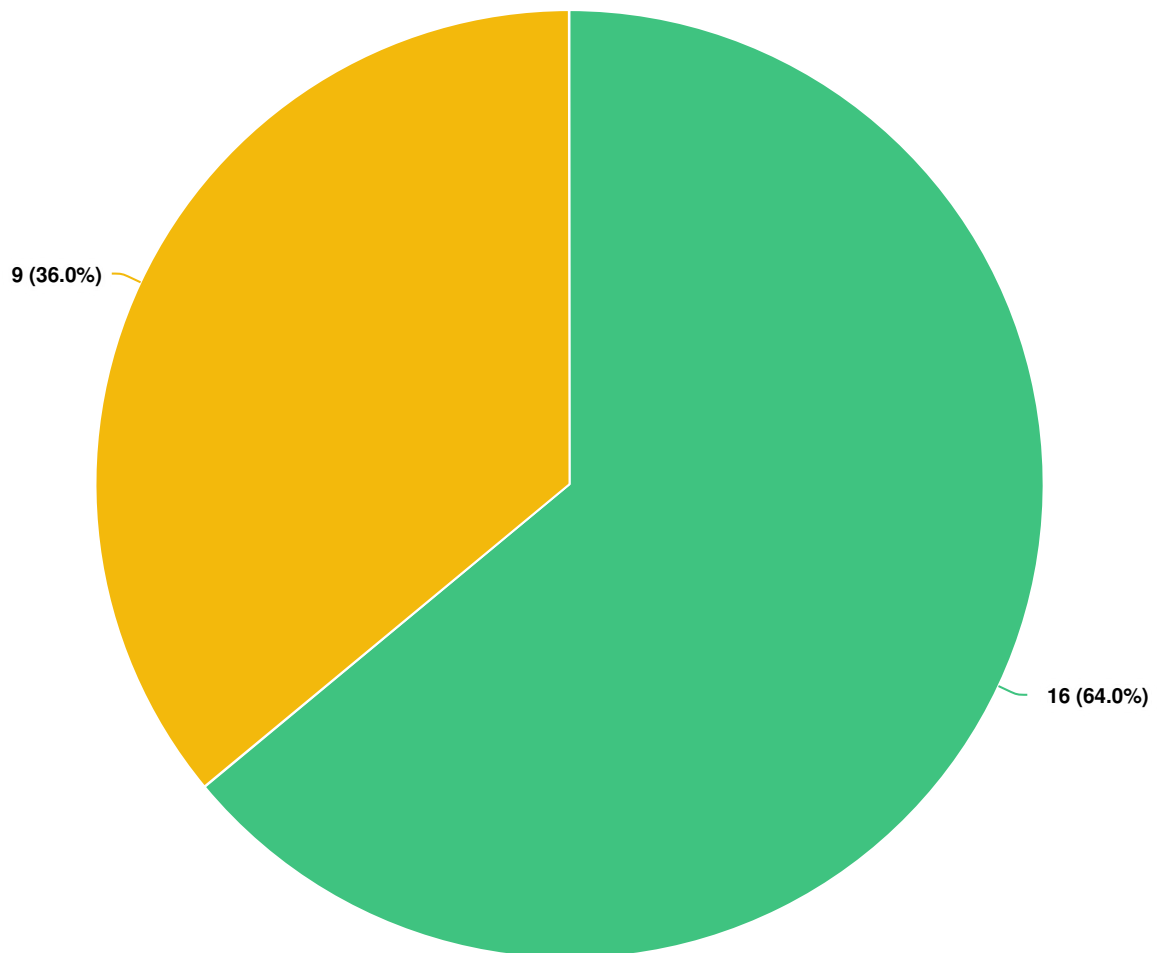
4/21/2022 08:32 AM

manure created by horses

**Optional question** (6 response(s), 19 skipped)

**Question type:** Essay Question

**Q13** Do you, or have you, moved materials within/on your property?

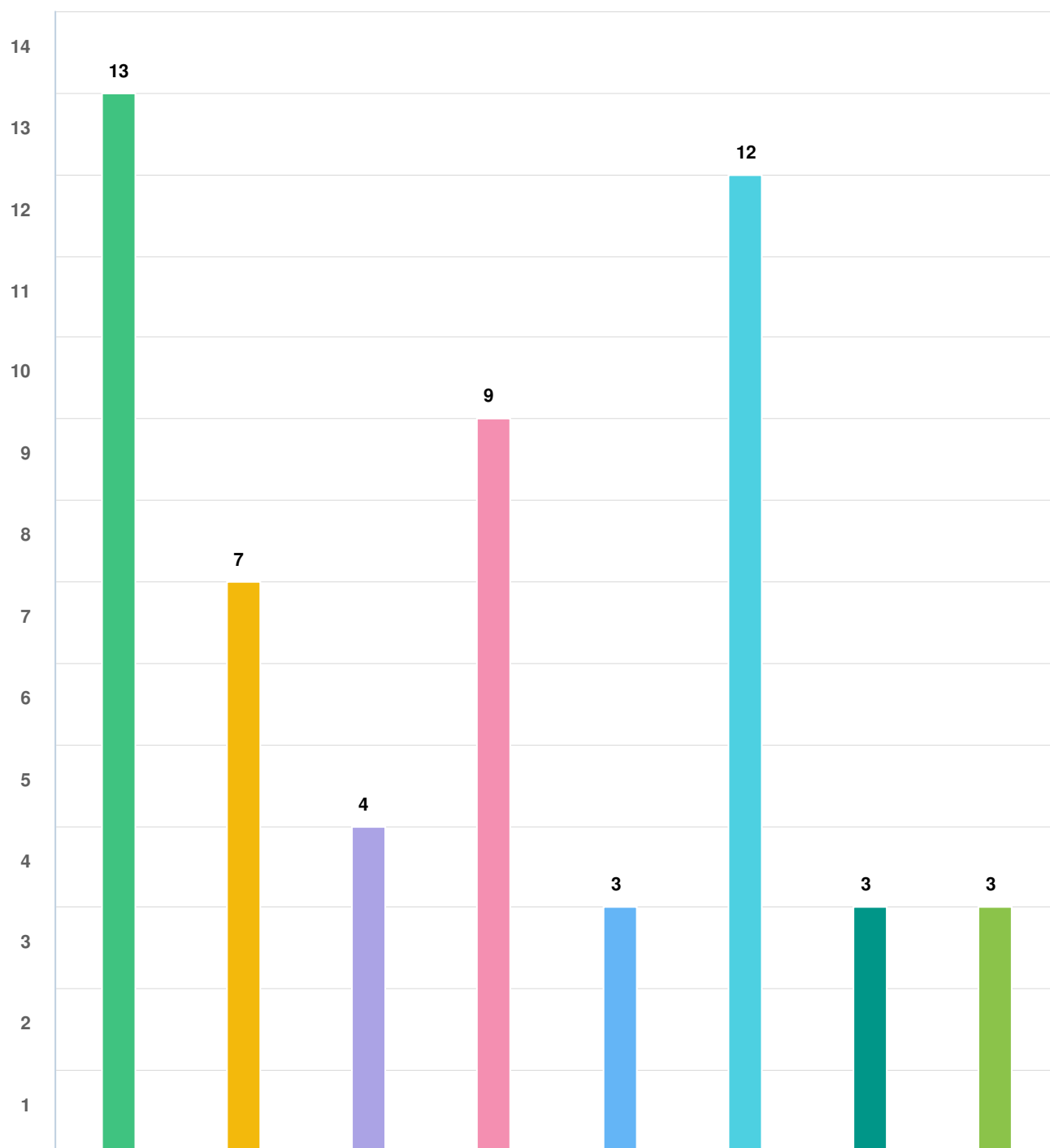


**Question options**

☒ Yes ☐ No

*Mandatory Question (25 response(s))  
Question type: Radio Button Question*

**Q14 What type of materials have you moved? Choose all that apply.**



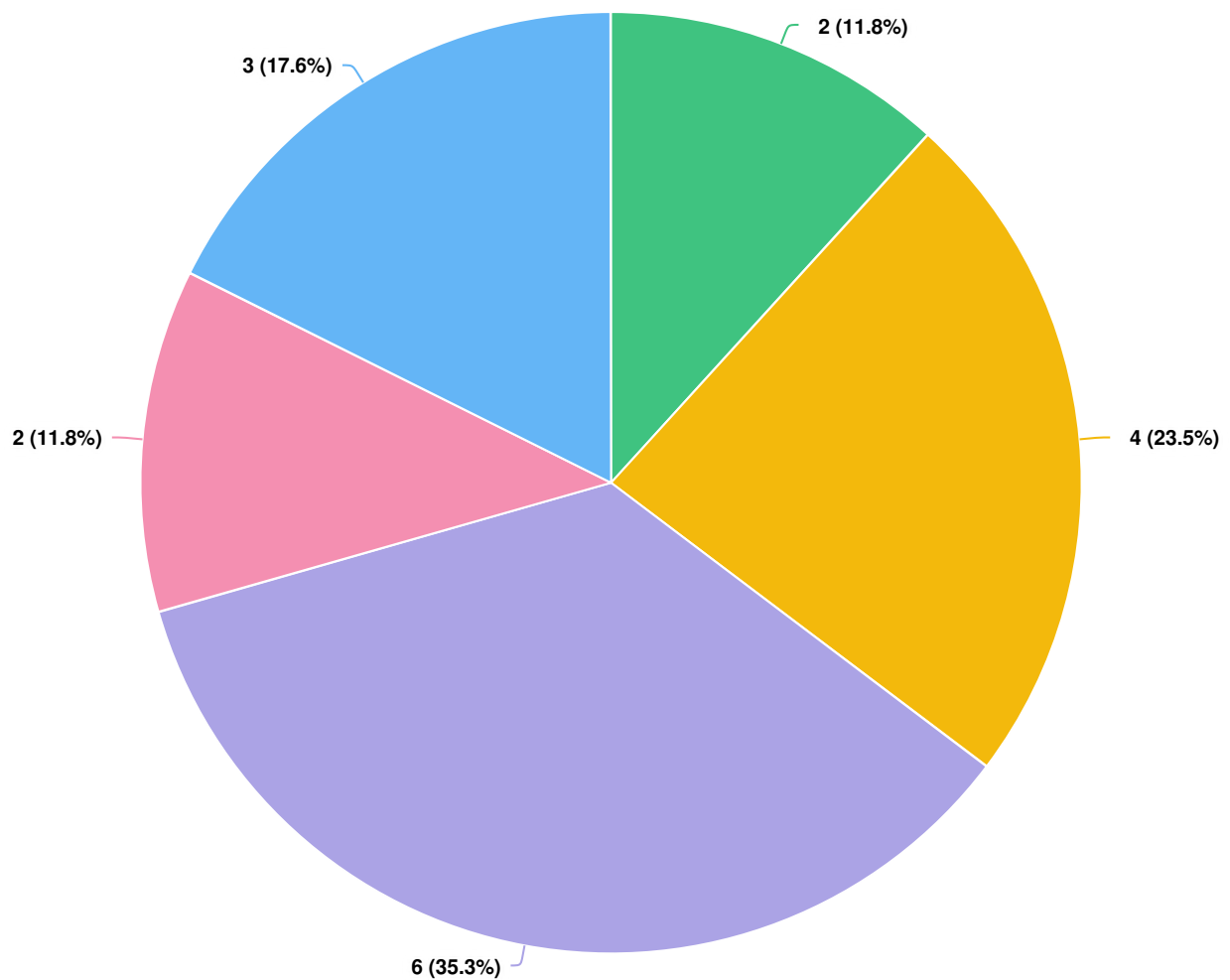
**Question options**

- Topsoil    ● Subsoil    ● Fill    ● Gravel    ● Compost    ● Manure    ● Soil amendments
- Other (please specify)

Optional question (17 response(s), 8 skipped)

Question type: Checkbox Question

**Q15** What volume of materials have you moved?



**Question options**

● Less than 10m3    ● 10 to 50m3    ● 50 to 200m3    ● 200 to 1,000m3    ● Greater than 1,000m3

Optional question (17 response(s), 8 skipped)

Question type: Radio Button Question

**Q16 | What was the reason/purpose for moving the materials? For example, filling in low spots in fields, altering drainage by changing field topography, raising field elevations, contour farming, construction of new buildings/additions/manure pits, soil amendments, tile drainage, etc.**

Anonymous

4/01/2022 01:16 PM

Fill in low spots Spreading Manure on fields Moving Sand pile into Arena

Anonymous

4/01/2022 06:53 PM

Construction.

Anonymous

4/04/2022 12:46 PM

Contour farming With all the diseased trees on the property that had to come down these last years we dug huge holes near the tree lines so we could bury the huge stumps. It is excellent environmental farm practice as everyone who knows how to protect the environment should bury the huge stumps so they do not decay which gives off more carbon into the atmosphere. If they are buried they rot naturally making the soil rich in nutrients. Seeing the bylaw you are proposing i think you need more guidance from experienced farming groups like HRFA or HAAC so that you can see how many of your local farmers are excellent stewards of the land. What exactly is the problem you are trying to solve ? Or are you just following other municipalities that are urban and applying this bylaw in the rural area?

Anonymous

4/06/2022 04:50 PM

Digging a Pond. Moved Sand to low spot improved infiltration

Anonymous

4/18/2022 01:43 PM

same as previous, also better location for storage of manure.

Anonymous

4/18/2022 07:15 PM

Annually spread our livestock manure on our fields, dug own gravel for fill over 2 culverts for livestock crossing , fence row removal, grading around buildings

Anonymous

4/20/2022 11:38 AM

fertilizer

Anonymous

4/20/2022 11:44 AM

Storage away from barn

Anonymous

Grading

4/20/2022 12:17 PM

Anonymous

spreading manure

4/20/2022 12:40 PM

Anonymous

Excavated pond material, softening out dangerous terrain

4/20/2022 01:44 PM

Anonymous

construction of buildings, landscaping buildings

4/20/2022 02:05 PM

Anonymous

All of the above except for tile drainage

4/20/2022 03:34 PM

Anonymous

construction of buildings and Bins for crop storage

4/20/2022 06:55 PM

Anonymous

Normal farm practices

4/20/2022 09:52 PM

Anonymous

We get loads of topsoil and gravel, stored in a pile and move it around as required. Manure is in a pit but taken away when full. I don't know if the volume question is to be answered indicating accumulated volume or one time. I answered on one time. we have been on the property over 30 years. Paddock sand is added to allow better drainage in the paddocks so they aren't mud puddles - so water infiltration is changed - but not dramatically

4/21/2022 08:32 AM

Anonymous

moving top soil to alter drainage applying manure to crop land

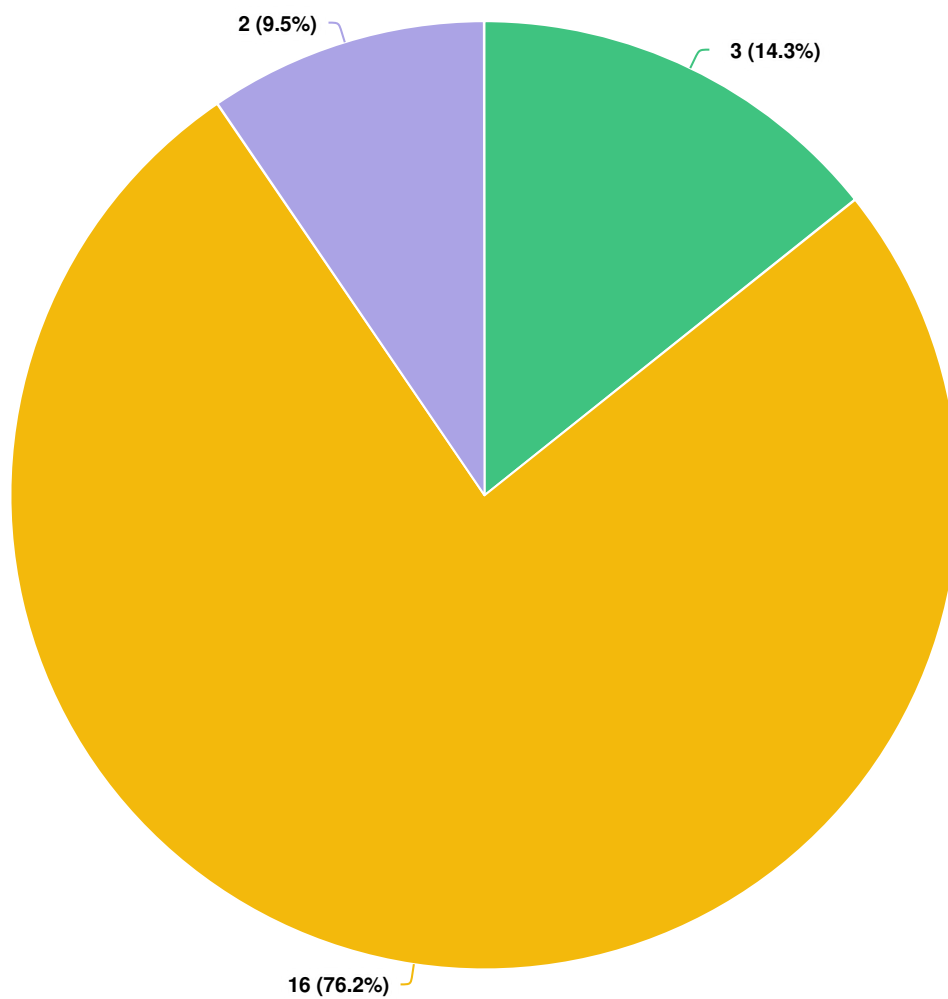
4/21/2022 09:08 AM

**Optional question** (17 response(s), 8 skipped)

**Question type:** Essay Question



**Q17** Was there any change to water infiltration in the area where the imported material was placed (caused by compaction, or different soil textures when comparing existing soils to imported materials)?



**Question options**

☒ Yes ☐ No ☐ Unsure

*Optional question (21 response(s), 4 skipped)*

*Question type: Radio Button Question*

## **APPENDIX C**

OMAFRA FACTSHEET – LEGISLATION AND FARMING PRACTICES

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# Legislation and Farming Practices

F. Desir, P.Eng.

## Factsheet

ORDER NO. 12-027 AGDEX 700 APRIL 2012  
(replaces OMAFRA Factsheet *Legislation and Farming Practices*, Order No. 04-071)

Any farm practice involving the management of water, nutrients, land use, construction or other environmentally related activity raises certain legal obligations for the person undertaking that farm practice. This Factsheet gives an overview of the federal and provincial laws that could affect farming operations.

Legislation is listed alphabetically within each category listed below, for easy reference. Information on each Act includes: purpose, applicability to agriculture, administering agency, permits required and related legislation (if applicable). Local contacts for the administering agency can be found in the telephone directory blue pages or online. If there is any doubt if an Act applies to a project, contact the relevant government agencies before starting the project.

Ontario legislation is available at the Ontario e-laws site: [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca). Statutes and associated regulations for all Ontario Acts are available at the site. Protocols for various acts are available from the websites of the relevant administering agencies (e.g., protocols for the *Nutrient Management Act, 2002*, are available at [www.omafra.gov.on.ca/english/environment/laws.htm](http://www.omafra.gov.on.ca/english/environment/laws.htm)). Federal legislation is available at [www.laws.justice.gc.ca](http://www.laws.justice.gc.ca).

Legislation is presented in the following categories:

- general environmental issues
- water resources and conservation
- land use and provincial plans
- livestock and poultry issues
- crop production
- safety and employment
- wildlife protection and conservation
- general

### GENERAL ENVIRONMENTAL ISSUES

#### ***Aggregate Resources Act, R.S.O. 1990, c. A. 8, as amended***

**Purpose:** Provide for the management of aggregate resources, control and regulate aggregate operations; require the rehabilitation of land from which aggregate is excavated; and minimize environmental impacts of such operations.

**Applicability to Agriculture:** Quarries, pits and excavations on private land are regulated by this Act.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Licences are required to remove material from a pit or quarry on private land and rehabilitation is required as a condition of licensing.

#### ***Conservation Land Act, R.S.O. 1990, c. C. 28, as amended***

**Purpose:** Create programs that provide grants to encourage protection or stewardship of specific natural heritage features. Enable creation of conservation easements that are registered on title and provide for protection, maintenance, restoration or enhancement of the land for conservation purposes, including preservation or protection of the land for agriculture.

**Applicability to Agriculture:** Terms and conditions of conservation easements carry with the sale of a property. Conditions associated with protection of natural heritage features may restrict agricultural activities. Conservation easements can also be used to ensure farm properties are protected from alternative uses in the future.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** None.

**Assessment Act, R.S.O. 1990,  
c. A. 31, as amended**

**Purpose:** Provide for property tax incentive programs, such as the Managed Forest Tax Incentive Program (MFTIP) — promotes enhanced stewardship of forested land, and the Conservation Land Tax Incentive Program (CLTIP) — encourages private landowners to protect provincially important natural heritage features.

**Applicability to Agriculture:** Provides tax relief for the stewardship and conservation of certain types of lands, such as forested lands greater than 4 ha in size (MFTIP) or provincially significant wetlands, areas of natural and scientific interest (ANSI), endangered species habitats, designated Niagara Escarpment natural area or certain lands owned by conservation authorities or charitable conservation organizations (CLTIP). The Farm Property Class Tax Rate Program (the Program), under the *Assessment Act*, gives owners of property, classified as falling under the farm property class, a significant tax reduction (i.e., pay 25% of the assessed rate). The Program is created under sections 8 and 8.1 of Ontario Regulation 282/98. To be eligible, a person must have a valid Farm Business Registration Number and the property must be owned by certain entities (as set out in section 8(2)3 of Ontario Regulation 282/98).

**Administering Agency:** Ministry of Finance

**Permits Required:** None.

**Environmental Assessment Act, R.S.O. 1990,  
c. E. 18, as amended**

**Purpose:** Provide for the protection, conservation and wise management of the environment; establish a process for evaluating the impact of public sector and some large private sector undertakings on the environment (e.g., landfills, roads); and define public consultation requirements for environmental assessments.

**Applicability to Agriculture:** Generally does not apply to day-to-day farm operations, but provides for the agricultural sector's input into public projects.

**Administering Agency:** Ministry of the Environment

**Permits Required:** None.

**Environmental Bill of Rights, 1993, S.O.  
1993, c. 28, as amended**

**Purpose:** Protect Ontarians' rights to a healthy and sustainable environment by providing them with the right to become involved in decisions that affect the environment, and by bringing accountability and transparency to ministry decision-making.

**Applicability to Agriculture:** Indirectly affects the agricultural sector, but is not a regulatory Act for the industry. Requirements are set for public comment on prescribed government policy, legislation and regulations. Environmental registry provides opportunities for public comment.

**Administering Agency:** Ministry of the Environment, Environmental Commissioner's Office and prescribed Ministries

**Permits Required:** None.

**Environmental Protection Act, R.S.O. 1990,  
c. E. 19, as amended**

**Purpose:** Provide for protection and conservation of the natural environment in the province of Ontario — defined as air, land, water or any combination of these. The Act prohibits the discharge of contaminants that are likely to cause an adverse affect.

**Applicability to Agriculture:**

**1. Spills:** A discharge into the natural environment from or out of a structure, vehicle or other container, that is abnormal in quantity or quality in light of all the circumstances of the discharge. Ministry of the Environment (MOE) must be notified immediately at 1-800-268-6060 following an occurrence. The owner and person in charge of the material at the time are required to contain, clean up and dispose of the material in a timely manner to the satisfaction of the MOE. All farming operations with nutrient management strategies (NMS) and plans (NMP) are required to have a contingency plan in place for handling spills related to manure or other prescribed materials. A discharge is not considered a spill if it is "in accordance with both normal farming practices and the regulations made under the *Nutrient Management Act, 2002*."

**2. Waste disposal/recycling:** Spreading of non-agricultural waste materials (e.g., biosolids) on agricultural land is regulated by the *Environmental*

*Protection Act* and the *Nutrient Management Act, 2002*, and may still have a Certificate of Approval until January 2016 or a non-agricultural source materials (NASM) plan if applied for after January 1, 2011. If applied to agricultural land as a nutrient to improve the growing of agricultural crops, they are NASM and are regulated by the *Nutrient Management Act, 2002*. Manure spreading does not require a Certificate of Approval, but the *Environmental Protection Act* sets out provisions for prosecution of instances of pollution (i.e., as a result of a spill).

**3. Septic systems:** Approval of small septic systems (e.g., household with up to 10,000 litres capacity serving one lot) has been delegated to the municipalities. MOE is responsible for the approval of large septic systems.

**Administering Agency:** Ministry of the Environment, municipalities, boards of health or conservation authorities for septic systems

**Permits Required:** Certificates of Approval or NASM plans are required for spreading non-agricultural waste materials on agricultural land. Building permits are required for the installation of septic tank systems.

**Green Energy Act, 2009, S.O. 2009,  
c. 12, Schedule A, as amended**

**Purpose:** Foster growth of and investment in renewable energy projects (wind, solar, biogas, biomass, hydroelectric), to remove barriers and promote opportunities for renewable energy projects. Foster increased energy efficiency and conservation to promote a green economy in Ontario. Focus is on electricity.

**Applicability to Agriculture:** Creates enhanced opportunities for the agricultural sector to generate green energy from a variety of sources, and provides a revenue stream from the renewable electricity produced. Provides a streamlined approval framework for renewable energy projects, and promotes programs to encourage conservation of electricity and management of the demand for electricity in industries including the agricultural sector.

**Administering Agency:** Ministry of Energy and Ministry of Infrastructure

**Permits Required:** None.

**Nutrient Management Act, 2002, S.O. 2002,  
c. 4, as amended**

**Purpose:** Provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development.

**Applicability to Agriculture:** Livestock operations of a minimum size (greater than 5 Nutrient Units) seeking a building permit for a structure to house animals, store manure or treat manure through an anaerobic digester require a nutrient management strategy (NMS) and possibly a nutrient management plan (NMP). The need for a NMP depends on the size and location of the operations. The same requirements for a NMS and NMP apply to livestock operations constructing an earthen manure storage, which does not require a building permit.

The Act also applies to the management of non-agricultural source materials (NASM). NASM are materials not generated by farm operations, but applied to agricultural land as a nutrient and include sewage biosolids, pulp and paper biosolids, and several by-products from the food industry such as culled vegetables, washwater and organic waste matter. NASMs are classified into three main categories — Category 1, 2 or 3. NASM plans are required for all Category 2 and 3 materials. As detailed in Ontario Regulation 267/03, some NASM plans must be approved by a Director with the Ontario Ministry of Agriculture, Food and Rural Affairs prior to NASM being stored or land applied.

**Note:** Farmers who have a NMS, NMP or a NASM plan may still be subject to the requirements of the *Environmental Protection Act, 1990*, and the *Ontario Water Resources Act, 1990*.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs and Ministry of the Environment

**Permits Required:** NMS to be submitted to OMAFRA for approval when constructing or expanding livestock housing or manure storage/treatment facilities with greater than 5 Nutrient Units (NU) on the farm unit. A NMS and NMP must be prepared and kept on site if the farm unit has 300 NU or greater. For farm units required to have a NMS, and located within 100 metres of a municipal well, a NMP is also

required. Some materials generated off-farm that can be applied to farm fields, such as sewage biosolids and/or organic by-products of food processing, may require a NASM plan. Certificates or licences are required for preparation of nutrient management strategies, plans and NASM plans, and for brokers, application businesses and technicians.

## WATER RESOURCES AND CONSERVATION

### ***Agricultural Tile Drainage Installation Act, R.S.O. 1990, c. A. 14, as amended***

**Purpose:** Ensure tile drainage systems installed on agricultural land are properly designed and accurately installed.

**Applicability to Agriculture:** Businesses, tile drainage machines and machine operators must be licensed to install private tile drainage systems on agricultural land. Machine operators are required to successfully complete drainage courses, but this does not apply to agricultural landowners installing tile drainage on their own land using their own equipment.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** No licence needed if the farmer is doing the work on his/her own land. A licence is required if someone else does the work.

### ***Clean Water Act, 2006, S.O. 2006, c. 22, as amended***

**Purpose:** Protect existing and future sources of drinking water.

**Applicability to Agriculture:** Any land use activity classified as a significant drinking water threat in an Assessment Report, must meet the risk mitigation requirements stipulated in a local Source Protection Plan.

**Administering Agency:** Local municipality or organizations (i.e., board of health, planning board, source protection authority) acting on behalf of the local municipality.

**Permits Required:** A Risk Management Plan negotiated between the Risk Management Official may be required for significant drinking water threats, depending on the requirements of the local Source Protection Plan.

### ***Conservation Authorities Act, R.S.O. 1990, c. C. 27, as amended***

**Purpose:** Provide for the establishment of conservation authorities (CAs) to undertake a program in the provincial and municipal interest in a watershed for conservation, restoration, development and management of natural resources. The provincial interest is related to public safety and water-based natural hazard prevention and management. CAs are involved in flood and erosion control, flood forecasting and warning, ice management, regulating development in hazard areas, and municipal plan and site plan application review for natural hazard considerations. A local program approved by the CA board — comprised of municipal representatives — can include additional activities such as stewardship, forest management, habitat rehabilitation, education, natural heritage and watershed studies.

**Applicability to Agriculture:** Through a permitting process, CAs regulate proposed activities that may alter or interfere with wetlands or the existing channel of a watercourse. Agricultural drains are generally included in the definition of a watercourse under the act. CAs also regulate development, including the placement or removal of fill, in areas which may be affected by water-related natural hazards — floodplains, shorelines, wetlands and areas around wetlands — as well as other hazard lands.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Permits may be required from CAs for certain works taking place within designated regulated areas.

### ***Drainage Act, R.S.O. 1990, c. D. 17, as amended***

**Purpose:** Provide landowners with a procedure to resolve drainage problems through the establishment of communal drainage systems, called municipal drains. Also provides for the subsequent improvement, repair and maintenance of municipal drains by the local municipality.

**Applicability to Agriculture:** Landowners may petition their local municipality for the construction of a municipal drain. The municipality appoints an engineer to prepare a report that includes plans, profiles and specifications of the drain and assessment schedules. After a public input process,



the report is adopted by municipal bylaw, the drain is constructed and costs are assessed to the landowners. A conservation authority, the Ministry of Natural Resources or a municipality may request an environmental appraisal. Future maintenance and repair of municipal drains is a municipal responsibility with costs charged to the landowners.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs, municipalities

**Permits Required:** Activities affecting a municipal drain must be authorized by the local municipality.

#### ***Lakes and Rivers Improvement Act, R.S.O. 1990, c. L. 3, as amended***

**Purpose:** Protect the natural amenities, and manage and preserve the use of water to ensure flow and water level characteristics of lakes and rivers are not altered to the point of placing other water users at a disadvantage. Also regulates the construction, operation and maintenance of dams.

**Applicability to Agriculture:** Any work forwarding, holding back or diverting water must receive prior approval.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Approvals required for any construction, alteration or deposition in a lake, river or shoreline.

#### ***Ontario Water Resources Act, R.S.O. 1990, c. O. 40, as amended***

**Purpose:** Provide for the conservation, protection and management of Ontario's waters and for their efficient and sustainable use, in order to promote Ontario's long-term environmental, social and economic well-being.

**Applicability to Agriculture:**

1. Prohibits discharge or deposit of any material into any water body or watercourse that may impair water quality.
2. Prohibits removal of more than 50,000 litres of water per day from wells or a surface water source without a permit, except for wells used as a waste disposal site.
3. Permits are not required for water taking for domestic, livestock or firefighting purposes.

4. If water leakage or flow from any well, diversion or excavation interferes with public or private interests, Ministry of the Environment may require the person responsible to stop or mitigate the problem.

**Administering Agency:** Ministry of the Environment

**Permits Required:** Certificates of approval required for discharge of a material to land or surface water, permits required for water takings of more than 50,000 litres per day (approximately ½ acre irrigated with 1 in. of water), permits required for well construction, and licences required for well contractors and technicians.

#### ***Tile Drainage Act, R.S.O. 1990, c. T. 8, as amended***

**Purpose:** Provide access to loan funds to agricultural landowners for the installation of tile drainage works on private agricultural land.

**Applicability to Agriculture:** Agricultural landowners may receive a 10-year term loan at competitive interest rates from their local municipality through the provincial government. Loan repayments are treated in the same manner as property taxes.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs, municipalities

**Permits Required:** None.

### **LAND USE LEGISLATION & PROVINCIAL PLANS**

#### ***Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended***

**Purpose:** Protect farmers from nuisance complaints about odour, noise, dust, flies, light, smoke and vibration, resulting from normal farm practices. Also protects farmers against restrictive municipal bylaws that constrain normal farm practices.

**Applicability to Agriculture:** Complainants can ask Normal Farm Practices Protection Board to rule on a complaint. **Note:** A practice that is not consistent with standards under the *Nutrient Management Act, 2002*, is not deemed a normal farm practice.

**Administering Agency:** Normal Farm Practices Protection Board, as part of the Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

**Planning Act, R.S.O. 1990,  
c. P. 13, as amended**

**Purpose:** Establish the ground rules for land use planning in Ontario, including issuance of the Provincial Policy Statement (PPS). The PPS sets direction on matters of provincial interest such as prime agricultural areas, natural heritage and growth management, and requires setback distances between livestock facilities and other uses (see Minimum Distance Separation Formulae). Act also describes how land uses are controlled in Ontario using tools such as official plans and zoning bylaws.

**Applicability to Agriculture:** The PPS requires the protection of prime agricultural areas and provides rules on permitted uses, lot creation and removal of land from prime agricultural areas. Also addresses areas such as growth management and natural heritage that may impact agriculture. Municipal official plans typically include maps and policies to guide the future development of an area, consistent with PPS policies. Zoning bylaws direct how land including farmland may be used, where buildings may be placed and parking requirements.

**Administering Agency:** Municipalities are charged with adopting official plans and zoning bylaws that are consistent with the PPS, and Ministry of Municipal Affairs and Housing provides land use planning advice and information on behalf of the province.

**Permits Required:** A specific process must be followed to amend official plan policies and zoning bylaws. This includes public consultation.

**Minimum Distance Separation I & II (MDS I & II) 2006 (Planning Act, 1990)**

**Purpose:** Minimum Distance Separation (MDS) is a formula developed by the province under the *Planning Act, 1990*, to separate land uses and reduce incompatibility concerns about odour from livestock facilities. MDS I determines the minimum separation distances between proposed new development and existing livestock facilities and/or permanent manure storages. MDS II determines the minimum separation distances between proposed new, enlarged or remodelled livestock facilities and/or permanent manure storages, and other existing or approved development. Compliance to MDS is required by the Provincial Policy Statements authorized by the *Planning Act, 1990*.

**Applicability to Agriculture:** Separates incompatible land uses, reducing potential land use conflicts.

**Administering Agency:** municipalities

**Permits Required:** None.

**Municipal Act, 2001, S.O. 2001,  
c. 25, as amended**

**Purpose:** Provide for the organization and operation of municipalities. The Act provides for broad permissive powers to municipalities to pass bylaws ranging from local governance structure to economic, social and environmental wellbeing of communities to the protection of persons and property.

**Applicability to Agriculture:** The agriculture industry is subject to municipal bylaws unless superseded by a provincial Act, such as the *Nutrient Management Act, 2002*, or Normal Farm Practices Protection Board, which is established under the *Farming and Food Production Protection Act, 1998*, finds that the bylaw interferes with a normal farming practice. Specific municipal powers are outlined in Section 3 (see Act for complete list) and include the following selected sections:

- Section 135 regulates the destruction of woodlands (former *Trees Act*)
- Section 142 allows for the bylaws for the site alteration and prohibition or regulation of topsoil (defined as mineral soil and organic/peat)

**Administering Agency:** Ministry of Municipal Affairs and Housing, municipalities

**Permits Required:** None.

**PROVINCIAL LAND USE PLANS**

**Greenbelt Act, 2005, S.O. 2005,  
c. 1, as amended**

**Purpose:** Enable the creation of the Greenbelt Plan to protect approximately 1.8 million acres in the Golden Horseshoe area of Ontario. The Greenbelt Plan identifies where urban development should not occur in order to secure the agricultural land base, and the ecological features and functions of the greenbelt area. The protected countryside contains an agricultural system comprised of specialty crop areas (Niagara tender fruit and grape lands and the Holland Marsh), prime agricultural areas and rural areas. Areas within



the Greenbelt covered by the Niagara Escarpment Plan and the Oak Ridges Moraine Conservation Plan are subject to the policies of those plans, rather than the Greenbelt Plan.

**Applicability to Agriculture:** Provides for permanent protection of agricultural lands for agricultural uses, and permits a full range of agricultural uses and normal farm practices.

**Administering Agency:** Municipal official plans are required to contain policies reflecting the Greenbelt Plan, Ministry of Municipal Affairs and Housing provides advice and information.

**Permits Required:** None.

#### **Lake Simcoe Protection Act, 2008, S.O. 2008, c. 23, as amended**

**Purpose:** Protect and restore the ecological health of the Lake Simcoe watershed. Enables the establishment of the Lake Simcoe Protection Plan (Plan) that uses policies to achieve the goals of the Act. The Plan's objectives are to protect, improve or restore the elements that contribute to the ecological health of the watershed, including the reduction of pollutant discharges, and loadings of phosphorus and other nutrients of concern to the lake and its tributaries. The plan promotes sustainable land and water use, activities and development practices, and builds on the protections in other provincial plans (as applicable) including the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan. Other Acts that have applicability include the *Conservation Authorities Act, 1990*, the *Ontario Water Resources Act, 1990*, and the *Planning Act, 1990*. The Act that provides the most protection to the ecological health of the Lake Simcoe watershed prevails.

**Applicability to Agriculture:** The Plan adopts a stewardship-first approach to agricultural activities. Stewardship programming is supported, as is related research, monitoring, pilots and demonstrations to promote sector innovation.

**Administering Agency:** Ministry of Environment

**Permits Required:** Permits normally required under other legislation apply (e.g., under the *Conservation Authorities Act, 1990*, the *Ontario Water Resources Act, 1990*, and the *Planning Act, 1990*). Permits from the CA are required for any work within designated fill lines or flood areas, or which alters or interferes in any way with the existing channel of a watercourse.

#### **Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N. 2, as amended**

**Purpose:** Provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.

**Applicability to Agriculture:** Farming and forestry practices must be compatible with maintaining the Niagara Escarpment and adjoining land as a continuous natural environment.

**Administering Agency:** Niagara Escarpment Commission (NEC) as part of Ministry of Natural Resources

**Permits Required:** Niagara Escarpment Development Permits (similar to building permits) are required for a range of development and activities, i.e., construction of buildings, changing the use of a property, establishing a home business, constructing a pond or altering a watercourse.

#### **Oak Ridges Moraine Conservation Act, 2001, S.O. 2001, c. 31, as amended**

**Purpose:** Provide for the establishment of the Oak Ridges Moraine Conservation Plan (the plan) — an ecologically based plan that provides land use and resource management direction under four land use designations — natural core areas, natural linkage areas, countryside areas and settlement areas.

**Applicability to Agriculture:** The plan encourages the continuation of agriculture and other rural land uses, and normal farm practices. Barns and other associated farm buildings and structures are considered a component of the permitted agriculture uses. The plan addresses activities which may relate to agriculture within areas such as wellhead protection areas. Questions on site specific matters related to planning approvals should be directed to the municipality.

**Administering Agency:** Ministry of Municipal Affairs and Housing, and municipalities are responsible for implementing the plan through municipal official plans and zoning bylaws.

**Permits Required:** None.

## LIVESTOCK AND POULTRY ISSUES

### ***Animal Health Act, 2009, S.O. 2009, c. 31, as amended***

**Purpose:** Provide for the protection of animal health in Ontario. The Act provides an enabling legislative framework based on the concepts of prevention, detection, response, control and recovery from animal health hazards, such as animal diseases. It authorizes officials to address activities that may affect animal health or human health (or both), including the safety of food and animal products. The Act gives the Chief Veterinarian for Ontario and appointed inspectors the power to conduct inspections of animals and things related to animals in appropriate circumstances, and make orders that further the legislation's purposes.

**Applicability to Agriculture:** Having a healthy livestock and poultry population helps minimize risks to animal health, human health and the agri-food economy.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** There are no licensing, registration or permit requirements under the Act at the present time. Permission for certain activities could be required during an animal health emergency.

**Related Legislation:** *Health of Animals Act, 1990, S.C. 1990, c. 21, as amended*

### ***Beef Cattle Marketing Act, R.S.O. 1990, c. B. 5, as amended***

**Purpose:** Establishment and standardization of procedures affecting the sale of cattle or carcasses, and designation and financing of an association with power to make recommendations on procedures and expend money to:

- stimulate, increase and improve the sale of cattle or carcasses
- disseminate information concerning the cattle industry
- co-operate with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects

**Applicability to Agriculture:** This legislation applies to all persons who sell cattle in Ontario.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs provincial inspectors

**Permits Required:** Permits required for the sale of cattle in Ontario.

### ***Bees Act, R.S.O. 1990, c. B. 6, as amended***

**Purpose:** Assist beekeepers in maintaining a healthy honeybee population. Honeybees can carry disease organisms over great distances, so beekeepers are directly affected by a neighbour's management.

**Applicability to Agriculture:** The pests and diseases addressed under the *Bees Act, 1990*, are specific to honeybees. Under this Act, third-party bee inspectors inspect honeybee colonies for bee diseases and can give orders to destroy infected beehives. This inspection program assists in keeping apiculture viable in Ontario, and validates the health of honeybee colonies before they can move to other provinces for sale, pollination or honey production. This program also facilitates the inspection of honeybee material in co-ordination with the Canadian Food Inspection Agency (CFIA) when honeybees are sold to the U.S. and other countries.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs appointed provincial apiarist and bee inspectors

**Permits Required:** Permits are required for the removal or sale of bees and beekeeping equipments. Permits can be obtained from an inspector appointed by OMAFRA. Permits also required for the transport of bees and beekeeping equipment which can be obtained from the provincial apiarist. Permits required for importing honey bees and beekeeping equipment into Ontario.

**Feeds Act, R.S.C. 1985,  
c. F-5, as amended (Federal)**

**Purpose:** Regulate the content, registration, and appropriate and safe use of livestock feeds in Canada.

**Applicability to Agriculture:** Ensures quality control of livestock feed (composition and nutrient content). All livestock feed ingredients must be approved. All products must be properly labelled. Allows for routine inspection and analysis of suspect materials from commercial feed mills and farms involved in the manufacture of medicated feeds.

**Administering Agency:** Canadian Food Inspection Agency (CFIA)

**Permits Required:** Certification of CFIA inspectors

**Food Safety and Quality Act, 2001, S.O. 2001,  
c. 20, as amended**

**Purpose:** Provide for the quality and safety of food, agricultural or aquatic commodities and agricultural inputs, the management of food safety risks, and the control and regulation of certain regulated activities.

**Applicability to Agriculture:** Regulations under this Act govern (among other things):

- slaughter of livestock and processing of meat for food
- grading and marketing of eggs, processed egg, honey and maple syrup
- marketing of other maple products and fresh produce including fruit and vegetables, sprouts, culinary herbs, edible fungi, and in-shell nuts and peanuts
- grading of beef, veal, ovine and poultry carcasses
- off-farm disposal of livestock mortalities including the collecting, transferring, salvaging, rendering and composting of carcasses

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Licences are required for slaughter and meat processing activities, and activities related to deadstock disposal.

**Health of Animals Act, S.C. 1990,  
c. 21, as amended (Federal)**

**Purpose:** Establish lists of reportable diseases of significant risk to animal and/or human health, and control procedures in the event of an outbreak; regulate importation and feeding of organic waste products (recycled food products) to livestock; and regulate care, handling and disposition of animals.

**Applicability to Agriculture:** Specifies notification of reportable diseases or poisons to the nearest veterinary inspector and subsequent procedures, and regulates the importation of animal-based feeds.

**Administering Agency:** Canadian Food Inspection Agency, Health Canada

**Permits Required:** For the importation and movement of animals and animal products.

**Health Protection and Promotion Act,  
R.S.O. 1990, c. H. 7, as amended**

**Purpose:** Provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario.

**Applicability to Agriculture:** Prohibits the sale of any food unfit for human consumption. A medical officer of health is required to ensure inspections are conducted in the health unit for the purpose of preventing, eliminating or decreasing the effect of health hazards. A health hazard means a plant, animal (other than humans), substance or thing; conditions of a premise; or a solid, liquid or gas that has or that is likely to have an adverse effect on the health of any person.

A medical officer of health or a public health inspector can require a person to take or refrain from taking any action necessary to decrease the effect of or eliminate a health hazard. The Act provides a medical officer of health and a public health inspector with the authority to seize and destroy or dispose of any plant, animal, substance or thing that is a health hazard or to take any action necessary to eliminate or decrease the health hazard.

**Administering Agency:** Ministry of Health and Long-Term Care

**Permits Required:** None.

***Livestock and Livestock Products Act, R.S.O. 1990, c. L. 20, as amended***

**Purpose:**

- License people dealing in cattle (abattoirs, livestock auctions and slaughter plants)
- Govern terms of payment of cattle purchased by dealers, and provide protection for producers and dealers of cattle from non-payment
- Provide for the non-payment of livestock found contaminated
- Regulate the grading of wool

**Applicability to Agriculture:** Issuing licences to cattle dealers, appointing inspectors and creating standards for all aspects of livestock and livestock marketing.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Licences for cattle dealers.

***Livestock Community Sales Act, R.S.O. 1990, c. L. 22, as amended***

**Purpose:** Provide confidence in an orderly market, ensure marketing of healthy livestock, provide a disease monitoring/control effort, monitor the humane handling of livestock and facility standards, and ensure financial stability of the licensed operator. The Act and regulations provide for an inspection system where appointed veterinarians and inspectors examine livestock, facilities and handling techniques to meet certain standards, and ensure livestock is marketed in compliance with mandated programs and Codes of Practice.

**Applicability to Agriculture:** Monitors marketing, movement, health and welfare of more than 1 million livestock through livestock community sales facilities in Ontario each year. These animals may move to other farms in Ontario, Canada, or the U.S. or be slaughtered for consumption.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Licenses for livestock community sales facilities

***Livestock Identification Act, R.S.O. 1990, c. L. 21, as amended***

**Purpose:** Regulate the branding of livestock.

**Applicability to Agriculture:** Requires all livestock brands used in Ontario be allotted and controlled by the Ontario Cattlemen's Association.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** All brands used must be allotted by the Ontario Cattlemen's Association.

***Livestock Medicines Act, R.S.O. 1990, c. L. 23, as amended***

**Purpose:** Regulate the sale of livestock medicines in Ontario through licensed outlets, and evaluate proper procedure for the maintenance, handling and storage of livestock medicines.

**Applicability to Agriculture:** Makes livestock drugs available directly to farmers, and designates drugs or classes of drugs available under this Act. Also provides for licences and specifies record keeping for retailers, and for inspectors to ensure proper sales and handling of over-the-counter drugs.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Licences for retailers.

***Milk Act, R.S.O. 1990, c. M. 12, as amended***

**Purpose:**

- Stimulate, increase and improve the production of milk within Ontario
- Provide for the control and regulation of the production and marketing within Ontario of milk, cream or cheese
- Provide for the control and regulation of the quality of raw milk, fluid milk and milk products within Ontario

**Applicability to Agriculture:** The Act and its regulations are the provincial framework that allows for the functioning of the dairy supply management system in Ontario, and provides the quality control of milk and milk products from cows and goats. The delivery of the



raw milk quality program for the cow dairy sector has been delegated to the marketing board.

**Administering Agency:** Ontario Farm Products Marketing Commission, Dairy Farmers of Ontario (through delegation of authorities) and the Food Inspection Branch of the Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Dairy producer licences including terms and conditions of licences are required and issued to all cow milk producers by the marketing board. Dairy processing plants and distributors are issued licences by the Food Inspection Branch, Ontario Ministry of Agriculture, Food and Rural Affairs.

***Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O. 36, as amended***

**Purpose:** Establish the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) and affiliated humane societies, and authorize the OSPCA to investigate cases of animal cruelty in Ontario.

**Applicability to Agriculture:** Provides inspectors for the investigation of farm animal-related issues of cruelty, neglect or poor management that has an adverse effect on farm animals.

**Administering Agency:** OSPCA (legislative authority), government authority with Solicitor General

**Permits Required:** None.

**Related Legislation:** *Innkeepers Act*, R.S.O. 1990, c. I. 7, as amended (as it relates to the boarding of animals)

***Protection of Livestock and Poultry from Dogs Act, R.S.O. 1990, c. L. 24, as amended***

**Purpose:** Provide for the protection of livestock and poultry from dogs.

**Applicability to Agriculture:** Allows for the killing of dogs found injuring livestock or poultry, or straying within livestock areas. The local municipality is liable to make a payment to the owner of livestock or poultry killed by a dog. The municipality may then recover the amount paid from the owner of the dog through court action.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

## **CROP PRODUCTION**

***Farm Products Containers Act, R.S.O. 1990, c. F. 7, as amended***

**Purpose:** Require producers of specific farm products to be licensed, and pay a mandatory licence fee for the purchase of containers for marketing products, in order to fund designated farm associations.

**Applicability to Agriculture:** Applies to specific farm products (fruit, vegetables, honey, maple products, plants, flowers, mushrooms, seeds, and also food and drink made from any those farm products). Under current regulation, the licence fee is limited to fruits and vegetables with the money going to the Ontario Fruit and Vegetable Growers Association (OFVGA). The licence fees must be collected and submitted by the seller on behalf of the OFVGA.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None. Every producer who buys a container is deemed to be licensed.

***Fertilizers Act, R.S.C. 1985, c. F-10, as amended (Federal)***

**Purpose:** Protect farmers and the general public against potential health hazards and misrepresentation in marketing, and ensure a fair marketplace by regulating the content, labelling and registration of fertilizers and supplements in Canada.

**Applicability to Agriculture:** Ensures the safety, efficacy and proper labelling of all fertilizers and supplements offered for sale in Canada. Allows for the inspection and analysis of fertilizer and supplement products regulated under the *Fertilizers Act, 1985*.

**Administering Agency:** Canadian Food Inspection Agency (CFIA)

**Permits Required:** Some fertilizers and most supplements are subject to registration and require a comprehensive pre-market assessment prior to their import and/or sale in Canada.

**Grains Act, R.S.O. 1990,  
c. G. 10, as amended**

**Purpose:** Regulate the sale of grain and the operation of grain elevators in Ontario.

**Applicability to Agriculture:** Applies to the sale of grain (barley, beans, corn, oats, oil seeds, wheat, mixed grains and any farm product designated in the regulations) and the operation of all grain elevators.

**Administering Agency:** AgriCorp

**Permits Required:** Any person who purchases grain (except for personal consumption) must be licensed. Grain elevator operators must also be licensed.

**Seeds Act, R.S.C. 1985,  
c. S-8, as amended (Federal)**

**Purpose:** Ensure seed meets established standards and labelling requirements, which facilitate domestic and international trade. Administer regulatory provisions regarding the environmental release of plants with novel traits (PNTs).

**Applicability to Agriculture:** Seeds sold in, imported into and exported from Canada must meet established standards for quality, be labelled to be properly represented in the marketplace and be registered prior to sale in Canada (most agricultural crop varieties). It allows for the inspection and analysis of regulated seed.

**Administering Agency:** Canadian Food Inspection agency (CFIA)

**Permits Required:** Varieties of most agricultural field crops require registration under the *Seeds Act, 1985*, before they may be imported or sold in Canada. Pedigreed seed can be processed, sampled, tested and labelled only by establishments, laboratories and individuals registered, accredited or licensed to do so. Plants with novel traits must receive authorization from CFIA before they are released into the environment. Genetically modified organisms that are not authorized for unconfined release must obtain a CFIA import permit prior to importation.

**Pest Control Products Act, S.C. 2002,  
c. 28, as amended (Federal)**

**Purpose:** Protect human health and safety, and the environment by regulating products used for the control of pests.

**Applicability to Agriculture:** Ensure pest control products of acceptable risk and value can contribute significantly to the goals of sustainable pest management in agricultural food production.

**Administering Agency:** The Pest Management Regulatory Agency (PMRA) of Health Canada has the mandate to protect human health, safety and the environment by minimizing risks associated with pesticides, while providing Canadians access to the pest management tools they require for agriculture, forestry, industry and personal use. Pesticides imported into, sold or used in Canada are regulated nationally under the *Pest Control Products Act, 2002*, and regulations. The PMRA is responsible for administering this legislation, registering pest control products, re-evaluating registered products and setting maximum residue limits under the *Food and Drugs Act, 1985*.

**Permits Required:** None.

**Pesticides Act, R.S.O. 1990,  
c. P. 11, as amended**

**Purpose:** Protect human health and the natural environment by controlling the sale, use, storage, display, disposal and transportation of pesticides and fertilizers containing pesticides.

**Applicability to Agriculture:** Prohibits use of pesticides in a manner that may cause, or likely cause, damage to the quality of the environment, greater than would necessarily result from the proper use of the pesticide; and requires safe and proper pesticide storage facilities.

**Administering Agency:** Ministry of the Environment

**Permits Required:** Licences are required to undertake regulated activities.

**Related Legislation:** *Pest Control Products Act, S.C. 2002, c. 28, as amended (Federal)*

***Plant Diseases Act, R.S.O. 1990,  
c. P.14, as amended***

**Purpose:** Ensure control or eradication of specific regulated plant diseases listed in the regulation that exist in Ontario.

**Applicability to Agriculture:** Prevent the spread of a plant diseases or injury to a plant that is caused by an insect, virus, fungus, bacterium or other organism, and that is a specific regulated pest listed in the regulation. The Act requires the treatment or destruction of infected plants, disinfection of contaminated containers, buildings and vehicles, and the possible prohibition of growing certain plants for a period of time in contaminated soils.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

***Plant Protection Act, S.C. 1990,  
c. 22, as amended (Federal)***

**Purpose:** Protect plant life and the agricultural sector by preventing the importation, exportation and spread of pests injurious to plants and to provide for their control and eradication and for the certification of plants and other things.

**Applicability to Agriculture:** Allows for the implementation of policies and operational programs designed to prevent or manage the introduction of plant pests, including pest plants that pose a threat to Canada's plant life or economic health. It also outlines requirements and measures that may be taken to prevent the spread, import or export of plant pests. This includes the duty to notify the CFIA if a new pest (plant, insect, fungus or other) is present in a crop; a prohibition of the intentional movement, possession or improper disposal of a pest into, or out of Canada; and the inspection practices that may be used to detect a suspected pest. An area, place or thing suspected of being infested can be placed under quarantine, detained or seized under this Act.

**Administering Agency:** Canadian Food Inspection Agency (CFIA)

**Permits Required:** CFIA issued import permits may be required to ensure imported plants, plant products or products potentially infested with plant pests meet Canadian requirements. CFIA inspection

and certification may be required to ensure exported products meet foreign requirements. Inspection and issuance of movement certificates may be required prior to movement of regulated articles outside of a regulated area.

***Weed Control Act, R.S.O. 1990,  
c. W.5, as amended***

**Purpose:** Protect agricultural and horticultural production from the negative impacts of noxious weeds.

**Applicability to Agriculture:** Landowners must destroy noxious weeds on their property and remove noxious weed seeds from machinery to avoid spread. Operators of grain elevators or grain processing plants must destroy weed seeds in a manner that will prevent growth or spread.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs, enforced by municipalities

**Permits Required:** None.

**Related Legislation:** Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Wild Animal and Plant Protection, and *Regulation of International and Interprovincial Trade Act, 1992* (Environment Canada)

## **SAFETY AND EMPLOYMENT**

***Building Code Act, 1992, S.O. 1992,  
c. 23, as amended***

**Purpose:** Ensure the protection of humans from hazards associated with buildings and structures, and establish associated services.

**Applicability to Agriculture:** Applies to the construction or alteration of all farm structures including manure storage and transfer facilities.

**Administering Agency:** Ministry of Municipal Affairs and Housing, municipalities

**Permits Required:** Permit is required for building and demolition of buildings.

***Agricultural Employees Protection Act, 2002,  
S.O. 2002, c. 16, as amended***

**Purpose:** Protect the rights of agricultural employees to associate and recognize certain rights of employers and the unique characteristics of agricultural production.

**Applicability to Agriculture:** Gives the right to agricultural workers to organize.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

***Employment Standards Act, 2000, S.O. 2000,  
c. 41, as amended***

**Purpose:** Establish minimum standards and wages for employment.

**Applicability to Agriculture:** Some exceptions apply to farm labourers due to the nature and perishability of farm products and their susceptibility to weather.

**Administering Agency:** Ministry of Labour

**Permits Required:** None.

***Farm Implements Act, R.S.O. 1990,  
c. F. 4, as amended***

**Purpose:** Regulate the sale of farm machinery and promote farm machinery safety.

**Applicability to Agriculture:** Establishes machinery safety standards and requirements, and minimum warranties; provides for the return of defective machinery and the supply of repair parts; and provides a process for the resolution of disputes.

**Administering Agency:** Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Dealers and distributors are required to be registered under this Act.

***Highway Traffic Act, R.S.O. 1990.  
c. H. 8, as amended***

**Purpose:** Ensure safe movement of vehicles on highways.

**Applicability to Agriculture:** Slow moving vehicle signs must be attached to the rear of a slow moving vehicle or a trailer or other device being towed by that vehicle. The Act also prescribes conditions for the movement of over-sized farm vehicles.

**Administering Agency:** Ontario Ministry of Transportation

**Permits Required:** For information on permits, refer to the ministry publication, "Farm Guide – Farm Equipment on the Highway." See [www.mto.gov.on.ca](http://www.mto.gov.on.ca).

***Occupational Health and Safety Act,  
R.S.O. 1990, c. O. 1, as amended***

**Purpose:** Set out minimum health and safety requirements in the work place.

**Applicability to Agriculture:** Applies to employers with paid workers.

**Administering Agency:** Ministry of Labour

**Permits Required:** None.

***Technical Standards and Safety Act, 2000,  
S.O. 2000, c. 16, as amended***

**Purpose:** Authorize Technical Standard and Safety Authority (TSSA) as a delegated administrative authority to provide public safety services in the province of Ontario by administering prescribed technical standards. TSSA is a not-for-profit corporation that has been given authority to enforce technical standards previously found in the following legislations: *Boilers and Pressure Vessels Act*, *Elevating Devices Act*, *Energy Act*, *Gasoline Handling Act* and the *Operating Engineers Act*.

**Applicability to Agriculture:** Ensures:

- heating (steam, hot water) and refrigeration systems are approved for use in Ontario and only appropriately licensed/trained people install and maintain them
- elevators and similar devices are approved, functional and safe



- safe handling, transmission and storage of hydrocarbon fuels primarily used for heat generation (propane, natural gas, fuel oil)
- contractors, equipment, storages, transporters, transmission lines, etc., for hydrocarbon fuels (gasoline, diesel, used oil, etc.) are safe (meet Canadian Standards Association (CSA) or Underwriter Laboratory of Canada (ULC) requirements) and people who work on these types of facilities are properly trained and licensed

**Administering Agency:** Technical Standards and Safety Authority (TSSA) as authorized by the Ministry of Consumer Services

**Permits Required:** Certificates, licences or registration required for contractors, transporters.

***Wages Act, R.S.O. 1990,  
c. W. 1, as amended***

**Purpose:** Establish priority for recovery of wages owed to employees where the employer makes an assignment of property to a creditor.

**Applicability to Agriculture:** Gives employees a priority on recovering up to 3 months of wages under certain situations.

**Administering Agency:** Ministry of Labour

**Permits Required:** None.

***Workplace Safety and Insurance Act, 1997,  
S.O. 1997, c. 16, Schedule A, as amended***

**Purpose:** Provide workplace injury insurance for workers and employers, promote health and safety in workplaces, and prevent or reduce the occurrence of workplace injuries and occupational diseases.

**Applicability to Agriculture:** Injured workers receive compensation for lost work time due to injury, and employers receive liability coverage. Also provides for inspections by the Board.

**Administering Agency:** Workplace Safety & Insurance Board (WSIB), Farm Safety Association (FSA), Ministry of Labour

**Permits Required:** None.

## **WILDLIFE PROTECTION AND CONSERVATION**

***Fish and Wildlife Conservation Act, 1997,  
S.O. 1997, c. 41, as amended***

**Purpose:** Provide management, perpetuation and rehabilitation of fish and wildlife.

**Applicability to Agriculture:** Covers general hunting and trapping regulations and restrictions, and allows farmers to protect their property from damage by wildlife. Defines “farmed animals” to include white-tailed deer, American elk and certain fur farmed species (i.e., mink, fox), but applies only where specified. People that keep wildlife in captivity (e.g., deer/elk, fur farms) must ensure animals do not escape and must report if an escape occurs. Hunting “farmed animals” or wildlife in captivity is not permitted. The Act regulates the raising of game birds, the operation of game bird hunting preserves, and dog train and trialing areas.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Farmers require licences to hunt white-tailed deer, moose, caribou, elk, black bear and wild turkey on their land. Some municipal restrictions may be in effect regarding licences for other game. Authorization is required to allow for the harassment and removal of deer or elk that are causing significant damage, when other reasonable methods to prevent damage are ineffective. Fur farmed animals and their pelts exported outside of Ontario require an Ontario Fur Export Permit. A licence is required to keep game birds in captivity or to buy or sell them and operate a game bird hunting preserve. A licence is also required to operate a dog train and trial area.

***Fisheries Act, R.S.C. 1985,  
c. F-14, as amended (Federal)***

**Purpose:** Provide for the conservation and preservation of fish and fish habitat, and stipulates that no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish or fish habitat.

**Applicability to Agriculture:** Prohibits the discharge of pollutants near or in water that would harm fish or fish habitat, and prohibits stream alterations that have the potential to harm or disturb fish habitat.

**Administering Agency:** Fisheries and Oceans Canada (habitat protection) and Environment Canada (pollution prevention)

**Permits Required:** Permits and approvals required for any alterations that may affect fish or fish habitat.

***Fish Inspection Act, R.S.O. 1990,  
c. F. 18, as amended***

**Purpose:** Provide for the sale of fish and fish products from the commercial fishery, fish farms and fish processors offered for sale in Ontario. The Act is a provincial law of general application and applies to all Ontarians including Aboriginal people.

**Applicability to Agriculture:** In general, does not apply to day-to-day farm operations, but regulations may be in place controlling fish product and processing standards.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Non-federally registered fish processors in Ontario are not required to register or license their business under the current regulations.

***Migratory Birds Convention Act, S.C. 1994,  
c. 22, as amended (Federal)***

**Purpose:** Protect migratory birds and nests.

**Applicability to Agriculture:** Protects migratory birds and nests, but makes provision for their removal where it is deemed necessary to do so to avoid injury to agricultural interests.

**Administering Agency:** Environment Canada

**Permits Required:** Permits are required to remove or eliminate migratory birds or nests.

**Related Legislation:** Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES), Wild Animal and Plant Protection, and *Regulation of International and Interprovincial Trade Act, 1992* (Environment Canada)

***Endangered Species Act, 2007, S.O. 2007,  
c. 6, as amended***

**Purpose:** To identify species at risk, to protect species at risk and their habitats and promote the recovery of species already at risk.

**Applicability to Agriculture:** Farmers are prohibited from killing or harming any species or destroy the habitat of a species — on their own property or elsewhere — that is on the Species at Risk in Ontario List.

**Administering Agency:** Ministry of Natural Resources

**Permits Required:** Permit can be obtained from the Ministry of Natural Resources that allows a person to engage in activities otherwise prohibited by this Act.

**GENERAL**

***Farm Products Marketing Act, R.S.O. 1990,  
c. F. 9, as amended***

**Purpose:** Provide for the control and regulation of the producing and marketing of farm products within Ontario.

**Applicability to Agriculture:** Under the Act, the Ontario Farm Products Marketing Commission (the Commission) is responsible for regulating the producing and marketing of farm products in Ontario. The Commission can delegate various authorities to marketing boards required to operate a regulated marketing systems for designated farm products.

**Administering Agency:** The Commission, as part of Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Licences may be required by the Commission or marketing boards for the production, marketing, or processing of farm products regulated under the Act.

***Farm Products Payments Act, R.S.O. 1990,  
c. F. 10, as amended***

**Purpose:** Provide assurance of payment to producers for farm products, purchased from licensed dealers, in the event of default.

**Applicability to Agriculture:** Establishes funds for the specified classes of producer (grain, corn, soybean, canola, wheat and beef cattle), boards to administer these funds and general conditions for payments to producers who have not been paid by dealers for farm products.

**Administering Agency:** Livestock Financial Protection Board and the Grain Financial Protection Board, through the Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

***Farm Registration and Farm Organization  
Funding Act, 1993, S.O. 1993,  
c. 21, as amended***

**Purpose:** Provide for the registration of farm businesses and the accreditation of farm organizations.

**Applicability to Agriculture:** Requires that all persons carrying on a farm business with annual income at or above \$7,000 to obtain a farm business registration form and to direct a refundable payment to an accredited farm organization

**Administering Agency:** AgriCorp, through the Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** Farm businesses are required to have a farm business registration number.

***Ontario Food Terminal Act, R.S.O. 1990,  
c. O. 15, as amended***

**Purpose:** Establish the Ontario Food Terminal Board (the Board) and its mandate — to manage and operate a wholesale fruit and produce terminal in the Toronto area — and regulate Board composition and procedures, compensation of Board members, business conduct and rental of warehouse units.

**Applicability to Agriculture:** The Board provides a centralized location, along with supporting facilities and services for Ontario wholesale buyers and sellers of fruit and produce. It also operates/includes a dedicated wholesale farmers' market for distribution of Ontario and Canadian produce, and acts as a landlord and leases land, warehouse units, offices and other facilities to farmers, wholesalers and allied services. The Board operates a cold storage facility for use by wholesale tenants and farmers.

**Administering Agency:** Ontario Food Terminal Board, through the Ontario Ministry of Agriculture, Food and Rural Affairs

**Permits Required:** None.

**DISCLAIMER:** The information contained in this Factsheet is not authoritative and is for informational purposes only. It has been compiled from various Acts and regulations. Although every effort has been made to make the contents of this Factsheet as accurate as possible, in the event of any conflict or inconsistency or an error or omission, take notice that the Act and its regulations prevail. The Government of Ontario assumes no liability for any inaccurate, delayed or incomplete information nor for any actions taken in reliance thereon. It is strongly recommended to review the Acts and regulations set out in this Factsheet and seek appropriate advice (e.g., legal advice or other professional advice from qualified persons) before making any changes to farm practice(s).

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**FOR YOUR NOTES**



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## **APPENDIX D**

OMAFRA FACTSHEET – IMPORTATION OF SOIL ONTO  
AGRICULTURAL LAND

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# Importation of Soil onto Agricultural Land

J. Ritter, P. Eng.

## Factsheet

FACTSHEET 16-055 AGDEX 510 OCTOBER 2016

### DISCLAIMER

This factsheet is provided for informational purposes only and does not provide legal advice. It is not a comprehensive statement of the legal obligations when importing soil onto agricultural lands. In order to determine the legal obligations or potential legal consequences, seek legal advice from a lawyer. Also, this factsheet is not a comprehensive exploration of non-legal considerations when importing soil. Get advice from qualified persons before importing soil.

While efforts have been made to make this factsheet as accurate as possible, it is not authoritative and in the event of a conflict, inconsistency or error, the requirements set out in any applicable legislation take precedence. Relevant Ontario legislation and regulations are found at [ontario.ca/laws](http://ontario.ca/laws).

Note that it is a best practice to use updated information respecting soil management. Regulatory requirements, best management practices and guidance described in this factsheet may change from time to time.

### INTRODUCTION

Importing soil onto agricultural land can benefit an agricultural operation, provided the legal requirements, environmental impacts, risks and liabilities involved are well understood by those who are managing it. This factsheet provides a brief overview of some of the considerations surrounding accepting soil including regulatory requirements, best management practices and guidance for farmers to limit impacts to farmland.

Excavation for road, highway and bridge construction, other infrastructure projects, and land development projects (e.g., building construction in cities and towns) often generate large amounts of excess soil. Some agricultural operations are looking for quantities of this soil for various purposes (e.g., soil amendment, re-establish vegetation) and others are being approached to become a destination site for

large quantities. There may be opportunities for the beneficial reuse of this material. However, it needs to be managed in an environmentally sustainable way, to protect agricultural lands, water resources and natural features. It is important to ensure there are no adverse effects on human health and the environment. Responsible soil management practices on soil importation projects will help to avoid regulatory compliance issues, as well as the potential for conflict with nearby landowners and any municipal requirements.

### TIPS AND BEST PRACTICES

- Contact the local municipality to identify applicable fill or site alteration by-laws for the area — understand the costs and rules that apply in the community.
- Retain the services of a professional with expertise in soil analysis, characterization, and management when planning the project — good planning can help reduce risks and unanticipated costs.
- It is important to know the quality of existing soil and soil proposed for importation — be vigilant about the quality of soil brought onto the land and keep good records of where the imported soil is coming from.
- Comply with all regulatory requirements that relate to the soil importation project and take whatever steps are necessary to ascertain and comply with them — pre-consultation with applicable agencies before initiating the project is essential to its success.
- Follow best management practices for soil importation (as outlined in this factsheet) — a best management practices approach will limit impacts and protect soil and water resources for future generations.



## DEFINITIONS

This factsheet focuses on the importation of **any** soil which might be brought onto an agricultural property. The regulatory requirements and approvals related to this topic use a variety of terminology which covers a wide range of potential materials (e.g., soil, topsoil, excess soil and fill) and all of these materials can include soil.

The term soil and related terms such as topsoil, excess soil and fill have many meanings depending on the circumstances. Whether a reference to these terms and related terms in this document apply to your materials will depend upon the facts of the situation. **Always refer to applicable definitions when dealing with regulatory requirements.**

**Source Site** — the location where the imported soil is being excavated or coming from (e.g., construction site)

**Receiving Site** — the location where the imported soil is being reused (e.g., a farm)

## BENEFICIAL REUSES OF IMPORTED SOIL ON AGRICULTURAL LANDS

Topsoil (Figure 1) can be used for multiple purposes such as a soil amendment to improve soil health and crop yield or as a bedding material to re-establish vegetation in areas that have been disturbed (e.g., by construction activities). Subsoil can be used for other purposes, such as:

- increasing the amount of usable farmland by altering/improving the contours of the land
- undertaking grade alterations to improve the safe and efficient operation of farm equipment
- fixing drainage or soil erosion problems
- rehabilitating existing pits, ponds or excavations
- facilitating on-farm site development or construction activities (e.g., new farm buildings, improvements to laneways used for farm equipment and/or livestock, etc.)



**Figure 1.** Topsoil has many beneficial uses.

## POTENTIAL ISSUES WITH IMPORTED SOIL

The following are some potential issues with using imported soil. Limiting any potential negative impacts associated with soil importation is critical.

### Environmental Impacts

It is important to know the quality of the existing soil and to properly evaluate the potential benefits and risks of the soil proposed for importation given its quality, quantity and proposed placement on the property. Soil from the types of off-farm construction projects noted in the *Introduction* or other material included in some municipal by-law definitions of fill may cause environmental or human health damage and/or impacts on crop production from its reuse if not managed effectively (Figure 2). Some soil chemical properties in the imported soil such as excess salinity (i.e., soils are too salty) and pH extremes (i.e., soils are too acidic or too basic) may result in problems like reduced crop yields. Chemical contaminants such as organic compounds or heavy metals may jeopardize food safety, lead to adverse impacts on human health and/or the natural environment (e.g., contamination of ground and surface water), decrease property values and cause other problems. Owners of agricultural land should be observant about the quality of the soil being brought onto their properties and take steps to ensure those who rent their land are also vigilant.



**Figure 2.** Excavated soil from urban construction projects can be highly variable in terms of its quality.

### Drainage Alteration

Placement or removal of soil, grading or site alteration activities can change natural or engineered drainage pathways resulting in flooding or ponding on neighbouring properties or changes to the normal flow of water to down gradient properties. Assess drainage considerations and resolve them before the soil importation project begins to ensure that these negative impacts do not occur. Additional information about drainage and a listing of licensed drainage contractors can be viewed at [ontario.ca/drainage](http://ontario.ca/drainage).

### Stockpile Run-off/Dust

Soil is often stockpiled at the receiving site, particularly if it cannot be used immediately for its intended purpose. Put measures in place prior to stockpiling to ensure that any stormwater run-off or dust from stockpiled soil does not move off-site and to minimize environmental impacts. Avoid prolonged storage of topsoil as it can be detrimental to soil health — see the *Best Management Practices (BMPs)* section.

### Impacts on Neighbouring Properties

In addition to the potential impacts on neighbouring properties caused by altering drainage pathways or the possible movement of contaminants from your property to the neighbours, the activity of importing large quantities of soil (e.g., trucking, soil handling, etc.) has the potential to generate noise, dust, light and vibration disturbances which may also affect nearby landowners. The *Farming and Food Production Protection Act, 1998*, (FFPPA) provides some protection for normal farm practices, but whether something is a normal farm practice is determined on a case-by-case basis. These protections are not absolute and other limitations including the FFPPA being subject to the *Environmental Protection Act, 1990*,

the *Pesticides Act, 1990*, and the *Ontario Water Resources Act, 1990*, may exist.

### Municipal Considerations

Increased truck traffic resulting in noise, dust, mud-tracking and the potential for damaging roads can result in municipal involvement if these activities violate local by-laws or the specified conditions on municipal permits or approvals issued for the soil importation project — see the *Municipal Legislation and By-laws* section.

### Insurance Coverage

Consider speaking to a farm insurance agent, before importing soil onto the farm, about coverage and exclusions, limitations and conditions on any coverage.

### Legal Considerations

Fill, grading and site alteration activities usually involve many regulatory requirements including requirements for approval. It is important to work closely with all applicable agencies to ensure that all required approvals are in place before starting work and to follow all of the requirements of each permit issued.

## REGULATORY REQUIREMENTS AND APPROVALS

There are legal requirements (e.g., provincial statutes and municipal by-laws) that may apply to the importation of soil onto agricultural land. It is important to understand how they affect the project. **Make sure to meet *all* requirements including provincial and municipal requirements *before* starting the soil importation project.**

The following legislation, regulations and by-laws may apply to a soil importation project:

### Municipal Legislation and By-laws

Soil importation projects may involve municipal requirements. Section 142 of the *Municipal Act, 2001*, gives municipalities the specific authority to regulate certain fill activities including requiring permits and setting permit conditions, subject to certain limits. An exception set out in the act for agriculture relates to the incidental removal of topsoil as part of a normal agricultural practice such as sod-farming, greenhouse operations and nurseries for horticultural products. Many municipalities also exempt the replacement of topsoil for these activities through by-law; however, some municipalities have placed limitations on the amount of soil that can be stored on-site.

Fill or site alteration by-laws prohibit or regulate the removal of topsoil, the placing or dumping of fill, and the alteration of the grade of land. In addition to these agriculture exceptions, many of these by-laws reference exemptions for the construction of public facilities such as transportation, infrastructure or utilities, activities or works under the *Aggregate Resources Act, 1990*, and site alteration activities undertaken as an incidental part of drain construction under the *Drainage Act, 1990* or the *Tile Drainage Act, 1990*.

The content of these municipal by-laws varies across municipalities. A number of fill or site alteration by-laws set out different requirements based on the amount of fill involved.

**Small fill projects** (i.e., minor site alteration) such as lawn dressing, small landscaping projects, fence, pool or accessory building construction may be exempt from the requirement for permits or approvals provided they meet specified criteria and do not change the volume, direction or intensity of storm water run-off to adjacent properties.

**Large fill projects** (i.e., major site alteration) involving hundreds or perhaps thousands of truckloads of imported soil are more likely to require permits or approvals. In some cases, a written agreement between the landowner and the municipality, which specifies in detail requirements, conditions, indemnifications, etc., may be required. Some municipalities may separate major site alterations into two distinct categories based on the volume of fill involved and others may have only one category.

Conditions placed on permits or approvals are intended to help prevent adverse environmental impacts, legal problems and disagreements with neighbours. Conditions vary by municipality and generally increase in number with the size of the project. Specific haul routes have been designated and limitations have been placed on the number of trucks per day, the time of day or the days per week. Start and completion dates have been specified as well as other conditions relating to noise reduction, dust control measures, erosion control measures and tree protection.

Municipalities may require supporting information submitted with the permit application under the fill or site alteration by-law such as:

- site survey information detailing the existing and proposed final elevations and grades
- site survey information detailing the existing and final drainage pathways
- estimated volume of soil to be imported
- details of the source and quality of the imported soil
- soil sampling and analysis measures
- haul routes and traffic/transportation details
- dust and noise control measures
- erosion and sediment control measures
- stormwater management controls
- tree protection measures
- Fill Management Plans — refer to the *BMPs in Project Planning* section

Non-refundable application processing fees, permit fees based on the volume of fill, and fees related to the municipality's use of consultants and other professionals may be charged in some municipalities. Penalties have been imposed in instances where the project begins prior to obtaining a permit or approval. Some municipalities require a refundable security deposit which allows them to take action on work not completed to their satisfaction or for the maintenance or repair of roads that may have been affected by truck traffic related to the project. Amounts levied for fees and security deposits vary by municipality; however, they can be quite significant and may add a substantial cost to the project.

Permits or approvals generally have an expiry date and can be revoked by the municipality for a variety of specified reasons. Some municipalities have a process for granting extensions; however, additional fees may apply.

It is important to review the applicable fill or site alteration by-laws for the area with the municipality to confirm any permitting requirements and special conditions that may apply.

### **Farming and Food Production Protection Act, 1998**

The *Farming and Food Production Protection Act, 1998*, (FFPPA) includes protection for farmers against municipal by-laws that restrict a normal farm practice carried on as part of an agricultural operation, as well as nuisance complaints made by neighbours provided the situation involves normal farm practices.

The act defines a normal farm practice as one which:

“(a) is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or

(b) makes use of innovative technology in a manner consistent with proper advanced farm management practices.”

The Normal Farm Practices Protection Board (Board) is the authority established by the legislation to determine what is or is not a normal farm practice. In arriving at a decision in each case, the Board takes several factors into consideration as it seeks to balance the needs of the agricultural community with provincial health, safety and environmental concerns.

In a by-law case, the Board will consider the following factors in determining whether a practice is a normal farm practice:

1. The purpose of the by-law that has the effect of restricting the farm practice.
2. The effect of the farm practice on abutting lands and neighbours.
3. Whether the by-law reflects a provincial interest as established under any other piece of legislation or policy statement.
4. The specific circumstances pertaining to the site.

After conducting a hearing, the Board will determine two key issues in subsequent order before making a decision. First, the Board will decide if the farm practice in question is carried on as part of an agricultural operation and is either:

- i. A normal farm practice
- ii. Not a normal farm practice; or
- iii. A normal farm practice, if the farmer modifies the practice as specified by the Board.

Second, the Board must determine if the by-law in question is either:

- i. Restricting the farm practice in question; or
- ii. Not restricting the farm practice in question.

There is no definitive list of normal farm practices. A practice may be ruled as a normal farm practice at a particular location under a particular set of circumstances; the same practice could be ruled as not a normal farm practice at a different location under a different set of circumstances.

Information on the Board is found at [ontario.ca/omafra](http://ontario.ca/omafra) and full decisions can be viewed at [www.canlii.org](http://www.canlii.org).

### **Conservation Authorities Act, 1990**

Some soil importation may involve areas which are regulated by conservation authorities under Section 28 regulations of the *Conservation Authorities Act, 1990*. These regulations, approved by the Minister of Natural Resources and Forestry, require conservation authorities, through a permitting process, to regulate development in areas prone to natural hazards including in or adjacent to river or stream valleys, Great Lakes and inland lakes shorelines, watercourses, hazard lands (e.g., flood plains) wetlands and areas around wetlands. The definition of ‘development’ under the *Conservation Authorities Act, 1990*, includes site grading and the placing or removal of any material originating on the site or elsewhere. A conservation authority permit decision is based on the effect the development may have on the control of flooding, erosion, dynamic beaches, pollution or the ‘conservation of land’. A conservation authority permit is required for altering or interfering with the existing channel of a watercourse or interfering in any way with a wetland. Some conservation authorities have best management practices or protocols established for their regulating of material or soil importation.

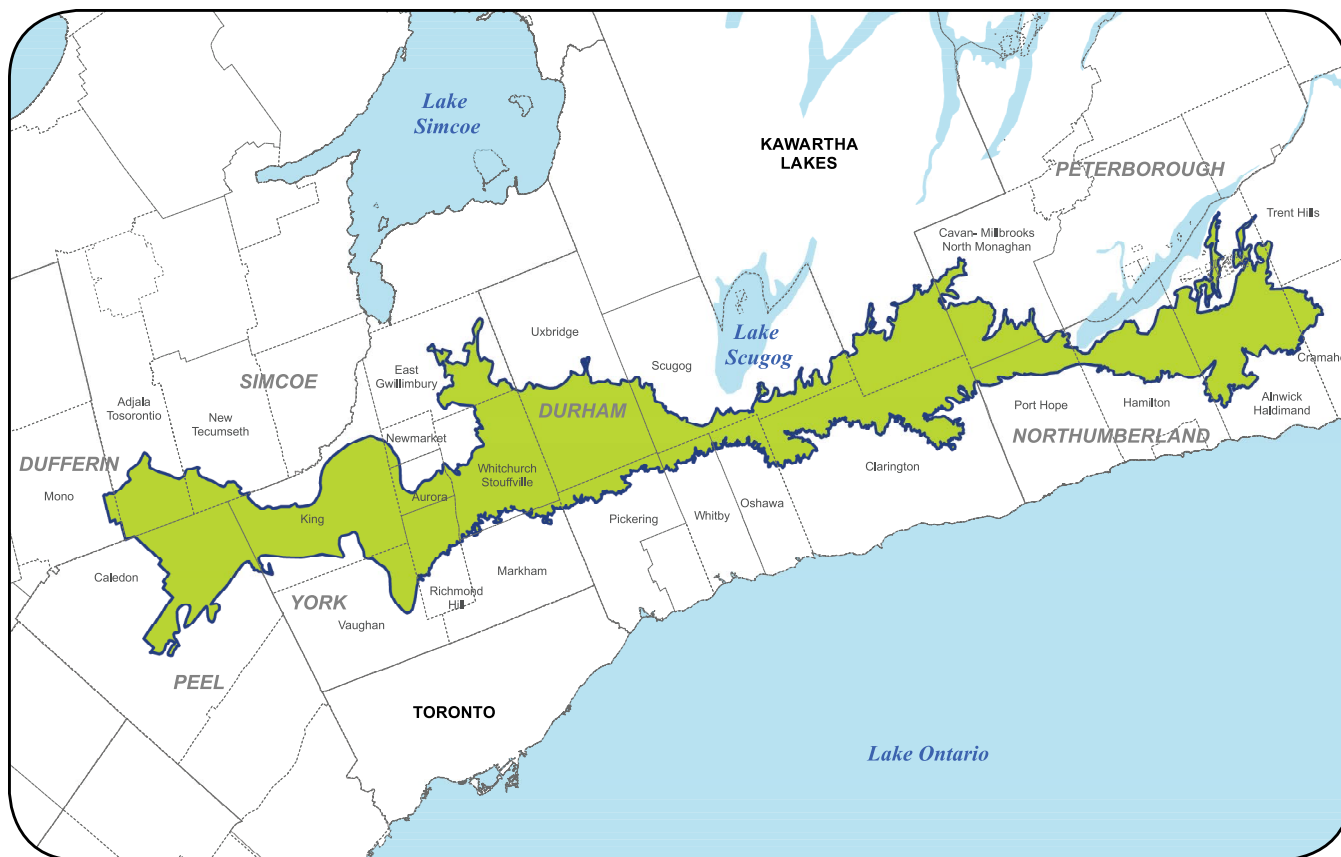
For more information about conservation authorities and the *Conservation Authorities Act, 1990*, see [ontario.ca/page/conservation-authorities](http://ontario.ca/page/conservation-authorities). To contact a local conservation authority to find out if the property is located in a regulated area or if a permit is required check [www.conservationontario.ca](http://www.conservationontario.ca).

### **Oak Ridges Moraine Legislation and Plan**

The Oak Ridges Moraine (ORM) is an environmentally sensitive geological landform in south central Ontario. The ORM stretches 160 km from the Trent River in the east to the Niagara Escarpment in the west (Figure 3). The Oak Ridges Moraine Conservation Plan, established under the *Oak Ridges Moraine Conservation Act, 2001*, provides land use policies and resource management planning direction to municipalities to protect the ORM's ecological and

hydrological features and functions. Municipalities must incorporate these requirements into their official plan policies and zoning by-law provisions. Some fill or site alteration by-laws may restrict certain fill, grading or site alteration activities around key natural heritage features, hydrologically sensitive features and areas with significant landscape character (called landform conservation areas).

The Oak Ridges Moraine Conservation Plan is implemented at the municipal level through the official plan and zoning by-laws. A detailed map showing the Oak Ridges Moraine Conservation Plan area can be viewed at [ontario.ca/cyn5](http://ontario.ca/cyn5). Contact your local municipality to find out if your property is located in the Oak Ridges Moraine. They can also advise you of any special requirements or restrictions.



**Figure 3.** Oak Ridges Moraine Conservation Plan Area.

### Niagara Escarpment Planning and Development Act, 1990, and the Niagara Escarpment Plan

The Niagara Escarpment is a protected natural corridor in south central Ontario, stretching 725 km from Queenston near Niagara Falls to Tobermory at the tip of the Bruce Peninsula (Figure 4). The Niagara Escarpment Plan, established under the *Niagara Escarpment Planning and Development Act, 1990*, outlines land use designations, land use policies, development criteria and permitted uses to ensure that the escarpment is maintained as a substantially continuous natural environment and that development is compatible with the natural environment. Within most of the Niagara Escarpment Plan area, the Niagara Escarpment Commission (NEC) is the primary land use planning authority, and in those areas, municipal zoning provisions do not apply. Certain types of development, including changing the grade or topography of a site or importing fill, may not be permitted within the Niagara Escarpment Plan area. Most forms of development require a Development Permit from the NEC.

Detailed maps showing the Niagara Escarpment Plan area can be viewed at [www.escarpment.org](http://www.escarpment.org). Contact the NEC to determine if the land is regulated under the Niagara Escarpment Plan, and if a development permit is required.



**Figure 4.** Niagara Escarpment Plan Area.

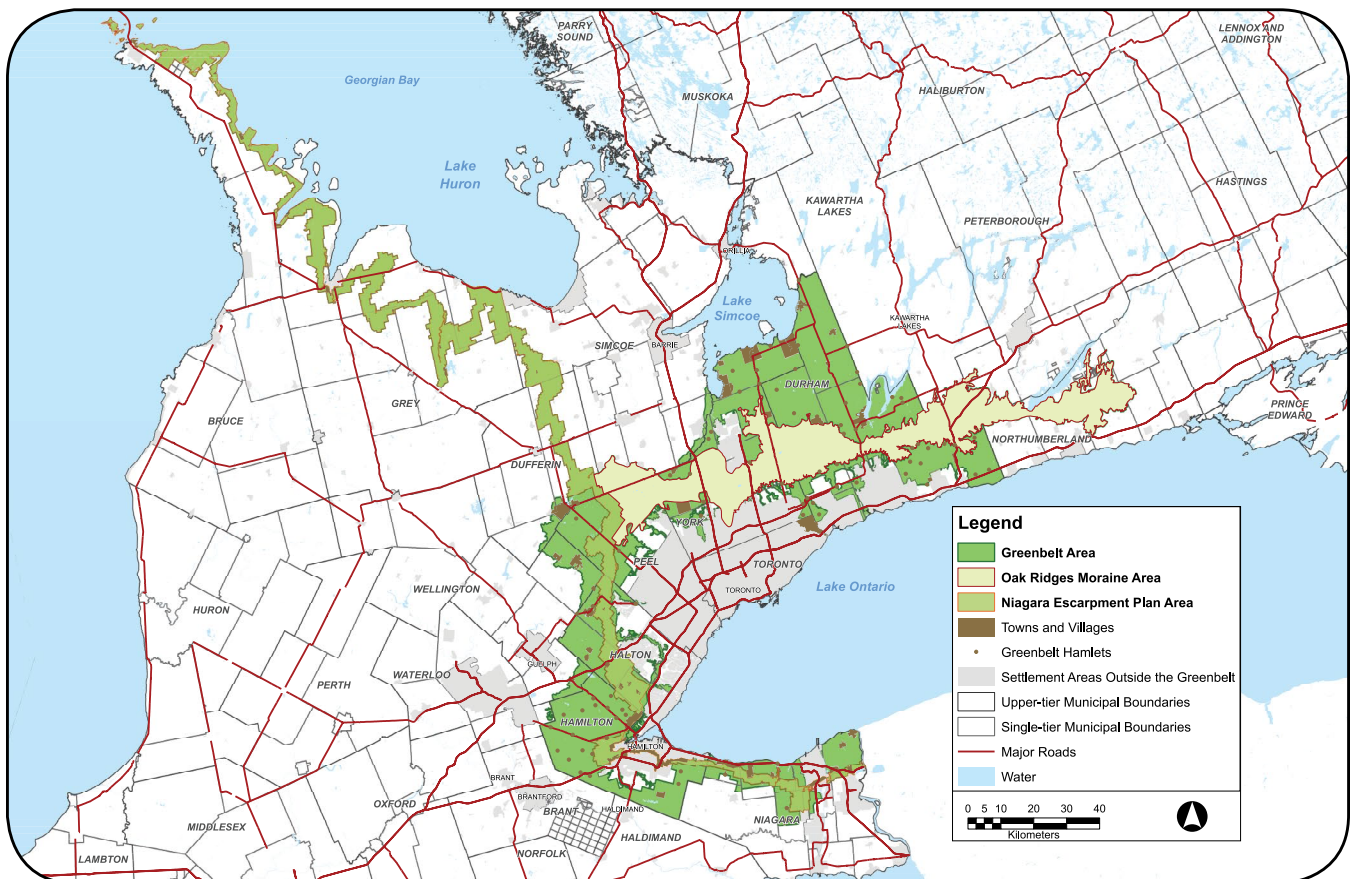


## Greenbelt Act, 2005, and Plan

The Greenbelt Plan, which is established under the *Greenbelt Act, 2005*, protects an area of environmentally sensitive and agricultural lands in the Greater Golden Horseshoe (called the protected countryside) from urban expansions. The greenbelt also includes the lands covered by the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan (Figure 5). The Greenbelt Plan provides land use planning direction for municipalities to incorporate into their official plan policies and zoning by-law provisions. Some fill or site alteration

by-laws may restrict certain fill, grading or site alteration activities around key natural heritage and key hydrologic features and any associated buffer areas (called vegetation protection zones).

The Greenbelt Plan is implemented at the municipal level through the official plan and zoning by-laws. A detailed map showing the Greenbelt Plan area can be viewed at [ontario.ca/cyn6](http://ontario.ca/cyn6). Contact the municipality to find out if the property is located in the greenbelt. They can also advise of any special requirements or restrictions.

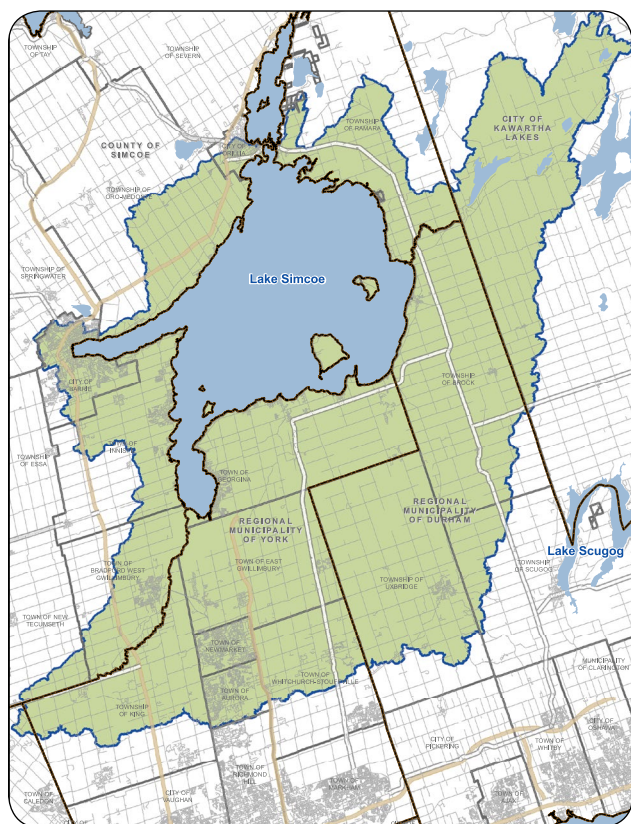


**Figure 5.** Greenbelt Plan Area.

### Lake Simcoe Protection Act, 2008, and Plan

The Lake Simcoe Protection Plan was established under the *Lake Simcoe Protection Act, 2008*, with the purpose to protect and restore the ecological health of the Lake Simcoe watershed. The Lake Simcoe Protection Plan is implemented, in part, at the municipal level through official plans and associated by-laws. Relevant official plans and zoning by-laws are required to conform to designated policies in the Lake Simcoe Protection Plan.

The *Lake Simcoe Protection Act, 2008*, defines the Lake Simcoe watershed as “Lake Simcoe and the part of Ontario, the water of which drains into Lake Simcoe” (Figure 6). The Lake Simcoe Region Conservation Authority and the local municipality can advise of any special requirements or restrictions.



**Figure 6.** Lake Simcoe Protection Plan Area.

### Environmental Protection Act, 1990

Under the *Environmental Protection Act, 1990*, the Ministry of the Environment and Climate Change (MOECC) can issue orders to address contamination concerns, including where a discharge of a contaminant into the natural environment causes or is likely to cause an adverse effect. Adverse effect is defined to include such impacts as impairment of the quality of the natural environment and adverse effects on the health of any person. It is important for anyone involved in the management of excess soil to know the quality of the excess soil coming from a source site, and the quality of the soil at the receiving site, in order to understand whether the placement of soil may cause an adverse effect or a degradation of the pre-existing condition of the receiving site.

MOECC has developed *Management of Excess Soil – A Guide for Best Management Practices*, which outlines the MOECC’s guidance for the beneficial management of excess soil in a manner that promotes sustainability and protects the natural environment ([ontario.ca/moecc](http://ontario.ca/moecc)).

Contact the local MOECC office for information about managing excess soil ([ontario.ca/moecc](http://ontario.ca/moecc) and search for regional and district offices).

### Ministry of Natural Resources and Forestry Legislation

As noted in the *Municipal Legislation and By-laws* section, activities or works under the *Aggregate Resources Act, 1990*, are often referenced as an exemption under fill or site alteration by-laws. The Ministry of Natural Resources and Forestry (MNRF) is the provincial regulator of aggregate sites through the *Aggregate Resources Act, 1990*, including their progressive and final rehabilitation.

Contact the local MNRF office if the project involves activities related to a current or former aggregate operation ([ontario.ca/mnrf](http://ontario.ca/mnrf) and search for regional and district offices).

### BEST MANAGEMENT PRACTICES (BMPs)

The following soil importation BMPs will support the beneficial reuse of soil. The adoption of best practices supports the principles of sustainable agricultural production and facilitates the efficient progress of the project. Ensure compliance with all relevant legislation.



## BMPs in Project Planning

Transparent communication with applicable agencies is essential. Pre-consultation before starting the project can highlight requirements and additional legislation that must be followed and help to avoid issues later on. Also, early pre-consultation with nearby landowners may help to reduce the potential for conflict.

**Retaining the services of a professional with expertise in soil testing, analysis, characterization, stockpiling and other soil management related activities is key to avoid encountering environmental issues with the project.** Physical and chemical characteristics (e.g., quality) as well as the soil type and its geotechnical suitability are important considerations for determining if the soil to be imported is appropriate for the intended use. Professional expertise and judgement are needed to confirm the acceptability of the imported soil. The soil professional should use a risk-based approach and take into consideration the effects of loading associated with the concentrations of individual contaminants in the imported soil and the impacts on the pre-existing, ambient conditions at the site (i.e., receiving site).

Documentation and record keeping support the soil professional's assessment. Obtain copies of all soil test results and assessment work before any imported soil is accepted, received and managed. **It is very important to keep good records of where the imported soil is coming from and who hauled the soil.** This information may be useful in the future if problems with the soil are found and action is required.

The MOECC document, *Management of Excess Soil – A Guide for Best Management Practices* is a best practices document that provides guidance on how to handle excess soil generated from large-scale projects. It contains helpful information for soil receiving sites including the recommended contents of a Fill Management Plan which is intended to document the overall operating conditions for a receiving site. A Fill Management Plan prepared by the owner, a soil professional or a consultant or contractor will be very helpful at the fill or site-alteration by-law permit application stage. It will also help to facilitate the project's implementation.

Consult the MOECC document, *Management of Excess Soil – A Guide for Best Management Practices* for a complete listing of items that could be included in a Fill Management Plan ([ontario.ca/moecc](http://ontario.ca/moecc)).

If hiring consultants and contractors to work on the project, consider obtaining written estimates, references for similar work that has been completed and contract documents.

## BMPs in Soil Importation – Quality and Quantity

Healthy soil is a key component of sustainable agriculture and food systems. Sustainable soil management is needed to achieve long term economic benefits for the farm (e.g., maintain or improve crop yield and revenues, reduce operating costs), protect human and ecological health (e.g., mitigate risks) and reflect the public interest. A healthy soil has a greater resilience to both droughts and to excessive wet conditions. Also, healthy soil, because it has sufficient soil organic matter and good soil structure, tends to have lower erosion potential, less compaction, better water infiltration and better water holding capacity.

Soil texture refers to the relative proportion of sand, silt and clay in a soil and has a significant influence on the chemical and physical properties of a soil. Understanding how the soil responds to various climatic conditions will help to avoid crop productivity issues.

If considering importing soil onto the farm property, maintaining or enhancing the soil resource on the agricultural land may be achieved by:

- Importing topsoil which contains organic matter or deposits of partially decomposed organic matter such as peat.
- Importing soil of equal or better chemical and physical quality than what already exists on the property (i.e., **no degradation of on-farm soil quality**). Note that some of the physical soil structure parameters such as structural form, stability and strength; porosity; and bulk density may be negatively altered by material storage and handling activities — refer to the *BMPs in Soil Management – Storage, Grading and Incorporation* section.

- Avoiding soil that contains concrete, asphalt, demolition debris, rubbish, garbage or other materials such as rubber, plastics, metals or glass.
- Working closely with the soil professional to ensure that the imported soil is of suitable quality for the intended reuse, and developing/adopting protective, risk-based approaches for management of the imported soil on the farm.
- Consulting with a Certified Crop Advisor (CCA), Professional Agrologist (P. Ag.) or an agronomist for crop related questions or other agronomic considerations.
- Being vigilant about following the protocols for incoming soil identified in the Fill Management Plan – refer to the *BMPs in Project Planning* section.

The quantity of soil for importation must be assessed on a site-specific, case-by-case basis. The purpose of the intended reuse combined with the long-term plans for the property and other agricultural considerations such as type of crops, cropping practices, equipment and topography will have an influence on how much soil may be required.

Limiting the potential negative impacts associated with soil importation (refer to *Potential Issues with Imported Soil* section) can be facilitated by working closely with the soil professional to ensure that the quantity of soil imported is limited to that necessary for the intended reuse of the soil.

### **BMPs in Soil Management – Storage, Grading and Incorporation**

Soil degradation may occur due to soil compaction, soil erosion and improper soil handling and storage. Soil characteristics such as texture, structure, porosity, permeability and compaction all affect internal drainage.

Soil structure refers to how the sand, silt and clay particles are arranged into clumps or aggregates. Structure is a measure of stability and strength and influences permeability/infiltration (i.e., water movement), heat transfer and root penetration. The structural integrity of a soil is weakened during handling. Minimize equipment operations where possible. Soil structure is also damaged by compaction which is the result of the pressing together of soil particles. Soil is particularly vulnerable to compaction when it is saturated. Carry out soil handling activities during dry conditions (i.e., avoid working the

soil under wet conditions). The use of wide track equipment or other equipment designed to distribute the vehicle weight more evenly across the soil will help to limit compaction. The pressure exerted by tracked vehicles is often less than the pressure exerted by rubber tired vehicles.

Material handling requirements will vary from one soil importation project to another. For projects such as grade alterations, the soil is typically placed directly where it is to be used. For other projects such as on-farm site development or construction activities, it may be necessary to stockpile the soil for later use. Direct placement of imported soil is the least expensive and most efficient approach as it reduces material handling and the associated equipment costs.

Avoid stockpiling soil for lengthy storage periods, especially if the imported soil is topsoil and is to be used as a soil health amendment to improve crop yield or as a bedding material to re-establish vegetation in an area that has been disturbed (e.g., by construction activities).

Prolonged storage is detrimental to soil health due to:

- breakdown of organic matter
- leaching of nutrients
- sterilization by solar radiation
- disturbance to microscopic organisms and
- soil compaction

If the imported soil is subsoil and is being used for grade alterations or on-farm site development or construction activities, storage periods are generally less of an issue provided measures are in place to ensure that any stormwater run-off or dust from stockpiled soil does not move off-site.

Grading plans with steep slopes have the potential to create significant soil erosion problems during fill, grading or site alteration activities and the vulnerability continues until vegetated cover in the disturbed area is established. Field slopes in the range of 0%-2% up to 150 m long can normally be controlled with conservation cropping and tillage practices. Field slopes steeper than 2% and longer than 150 m may require additional considerations as might the lesser field slopes in some cases. Consider erosion protection measures in the form of vegetative cover (e.g., cover crops), silt fencing and mulch during the restoration period. Information related to soil erosion and a listing of soil erosion control contractors certificate holders

can be viewed at [ontario.ca/omafra](http://ontario.ca/omafra) and search for “erosion control contractors certificate holders”.

Integration of imported soil into the existing soil profile is an important consideration. Depending on the quality of the imported soil and the nature of the project, it may be advisable to strip off and stockpile the existing topsoil, sod and turf materials and reuse them as final cover once the imported soil has been added to the subsoil layer. Topsoil if added in a 100–150 mm layer can be incorporated into the existing soil through light tillage and the natural action of the soil biology.

The addition of organic amendments such as manure will help to build organic matter and improve soil structure, strength, fertility and water holding capacity. Ontario Regulation (O. Reg.) 267/03 under the *Nutrient Management Act, 2002* and the Nutrient Management Protocol provides information on land application practices and agronomic rates for the addition of nutrients to promote crop growth.

More information on these and other best management practices related to the management of soil, excess soil and soil erosion can be found in the OMAFRA and MOECC publications listed in the *Resources* section. Ministry of Municipal Affairs information pertaining to provincial land use planning is also referenced.

## RESOURCES

Ontario Ministry of Agriculture Food and Rural Affairs [ontario.ca/omafra](http://ontario.ca/omafra)

- BMP 06, *Soil Management*. [ontario.ca/cyjn](http://ontario.ca/cyjn)
- BMP 16, *Manure Management*. [ontario.ca/cyjo](http://ontario.ca/cyjo)
- BMP 26, *Controlling Soil Erosion on the Farm*. [ontario.ca/cyjp](http://ontario.ca/cyjp)
- OMAFRA Factsheet 12-053, *Soil Erosion – Causes and Effects*. [ontario.ca/cyjq](http://ontario.ca/cyjq)

Ministry of the Environment and Climate Change [ontario.ca/moecc](http://ontario.ca/moecc)

- *Management of Excess Soil – A Guide for Best Management Practices*. [ontario.ca/document/management-excess-soil-guide-best-management-practices](http://ontario.ca/document/management-excess-soil-guide-best-management-practices)
- *Proposed MOECC Excess Soil Management Policy Framework*. [ontario.ca/cylb](http://ontario.ca/cylb)

Ministry of Municipal Affairs [ontario.ca/mah](http://ontario.ca/mah)

- Provincial Land Use Plans. [ontario.ca/bzln](http://ontario.ca/bzln)

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