



**ONTARIO SOIL  
REGULATION  
TASK FORCE**

April 8, 2015

Canadian Aviation Regulation Advisory Council  
Transport Canada  
By e-mail to [carrac@tc.gc.ca](mailto:carrac@tc.gc.ca)

RE: NOTICE OF PROPOSED AMENDMENT (NPA):  
RESPONSIBLE AERODROME DEVELOPMENT  
CARAC ACTIVITY REPORTING NOTICE #2013-014

The Ontario Soil Regulation Task Force (OSRTF) is the voice for 17 environmental and community groups in southern Ontario that are concerned about the dumping of excess construction soil onto rural lands, including at aerodromes. Hundreds of truckloads of soil can be dumped each day at any given site, and our members have identified dozens of sites in southern Ontario. Most of the soil comes from construction excavations but some comes from the cleanup of old industrial lands. Although the associated noise, traffic, and dust are more than a nuisance, the main concern is that some of the soil could be contaminated and that contamination may ruin the groundwater upon which the neighbors rely. A landowner who took a few loads of “clean fill” for a parking pad for a school bus now has carcinogenic dry cleaning fluid in his well. Supposed clean soil supplied for the yard of a sheep farm turned out to be especially toxic to sheep. The issue reached the front page of the Toronto Star last autumn (October 20). Contaminated soil and groundwater affects agriculture, human health, and property values.

For the past 5 years, our groups have been working with municipal governments, the provincial Ministry of Environment and Climate Change (MOECC), industry associations, and politicians to bring about better regulation of this activity. Municipalities are bringing in stronger site alteration by-laws that require monitoring and testing of incoming soil. MOECC is enforcing new environmental guidelines for handling excess soil and the provincial government is conducting a review (EBR#R2013005) for a province-wide policy to address the problem of compromised soil.

We have been asking for help from Transport Canada since the infamous case of the Earthworx aerodrome in Scugog in 2010 where the owners stated that the aerodrome designation made them exempt from any municipal or provincial oversight of their commercial fill operation. The rural Earthworx site is now a weed-infested vacant lot contaminated with cyanide at 3000 times the limit for an industrial property. The Morgan’s Road soil dump initially also used the federal aerodrome ploy to keep municipal inspectors at bay. At the Greenbank Airport the imported soil is up to 80 feet thick (see photo last page). The commercial fill operation at that airport is expected to earn several million dollars for its owner, whose previous occupation had been in handling contaminated soil. The operators at the Volk airport in Tottenham have accepted 500,000 cubic meters of soil from subway excavations. Some of the soil dumped at the Burlington Airpark has exceeded the environmental standards for soil over an area of potable groundwater and the provincial environment ministry has ordered groundwater monitoring. A commercial fill site operator told one of our members that he could get around the municipal regulations by calling his site an aerodrome. For more information on the soil issue consult the websites <http://osrtf.ca> and <http://lakeridgecitizens.ca>

It is our opinion that some commercial fill operations (not necessarily all of those mentioned above) may use aerodromes to bypass environmental regulation. There should be some improvement since the two court decisions that ruled that the municipalities of Scugog and Burlington had the right to regulate the soil going into an aerodrome. The Transport Canada 2013 advisory circular AC 300-009 helped to clarify the issue by stating that;

*For those structures or activities that are determined not to be integral to aviation, it is expected that the proponent of an aerodrome comply with all applicable provincial legislation and municipal by-laws.*

However, the court decisions and the circular are not definitive. With that as background, OSRTF suggests the following underlined addition to clause 7.e of the proposed changes.

**7 e. an attestation that the installation will adhere to local building and fire codes and site alteration by-laws.**

Municipal site alteration by-laws cover surface water drainage and erosion as well as the quality of incoming soil to mitigate the impact upon neighbouring lands and watercourses and the underlying aquifers.

With respect to the applicability of the regulations, OSRTF is concerned that the requirement for the public consultation process may not apply in some cases where we believe that it should. A development with a significant importation of soil may not trigger as a change to “existing level(s) of service or operation” or “to existing usage” if the definition is limited to aeronautical services, operations, or usage. The regulations should stipulate that;

**If the aerodrome development is not related to aeronautical services, operations, or usage, then it is likely that local municipal and provincial regulations do apply.**

The proposed regulations provide too many exceptions to the requirement for public consultation, especially if the aerodrome operator is more concerned with the commercial fill operation than the ultimate aerodrome. OSRTF suggests that all aerodrome developments have a minimum level of public participation. OSRTF proposes that the following clauses of the proposed regulations be required for any aerodrome development (with the exception of emergency temporary aerodrome operations),

- **Public notification (clauses 4 to 8)**
- **Responding to the public (clauses 18, 19)**
- **Public reply comments (clauses 20 to 22)**
- **Concluding consultation process (clauses 23, 24)**
- **Public record (clauses 25, 26)**
- **Post-consultation (clauses 27)**
- **Dispute resolution process (clauses 28-31)**

This level of notification and consultation informs the neighbours and local officials but does not put undue cost on the small operator or on developments that would raise no concerns. If the development falls into the applicability clauses of 1.a and 1.b, then the full range of public consultations would apply, including the newspaper notice, signage and public meeting.

OSRTF and its members and followers really do appreciate that the government has made these recent amendments to the Aeronautics Act and that the new regulations will be an improvement. We also hope that you will find our suggested revisions to be an acceptable balance between the rights of an aerodrome operator and the rights of the aerodrome's neighbours.

Yours sincerely,



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DALE BRAZAO / THE TORONTO STAR