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Mr. Coelho:

Re: *EBR Posting #013-0299 - Amendments to Ontario Regulation 153/04 (Record of Site Condition) and Excess Soil Management Regulatory Proposal*

The Ontario Public Health Association (OPHA) is grateful for the opportunity to comment on EBR Posting #013-0299. We are pleased to see that the Ministry of Environment and Climate Change is taking action to develop a cohesive provincial direction on management of excess soil and address the varying practices for management of these materials and recognizes the potential risk to human health and the environment. We also see an opportunity through this EBR proposal to remove some of the barriers to urban food growing projects, while still maintaining health protection.

Our comments, outlined below, relate to the following two areas:

- Amendments to Ontario Regulation 153/04 to address barriers to urban food growing projects; and
- The Excess Soil Management Regulatory Proposal.

1. Addressing Barriers to Urban Food Growing Projects – Amendments to Ontario Regulation 153/04 (Records of Site Condition)

Urban food growing has been identified as an important strategy to address many public health priorities including climate change mitigation and resilience, access to healthy and inexpensive food, and physical and mental health. Specifically among children, garden-based activities have shown to increase children's knowledge of, preference for and consumption of vegetables and fruit, thus creating healthy behaviour patterns that span a lifetime^[2]. There is increasing interest among institutional, commercial and government stakeholders to invest in community-led urban food growing projects. These projects can be in neighbourhoods where access to food and green space are limited and incomes are typically low.

For these urban food growing projects, a Record of Site Condition (RSC) would be required due to a shift to a more sensitive land use (i.e., from commercial or parkland to agricultural land use). This triggers an expensive and time consuming site assessment and regulatory approval process. Our stakeholders tell us that the

resources required to meet this regulatory hurdle would exhaust the resources available for getting these projects started and significantly impair the creation of critically needed community food initiatives.

As part of an initiative to innovate, the Ministry developed a Tier II site assessment approach to streamline RSC assessments for low risk, standardized sites. Unfortunately, this process does not include key risk assessment and risk management assumptions that are specific to urban food growing projects, such as non-permanent structures (*i.e.*, no indoor air inhalation pathway), no groundwater consumption, no livestock production and above-grade container gardening as a risk management approach.

To address these barriers, OPHA is requesting that the Ministry consider a streamlined and tailored approach to assessing sites for the purposes of small scale, community-based urban food growing projects, analogous to the Modified Generic Risk Assessment (Tier II) approach already in place for other low risk sites. In these cases, site assessments are conducted and signed off by a Qualified Professional - Risk Assessment (QP_{RA}) and filed on a transparent environmental approval site registry for automatic approval. Assumptions that are tailored and standardized to urban food growing projects could be built into the approach, significantly simplifying the process to assess and manage potential risks while maintaining health objectives. This provision would allow for an expedited review process facilitated by the local district Ministry offices.

Given the urgency of improving access to nutritious food, these communities cannot wait another growing season for access to their own food growing projects. OPHA is therefore requesting the Ministry initiate a working group to quickly identify how to leverage existing Ministry processes to develop an approach that could be ready by January of 2018. Under this timeline, projects will be able to go through the site assessment and approvals process in time to break ground in the spring 2018.

This proposal would support urban growing initiatives across Ontario^[1]. We believe this initiative would not only help to reduce a significant, if not, insurmountable barrier to urban food growing projects, it would also help the Province meet two of its keystone policy directives: poverty reduction and climate change mitigation and resilience.

1. Excess Soil Management Regulatory Proposal

OPHA is supportive of the Excess Soil Regulatory Proposal as it meets many of the framework goals of protecting human health and the environment from inappropriate relocation of excess

^[1] Many municipalities across Ontario and Canada, including City of London, City of Hamilton, City of Ottawa, Edmonton, Vancouver, Victoria, Thunder Bay, Kelowna, have urban agriculture strategies or food strategies that include urban agriculture.

^[2] Stochla J, Smith D, Roblin L. Effective Interventions to Increase Vegetable and Fruit Intake in School-Aged Children. Toronto (ON): Nutrition Resources Centre, Ontario Public Health Association; 2016 Nov. 31 p

soils. For example, the update of toxicity reference values used in the development of excess soil standards to include up-to-date science and risk assessment practices as well as updates to the Ontario Drinking Water Quality Standards for chemicals that have site condition standards for soil and groundwater. The new/updated values have been incorporated into the development of the medium volume and volume independent excess soil standards.

OPHA is recommending the following:

Adverse effects related to excess soil movement: In addition to the impacts of dust related to the storage of excess soil, the Excess Soil Regulatory Proposal should also better address air quality, noise, odour and climate change impacts, including greenhouse gas emissions, related to excess soil movement over long distances and placement on the receiving site. Efforts to address these impacts will help to improve local air quality and the Province's climate change strategy.

- **MOECC consultations with stakeholders:** OPHA recommends that MOECC consult with Public Health stakeholders on aspects of the Excess Soil Regulatory Proposal that may be relevant to human health, such as the development of guidance documents relating to assessing soil quality and conducting risk assessments.
- **MOECC Soil Assessment Standard Operating Procedure (SOP):** OPHA recommends that the Excess Soil Regulatory Proposal include a reference to the MOECC Soil Assessment Standard Operating Procedure (SOP). The framework or the regulatory proposal does not make reference to the MOECC Soil Assessment Standard Operating Procedure (SOP), which provides guidance on engagement with public health. While the SOP does not primarily focus on excess soil management, it is important to consider how the Excess Soils Management Policy Framework or the regulatory proposal can have impacts to the Soil Assessment SOP and vice versa, and what information derived from the framework can be useful to soil assessments that may not involve excess soils.

OPHA would like to thank the Ministry for this opportunity to comment on the regulatory proposal for the management of excess soil and amendments to O. Reg. 153.04. We would be pleased to work with the Ministry to ensure this regulatory proposal addresses potential human health impacts while at the same time reducing barriers to urban food growing projects.

Thank you for your consideration,



Pegeen Walsh