

Nutrient Management General Regulation Amendment Proposal

Summary of Proposal

Ontario's agri-food sector is an important component of the provincial economy, contributing \$39.5 billion in Gross Domestic Product (GDP) and employing nearly 822,500 people in 2017. Primary agriculture accounted for roughly 11 per cent of the sector's GDP (\$4.4 billion), generating \$13.1 billion in farm cash receipts and employing 68,500 people in 2017 while producing a diverse range of over 200 different commodities.

Nutrients are essential for crop production and for healthy soils. Responsible on-farm nutrient management can allow for improved productivity while also mitigating negative environmental impacts. Nutrients and pathogens are inherent to the use of manure and other organic products as a source of nutrients in agricultural production, and if managed incorrectly, have the potential to adversely affect human health and impair water quality. The Nutrient Management Act (NMA) was introduced in 2002 and its stated purpose is to provide for the management of nutrients in ways that enhance the protection of the natural environment and provide a sustainable future for agricultural operations and rural development.

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and Ontario Ministry of the Environment, Conservation and Parks (MECP) jointly administer the *Nutrient Management Act* (NMA) and its associated regulations. OMAFRA is responsible for approvals, training and certification, whereas MECP is responsible for enforcement to ensure compliance. This structure supports the implementation of an integrated framework governing nutrient management and other related farm practices in Ontario.

The General Regulation under the NMA originally came into force in 2003. The Regulation has evolved and regulates the management of a variety of prescribed materials (e.g. on-farm and off-farm materials) including their storage and land application on agricultural operations.

The Ontario Government is committed to cutting red tape and reducing regulatory burden for all businesses, to lower business operating costs and improve Ontario's

competitiveness. As part of this effort, the OMAFRA and MECP are proposing changes to regulations under the *Nutrient Management Act* to reduce burden and ensure requirements are outcome-focused and evidence-based, while continuing to protect the environment

At this time, OMAFRA and MECP are proposing two changes to O. Reg. 267/03 General (“the Regulation”) which would:

1. Reduce administrative burden; and
2. Streamlining requirements to provide more business opportunities.

Proposed Regulatory Amendments

1. Reducing Administrative Burden

Five-Year Nutrient Management Strategy (NMS) Cessation

The Regulation prescribes rules for the management of prescribed materials on an agricultural operation, including their storage and application. The keystones of the regulation are the development (by a certified preparer) of a farm-based nutrient management strategy and/or nutrient management plan. These documents are intended to outline the management processes and expectations to be taken by the farm operation to comply with the various regulatory rules through a systematic assessment process.

The Regulation requires certain agricultural operations to have a nutrient management strategy (NMS), nutrient management plan or a non-agricultural source material plan. The NMS deals with the management of nutrients at certain operations that generate nutrients such as manure. Nutrient management plans deal with the management of nutrients at certain types of operations where the nutrients are land applied. Finally,

non-agricultural source material plans generally deal with the management of non-agricultural source materials that are land applied at an operation. The Regulation sets out rules as to whether a NMS, nutrient management plan or non-agricultural source material plan are needed and if they need to be approved by the Director.

Once a NMS is approved and in force at an agricultural operation, there are a number of different situations that would result in its cessation (i.e. its expiry). These include significant changes in operation such as submitting an application for certain types of building permit, a change in the types of off farm materials received for use in a regulated mixed anaerobic digestion facility, or a change in ownership or control of the agricultural operation.

The situation being addressed in this proposal is the cessation of the NMS on the fifth anniversary of the day on which the NMS was either approved or last prepared. This five-year cessation rule applies even if no change in agricultural operation has occurred. Unless a new NMS (completed by a certified preparer) is prepared, the agricultural operation is considered out of compliance and could be subject to progressive enforcement measures. The completion of a new NMS is a financial cost for the operation, typically costing between \$1,000 to \$5,000 depending on the size of the operation.

Current nutrient management regulations require farmers to annually update their plans and strategies. Farmers are also required to review their operations annually.

Proposed Amendments

The ministries are proposing to amend the Regulation to remove the automatic five-year cessation associated with a nutrient management strategy.

The proposed regulation would not affect when an agricultural operation needed a NMS and the NMS would still need to be prepared by a certified person. However, under this proposed amendment, there would be no automatic cessation of a NMS after five years from its approval or preparation and it is possible that strategies would last longer than five years where none of the other cessation triggers apply. The other cessation

triggers would remain unchanged in the Regulation. Farmers would still be required to review and update their NMS annually. OMAFRA will be providing more explicit guidance regarding annual reviews/updates and what is expected of agricultural operations to help ensure this requirement is met to the satisfaction of compliance staff in lieu of automatic five-year renewals.

2. Streamlining Requirements to Provide More Business Opportunities

Land Application of Manures from Non-Farm Grazing Animals

The Regulation distinguishes between two main types of nutrient containing materials that have slightly different regulatory frameworks and standards that apply to them: agricultural source materials and non-agricultural source materials (NASM).

While agricultural source materials includes manure generated by farm animals, any manures generated by non-farm animals are currently classified as Category 3 NASM which has the most stringent rules associated with its management. These include sampling and analysis requirements and a requirement to have a certified person prepare a NASM plan and submit it to the Director for approval. The regulatory requirements associated with these two materials (when utilized for land application as a nutrient source) are very different even though the materials can be very much alike.

Proposed Amendments

The ministries are proposing to amend the Regulation to include low risk manures from non-farm grazing animals, such as zebra, elephant or kangaroo, as a Category 1 NASM. This amendment would apply to businesses and agricultural operations looking to utilize these manures as a crop nutrient source and could help promote improved recycling of these materials.

These eligible animal manures would continue to be regulated as NASM and would be required to meet all Category 1 regulatory requirements associated with utilization of these materials as a nutrient source.

Under this proposed amendment, a NASM Plan and OMAFRA approval would no longer be required for application of these materials since they would be designated as a Category 1 NASM rather than a Category 3 NASM.

Summary

The ministry is seeking your feedback on the proposed amendments as outlined in this paper. Your feedback will be considered during the development of possible amendments.

Questions for Consideration

Do you agree with the changes described in this proposal? Why or why not?

Do you have any specific concerns with any of the items discussed in the proposal?

Would the proposed changes reduce burden or contribute to additional opportunities for your business?

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