



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

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Ministry of Agriculture and Food
Policy Advisor
Strategic Policy Branch
11th Floor
77 Grenville St.
Toronto, ON
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EBR REGISTRY NO. RC0430730
Amending Regulation to Ontario Regulation 267/03
Alignment of Compliance Dates of Existing Large Farms with
Nutrient Management Financial Assistance Program

Dear Sir/Madam:

The Canadian Environmental Law Association reiterates its strong support of the need for effective and enforceable legislation and regulation to address the environmental and public health impacts of agricultural operations in Ontario, particularly in relation to nutrient management.

This comment will indicate that CELA supports the proposed amendment to Regulation 267/03 on the basis that the whole package proposed in the above noted EBR notification proceeds. As we will explain, CELA agrees that the timing of certain aspects of compliance by the existing large livestock farms should be aligned with the availability of funding under the recently announced Nutrient Management Financial Assistance Program. However, this short term exemption from compliance with certain of the requirements must be based on the requirement that those farms nevertheless submit a nutrient management strategy, comply with the municipal well setbacks and comply with winter spreading restrictions all as of July 1, 2005.

PREVIOUS SUBMISSIONS:

The Canadian Environmental Law Association (“CELA”) is a public interest law group founded in 1970 for the purpose of using and improving laws to protect the environment and public health and safety. Funded as a legal aid clinic specializing in environmental law, CELA lawyers represent individuals and citizens’ groups in the courts and before tribunals on a wide variety of environmental protection and resource management matters. CELA has previously provided various submissions on the subject of nutrient management and on topics of agriculture

and environment. In May, 2002, CELA made a submission to the Standing Committee on Governmental Affairs regarding Bill 81, Nutrient Management Act (CELA publication #425). In August, 2001, CELA also made a written submission under the Environmental Bill of Rights regarding the then proposed Nutrient Management Act. In October, 2002, CELA submitted its written comments with respect to phase one of the Nutrient Management Regulations (CELA publication #430). CELA Counsel Theresa McClenaghan presently sits on the government's Nutrient Management Advisory Committee.

Over the years, CELA has been particularly active in casework involving agricultural operations, environmental protection, and land use planning. For example, CELA has frequently represented farmers in civil actions and administrative hearings in order to protect the health, safety and livelihood of our farming clients. Similarly, CELA provides summary advice to numerous members of the public who contact CELA with concerns and questions about the environmental and public health impacts of intensive agricultural operations. In addition, CELA has participated in numerous land use hearings in order to protect agricultural lands and specialty crop lands against urbanization. CELA represented the Concerned Walkerton Citizens in both phases of the Walkerton Inquiry, which, among other things, considered various aspects of nutrient management at the local, regional and provincial levels.

BASIS FOR SUPPORT OF PROPOSAL:

CELA supports the proposed amendment to Regulation 267/03 on the basis that the whole package proposed in the above noted EBR notification proceeds.

CELA agrees that the timing of certain aspects of compliance by the existing large livestock farms should be aligned with the availability of funding under the recently announced Nutrient Management Financial Assistance Program. However, this short term exemption from compliance with certain of the requirements must be based on the requirement that those farms nevertheless submit a nutrient management strategy, comply with the municipal well setbacks and comply with winter spreading restrictions all as of July 1, 2005.

The Nutrient Management Financial Assistance Program was just announced in the province's budget this spring. Eligibility criteria must be based on actions and best management practices that will benefit the environment, protect the province's water resources, and meet the requirements of the Nutrient Management Act and its regulations. Farmers then must have an opportunity to evaluate their farms, carry out their nutrient management strategy / planning exercises and determine what actions are needed on their farms to comply with the Nutrient Management Act's existing requirements. For those who require construction activity with associated capital expenditures, such as for additional or altered manure storage facilities and other works, the construction season is also a factor.

At the same time, some of the important requirements of the Nutrient Management Act and regulations are not dependant on such capital works and the associated expense. These include activities such as avoiding spreading of manure and other nutrients immediately adjacent to municipal and other wells and restricting winter spreading of manure and other nutrients.

These requirements are of high importance and should proceed by the originally scheduled date of July 1, 2005 for this category of farms, i.e. the existing large livestock farms. Also of high importance is the exercise of determining appropriate application rates of nutrients given the farm's soil conditions, crops and other conditions. With respect to application rates, in no case should the requirement to comply with the land application standards of the regulation extend beyond December 31, 2005.

CELA also continues to submit that other farms not yet covered by the regulation need to be included in the regulation with clear compliance dates specified as soon as possible so that all farmers can include considerations of their future compliance requirements in current planning and capital expenditures. This exercise, of course, must be integrated with the province's current initiative in developing watershed based source protection plans and the farm water protection plans called for by Justice O'Connor in the report of the Walkerton Inquiry, along with any additional requirements for water source protection beyond those contained so far in the Nutrient Management Act and regulations.

Thank you for the opportunity to submit these comments. CELA strongly encourages the Ministry of Agriculture, Food and Rural Affairs to continue its practice of widespread consultation and notification of initiatives impacting on the environment, and utilization of the Environmental Bill of Rights Registry.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa A. McClenaghan', written in a cursive style.

Canadian Environmental Law Association

Per

Theresa A. McClenaghan

Counsel