

Consultation Draft

ONTARIO REGULATION made under the NUTRIENT MANAGEMENT ACT, 2002

GENERAL

PART I INTRODUCTION

DEFINITIONS

Definitions, general

1.1. (1) In this Regulation,

“accredited certifier” means a person who holds a Reviewer licence under **section 10.8**;

“agricultural leachate” means a solution that is contaminated;

“agricultural source material” means a prescribed material described in **section 1.6**;

“approved treatment system” means a treatment system approved by the Director that is capable of changing the characteristics of an input stream that contains dissolved nutrients to meet the quality standards set out in Part IX of this Regulation;

“aquifer” means an underground formation of saturated permeable rock or loose material including soil that can produce useable quantities of water when tapped by a well;

“broker” means a person who,

- (a) receives prescribed materials from an operation,
- (b) does not generate a new nutrient product from those materials, and
- (c) transfers the materials to another operation, applies the materials to land as nutrients on behalf of another person, or stores them for either of those purposes;

“broking operation” means an operation by virtue of which a person is a broker;

“commercial fertilizer” means a fertilizer, or supplement, as defined in the *Fertilizer Act* (Canada);

“compacted clay liner” means a seepage barrier with saturated hydraulic conductivity of 1×10^{-9} metres per second or less constructed of a cohesive soil that is compacted to increase its bulk dry density and homogeneity, reduce porosity and decrease soil permeability;

“compliant”, in relation to a nutrient management strategy or plan, means a strategy or plan,

- (a) that is approved or certified under this Regulation; or
- (b) that is not approved or certified under this Regulation, but that is prepared and kept in accordance with this Regulation;

“concrete” means Portland cement concrete;

“container nursery” means an area of land that contains groups of plants, including the roots, in rigid or flexible pots, either above or below ground, managed by processes such as watering to promote growth from April to October in any year, and which may or may not be enclosed or covered from November to April;

“container nursery and greenhouse leachate” means agricultural leachate generated from a container nursery or greenhouse;

“contaminated” means an aqueous solution containing:

- (a) a nutrient in a concentration that is ten times the ambient background water quality concentration of a contaminant listed in Schedule 4 to Ontario Regulation 459/00 made under the *Ontario Water Resources Act*, or
- (b) containing E Coli at a density of over 1×10^3 colony forming units per gram of total solids, dry weight or Salmonella sp at a density of over three colony forming units per 4 grams of total solids, dry weight;

“contingency plan” means a proposal in a nutrient management strategy or plan for dealing with,

- (a) an excess of prescribed materials or nutrients, in the event that the amount of prescribed materials or nutrients generated or received at a farm unit is greater than that otherwise provided for by the strategy or plan,
- (b) an excess of prescribed materials or nutrients, in the event that the amount of prescribed materials or nutrients requiring storage prior to use exceeds or is anticipated to exceed the storage capacity available for prescribed materials or nutrients otherwise provided for by the strategy or plan,
- (c) unanticipated releases of prescribed materials or nutrients from storage or during transport or application,
- (d) inability to store, apply or otherwise use prescribed materials or nutrients as otherwise provided for by the strategy or plan, as a result of weather conditions or unavailability of equipment, or
- (e) any other contingency requiring the handling or storage of prescribed materials or nutrients in an emergency;

“controls”, in relation to land, an agricultural operation or a non-farm operation, includes manages and operates;

“designated health or educational facility” means land used for a designated facility as defined in Ontario Regulation 505/01 under the *Ontario Water Resources Act*, except land used for a school while the school is not in session;

“earth” means inorganic components of the earth’s crust such as clay, silt, sand, gravel or any mixture of such components and may contain small amounts of organic materials;

“engineered material” means synthetic material or natural material that has been reworked to create material that meets a certain standard;

“farm unit” means land consisting of, or designated as, a farm unit under **section 1.4 (Farm units)**;

“flow path”, in relation to a facility, site or outdoor confinement area, means a surface channel or depression that conducts liquids away from the facility, site or area;

“frozen soil” means soil that is consolidated by the presence of ice, in any layer with a minimum thickness of 2 centimetres, where the layer is located within the top 15 centimetres of the soil;

“generator” means a person who owns or controls an operation in the course of which prescribed materials are generated, and includes an intermediate generator;

“geomembrane liner” means a synthetic membrane with very low permeability used to control fluid migration in a nutrient storage facility;

“geosynthetic clay liner” means a liner that consists of high swelling sodium bentonite between two layers of geotextile fabric having a saturated hydraulic conductivity of 1×10^{-9} metres per second or less used to control fluid migration in an earthen nutrient storage facility;

“greenhouse” means an enclosed structure, or collection of structures, covered with a rigid or flexible glazing material, with sides that may or may not be open to the air, in which the environment is controlled for the cultivation or protection of plants for all or part of the year;

“high-density permanent outdoor confinement area” means a permanent outdoor confinement area where the livestock confined in the area, at any time, are capable of generating nutrients at a rate of more than 0.012 nutrient units per square metre annually;

“high-density seasonal outdoor confinement area” means a seasonal outdoor confinement area where the livestock confined in the area are capable of generating a maximum of more than 5 nutrient units per hectare, calculated on an annualized basis;

“hydraulically secure soil” means natural material that is uniform in nature and able to meet a specified maximum saturated hydraulic conductivity of 1×10^{-8} metres per second;

“infiltration strip” means a strip of land designed to allow runoff water to enter the soil from the surface;

“intermediate generator” means a person who owns or controls an intermediate operation;

“intermediate operation” means an operation carried out with prescribed materials generated in the course of another operation, resulting in the production of prescribed materials that have different characteristics from those of the materials in the form in which they were generated, such as nutrient content, density and volume;

“liquid”, in relation to prescribed materials or nutrients, means prescribed materials or nutrients that are not solid;

“liquid transfer system” means all pipes and surfaces that come into contact with liquid prescribed materials but does not include the components of a permanent liquid nutrient storage facility or a vehicle that is used to transport liquid nutrients;

“livestock” includes poultry and ratites;

“low-density permanent outdoor confinement area” means a permanent outdoor confinement area where the livestock confined in the area, at any time, are not capable of generating nutrients at a rate of more than 0.012 nutrient units per square metre, annually;

“low-density seasonal outdoor confinement area” means a seasonal outdoor confinement area where the livestock confined in the area are not capable of generating nutrients at a rate of more than 5 nutrient units per hectare calculated on an annualized basis;

“municipal well” means a well that serves as a raw water supply for a municipal drinking-water system as defined under the *Safe Drinking-Water Act, 2003*;

“non-agricultural source material” means a prescribed material described in **section 1.7**;

“non-farm operation” means an operation, other than an agricultural operation,

- (a) including intermediate and broking operations; and
- (b) involving the generation, storage or application, of prescribed materials or nutrients;

“Nutrient Management Protocol” means the document of that name prepared by the Ministry for the purposes of this Regulation, as it may be amended from time to time after this Regulation is made;

“nutrient unit” means the amount of nutrients that give the fertilizer replacement value of the lower of 43 kilograms of nitrogen or 55 kilograms of phosphate as nutrient as established by reference to the Nutrient Management Protocol;

“observation station” means a device that intercepts the flow of liquid in a tile drain and that is used to collect, observe and monitor the amount and condition of liquid in the tile drain;

“observation and shut-off station” means an observation station that is equipped with a valve attached to the gravity outflow pipe to allow the flow of liquid in a tile drain to be shut off;

“operation” means an agricultural operation or a non-farm operation;

“operation identifier” means a unique identifier assigned by the Ministry to a farm unit or non-farm operation for the purposes of a nutrient management strategy or plan;

“outdoor confinement area” means a livestock enclosure with the following characteristics:

1. No roof.
2. Confinement by permanent or temporary farm-animal shelters and fences, penning, corrals or similar structures.
3. Permanent or portable feeding infrastructure (including mangers and watering tanks).
4. Livestock may or may not be fed in the enclosure.
5. Livestock may or may not have access to other buildings or structures for shelter or feeding.
6. Grazing and foraging provides less than 50% of dry matter intake;

“permanent liquid nutrient storage facility” means a permanent nutrient storage facility that is designed and constructed to contain liquid nutrients;

“permanent nutrient storage facility” means a nutrient storage facility, including a nutrient storage facility made of earth that is a permanent structure or part of a permanent structure but does not include,

- (a) a permanent solid nutrient storage facility that has less than 14 days of storage capacity; or
- (b) a permanent liquid nutrient storage facility that has less than 14 days of storage capacity and a maximum depth of liquid nutrient that is less than 100 millimetres;

“permanent outdoor confinement area” means an outdoor confinement area that is used for 200 days or more in total in a calendar year;

“permanent solid nutrient storage facility” means a permanent nutrient storage facility that is designed and constructed to contain solid nutrients;

“permanent water table” means the shallowest zone in the soil which normally has positive pressure as recorded in the water well records for the nearest water well or as determined by a test hole dug during the summer months;

“prescribed material” means a material described in **section 1.6 (Agricultural source materials or 1.7 (Non-agricultural source materials))**;

“professional engineer” means an engineer who has a temporary licence or a licence under the *Professional Engineers Act*;

“professional geoscientist” means a person who is a member or a certificate holder in good standing of the Association of Professional Geoscientists of Ontario under the *Professional Geoscientists Act, 2000* other than a limited member or a non-practising member;

“residential area” means an area in which there are four or more adjacent lots of not more than one hectare, on each of which there is a residential building;

“seasonal outdoor confinement area” means an outdoor confinement area that is used for less than 200 days in total in a calendar year;

“site characterization” means a site characterization carried out in accordance with a study under **Part VIII (Construction Standards)**;

“snow-covered soil” means soil with a continuous layer of snow on the surface that has a minimum depth of 5 centimeters;

“solid”, in relation to prescribed materials or nutrients, means having a moisture content of less than 82% (by weight, wet basis) or a slump of 150 millimetres or less using the Test Method for the Determination of Liquid Waste (slump test) set out in Schedule 5 of Regulation 347 made under the *Environmental Protection Act*;

“surface water” means surface water as defined in **section 1.2**;

“synthetic liner” means a geomembrane liner or a geosynthetic clay liner;

“temporary in-field nutrient storage site” means a location where solid nutrients are stored that is not a permanent nutrient storage facility;

“top”, in relation to a bank of surface water, means,

- (a) the edge of a defined channel or a bank of surface water, where there is a sharp change from the steep slope of the channel or bank to the shallower slope of the field area; or
- (b) where no such break in slope exists, the normal full extent of the watercourse when it contains the maximum volume of water without flooding;

“two year time of travel zone” has the same meaning as in clause 42(2)(a) of Ontario Regulation 140/02, the *Oak Ridges Moraine Conservation Plan* Regulation;

“vegetated buffer zone” means an area that,

- (a) has a width of at least 3 metres, adjacent to surface water, measured from the top of the bank of the surface water nearest the buffer zone; and
- (b) is maintained under continuous vegetated cover, including perennial grasses, forbs or trees and perennial forage crops that are harvested as hay or silage;

“well” includes a gas well, oil well, unused well, test well and water well.

(2) In the Act,

“generator” means generator as defined by subsection (1).

(3) In this Regulation, a reference to a nutrient includes a reference to material that contains the nutrient.

(4) In this Regulation, a reference to a measurement within a range between two stated measurements shall be taken to be a reference to any measurement that is equal to or greater than the first measurement in the range and less than the second measurement (for example, a reference to a measurement within the range 15 centimetres to 30 centimetres shall be taken to be a reference to any measurement equal to or greater than 15 centimetres and less than 30 centimetres).

Meaning of “surface water”

1.2 (1) In this Regulation,

“surface water” means, subject to subsection (2),

- (a) a natural or artificial channel that carries water continuously throughout the year, or intermittently, and has established vegetation within the bed of the channel not dominated by terrestrial plants,

- (b) a lake, reservoir, pond or sinkhole,
 - (c) a wetland as defined in Ontario Regulation 140/02 made under the *Oak Ridges Moraine Conservation Act, 2001*, or
- (2) The following are not surface water for the purposes of this Regulation:
- 1. Grassed waterways.
 - 2. Temporary channels for surface drainage, such as furrows or shallow channels that can be tilled and driven through.
 - 3. Rock chutes and spillways.
 - 4. Roadside ditches that do not contain a continuous or intermittent stream.
 - 5. Temporarily ponded areas that are normally farmed.
 - 6. Artificial or constructed waterbody intended for the storage, treatment or recirculation of those agricultural source materials set out in paragraphs 2 to 7 of Section 1.6.

INCORPORATED DOCUMENTS

Availability of Nutrient Management Protocol and other incorporated documents

1.3 (1) The Director shall ensure that copies of any document, including the Nutrient Management Protocol, incorporated by this Regulation as the document may be amended from time to time after this Regulation is made, incorporating any such amendments, are made available to the public by,

- (a) posting on a website maintained by the Ministry and notified in the registry under the *Environmental Bill of Rights, 1993*; or
 - (b) any other print or electronic medium of mass communication.
- (2) Subsection (1) does not apply to an Act or Regulation of Ontario or Canada.

FARM UNITS

What constitutes a farm unit

1.4 (1) An area of land used for an agricultural operation, part of an agricultural operation or more than one agricultural operation constitutes a single farm unit for the

purposes of this Regulation only if the following rules apply:

1. It must be reasonably necessary, for the avoidance of any adverse effect described in subsection 18 (3) of the Act, for any prescribed materials generated on the land, or any nutrients applied on the land, to be managed by reference to a single nutrient management strategy or plan.
2. For a single farm unit on which prescribed materials are generated, all land on the farm unit must be constituted by a complete portion or complete portions of land each of which was, when acquired by its current owner, conveyed under a single transfer as defined in the *Land Registration Reform Act*.
3. A farm unit on which prescribed materials are generated must include all land on which the generated material is applied or stored, unless the nutrient management strategy or plan for the farm unit provides for the generated material to be transferred elsewhere, in accordance with this Regulation,
 - (i) under a broker agreement,
 - (ii) through intermediate generators,
 - (iii) by a farm unit transfer, or
 - (iv) for use other than as a nutrient.
4. A farm unit on which nutrients are applied, but prescribed materials are not generated, must be no smaller than a single field.
5. If a greenhouse is part of the agricultural operation or operations, and the greenhouse covers more than 200 square metres of land under a single roof, there must be no more than a single farm unit including the land covered by the greenhouse.
6. If a container nursery is part of the agricultural operation or operations, and the nursery covers more than 200 square metres of land, there must be no more than a single farm unit including the land covered by the nursery.
7. A part of a farm unit on which manure is generated may be located at any distance from a part of the farm unit where the manure is applied to land.

(2) If a person owns or controls land in relation to which a nutrient management strategy or plan has been or is being prepared, the Director may, on application by the person or on the Director's own initiative, by certificate given to the person, designate

land described in the certificate as a farm unit for the purposes of the strategy or plan, regardless of whether the person owns or controls all or part of the designated land.

(3) The Director shall have regard to the rules described in subsection (1) in making a decision to designate land as a farm unit.

Farm units, categories

1.5 (1) For the purposes of this Regulation, a farm unit has the category set out in the following table in the circumstances shown in the table:

Category of farm unit or operation	Circumstances ¹
Category 1 farm unit	Fewer than 30 nutrient units (annual maximum)
Category 2 farm unit	30 to 150 nutrient units (annual maximum)
Category 3 farm unit	150 to 300 nutrient units (annual maximum)
Category 4 farm unit	300 or more nutrient units (annual maximum)

¹Note: “30 to 150” nutrient units means equal to or more than 30 nutrient units and fewer than (but not equal to) 150 nutrient units, and the range “150 to 300” nutrient units applies in the same way (see s. 1.1 (4)).

(2) If this Regulation refers to a category of farm unit in relation to the generation of prescribed materials at the farm unit, the second column of the table in subsection (1) describes the maximum number of nutrient units that is capable of being generated annually at the farm unit.

(3) If this Regulation refers to a category of farm unit in relation to the receipt of nutrients at the farm unit, the second column of the table in subsection (1) describes the maximum number of nutrient units that may reasonably be expected to be received annually at the farm unit.

Further categories of farm unit and operation

(4) The following table sets out further categories of farm unit and operation for the purposes of this regulation.

Category of farm unit or operation	Circumstances
Category 5 Greenhouse and Container Nurseries	A farm unit or operation which is capable of generating or receiving greenhouse and container nursery leachate
Category 6 Non-Agricultural Source Material Generators and Users	A farm unit or operation which is capable of generating or receiving a non-agricultural source materials set out in Paragraphs 1 – 4 of section 1.7 (1)
Category 7 Miscellaneous Agricultural Sources Material Sources and Users	A farm unit or operation that is capable of generating or receiving an agricultural source materials as set out in paragraph 2-5 of section 1.6.(1)
Category 8 Commercial Fertilizer Users	a farm unit which land applies only commercial fertilizers
Category 9 Intermediate Operations	an intermediate operation

PRESCRIBED MATERIALS

Prescribed materials, agricultural source material

1.6 (1) The following agricultural source materials are prescribed materials for the purposes of this Regulation, if they are capable of being applied to land as nutrients:

1. Manure produced by farm animals, including associated bedding materials.
2. Washwaters from agricultural operations that has not been mixed with human waste.
3. By-products of on-farm processes, including non-chemically and non-thermally altered by-products of fruit and vegetable processing.
4. Leachates from on-farm feed storages.
5. Runoff from farm-animal yards and manure storages.
6. Greenhouse and container nursery leachate.
7. Organic materials produced by intermediate generators (for example, mushroom compost) that contain no materials except other agricultural source materials described in this subsection.
8. Any other material from an agricultural source that is capable of being applied to land as a nutrient.

(2) Despite subsection (1), a commercial fertilizer that is produced, marketed and used in accordance with the *Fertilizers Act* (Canada) is not a prescribed material for the purposes of this Regulation.

Prescribed materials, non-agricultural source material

1.7 (1) The following non-agricultural source materials are prescribed materials for the purposes of this Regulation if they are capable of being applied to land as nutrients:

1. Pulp and paper biosolids.
2. Organic materials produced by intermediate generators (for example, yard waste compost) that contain materials other than agricultural source materials.
3. Sewage biosolids (for example, sewage sludge including treated septage pumped out from septic tanks).

4. Any other material that is not from an agricultural source that is capable of being applied to land as a nutrient.

(2) Despite subsection (1), a commercial fertilizer that is produced, marketed and used in accordance with the *Fertilizers Act* (Canada) is not a prescribed material for the purposes of this Regulation.

FARM ANIMAL NUMBERS

No restriction on farm animal numbers

1.8 For the purposes of the Act and this Regulation, there shall be no restriction on the numbers of farm animals that may be managed in the course of an agricultural operation, unless imposed expressly or by implication by this Regulation or by an order under section 29 or 30 of the Act.

PART II STRATEGIES AND PLANS: GENERAL

COMPLIANCE WITH STRATEGY OR PLAN

Management of prescribed materials in accordance with compliant strategy

2.1 (1) This section applies if there is a compliant nutrient management strategy in relation to an agricultural operation or a non-farm operation.

(2) The person who owns or controls the operation shall ensure that prescribed materials generated or received in the course of the operation are managed in accordance with the strategy.

(3) No person shall manage prescribed materials that are generated in the course of the operation except in accordance with the strategy.

Nutrient management in accordance with compliant plan

2.2 (1) This section applies if there is a compliant nutrient management plan in relation to the application of nutrients to land.

(2) The person who owns or controls the land shall ensure that nutrients received, stored or applied on the land are managed in accordance with the plan.

(3) No person shall manage nutrients that are received, stored or applied on the land except in accordance with the plan.

WHEN A STRATEGY IS REQUIRED

Requirement for nutrient management strategy

2.3 (1) A person who owns or controls an agricultural operation that is carried out on a farm unit not referred to in subsection (2) and is a farm unit that generates prescribed materials shall ensure that there is in force a compliant nutrient management strategy for the farm unit.

(2) A person who owns or controls an agricultural operation that is carried out on any of the following farm units shall ensure that there is in force a nutrient management strategy for the farm unit that is approved under this Regulation:

(a) A category 3 or 4 farm unit.

Category 5 Farm Unit

(b) A farm unit which generates greenhouse or container nursery leachate, if the total area of land covered by all greenhouses and container nurseries on the unit is three hectares or more.

Category 7 Farm Unit

3. A farm unit on which is produced annually,
- i. over six million litres of washwater that includes no manure or associated bedding materials,
 - ii. over 500 tonnes of vegetable culls, other than fruit culls, or
 - iii. over 1100 tonnes of fruit culls.

Category 6 Operation

(3) A person who owns or controls a non-farm operation that generates prescribed materials that are intended to be applied to land, other than an intermediate operation, shall ensure that there is in force a nutrient management strategy for the operation that is approved under this Regulation.

Category 9 Operation

(4) A person who owns or controls an intermediate operation shall ensure that there is in force for the operation,

- (a) a compliant nutrient management strategy, if the operation receives fewer than 300 nutrient units annually, or

- (b) a nutrient management strategy that is approved under this Regulation, if the operation receives 300 nutrient units or more annually.

Category 1-4 Generation of manure, phasing-in for strategies

2.4 (1) Subsection 2.3 (1) or (2) applies in relation to the generation on a farm unit of manure produced by farm animals, including associated bedding materials, after the earliest of whichever of the dates in the following table is applicable:

Item	Category or type of farm unit	Farm unit generation capacity (see section 1.5) ¹	Date on which subsection 2.3 (1) or (2) applies
1.	Farm unit on which there is a new or expanding farm-animal agricultural operation	(see subsection (3))	March 31, 2003
2.	Category 4 farm unit	300 or more nutrient units (annual maximum)	March 31, 2004
3.	Category 3 farm unit	150 to 300 nutrient units (annual maximum)	March 31, 2005
4.	Category 2 farm unit	30 to 150 nutrient units (annual maximum)	March 31, 2005
5.	Category 1 farm unit	Fewer than 30 nutrient units (annual maximum)	March 31, 2008

¹Note: “150 to 300” nutrient units means equal to or more than 150 nutrient units and fewer than (but not equal to) 300 nutrient units, and the range “30 to 150” nutrient units applies in the same way (see s. 1.1 (4)).

(2) Item 1 in the table does not apply to a farm unit on which there is a new or expanding farm-animal operation if,

- (a) on or before March 31, 2003, a building permit under the *Building Code Act, 1992* had been obtained for the construction or expansion on the farm unit of facilities to house farm animals or store prescribed materials; and
- (b) immediately before March 31, 2003, there was no further construction or expansion of such facilities proposed for which such a building permit had not been obtained.

(3) In this section,

“new or expanding farm-animal operation” means an agricultural operation,

- (a) that involves the growing, production or raising of farm animals; and
- (b) that, on **[insert date of filing of this Regulation]**,
 - (i) did not involve the growing, production or raising of farm animals; or
 - (ii) was in a lower category of farm unit than on March 31, 2003 (for example, a farm unit that, on **[insert date of filing of this**

Regulation], was a category 1 farm unit that is a category 2 farm unit on March 31, 2003).

Category 5 Greenhouse and nursery leachate generation, phasing-in for strategies

2.5 (1) Subsection 2.3 (1) or (2) applies after whichever of the following dates is applicable in relation to the generation of greenhouse or container nursery leachate in the course of an agricultural operation:

- (a) for a new or expanding greenhouse or nursery operation, March 31, 2006;
- (b) in any other case, March 31, 2008.

(2) Clause (1) (a) does not apply if,

- (a) on or before March 31, 2006, a building permit under the *Building Code Act, 1992* had been obtained for the construction or expansion of facilities for use in the course of the operation; and
- (b) immediately before March 31, 2006, there was no further construction or expansion of such facilities proposed for which such a building permit had not been obtained.

(3) In this section,

“new or expanding greenhouse or nursery operation” means an agricultural operation in the course of which greenhouse or nursery leachate is generated that,

- (a) on **[insert date of filing of this Regulation]** did not involve the generation of greenhouse or nursery leachate; or
- (b) since that date has been expanded by the construction or expansion of new facilities for use in the course of the operation.

Category 7 Non-manure agricultural source material generation, phasing-in for strategies

2.6 Subsection 2.3 (1) or (2) applies after March 31, 2007 in relation to the generation of agricultural source materials, other than manure produced by farm animals including associated bedding materials, in the course of an agricultural operation.

Category 6 Sewage processors, phasing-in for strategies

2.7 (1) Subsection 2.3 (3) applies after the date shown in the following table in relation to the generation of prescribed materials at a sewage processor described in the table:

Item	Type of sewage processor	Maximum daily rate of generation of prescribed materials ¹	Date on which subsection 2.3 (3) applies
1.	Type 1 sewage processor	More than 45,400 cubic metres (m ³)	September 30, 2003
2.	Type 2 sewage processor	22,700 to 45,400 m ³	September 30, 2004
3.	Type 3 sewage processor	7,000 to 22,700 m ³	March 31, 2006
4.	Type 4 sewage processor	4,545 to 7,000 m ³	September 30, 2006
5.	Type 5 sewage processor	2000 to 4,545 m ³	March 31, 2007
6.	Type 6 sewage processor	920 to 2000 m ³	September 30, 2007
7.	Type 7 sewage processor	Less than 920 m ³	March 31, 2008

¹Note: “22,700 to 45,400” cubic metres means equal to or more than 22,700 m³ and less than (but not equal to) 45,400 m³, and the other ranges in this column apply in the same way (see s. 1.1 (4)).

(2) In this section,

“sewage processor” means a non-farm operation consisting of sewage works as defined in the *Ontario Water Resources Act* for which an approval has been given under section 53 of that Act authorizing,

- (a) the treatment of sewage for a municipality; or
- (b) the generation of prescribed materials.

Category 6 Non-farm operations other than intermediate operations, phasing-in for strategies

2.8 Subsection 2.3 (3) applies after the date shown in the following table in relation to the generation of prescribed materials in the course of a non-farm operation described in the table:

Item	Type of non-farm operation	Date on which subsection 2.3 (3) applies
1.	Paper production Pulp and paper production	September 30, 2004
2.	Abattoir Cheese production Other dairy food production Egg production Poultry production	March 31, 2005
3.	Animal feed production Brewery Meat production other than poultry Pet food production Power generation Recycling Slag/liming Tannery Wood processing Any industrial or other non-farm operation not otherwise described in this section or section 2.7 or 2.9	September 30, 2005

Category 9 Intermediate operations, phasing-in for strategies

2.9 Subsection 2.3 (4) applies in relation to the generation of a particular prescribed material in the course of an intermediate operation after the earliest of the following dates:

1. The date this Part requires a compliant nutrient management strategy or plan to be obtained for a farm unit or a non-farm operation in relation to the prescribed material in the form in which it is received from that farm unit or operation for processing in the course of the intermediate operation.
2. The date this Part requires a compliant nutrient management strategy or plan to be obtained for a farm unit or a non-farm operation in relation to the prescribed material in the form in which it is transferred to that farm unit or operation after processing in the course of the intermediate operation.
3. March 31, 2008.

WHEN A PLAN IS REQUIRED

Requirement for nutrient management plan, farm units

2.10 (1) Subject to subsection (4), a person who owns or controls an agricultural operation carried out on a category 1 or 2 farm unit in the course of which nutrient is applied to land shall ensure that there is in force a compliant nutrient management plan for the farm unit.

(2) A person who owns or controls an agricultural operation carried out on a category 3 or 4 farm unit in the course of which nutrient is applied to land shall ensure that there is in force a nutrient management plan for the farm unit that is approved under this Regulation.

Category 8

(3) A person who owns or controls an agricultural operation in the course of which the only nutrient that is applied to land is commercial fertilizer shall ensure that there is in force a nutrient management plan for the farm unit that is approved under this Regulation if the fertilizer is applied within the two-year time of travel zone of a well that is used for a municipal water supply.

(4) A person referred to in subsection (1) or (2) who applies non-agricultural source materials shall ensure that there is in force a nutrient management plan for the farm unit that is approved under this Regulation.

(5) A person who owns or controls an agricultural operation carried out on a Category 1,2,3 or 4 farm unit who applies liquid manure from any source shall ensure that there is in force a compliant nutrient management plan for the farm unit on which the material is applied no later than the earlier of the date that;

- (a) the generator of the liquid manure is required to complete their nutrient management strategy; or

(b) they are required to complete a nutrient management plan in accordance with section 2.11

(6) Subsection (5) does not apply to a person who owns or controls an agricultural operation carried out on a Category 1 farm unit who applies liquid manure only from that farm unit.

Farm unit nutrient application, additional phasing-in

2.11 (1) Section 2.10 applies in relation to the application of nutrients to land on a farm unit after the earliest of whichever of the dates in the following table is applicable:

Item	Category or type of farm unit	Nutrient units reasonably expected to be received (see section 1.5) ¹	Date on which section. 2.10 applies
1.	Farm unit on which there is a new or expanding nutrient storage facility	(see subsection (2))	March 31, 2003
2.	Category 4 farm unit	300 or more nutrient units (annual maximum)	March 31, 2004
3.	Category 3 farm unit	150 to 300 nutrient units (annual maximum)	March 31, 2005
4.	Category 2 farm unit	30 to 150 nutrient units (annual maximum)	March 31, 2005
5.	Category 1 farm unit	Fewer than 30 nutrient units (annual maximum)	March 31, 2008

¹Note: “150 to 300” nutrient units means equal to or more than 150 nutrient units and fewer than (but not equal to) 300 nutrient units, and the range “30 to 150” nutrient units applies in the same way (see s. 1.1 (4)).

(2) In this section,

“new or expanding nutrient storage facility” means a nutrient storage facility that is constructed or expanded since **[insert date of filing of this Regulation]**, unless,

(a) on or before that date, a building permit under the *Building Code Act, 1992* had been obtained for the construction or expansion of the facility; and

(a) immediately before that date, there was no further construction or expansion proposed for which such a building permit had not been obtained.

(3) A farm unit which is not otherwise required to have a compliant nutrient management plan and which receives nutrients from a new or expanding Category 5 **[green houses and container nurseries]** operation shall ensure that there is a compliant nutrient management plan in force no later than March 31, 2006.

(4) A farm unit which is not otherwise required to have a compliant nutrient management plan and which receives nutrients from an existing Category 5 **[green houses and container nurseries]** operation shall ensure that there is a compliant nutrient management plan in force no later than March 31, 2008.

(5) A farm unit which is not otherwise required to have a compliant nutrient management plan and which receives nutrients from a Category 7 operation **[miscellaneous agricultural source material]** shall ensure that there is a compliant nutrient management plan in force no later than March 31, 2007.

(6) A Category 8 farm unit **[commercial fertilizers]** which is not otherwise required to have a compliant nutrient management plan shall ensure that there is a compliant nutrient management plan in force no later than March 31, 2008.

(7) A farm unit which is not otherwise required to have a compliant nutrient management plan and which receives nutrients from a Category 6 operation (**non-agricultural Source materials**) shall ensure that there is a compliant nutrient management plan in force no later than March 31, 2008.

INSPECTION REQUIREMENTS

Inspection of nutrient management strategies, plans and site characterizations

2.12 (1) This section applies if a nutrient management strategy or plan, or a site characterization, is or has been in use in relation to a farm unit or a non-farm operation.

(2) A person who owns or controls an agricultural operation that is carried out on the farm unit, or the non-farm operation shall, until two years after the nutrient management strategy plan, or site characterization, ceases to be in force under this Regulation,

- (a) keep a copy of the strategy, plan, or site characterization, incorporating any amendments as they are made, at the site of the operation; and
- (b) make the copy available for inspection by a provincial officer at the request of the officer.

SHORT-FORM STRATEGIES OR PLANS

Short-form strategies and plans, when allowed

2.13 (1) This section applies in relation to the following agricultural operations:

1. An operation that is carried out on a category 1 or 2 farm unit.
2. An operation in the course of which the only nutrients generated or applied to land are any or all of the following:
 - i. agricultural source materials described in **paragraphs 2 to 6 of subsection 1.6 (1)**.

- ii. commercial fertilizers produced, marketed and used in accordance with the *Fertilizers Act* (Canada).

(2) If a person who owns or controls the operation is required by this Regulation to ensure that there is in force a compliant nutrient management strategy or plan for the farm unit or operation, the person may fulfil the requirement by ensuring that a short-form nutrient management strategy or plan is in force for the farm unit or operation.

(3) A short-form nutrient management strategy or plan shall be in the form set out in the Nutrient Management Protocol.

(4) The Nutrient Management Protocol may specify information otherwise required by **section 3.1 (3) (Contents of strategies)** or **3.7 (3) (Contents of plans)** that may be omitted from a short-form nutrient management strategy or plan, or that may be presented in a different form in such a short-form strategy or plan.

(5) In this Regulation, a reference to a nutrient management strategy or plan includes a reference to a short-form nutrient management strategy or plan, as the case may be, prepared in accordance with this section.

PART III STRATEGIES AND PLANS: PREPARATION

NUTRIENT MANAGEMENT STRATEGIES

Contents and preparation

3.1. (1) This section applies to a nutrient management strategy for all prescribed materials, or particular prescribed materials, that are generated or received in the course of any of the following operations:

1. An agricultural operation or operations carried out on a farm unit.
2. A non-farm operation.

(2) A nutrient management strategy for the farm unit or non-farm operation must be prepared by a person licensed to do so under **Part XI (Training & Licensing)**.

(3) A nutrient management strategy for the farm unit or non-farm operation must be prepared in a form approved by the Director, and must include the following information in relation to the prescribed materials for which the strategy is prepared:

1. The name of a person who owns or controls each operation in the course of which the materials are generated, or from which the materials are received, together with the operation identifier for each such operation, which may be assigned under subsection (4) if necessary.
2. A description of each operation to which the materials are to be transferred, if they are not to be applied to land as nutrient in the course of the operation for which the strategy is prepared, together with the operation identifier for each such operation, which may be assigned under subsection (4) if necessary.
3. A description of storage facilities for the materials that meet the requirements of **Part VIII (Construction Standards)** and of any other facilities used by the operation for storage of nutrients.
4. The location of each nutrient-generating facility and storage site owned or controlled by the person described in paragraph 1 that is used for prescribed materials described in the strategy, together with the operation identifier for the relevant farm unit or non-farm operation, which may be assigned under subsection (4) if necessary.
5. For an agricultural operation, a description of the farm unit.
6. A sketch showing:
 - i. The location and boundaries of the farm unit.
 - ii. Individual field locations and boundaries.
 - iii. The location of known used and unused wells, tile inlets and outlets and surface water.
 - iv. The location of farm buildings and nutrient storage facilities.
7. A list of the materials, segregated into liquid and solid materials.
8. An analysis of nutrient content and quality of materials described in **Part IX (Quality standards)** for the purposes of determining compliance with that Part.
9. A description of any prescribed materials not described in **Part IX (Quality standards)** that are dealt with by the nutrient management strategy.
10. Quantities of the materials, determined in accordance with,

- i. in the case of non-farm operation that has a certificate of approval under the *Environmental Protection Act* or an approval under the *Ontario Water Resources Act*, whichever of those Acts applies, or
 - ii. for an agricultural operation, or for a non-farm operation not described in subparagraph (i), the relevant formula set out in the Nutrient Management Protocol.
11. Identifying details, including the operation identifier, of any nutrient management plan or any other nutrient management strategy that is relevant to the management of the materials.
12. Contingency plans.
13. In the case of generators of non-agricultural source materials, a compliant nutrient management plan for each application site required to have a nutrient management plan.

(4) On application by the person responsible for the preparation of the nutrient management strategy, the Director shall assign an operation identifier to the following, unless an operation identifier has already been assigned:

1. The farm unit or non-farm operation for which the strategy is prepared.
2. Each farm unit or non-farm operation from which prescribed materials are received.
2. Each farm unit or non-farm operation to which prescribed materials are transferred.

(5) A nutrient management strategy for a farm unit or a non-farm operation in relation to a prescribed material must account for the total quantity of that material suitable for application to land as nutrient which may reasonably be expected to be generated or received at the farm unit, or in the course of the non-farm operation, in each year for which the strategy is prepared.

(6) A nutrient management strategy must be signed by an owner of the operation for which it is prepared or, where the owner is a corporation, an officer of the corporation.

Management of nutrient for non-nutrient purposes

3.2 A nutrient management strategy may provide for some or all of the prescribed materials that are dealt with by the strategy to be managed for non-nutrient purposes.

Export of material outside farm unit or non-farm operation

3.3 (1) This section applies if a nutrient management strategy provides for prescribed materials generated at a farm unit or non-farm operation to be exported elsewhere for management in the course of another operation in Ontario.

(2) The nutrient management strategy must include a written agreement or agreements authorizing the export of the prescribed materials.

(3) The agreement, or all the agreements taken together, must authorize the export of all the prescribed materials that are to be exported while the strategy is in force.

(4) An agreement for the export of nutrient must be,

(a) between each person who owns or controls the operation from which the materials are to be exported, on the one hand, and the person who owns or controls the operation to which the nutrient is to be exported, on the other; and

(b) in a form approved by the Director.

(5) A person who owns or controls land or an operation from which prescribed materials are exported need not have an interest in the land or operation to which the prescribed materials are to be exported.

(6) The nutrient management strategy may include provision for the export of prescribed materials to an operation only if provision is made for the management of the exported materials at the other operation either in that strategy, or in another compliant nutrient management strategy or plan.

(7) Subsection (6) does not apply in relation to the management of a solid prescribed material if this Regulation does not require a compliant nutrient management plan or strategy for the farm unit or non-farm operation to which the material is to be exported.

(8) The place where materials are exported in accordance with this section may be located anywhere without regard to the distance from the farm unit where the materials are generated.

Nutrient management strategies, incorporation of plans and other strategies

3.4 (1) A nutrient management strategy may incorporate another compliant nutrient management strategy or plan, subject to this section.

(2) A nutrient management strategy may incorporate another nutrient management strategy or plan only if,

- (a) the incorporating strategy and the other strategy or plan are directly controlled by the same person; or
- (b) the other strategy or the plan itself provides for being so incorporated.

(3) If a nutrient management strategy incorporates another nutrient management strategy or plan that is not independently approved or certified under this Regulation, and the incorporating strategy is approved or certified under this Regulation, for the purposes of this Regulation the other strategy or the plan shall be deemed to be approved or certified, as the case requires, by virtue of the approval or certification of the incorporating strategy, while that approval or certification remains in force.

Nutrient management strategies, cessation in force

3.5 A compliant nutrient management strategy ceases to be in force for a farm unit or a non-farm operation at the earliest of the following times:

1. Five years after the strategy came into force, or was approved or certified under this Regulation, whichever is later.
2. The occurrence of any of the following events:
 - i. The end of a year in which there is an increase of 20% or more in the quantity of nutrients generated or received at the farm unit or non-farm operation since the first year of operation of the strategy.
 - ii. A change of ownership or control of any operation carried out on the farm unit, or of the non-farm operation, which adversely affects the capacity of a person who currently owns or controls such an operation to implement the first strategy.
 - iii. A change in the use of nutrients generated on the farm unit or in the course of the non-farm operation (for example, by being processed by an intermediate handler rather than applied to land).
 - iv. The end of a year in which there is an increase by 30 nutrient units or more in the quantity of nutrients exported to any single farm unit or non-farm operation since the previous year.

- v. The commencement of operation of a new generating facility or nutrient storage facility on the farm unit or for the non-farm operation.

NUTRIENT MANAGEMENT PLANS

Purposes

3.6 A nutrient management plan must give effect to the following purposes:

1. The optimization of the relationship between the land-based application of nutrients, farm management techniques and crop requirements.
2. Land use which maximizes the efficiency of on-site nutrient use.
3. The minimization of adverse environmental impact.

Contents and preparation

3.7 (1) This section applies in relation to any or all nutrients received or applied to land in the course of an agricultural operation or operations carried out on a farm unit.

(2) A nutrient management plan for the farm unit must be prepared by a person licensed to do so under **Part XI (Training & Licensing)**.

(3) A nutrient management plan must must be prepared in a form approved by the Director, and must include the following information:

1. A description of the type of agricultural operation or operations.
2. A description of the farm unit, together with the operation identifier, which may be assigned under subsection (4).
3. A sketch showing:
 - i. The location and boundaries of the farm unit.
 - ii. Individual field locations and boundaries.
 - iii. The location of known used and unused wells, tile inlets and outlets and surface water.
 - iv. The location of farm buildings and nutrient storage facilities.

4. Field-by-field details as follows:

- i. The landbase available for nutrients.
- ii. Soil test details.
- iii. Crop rotation plans, yields, crop requirements and removal.
- iv. Nutrient allocation.
- v. Total of nutrient inputs from all defined sources.
- vi. Sufficient information to enable a determination of whether further application limits and separation distances are warranted.
- vii. Sufficient information to determine whether nutrient application rates, methods, timing and incorporation and separation distances comply with this Regulation.

5. A contingency plan.

(4) On application by the person responsible for the preparation of the nutrient management plan, the Director shall assign an operation identifier to the farm unit, unless an operation identifier has already been assigned.

(5) A nutrient management plan for a farm unit in relation to a nutrient must account for the total quantity of that nutrient which may reasonably be expected to be received or applied to land on the farm unit, in each year for which the plan is prepared.

(6) A nutrient management plan may deal with land in separate parts, including parts smaller than fields, if the land or the agricultural operation is not of a uniform character because of the physical nature of the land or the crops to be grown on the land.

Nutrient management plans, cessation in force

3.8 A compliant nutrient management plan ceases to be in force for a farm unit at the earliest of the following times:

1. Five years after the plan came into force, or was approved or certified under this Regulation, whichever is later.
2. The occurrence of any of the following events:

- i. The end of a year in which there is an increase of 20% or more in the quantity of prescribed materials received at the farm unit since the first year of operation of the plan.
- ii. The end of a year in which, due to a change in the cropping system at the farm unit, there is a decrease of 20% or more in crop removal of nitrogen and phosphorus provided by nutrients received at the farm unit since the first year of operation of the plan.
- iii. The end of a year in which there is a decrease in land available for the application of prescribed materials on the farm unit of more than 10%, amounting to a decrease of at least 2 hectares, since the first year of operation of the plan.

PART IV
STRATEGIES AND PLANS: APPROVAL AND CERTIFICATION

APPROVAL

Approval by Director

4.1 (1) This section applies if a person who owns or controls an agricultural operation carried out at a farm unit, or a non-farm operation, is required by this Regulation to ensure that there is in force a nutrient management strategy or plan for the farm unit or the non-farm operation that is approved under this Regulation.

(2) The person may submit the strategy or plan to the Director for approval, in the form approved by the Director.

(3) The Director shall,

- (a) approve the strategy or plan;
- (b) request the provision of further relevant information
- (c) refuse to approve the strategy or plan, and request that it be revised and resubmitted in accordance with any directions in the notice.
- (d) restrict, amend or modify any activities in the plan or strategy ; or
- (e) request an operation to submit annual reports at any time

(4) The Director may approve the nutrient management strategy or plan only if it is prepared in accordance with this Regulation.

Update after 5 years

4.2 (1) This section applies if a nutrient management strategy or plan for which an approval (called in this section “the original approval”) has been given is still in force 90 days before the date that is five years after the date the approval was given.

(2) A person who owns or controls an agricultural operation that is carried out at the farm unit, or who owns or controls the non-farm operation, shall submit a new nutrient management strategy or plan for the farm unit or operation to the Director for approval under **section 4.1** at least 90 days before the date that is five years after the date the original approval was given.

(3) If a new nutrient management strategy or plan is submitted to the Director under subsection (2), and the Director does not approve or refuse to approve the new strategy or plan before the date that is five years after the original approval was given, the new strategy or plan, incorporating any later revision requested under **subsection 4.1 (3)**, shall be deemed to be approved from that date until whichever of the following dates is applicable, or the earliest of them:

1. The date the new strategy or plan is actually approved by the Director.
2. The date the Director refuses to approve the new strategy or plan.
3. The date an order is given under section 29 of the Act stating that the new strategy or plan is no longer approved.
4. Where a plan is in effect that has not received final approval the Director may place conditions, restrictions, amendments or modifications to proposed activities in the new plan or strategy.

Update earlier than 5 years

4.3 (1) This section applies if a person who owns or controls an agricultural operation carried out at a farm unit, or a non-farm operation, has reasonable grounds for believing that an approved nutrient management strategy or plan for the farm unit or operation will cease to be in force because of the occurrence of an event described in **paragraph 2 of section 3.5 or 3.8**.

(2) The person shall, without undue delay, and before the occurrence of the event, submit a new nutrient management strategy or plan to the Director for approval under **section 4.1**.

(3) The new nutrient management strategy or plan, incorporating any later revision requested under **subsection 4.1 (2)**, shall be deemed to be approved from the date of the

occurrence of the event until whichever of the following dates is applicable, or the earliest of them:

1. The date the new strategy or plan is actually approved by the Director.
2. The date the Director refuses to approve the new strategy or plan.
3. The date an order is given under section 29 of the Act stating that the new strategy or plan is no longer approved.

Transition, strategies or plans reviewed before **[insert date of filing of this Regulation]**

4.4 (1) This section applies if, before **[insert date of filing of this Regulation]**, the Ministry had issued a notice to a person who owns or controls an operation that a strategy or plan for managing prescribed materials or nutrients generated or received in the course of the operation was satisfactory.

(2) The strategy or plan shall be deemed to be approved under this Regulation as a nutrient management strategy or plan until the earlier of the following dates:

1. The expiry date (if any) specified on the notice.
2. **[insert the date 5 years after the date of filing this Regulation].**

CERTIFICATION

Certification by accredited certifier

4.5 (1) This section applies if a person who owns or controls an agricultural operation carried out at a farm unit, or a Category 9 non-farm operation, is not required by this Regulation to ensure that there is in force a nutrient management strategy or plan for the farm unit or the non-farm operation that is approved under this Regulation.

(2) An accredited certifier may certify a nutrient management strategy or plan for the farm unit or the non-farm operation if the strategy or plan is prepared,

- (a) in the form approved by the Director; and
- (b) in accordance with this Regulation.

Update after 5 years

4.6 (1) This section applies if a nutrient management strategy or plan for which a certification (in this section called “the original certification”) is still in force 90 days before the date that is five years after the date the certification was given.

(2) A person who owns or controls an agricultural operation that is carried out at the farm unit, or who owns or controls the non-farm operation, may submit a new nutrient management strategy or plan to an accredited certifier for certification under **section 4.5** at least 90 days before the date that is five years after the original certification was given.

(3) If a new nutrient management strategy or plan is submitted to an accredited certifier under subsection (2), and the certifier does not certify the plan before the date that is five years after the original certification was given, the new strategy or plan, incorporating any later revision requested by the certifier, shall be deemed to be certified from that date until whichever of the following dates is applicable, or the earlier of them:

1. The date the strategy or plan is actually certified.
2. The date an order is given under section 29 of the Act stating that the new strategy or plan is no longer certified.

Update earlier than 5 years

4.7. (1) This section applies if a person who owns or controls an agricultural operation carried out at a farm unit has reasonable grounds for believing that a certified nutrient management strategy or plan for the farm unit or operation will cease to be in force because of the occurrence of an event described in **paragraph 2 of section 3.5 or 3.8**.

(2) The person shall, without undue delay, and before the occurrence of the event, submit a new nutrient management strategy or plan to an accredited certifier for certification under **section 4.5**.

(3) The new nutrient management strategy or plan, incorporating any later revision requested by the certifier, shall be deemed to be certified from the date of the occurrence of the event until whichever of the following dates is applicable, or the earlier of them:

1. The date the strategy or plan is actually certified.
2. The date an order is given under section 29 of the Act stating that the new strategy or plan is no longer certified.

CERTIFICATE OF OPERATION

Certificate of operation, category 4 farm unit

4.8 (1) On application in accordance with this section by a person who owns or controls an agricultural operation carried out at a category 4 farm unit, the Director shall issue a certificate of operation to each person that carries out an agricultural operation at

the farm unit.

(2) An application must be in the form approved by the Director, and must be accompanied by the following documents:

1. A copy of an approved nutrient management strategy or plan for the farm unit.
2. A copy of an approved site characterization for the farm unit.

(3) A certificate of operation ceases to be in force if the approved nutrient management strategy or plan for the farm unit, or the site characterization for the farm unit, ceases to be in force.

PART V BROKERS

Requirement for strategy or plan at source or destination

5.1 (1) A broker shall not accept prescribed materials from an operation, or transfer prescribed materials to an operation, if,

- (a) the person who owns or controls the operation is required by this Regulation to ensure that there is a compliant nutrient management strategy or plan in relation to the management of the materials; and
- (b) there is no such compliant nutrient management strategy or plan.

(2) A broker shall not transfer liquid animal manure to an agricultural operation unless there is a compliant nutrient management plan in relation to the management of liquid animal manure for the farm unit where the operation is carried out.

Arrangements with generators and other sources

5.2 (1) This section applies in relation to prescribed materials received by a broker from a generator or another broker.

(2) The broker shall enter into an agreement in the form specified in the Nutrient Management Protocol with the generator or other broker.

(3) The broker who receives the materials shall record the following information in the form required by the Nutrient Management Protocol:

1. The type and quantity of prescribed materials received, and the date of receipt.

2. A description of the operation in the course of which the materials were generated.
3. The operation identifier for the operation in the course of which the materials were generated, or for the farm unit where the operation is carried out, and if applicable, the approval number assigned by the Director to the nutrient management strategy for that operation or farm unit.

(4) If a broker receives prescribed material from an intermediate generator, this section applies as if the material were generated exclusively by the intermediate generator.

(5) The broker shall retain the record required by this section for four years after the date on which the prescribed materials are received.

Arrangements with receivers

5.3 (1) This section applies in relation to prescribed materials transferred by a broker to an agricultural or a non-farm operation.

(2) The broker shall enter into an agreement in the form specified in the Nutrient Management Protocol with the person who owns or controls the operation.

(3) The broker shall record the following information in the form required by the Nutrient Management Protocol:

1. The type and quantity of prescribed materials transferred, and the date of transfer.
2. A description of the operation to which the materials are transferred.
3. If applicable, the operation identifier for the operation, or for the farm unit where the operation is carried out, and the approval number if one is assigned by the Director to the nutrient management strategy or plan for the farm unit or operation.

(5) The broker shall retain the record required by this section for four years after the date on which the prescribed materials are transferred.

Management of prescribed materials

5.4 (1) A broker shall ensure that prescribed materials are stored, transported and otherwise managed in the course of the broking operation in accordance with this Regulation.

(2) No person shall store, apply, transport or otherwise manage prescribed materials in the course of a broking operation except in accordance with this Regulation.

**PART VI
LAND APPLICATION STANDARDS**

GENERAL RESPONSIBILITY

Person who owns or controls agricultural operation

6.1 The person who owns or controls an agricultural operation shall ensure that the requirements of this Part are met in relation to the operation.

LIQUID PRESCRIBED MATERIAL

6.2 Section left blank

Liquid prescribed material, application rates

6.3 (1) No person shall apply liquid prescribed material to land,

- (a) if application is not allowed under Table 1 to this section; or
- (b) at a rate in excess of that determined under Table 2 to this section.
- (c) where the field slope is greater than 12%

(2) For the purposes of Table 1, the soil hydrological group is as determined in accordance with *Ontario Ministry of Agriculture and Food Ontario Drainage Guide*, as it may be amended from time to time.

(3) For the purposes of the first column in Table 2, runoff potential is as determined under Table 1.

Table 1

Runoff Potential

Soil hydrologic group (see <i>Ontario Ministry of Agriculture and Food Ontario Drainage Guide</i>)	Runoff potential for Table 2 (or application prohibition)			
	Maximum sustained field slope within 150 metres of watercourse ¹			
	less than 3 %	3 to 6 %	6 to 9 %	9 % or more
A Rapid	Very Low	Very Low	Low	High
B Moderate	Very Low	Low	Moderate	High
C Slow	Low	Moderate	High	No application allowed.
D Very Slow	Moderate	High	High	No application allowed.

¹Note: "3 to 6%" slope means equal to or more than 3% and less than (but not equal to) 6%, and the range "6 to 9%" applies in the same way (see s. 1.1 (4)).

Table 2

Single Application Liquid Prescribed Material Loading Limit

Runoff potential (see Table 1)	Maximum rate if applied to surface	Maximum rate if injected, incorporated ¹ or pretilled ²
High	50 cubic metres per hectare (m ³ /ha)	75 m ³ /ha
Moderate	75 m ³ /ha	100 m ³ /ha
Low	100 m ³ /ha	130 m ³ /ha
Very Low	130 m ³ /ha	150 m ³ /ha

¹ Incorporation must occur within 24 hours after manure application.

² The land on which the nutrient is applied must have been tilled within the period of 7 days before application.

TILE DRAINAGE

Prevention of preferential flows

6.4 (1) This section applies to land with tile drainage.

(2) A person who applies a liquid prescribed material or non-agricultural source material to the land shall, while applying the nutrient, monitor the tile drainage system, or cause it to be monitored by another person, if it is possible to do so.

(3) If it is not possible for anyone to monitor the tile drainage system, no person shall apply a liquid prescribed material or non-agricultural source material to the land unless,

- (a) the land has been tilled within the period of seven days before the application; or
- (b) the rate of application is less than 40 cubic metres per hectare.

(4) If there is a compliant nutrient management plan for the land, and any person observes the presence of a liquid prescribed material or non-agricultural source material in the tile drainage system while such a material is being applied to the land,

- (a) if that person is not the person applying the material, that person shall immediately inform the person who is applying the material; and
- (b) the person applying the material shall immediately implement the contingency plan in the nutrient management plan.

(5) In this section, a reference to the monitoring of the application of a liquid prescribed material or non-agricultural source material to land with tile drainage shall be taken to be a reference to the observation of material discharging from the system,

- (a) not more than 20 minutes after the start of the application;
- (b) at least hourly after the first observation; and

- (c) immediately after completion of the application.

Tile drainage system construction

6.5 (1) No person shall apply liquid manure or non-agricultural source material to land with tile drainage unless the tile drainage system is constructed to enable,

- (a) monitoring, as defined in **section 6.4 (Prevention of preferential flows etc.)**, of the contents of the system on a field-by-field basis; and
- (b) isolation of a contaminated portion of the system to facilitate the implementation of any applicable contingency plan.

(2) This section does not apply to a tile drainage system constructed before **[insert date of filing of this Regulation]**.

WELLS AND OTHER LAND USES

Set-backs from wells

6.6 No person shall apply nutrients to land in contravention of the following rules:

1. Prescribed materials must not be applied to land closer than 15 metres to a well, with a watertight casing to a depth of at least six metres, below ground level.
2. Agricultural source materials must not be applied to land closer than 30 metres to a well other than a well described in paragraph 1.
3. Non-agricultural source materials must not be applied to land closer than 90 metres to a well without a watertight casing to a depth of six metres below ground level.
4. Commercial fertilizer must not be applied to land closer than three metres to a well.
5. Nutrients must not be applied to land closer than 100 metres to a well that supplies water to a municipal water works.
6. Nutrients that contain nitrogen must not be applied to land within the two-year time of travel zone of a well that supplies water to a municipal water works unless the amount of nitrogen is no greater than the amount that could be applied under the Nutrient Management Protocol for the hydrologic soil group that is in a category one number higher than the number of the category

determined in accordance with **Table 1 to section 6.3 (Liquid prescribed materials, application rates)**.

7. Liquid prescribed materials must not be applied to land within the two-year time of travel zone of a well that supplies water to a municipal water works unless,
 - (i) the land has been tilled within the period of seven days before the application, and
 - (ii) the rate of application of the material is less than 40 cubic metres per hectare.
8. Non-agricultural source materials must not be applied to land within the two-year time of travel zone of a well that supplies water to a municipal water works.

Set-backs from residences and designated health or educational facilities

6.7 No person shall apply prescribed materials as nutrients to land closer than,

- (a) 25 metres to the nearest wall of a residential building not in a residential area;
- (b) 50 metres to the nearest wall of a residential building in a residential area in which there are four or more residential buildings on adjacent lots of not more than one hectare; and
- (c) 50 metres to the property line of a designated health or educational facility.

ADJACENT SURFACE WATER

Requirement for vegetated buffer zone

6.8 (1) No person shall, in the course of an agricultural operation, apply nutrients to a field that contains or is adjacent to surface water unless there is a vegetated buffer zone in the field and adjacent to the surface water.

(2) This section does not apply in relation to the application of nutrients to a field on a farm unit until the person who owns or controls the agricultural operation is required to ensure that there is in force a compliant nutrient management plan governing that application.

Application of nutrients, vegetated buffer zone

6.9 (1) This section applies in relation to the application of nutrients in a field that contains or is adjacent to surface water if there is a vegetated buffer zone in the field that

is,

- (a) adjacent to the surface water; and
- (b) between the surface water and where the nutrients are applied.

(2) No person shall apply nutrients within the vegetated buffer zone except for the purpose of applying commercial fertilizer to establish the vegetation of the buffer zone.

(3) No person shall apply materials containing nitrogen or phosphorous in the field within 13 metres from the top of the nearest bank of the surface water.

(4) Despite subsection (3), commercial fertilizers and agricultural source material may be applied within the 13 metres from the top of the nearest bank of the surface water if they are applied in accordance with the other provisions of this Regulation, and

- (a) by injection or placement in a band below the soil surface; or
- (b) so as to be incorporated within 24 hours of application.
- (c) to land covered with a living crop

Application of nutrients, no vegetated buffer zone requirement

6.10 (1) This section applies in relation to the application, in the course of an agricultural operation, of nutrients in a field that contains or is adjacent to surface water if,

- (a) there is no vegetated buffer zone in the field and adjacent to the surface water; and
- (b) the person who owns or controls the agricultural operation is not required to ensure that there is in force a compliant nutrient management plan governing that application.

(2) No person shall apply a non-agricultural source material, or a liquid agricultural source material, in the field closer than 20 metres from the top of the nearest bank of the surface water.

(3) No person shall apply a solid agricultural source material in the field closer than 10 metres from the top of the nearest bank of the surface water.

BEDROCK AND GROUND WATER

Minimum depth to bedrock

6.11 (1) No person shall apply a non-agricultural source material to land where there is less than 1.5 metres of soil over bedrock, unless the application is approved by the Director, taking into consideration the need to avoid any adverse effect described in subsection 18 (3) of the Act that may result from any of the following:

1. The concentration of any constituents of the material.
2. The proposed application rate of the material.
3. The site characteristics of the land where the material is to be applied.

(2) No person shall apply an agricultural source material to land if, where the material is to be applied, the depth of soil over bedrock is less than 1.5 metres, except as allowed (if at all) in accordance with the following table:

Depth of soil over bedrock ¹	Treated liquid materials, or runoff liquid materials other than untreated liquid manure	Solid manure	Untreated liquid manure
Less than 15 centimetres (cm.)	No application allowed.	No application allowed.	No application allowed.
15 to 30 cm.	Application allowed under the following conditions: 1. Land tilled within 7 days before application. 2. Maximum application rate less than 40 cubic metres per hectare (m ³ /ha).	Application allowed under the following condition: 1. Maximum application rate less than 45 tonnes per hectare (t/ha).	No application allowed.
30 cm. to 60 cm.	Either, (a) maximum application rate less than 40 m ³ /ha; or (b) if land tilled within 7 days before application, maximum application rate less than 75 m ³ /ha.	Maximum application rate less than 85 t/ha.	Application allowed under the following conditions: 1. Land tilled within 7 days before application. 2. Maximum application rate less than 40 m ³ /ha.
60 cm. to 1.5 metres	No restriction on application unless imposed otherwise by this Regulation, including any restriction in an applicable nutrient management plan.	No restriction on application unless imposed otherwise by this Regulation, including any restriction in an applicable nutrient management plan.	Either, (a) maximum application rate less than 40 m ³ /ha; or (b) if land tilled within 7 days before application, maximum application rate less than 75 m ³ /ha.

¹Note: "15 to 30" centimetres means equal to or more than 15 cm. and less than (but not equal to) 30 cm, and the other ranges in this column apply in the same way (see s. 1.1 (4)).

Minimum depth to groundwater

6.12 No person shall apply prescribed material to land unless there is at least,

- (a) 90 centimetres of vertical separation between the surface of the ground and a permanent water table, as determined in accordance with the Nutrient Management Protocol; and

- (b) 30 centimetres of unsaturated soil condition at the surface of the land.

WINTER APPLICATION

Winter application, December 1 to March 31

6.13. Nutrients must not be applied on fields that have snow-covered soil or frozen soil.

6.13.1 During the period starting on December 1 in one year and ending on March 31 in the following year, no person shall apply nutrients to land in contravention of the following rules:

- 1.. Non-agricultural source material or liquid agricultural source material must not be applied on fields with a maximum sustained slope greater than 3%.
2. Solid manure must not be applied on fields with a maximum sustained slope greater than 6%.
3. No nutrients may be applied on land that is subject to flooding once or more every five years, according to flood plain mapping provided by a municipality or conservation authority.
4. No nutrients may be applied in areas of a field where water collects during a rain storm or thaw and flows directly into surface water.
5. Nutrients must be applied in one of the following ways, in an applicable case:
 - i by injection into the soil.
 - ii. by incorporation into the soil to a minimum depth of 10 centimetres within six hours of application to the land, or
 - iii. by surface application to land that is covered by a living crop.
6. The rate of application of each nutrient must be a maximum of one half of the maximum application rate specified by the Nutrient Management Protocol, unless paragraph 8 applies.
7. If the rate of application of a nutrient exceeds the rate fixed by paragraph 7, the nutrient must not be applied within 20 metres of the top of the nearest bank of any surface water.

NON-AGRICULTURAL SOURCE MATERIAL

Pre-harvest waiting periods

6.14 Within the waiting period determined by the following table, no person shall harvest plant material from a field to which a non-agricultural source material has been applied.

Plant material harvested	Waiting period
Commercial sod	12 months before harvest
Hay and haylage	3 weeks before harvest
Tree fruits and grapes	3 months before harvest
Vegetables and small fruits grown above ground (for example, raspberries and sweet corn)	1 month
Vegetables and small fruits grown on ground (for example, strawberries and squash)	14 months
Vegetables and small fruits grown below ground (for example, potatoes and beets)	36 months

Pre-grazing waiting period

6.15 Within the waiting period determined by the following table, no person shall cause or permit an animal to graze in a field to which a non-agricultural source material has been applied:

Grazing animal	Waiting period
Horses, beef or dairy cattle	2 months before grazing
Swine, sheep or goats	6 months before grazing

No application to lawns, golf courses, recreational areas, tobacco crops

6.16 No person shall apply non-agricultural source material to any of the following:

1. A lawn.
2. A golf course.
3. Any other recreational area.
4. Land on which tobacco is grown.
5. Any land where the soil test for plant available phosphorus, as described in the applicable ministry protocol, exceeds 60 milligrams of P per liter of soil.

INJECTION AND INCORPORATION OF MANURE AND BIOSOLIDS

Injection and incorporation of manure

6.17 No person shall apply manure to land other than,

- (a) by injection; or
- (b) by incorporation into the land within the period determined in accordance with the Nutrient Management Protocol by reference to the following,
 - i. the distance of the application from the nearest wall of a residence (by reference to whether the residence is within or outside a residential area), or the property line of a designated health or educational facility.
 - ii. the odour level of the manure.

Injection and incorporation of biosolids

6.18 (1) No person shall apply biosolids to land except,

- (a) by injection; or
- (b) by incorporation in accordance with this section.

(2) Biosolids may be applied to land by incorporation in accordance with the closer set-back rules if,

- (a) they are incorporated within six hours after application; or
- (b) they have a low odour potential determined in accordance with the Nutrient Management Protocol, and they are incorporated within 24 hours after application.

(3) Biosolids may be applied to land by incorporation in accordance with the more distant set-back rules, if

- (a) they are incorporated within 24 hours after application;
- (b) they have a low odour potential determined in accordance with the Nutrient Management Protocol; or
- (c) they are applied for the purposes of silviculture or land reclamation.

(4) In this section,

“closer set-back rules”, in relation to the application of biosolids by incorporation, means application no closer than,

- (a) 25 metres from the nearest wall of any residential building not in a residential area,
- (b) 50 metres from the nearest wall of any residential building in a residential area, and
- (c) 50 metres from the property line of any designated health or educational facility;

“more distant set-back rules”, in relation to the application of biosolids by incorporation, means application no closer than,

- (a) 90 metres from the nearest wall of any residential building not in a residential area,
- (b) 450 metres from the nearest wall of any residential building in a residential area, and
- (c) 450 metres from the property line of any designated health or educational facility.

HIGH TRAJECTORY AND DIRECT FLOW APPLICATION

High trajectory irrigation guns

6.19 (1) No person shall use a high trajectory irrigation gun capable of spraying liquid more than 10 metres to apply manure or biosolids to land.

(2) This section does not apply to the application of manure that is generated in the course of an agricultural operation on a farm unit until the earlier of the following times:

1. The day the person who owns or controls the operation is required by this Regulation to ensure that there is in force a nutrient management plan for the farm unit.
2. March 31, 2005.

Direct flow application systems

6.20 (1) No person shall apply manure or biosolids directly from a storage facility to land by a direct flow application system unless the system is operated in accordance with this section.

(2) The application system may be operated by two or more operators in voice or electronic contact with each other at all times during the application if,

- (a) a first operator has a full view of the area of land to which the manure or biosolids are being applied; and
 - (b) a second operator is close enough to the system to shut it down within one minute after being advised by the first operator of a defined event.
- (3) The application system may be operated by one or more operators if,
- (a) one operator has a full view of the area of land to which the manure or biosolids are being applied; and
 - (b) either,
 - (i) that operator is close enough to the system to shut it down within one minute after observing a defined event, or
 - (ii) the application system is linked to a remote control system allowing the operator to shut the application system down within one minute after observing a defined event.

(4) If a remote control system described in subclause (3) (b) (ii) is linked to an application system, the application system must be designed to shut down automatically within one minute after it ceases to receive a signal from the remote control system.

(5) The application system must be designed and operated so that when it is shut off no manure or biosolids continue to flow from the storage facility by siphoning or other means.

(6) In this section,

“defined event” means any of the following events:

1. Manure or biosolids not being delivered to the application part of the system as intended by the person in charge of the operation of the system.
2. Manure or biosolids not being applied in accordance with the nutrient management plan for the land.
3. Application system failure resulting in the escape of manure or biosolids into the natural environment otherwise than as intended by the person in charge of the operation of the system.

**PART VII
OUTDOOR FARM-ANIMAL FEEDING OPERATIONS**

APPLICATION

Application of Part VII requirements

7.1 (1) This Part, subject to subsections (2) and (3), applies in relation to an outdoor confinement area used in the course of an agricultural operation that is carried out on a farm unit on and from the date on which a person who owns or controls the operation is required by this Regulation to ensure that there is in force a compliant nutrient management strategy for the farm unit.

(2) **Sections 7.3 (New structures and paving), 7.5 (Livestock on frozen water), 7.6 (Contaminated snow, spreading on fields) and 7.15 (Permanent outdoor confinement areas, manure)** apply on and from **[insert date of filing of the Regulation]**.

(3) If an outdoor confinement area is used in the course of an agricultural operation, a person who owns or controls the operation shall ensure that the requirements of the sections described in subsection (2) are complied with in relation to the area on and from **[insert date of filing of the Regulation]**.

GENERAL REQUIREMENTS

Person who owns or controls agricultural operation

7.2 If an outdoor confinement area is used in the course of an agricultural operation, a person who owns or controls the operation shall ensure that the requirements of this Part are complied with in relation to the area.

Set-backs for new structures and paving

7.3 New structures or paving for an outdoor confinement area must not be constructed within the minimum setback distances provided in **Part VIII (Construction Standards)**, unless the Director authorizes otherwise having regard to the effect on the natural environment of the proposed new structure or paving.

Nutrient management strategy required

7.4 No person shall keep livestock in an outdoor confinement area unless,

- (a) there is a compliant nutrient management strategy that applies to the area; and
- (b) the livestock are kept in the confinement area, and manure from the livestock is managed, in accordance with the strategy.

Keeping livestock on frozen surface water

7.5 No person shall allow livestock in an outdoor confinement area to tread on any frozen surface water in the area.

Contaminated snow, spreading on fields

7.6 If snow contaminated by manure is removed from an outdoor confinement area, no person shall spread the contaminated snow on a field unless,

- (a) there is in force a compliant nutrient management plan that applies to nutrients generated in the confinement area;
- (b) the field is designated in the contingency plan included in the nutrient management plan, and application of the contaminated snow in the field is allowed by the contingency plan;
- (c) the field has a maximum sustained slope of less than 3%; and
- (d) the snow is spread no closer than 40 metres from the top of the nearest bank of surface water, and with four times the minimum setback distances for the application of agricultural source materials to land that are described in **sections 6.6 (set-backs from wells etc.) and 6.7 (set-backs from residences and health & educational institutions)**.

Contaminated snow, storage and disposal

7.7 (1) If snow contaminated by manure is removed from an outdoor confinement area, no person shall store or dispose of the contaminated snow except in accordance with this section **or section 7.6**.

(2) The contaminated snow may be,

- (a) placed in a permanent manure storage facility; and
- (b) disposed of in accordance with a compliant nutrient management plan that applies to the confinement area, **subject to section 7.6**.

(3) The contaminated snow may be stored in a temporary nutrient storage facility that is established and managed in accordance with Part 11 if,

- (a) a contingency plan included in a compliant nutrient management plan that applies to the confinement area so provides;
- (b) melt water is collected and treated in a settling basin; and

- (c) the treated melt water is passed through an infiltration strip designed by a professional engineer.

SEASONAL OUTDOOR CONFINEMENT AREAS

Seasonal outdoor confinement areas, runoff controls

7.8 (1) No person shall operate a seasonal outdoor confinement area except in accordance with this section.

(2) A seasonal outdoor confinement area must be managed to minimize the runoff of contaminated water from the area.

(3) Without limiting subsection (2), natural or manufactured runoff prevention, treatment and containment systems may be used to minimize the runoff of contaminated water from the confinement area, including the following:

1. Diversion of clean up-slope water away from the confinement area.
2. Use of absorptive bedding materials such as straw, wood shavings and waste hay.
3. Management of the movement of livestock and manure distribution within the confinement area.
4. Runoff collection, storage or treatment systems sufficient to deal with the runoff and meet the standards for manure and runoff storage and treatment specified in **Part XI (Construction Standards)**.

Seasonal outdoor confinement areas, monitoring of tile drains

7.9 A person who manages a seasonal outdoor confinement area on land that is tile-drained shall ensure that,

- (a) the tile outlets are monitored to enable any contaminated runoff that reaches the drainage tiles to be contained and recovered; and
- (b) any such contaminated runoff is contained and recovered.

Low-density seasonal outdoor confinement areas, manure distribution

7.10 (1) This section applies to a low-density seasonal outdoor confinement area, including any woodlands associated with it.

(2) Subject to subsection (3), a person who manages the area shall ensure that,

- (a) there is an even distribution of manure throughout the area;
- (b) in particular, that manure is prevented from accumulating around feeding and watering facilities and bedding sites while the area is in use; and
- (c) there is a compliant nutrient management plan for the area.

(3) If manure in the confinement area is not evenly distributed throughout the area, a person who manages the confinement area shall ensure that the areas in which manure has accumulated are managed in accordance with the requirements of **sections 7.11 and 7.14** for high-density seasonal outdoor confinement areas.

High-density seasonal confinement areas, livestock density and manure

7.11 A person who manages a high-density seasonal outdoor confinement area on a farm unit shall ensure that,

- (a) the number of livestock kept in all such confinement areas on the farm unit is controlled so that the annual maximum amount of nutrient units such livestock would be capable of generating is less than 300 nutrient units;
- (b) all accumulated manure is removed from the confinement areas when the seasonal use ends;
- (c) such confinement areas are not be located on soils that have rapid filtration rates (Group A) as defined by soil hydrologic group in the Drainage Guide (Ministry of Agriculture and Food publication 29) unless they are paved or have equivalent protection; and
- (d) a minimum of 75% vegetative cover is re-established in such confinement areas following the removal of any manure from the surface of the areas after the areas cease to be in use each year and no later than the following August 1st.
- (e) Feeding and watering facilities and bedding sites within the area must be set back at least as far from the nearest residential building, and property line of a designated health or educational facility, as is shown in the following table, by reference to the maximum number of nutrient units capable of being generated annually in the area:

Nutrient units in new or expanding high-density seasonal area ¹	Feeding, watering and bedding—minimum distance from the nearest residential building, and property line of a designated health or educational facility
Fewer than 30 nutrient units (annual maximum)	75 metres
30 to 150 nutrient units (annual maximum)	125 metres
150 to 300 nutrient units (annual maximum)	175 metres

¹Note: the range “30 to 150 nutrient units” means equal to or more than 30 nutrient units and less than (but not equal to) 150 nutrient units, and the range “150 to 300 nutrient units” applies in the same way (see s. 1.1 (4)).

(f) Feeding and watering facilities and bedding sites within the area must also be set back by the following minimum distances from particular features:

- (i) 15 metres from any drilled well with more than 6 metres of watertight casing;
- (ii) 30 metres from any other well, if the other well has not more than 6 metres of watertight casing; and
- (iii) a 50 metre flow path to any watercourse or catch basin.

High-density seasonal outdoor confinement areas on natural material, general

7.12 (1) A high-density seasonal outdoor confinement area located wholly or partly on natural material must comply with the standard in this section.

(2) There must be a minimum of 90 centimetres of natural material throughout the area with a saturated hydraulic conductivity that is no greater than 1×10^{-8} metres per second or equivalent protection between the top of the load-bearing surface of the confinement area and bedrock or a permanent water table in areas deemed sensitive or within the two-year time of travel zone for a municipal well.

(3) Subsection (2) does not apply if,

- (a) no part of the area is deemed sensitive or within the two-year time of travel zone of a municipal well and there is a minimum of 30 centimetres of natural material throughout the area between the top of the load-bearing surface of the confinement area and bedrock or a permanent water table; or
- (b) part of the area is within the two-year time of travel zone of a municipal well, and,
 - (i) there is at least 90 centimetres of natural material throughout the area between the load-bearing surface of the area and bedrock or aquifer;
 - (ii) the phosphorous level in the natural material is less than 101 parts per million (sodium bicarbonate extractable); and
 - (iii) the area is left unused for no less than 24 months between uses.

High density seasonal areas on natural material, new or expanding areas

7.13 (1) In this section,

“new or expanding high-density seasonal confinement area means a high-density seasonal confinement area that is constructed or expanded by 20 percent or more in relation to the number of livestock confined, the amount of manure generated in the area or the animal density in the area after the date that this section applied to the operation by virtue of **section 7.1 (Phasing-in)**.

(2) Where a new or expanding high-density seasonal confinement area located wholly or partly on natural material there must be throughout the area,

- (a) a minimum of 90 centimetres of natural material with a saturated hydraulic conductivity that is no greater than 1×10^{-8} metres per second between the top of the load bearing surface of the area and the bedrock or aquifer; or
- (b) equivalent protection between the top of the load bearing surface of the area and the bedrock or aquifer.

(3) Subsection 2 does not apply if,

- (a) the area is left unused for a minimum of 24 months between uses; and
- (b) there are at least 90 centimetres of natural material throughout the area between the load-bearing surface of the area and the bedrock or aquifer and the soil phosphorous level in that material is less than 101 parts per million (sodium bicarbonate extractable).

PERMANENT OUTDOOR CONFINEMENT AREAS

Permanent outdoor confinement areas, runoff controls

7.14. (1) This section applies to a permanent outdoor confinement area.

(2) The confinement area must be managed to minimize the runoff of contaminated water from the area.

(3) Without limiting subsection (2), natural or manufactured runoff prevention, treatment and containment systems may be used to minimize the runoff of contaminated water from the confinement area, including the following:

1. Diversion of clean up-slope water away from the confinement area.
2. Use of vegetated buffer zones for the treatment of runoff water.

3. Runoff collection and storage systems sufficient to deal with the runoff and meet the standards for manure and runoff storage under **Part VIII (Construction Standards)**.

(4) New facilities in the confinement area shall be sited in accordance with the standards for agricultural buildings, including the standards for setbacks from surface water and separation distances.

Permanent outdoor confinement areas, manure

7.15 (1) This section applies to a permanent outdoor confinement area.

(2) Manure must be removed from the confinement area,

- (a) as required to prevent accumulation of the manure in the area; and
- (b) in any case, at least once a year.

(3) If the confinement area has a load-bearing surface of natural material, and has permanently located feeders (for example, fence-line feeders), the feeders must be provided with a load-bearing surface with the following characteristics:

1. It must be large enough to allow livestock to be fully supported while feeding at the feeder.
2. It must be constructed to prevent the feet of the livestock from sinking more than 40 centimetres below the surface of the natural material at any time.

Low-density permanent outdoor confinement areas

7.16. (1) This section applies to a low-density permanent outdoor confinement area on a farm unit.

(2) A person who manages the area shall ensure that the number of livestock kept in all such confinement areas on the farm unit is controlled so that the annual maximum amount of nutrient units such livestock would be capable of generating is less than 300 nutrient units.

(3) There must be a minimum of 90 centimetres of natural material throughout the area with a saturated hydraulic conductivity that is no greater than 1×10^{-8} metres per second or equivalent protection between the top of the load-bearing surface of the confinement area and the bedrock or aquifer in the vicinity of the area.

High-density permanent outdoor confinement areas

7.17 (1) This section applies to a high-density outdoor confinement area.

(2) The confinement area must be constructed to prevent access by livestock to surface water.

(3) The confinement area must have at least one impervious layer that consists of any of the following:

1. A paved surface composed on Portland cement concrete, asphalt cement concrete or any other impervious paving material.
2. A minimum of two metres of natural material between the top of the load-bearing surface of the confinement area and bedrock or a permanent water table, with a hydraulic conductivity no greater than 1×10^{-8} metres per second.
3. Any natural or engineered material that offers equivalent or greater protection, with design and construction verified by a professional engineer.

(4) If the confinement area is located wholly or partly on natural material, subsection (3) may be satisfied in a different way for different parts of the area.

PART VIII

SITING AND CONSTRUCTION STANDARDS FOR BARN AND NUTRIENT STORAGE FACILITIES

8.1. – Section left blank

GENERAL

8.2. (1) Subject to subsection (2), no person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility unless the new facility or expansion, including any associated monitoring systems, is designed by a professional engineer, constructed under the supervision of a professional engineer and inspected upon completion by a professional engineer to confirm that the work has been

carried out in accordance with the design.

(2) The following nutrient storage facilities or sites do not need to be designed by a professional engineer, constructed under the supervision of a professional engineer or inspected upon completion by a professional engineer if they are constructed in accordance with the requirements of the applicable Ministry protocol:

(a) permanent solid nutrient storage facilities under 600 m³ in size with retaining walls that do not have an exposed height that exceeds 1200 mm; and

(b) temporary in-field nutrient storage sites.

(3) No person shall carry out a hydrogeologic or geotechnical investigation for the purposes of this regulation unless such person is a professional engineer or a professional geoscientist or is working under the supervision of a professional engineer or a professional geoscientist.

(4) No person shall construct a permanent liquid nutrient storage facility or expand an existing permanent liquid nutrient storage facility except in accordance with this regulation and the applicable Ministry protocol (NSTS-04).

(5) No person shall construct a permanent solid nutrient storage facility or expand an existing permanent solid nutrient storage facility except in accordance with this regulation and the applicable Ministry protocol (NSTS-05).

(6) No person shall construct a permanent earthen nutrient storage facility or expand an existing permanent earthen nutrient storage facility except in accordance with this regulation and the applicable Ministry protocol (NSTS-06).

(7) No person shall install a synthetic liner in a new or expanded permanent nutrient storage facility except in accordance with this regulation and the applicable Ministry protocol (NSTS-07a).

(8) No person shall install a compacted clay liner in a new or expanded permanent nutrient storage facility except in accordance with this regulation and the applicable Ministry protocol (NSTS-07b).

SITING

8.3. No person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility except in accordance with the requirements of the Minimum Distance Separation II document published by the Ministry of Agriculture and Food and any set back distances established by the regulations, unless the municipality or the Director approves a variance from the requirements of MDS II or the

Director approves a variance from the requirements of the regulations to mitigate an effect on the natural environment resulting from such construction.

8.4. No person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility,

- (a) within 15 metres of a well that has a continuous steel casing that extends at least 6 metres below the surface of the ground;
- (b) within 100 metres of a well that supplies water to a municipal water system; or
- (c) within 30 metres of any other well.

8.5. Subject to section 8.8 no person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility without,

- (a) locating all field drainage tiles or piped municipal drains within 15 metres of the perimeter of the facility;
- (b) removing all drainage tile within the 15 metre zone around the facility in accordance with the OMAF publication entitled “Nutrient Storage Facilities and Tile Drainage Systems”; and
- (c) redirecting the flow of the field drainage system or piped municipal drain away from the facility.

8.6. No person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility that does not have a flow path that is at least 50 metres long to the top of the bank of the nearest surface water source unless the surface water source is an artificial facility intended to collect, re-circulate or otherwise manage contaminated runoff from the facility.

8.7. No person shall construct a permanent nutrient storage facility or expand an existing permanent nutrient storage facility within the regional or 1 in 100 year flood lines established by the municipality or by the local Conservation Authority unless,

- (a) the Director is satisfied that the location of the facility does not affect the control of flooding or pollution or the conservation of the land; or
- (b) a permit for the facility is issued under section 28 of the *Conservation Authorities Act*.

8.8. (1) A person who constructs a drainage system, within 15 metres of a permanent nutrient storage facility, that is intended to collect or divert water away from the facility shall ensure that the system is constructed with non-perforated pipe and that all subsurface joints in the piping are properly sealed unless,

- (a) water collected by the drainage system discharges into an approved treatment system; or
- (b) the foundation drains of the permanent nutrient storage facility are equipped with an observation and shut-off station that has been installed in accordance with the OMAF publication entitled “Nutrient Storage Facilities and Tile Drainage Systems”.

(2) No person shall permit liquid nutrients to enter a tile drainage system unless the system is equipped with an approved treatment system designed to treat effluent containing such nutrients.

GROUNDWATER PROTECTION

8.9. No person shall construct or expand a permanent liquid nutrient storage facility for agricultural source material unless the person retains the services of a professional engineer or professional geoscientist to carry out a stage one hydrogeologic or geotechnical investigation of the proposed site that,

- (a) identifies the soil type or types to a depth of at least,
 - (i) 1.5 metres below the lowest elevation of the excavation required for a structure made of concrete or steel; or
 - (ii) 2.5 metres below the lowest elevation of the excavation required for an earthen structure; and
- (b) establishes the depth of the aquifer and bedrock in relation to the lowest elevation of the excavation required for the facility.

8.10. Subject to section 8.19, no person shall construct or expand a permanent liquid nutrient storage facility for agricultural source material on a site that does not meet or exceed the following requirements:

- (a) unlined concrete or steel storage facilities, with reinforced concrete floors require a minimum of 0.5 metre of hydraulically secure soil between the bottom of the storage facility and the upper most identified bedrock layer or aquifer;

- (b) lined concrete or steel storage facilities with reinforced concrete floors require a minimum of 0.5 metre of native undisturbed material or compacted granular material between the bottom of the storage facility and uppermost identified bedrock layer or aquifer;
- (c) unlined concrete or steel storage facilities with unreinforced concrete floors require a minimum of 1.0 metre of hydraulically secure soil between the bottom and sides of the storage facility and the upper most identified bedrock layer or aquifer;
- (d) lined concrete or steel storage facilities with unreinforced concrete floors require a minimum of 1.0 metre of native undisturbed material or compacted granular material between the bottom of the storage facility and the uppermost identified bedrock layer or aquifer;
- (e) lined earthen nutrient storage facilities require a minimum of 2.0 metres of hydraulically secure soil between the bottom and sides of the lined storage facility and the upper most identified bedrock layer or aquifer; and
- (f) nutrient storage facilities that are designed to incorporate a combined system such as a facility that has earthen walls and a concrete floor shall satisfy the most restrictive criteria for the types of material used in the construction of the facility.

8.11. Subject to section 8.19, no person shall construct a permanent solid nutrient storage facility or expand such a facility on a category 4 agricultural operation that does not contain a concrete floor unless, the person retains the services of a professional engineer or professional geoscientist to carry out a stage one hydrogeologic or geotechnical investigation of the proposed site that establishes,

- (a) the soil type or types to a depth of 1.5 metres below the lowest elevation of the excavation required for the facility; and
- (b) that there is at least 0.5 metre of hydraulically secure material between the bottom of the facility and the uppermost identified bedrock or aquifer.

8.12. An unlined permanent earthen nutrient storage facility, with a maximum storage depth of 3.0 metres and a maximum storage volume of 2500 m³, can be used to store liquid agricultural source materials listed in paragraphs 2 to 6 of section 1.6 if;

- (a) the facility has at least 2.0 metres of hydraulically secure material between the bottom and sides of the facility and the upper most identified bedrock layer or unconfined aquifer;
- (b) the soil materials that form the interior surface of the proposed facility are disked to a depth of at least 15 centimetres and recompacted with an approved compaction device;
- (c) any soil anomalies that are discovered during construction, such as course material lenses, large rocks or soil fractures shall be excavated and filled with an approved clay based material to a depth of one metre;
- (d) topsoil shall be stripped to the subsoil layer from the area where any berm is to be constructed and stockpiled for use in the outside slopes of the structure; and
- (e) any above ground berms shall be constructed of a material that is suitable for compaction to meet a maximum saturated hydraulic conductivity of 1×10^{-9} metres per second and be compacted to at least 95% modified Proctor according to accepted engineering test criteria.

8.13. The professional engineer or professional geoscientist responsible for the investigation referred to in sections 8.9 and 8.11 shall analyze the data collected for the study to determine the suitability of the proposed site for a permanent liquid manure storage facility or a permanent solid manure storage facility with an earthen floor located on a category 4 agricultural operation.

8.14. If the results of the stage one investigation confirm that appropriate site conditions, as listed in section 8.10 exist beneath and adjacent to the proposed site then the proponent may proceed with construction of the facility.

8.15. If the results of the stage-one investigation do not confirm the suitability of the proposed site for the construction and operation of a permanent liquid manure storage facility the proponent of the project may,

- (a) look for another site;
- (b) construct a facility that is suitable for the site in accordance with section 11; or

- (c) carry out a stage two investigation of the proposed site in accordance with the applicable Ministry protocol.

8.16. If the results of the stage-two investigation confirm that appropriate site conditions as listed in section 8.11 exist beneath and adjacent to the proposed site then the proponent may proceed with construction of the facility.

8.17. If the results of the stage-two investigation fail to confirm that the proposed site is a suitable location for the proposed facility the proponent may,

- (a) look for another site;
- (b) construct a facility that is suitable for the site in accordance with section 8.11; or
- (c) conduct a stage-three investigation of the proposed site.

8.18. If the proponent elects to conduct a stage-three investigation of the proposed site the terms of reference for the stage three investigation shall be developed by the proponent's professional engineer or professional geoscientist to determine what measures could be used to provide adequate protection for the ground water and approved by the Director.

8.19. If the results of the stage three investigation fail to confirm that the proposed site is a suitable location for the proposed facility the proponent may,

- (a) look for another site;
- (b) construct a facility that is suitable for the site in accordance with section 8.11; or
- (c) have a qualified professional develop an appropriate design, specific to the site, which will provide a level of protection for the groundwater which is the equivalent of the structures listed in section 8.11.

TEMPORARY NUTRIENT STORAGE SITES

8.20. No person shall store liquid nutrients in a temporary in-field nutrient storage site.

8.21. The location of a temporary in-field nutrient storage site shall satisfy the following requirements:

- (a) the minimum depth of unconsolidated soil to bedrock shall be 1.5 metres;
- (b) the minimum depth of unsaturated soil shall be 0.9 metre above the permanent water table;
- (c) nutrient with more than 70% moisture content shall not be stored on soils that have rapid infiltration rates (Hydrological Soil Group A) as defined by soil hydrologic group in the Drainage Guide (Ministry of Agriculture and Food Publication 29); and
- (d) it shall not,
 - (i) be located in the regional or 1 in 100 year flood zone; or
 - (ii) have a slope greater than 3%.

8.22. Temporary in-field nutrient storage sites shall be managed in accordance with the following criteria:

- (a) except as provided for in section 8.27 a farmer receiving nutrients and storing them in a temporary in-field nutrient storage site on a farm unit can not receive and store a volume of nutrients that is greater than the quantity of nutrients that the farmer plans to use for crop production at that farm unit based on a compliant nutrient management plan;
- (b) non-agricultural source material stored in a site must be used at the farm unit where it is stored and can not be transferred to another farm unit;
- (c) if more than one type of nutrient is stored at a site the nutrients shall be managed in accordance with the most restrictive requirements applicable to any of the nutrients on the site;
- (d) where the site is located on a slope it shall be located near the top of the slope to minimize the exposure of the nutrients to up-slope runoff or the site shall be equipped with runoff diversion structures;
- (e) where the site is located within a 150 metres long flow path from surface water a vegetated buffer strip at least 3 metres wide is required between the site and the surface water;
- (f) where the site is located in an area that is tile-drained,
 - (i) the site shall be pre-tilled or the field tiles shall be monitored weekly for coloured liquid or odour; and

- (ii) there must be a contingency plan in place to deal with contaminated liquid in the tiles.
- (g) nutrients shall not be stored at a site for longer than the maximum time prescribed for each nutrient; and
- (h) the site may be used again in the following year if:
 - (i) the site is cultivated and planted with a cover crop after the nutrients are removed from the site;
 - (ii) a vegetative cover is established on the site during the growing period following the removal of the nutrients from the site; and
 - (iii) the soil phosphorus levels are maintained below 101 parts per million (sodium bicarbonate extractable).

8.23. No person shall locate a temporary in-field nutrient storage site,

- (a) within 45 metres of a well, with a watertight casing to a depth of at least six metres, below ground level;
- (b) within 90 metres of any other well;
- (c) with less than a 90 metre flow path to surface water;
- (d) within 200 metres of a single residence if the site contains de-watered municipal sewage biosolids;
- (e) within 125 metres of a single residence if the site contains prescribed materials other than de-watered municipal sewage biosolids;
- (f) within 450 metres of a residential area if the site contains de-watered municipal sewage biosolids; or
- (g) within 250 metres of a residential area if the site contains prescribed material other than de-watered municipal sewage biosolids.

8.24 Subject to section 8.26 no person shall store nutrients in a temporary in-field nutrient storage site for longer than the following periods:

- (a) de-watered municipal sewage biosolids may be stored for a maximum of 10 days;

- (b) prescribed material which is left uncovered may be stored for a maximum of 60 days with the exception of municipal sewage biosolids and manure stored in accordance with clause (c);
- (c) manure may be stored uncovered for 120 days if it is stored in a pile with a maximum height of 3 metres and a maximum width of 6 metres and it is turned so that every piece of material in the pile is displaced from its former position and mixed or inverted, every;
 - (i) 15 days if the moisture content of the manure is greater than 70 percent;
 - (ii) 30 days if the moisture content of the manure is greater than 50 percent and not more than 70 percent; or
 - (iii) 60 days if the moisture content of the manure is not more than 50 percent; and
- (d) prescribed material that is covered, with the exception of municipal sewage biosolids, may be stored for 120 days.

8.25 The operator shall maintain records for all temporary in-field nutrient storage sites under the operator's control including;

- (a) the date the site was established;
- (b) the date or dates the pile was displaced and mixed or inverted, if applicable;
- (c) the date the pile was removed; and
- (d) a sketch indicating the location of the site relative to surface waters and other temporary in-field storage sites

8.26. The Director may authorize a person to increase the storage period or the amount of prescribed material which may be received at a temporary in-field nutrient storage site if he or she is satisfied that the person is meeting the Ministry of the Environment Interim Guidelines for the Production and Use of Aerobic Compost in Ontario or the Ministry of Agriculture and Food Protocol for On-Farm Composting.

NUTRIENT TRANSFER SYSTEMS

8.27. No person shall transfer liquid nutrients from place to place on a farm unit by means of a liquid nutrient transfer system unless the system has been designed and constructed and is operated in accordance with the requirements of the applicable

Ministry protocol (MTST-10).

8.28. A nutrient transfer system that has been constructed in accordance with the applicable Ministry protocol (NSTS-10) does not require monitoring for groundwater movement.

MONITORING WITHIN A TWO-YEAR WATER CAPTURE ZONE

8.29. The owner or operator of a new or expanding agricultural operation that is located within the two-year water capture zone of a well that supplies water to a municipal water system that includes a permanent liquid nutrient storage facility shall ensure that monitoring of groundwater movement under the facility is carried out in accordance with sections 8.31 to 8.39 of this regulation.

8.30. For all category 4 agricultural operations a professional engineer shall carry out the installation and monitoring of the monitoring system and samples shall be submitted to an approved laboratory for analysis whenever they are collected.

8.31. An internal monitoring system for groundwater movement shall be comprised of a water leachate collection and monitoring system located between the 1st and 2nd protective layers of the facility that is composed of granular material that is capable of capturing any leakage that may occur from the permanent liquid nutrient storage facility.

8.32. For the purposes of section 8.31 a protective layer includes a synthetic liner, a natural liner, concrete, or hydraulically secure soil.

8.33. (1) For all category 1 to 3 agricultural operations a qualified person shall carry out installation of the internal monitoring system for groundwater movement.

(2) The owner of the storage facility or a person designated by the owner shall monitor the system and take samples of any liquid that is found in the monitoring system and the owner is responsible for submitting the samples to an approved laboratory for analysis when they are taken.

8.34. The samples shall be tested for ammonium and chlorides.

8.35. If ammonium or chlorides are found in the sample, at levels which are 10 times greater than the levels established by monitoring background levels,

- (a) all liquid in a tile drain monitoring system shall be pumped into the permanent liquid nutrient storage facility or into an approved treatment system; and
- (b) the monitoring system shall be monitored on a weekly basis and any liquid found shall be tested until ammonium or chlorides are less than 10 times greater than the levels established by monitoring background levels.

8.36. If ammonium or chlorides levels are not greater than 10 times background levels in the weekly samples sampling and testing shall be carried out on a bi-weekly basis, reduced to a bi-monthly basis after 4 tests and further reduced to 2 times per year after 5 years of operation.

8.37. (1) An accredited laboratory shall analyze samples taken from a monitoring system.

(2) The results of the analysis shall be reported to the owner or operator of the farm unit.

8.38. The owner or operator of the farm unit shall notify the Ministry of the Environment by speaking with a person at the Ministry's Spills Action Centre, if the amount of leakage exceeds predicted levels for a new facility as specified by the designer.

8.39. The owner or operator of the farm unit shall ensure that a record of the leakage monitoring results is kept at the business office of the farm unit.

DECOMMISSIONING OF NUTRIENT STORAGE FACILITIES

8.40. The owner or operator of a permanent nutrient storage facility shall ensure that it is properly decommissioned when,

- (a) it is temporarily taken out of service; or
- (b) it is no longer required for the storage of nutrients.

8.41. (1) A person who is temporarily decommissioning a permanent nutrient storage facility shall:

- (a) remove the contents of the storage facility or maintain the contents in a manner that does not jeopardize the safe operation of the structure;
- (b) maintain a minimum of 0.3 meters of freeboard; and
- (c) maintain the facility in a good state of repair and safe working condition

(2) A person who has temporarily decommissioned a permanent nutrient storage facility shall,

- (a) inspect the facility periodically and not less frequently than once a year to ensure that it doesn't present a hazard to people or the natural environment;

and

- (b) have the facility inspected and evaluated by a professional engineer at 10 year intervals in accordance with the applicable Ministry protocol (NSTS – 12).

8.42. (1) A person who is permanently decommissioning a permanent nutrient storage facility shall,

- (a) remove all remaining nutrient from the facility;
- (b) pressure wash the walls and floors of the facility to remove any nutrient left on those surfaces if the facility is made out of concrete or steel; and
- (c) dispose of the remaining nutrient and wash water in accordance with a compliant nutrient management plan.

(2) If the facility is made out of concrete or steel the person shall,

- (a) collapse the walls of the structure onto the floor if the structure is located below grade; or
- (b) manage or dispose of the steel and concrete components of the structure in accordance with provincial law.

(3) If the facility is made out of earth the person shall,

- (a) remove any earth that is contaminated by nutrients and dispose of it in accordance with a compliant nutrient management plan; and
- (b) push any berms made of earth into the cavity.

(4) In the case of either subsection (2) or (3) the person shall complete the decommissioning of the facility by,

- (a) filling the cavity with clean soil or other fill material that has the same permeability as the surrounding soil;
- (b) mounding the fill above the original grade to allow for settling of the fill;
- (c) top-dressing the site with 15 centimetres of top soil; and
- (d) establishing vegetation on the site.

8.43. No person shall allow water to accumulate on the site of a permanently decommissioned permanent nutrient storage facility.

NUTRIENT STORAGE CAPACITY FOR NEW OR EXPANDING LIVESTOCK OPERATIONS

8.44. No person shall commence a new livestock operation or expand an existing livestock operation that generates liquid manure that does not include as part of the farm unit a permanent nutrient storage facility or facilities that is or are capable of containing at least all of the nutrient produced on or received at the operation during a period of 240 days with the following exceptions:

- (a) a farmer who sends some of the nutrient generated on the farmer's agricultural operation to a broker and that broker require an aggregate storage capacity of 240 days between them; or
- (b) where the period of use of a permanent livestock confinement area is less than 240 days the storage capacity of the permanent nutrient storage facility associated with the area must be adequate for the period of confinement.

8.45. No person shall commence a new livestock operation or expand an existing livestock operation that generates solid manure that does not have a permanent nutrient storage facility or facilities that is or are capable of containing at least all of the nutrient produced on or received at the operation during a period of 240 days with the following exceptions:

- (a) a farmer who sends some of the nutrient generated on the farmer's agricultural operation to a broker and that broker require an aggregate storage capacity of 240 days between them;
- (b) the farmer's nutrient management strategy provides for the disposal of the nutrient generated on the agricultural operation by means that eliminate the need for 240 days of nutrient storage on the operation; or
- (c) where the period of use of a permanent livestock confinement area is less than 240 days the storage capacity of the permanent nutrient storage facility associated with the area must be adequate for the period of confinement;

COMPREHENSIVE EVALUATION OF EXISTING PERMANENT NUTRIENT STORAGE
FACILITIES

8.46. (1). Subject to subsection (2) owners and operators of existing agricultural operations that generate nutrients shall carry out a comprehensive evaluation of the permanent nutrient storage facilities located on their operations within the following time limits:

- (a) Category 4 - on or before March 31, 2004;
- (b) Category 2 and 3 – on or before March 31, 2005; or
- (c) Category 1 – on or before March 31, 2008.

(2) Where the owner or operator built a permanent nutrient storage facility in accordance with the standards contained in the “Agricultural Pollution Control Manual” between April 1, 1994 and March 31, 2003, the owner or operator shall have a comprehensive evaluation of the facility carried out by a professional engineer within 10 years of the date the building permit for the facility was issued or the date as determined by subsection (1), whichever is the later.

8.47. (1) Subject to subsection (2) owners and operators of agricultural operations that receive nutrients but do not generate nutrients shall have their permanent nutrient storage facilities evaluated by a professional engineer within the following time limits:

- (a) Category 4 - on or before March 31, 2004;
- (b) Category 2 and 3 – on or before March 31, 2005; and
- (c) Category 1 – on or before March 31, 2008.

(2) Where the owner or operator built a permanent nutrient storage facility in accordance with the standards contained in the “Agricultural Pollution Control Manual” between April 1, 1994 and March 31, 2003, the owner or operator shall have a comprehensive evaluation of the facility carried out by a professional engineer within 10 years of the date the building permit for the facility was issued or the date as determined by subsection (1), whichever is the later.

8.48. Within the time periods specified in section 8.47 all owners and operators of existing agricultural operations shall ensure that their permanent nutrient storage facilities are capable of containing at least all of the nutrient produced on or received at the operation during a period of 240 days with the following exceptions:

- (a) a farmer who sends some of the nutrient generated on the farmer’s agricultural

operation to a broker and that broker require an aggregate storage capacity of 240 days between them;

- (b) where the period of use of a permanent livestock confinement area is less than 240 days the storage capacity of the permanent nutrient storage facility associated with the area must be adequate for the period of confinement; or
- (c) where the nutrient management plan allows for a lesser period of time to be required for storage then the storage will meet the requirements of the plan

8.49. For the purposes of sections 8.46 and 8.47 an owner or operator of,

- (a) any agricultural operation must demonstrate on the basis of reliable information that each permanent liquid nutrient storage facility located on the owner's or operator's agricultural operation; and
- (b) a category 4 agricultural operation that stores solid nutrient on the operation in a facility that does not have a concrete floor must demonstrate on the basis of reliable information that each permanent solid nutrient storage facility located on the owner's or operator's agricultural operation, is not having an adverse effect on surface or groundwater resources by,
 - (i) ensuring that there is no evidence of significant leakage into perimeter drains around the facility; and
 - (ii) determining the need for an observation station.

8.50. For the purposes of section 8.49 "reliable information" includes,

- (a) a report based on an investigation conducted by a professional engineer that takes into consideration the topographic, geologic and hydrogeologic features of the agricultural operation in relation to the siting and operation of its permanent nutrient storage facilities; or
- (b) a peer-reviewed Environmental Farm Plan prepared by or on behalf of the owner or operator of the agricultural operation that has been evaluated from time to time in accordance with the requirements of the plan.

8.51. No person shall construct or enlarge an operation that generates or stores non-agricultural prescribed materials unless the new or expanded operation has a permanent nutrient storage facility or facilities that is or are capable of containing at least all of the nutrient produced on or received at the operation during a period of 240 days.

8.52. Owners or operators of existing operations that generate or store non-agricultural prescribed materials shall manage such materials in accordance with their nutrient management strategy.

8.53. If an existing permanent nutrient storage facility does not meet the setback requirements of this regulation the owner or operator of the facility shall provide documentation in the owner's or operator's nutrient management plan that indicates the shortfall between the set back of the existing facility and the setback requirements of this regulation.

Part IX
Sampling, Analysis and
Quality Standards for Land-Applied Materials

9.1. In this Part,

Analyze \equiv in relation to a sample means to analyze or to ensure that a sample is analyzed;

Approved design capacity \equiv in relation to a sewage treatment works means design capacity as approved for the sewage treatment works pursuant to an approval issued under the *Ontario Water Resources Act*;

Collect \equiv in relation to a sample means to collect or to ensure that a sample is collected;

Determine \equiv means to determine or to ensure is determined;

Land \equiv means land that is used for an agricultural purpose and excludes residential gardens;

Nitrogen \equiv means: (i) in relation to non-agricultural source materials, total kjeldahl nitrogen, (ammonia and ammonium) nitrogen and (nitrate and nitrite) nitrogen, and
(ii) in relation to agricultural source materials, total kjeldahl nitrogen and (ammonia and ammonium) nitrogen;

ANMAN \equiv means the nutrient management computer program (NMAN 2003) as established by the Ministry of Agriculture and Food, and as amended from time to time, which is also available in a workbook format for the purpose of preparing nutrient management plans and nutrient management strategies;

Aperson who applies material \equiv includes a generator of the material;

Aperson who intends to apply material \equiv includes a generator of the material;

Aphosphorus \equiv means total phosphorus, except as otherwise provided by this regulation;

Aproduction capacity \equiv means the quantity of non-agricultural source material capable of being produced in one year determined on a dry weight basis and as identified in the Generator=s nutrient management strategy;

Aregulated metal \equiv means a metal listed in Column 1 of Table 1.

Sampling and Analysis Procedures

9.2. (1) Each person who is required to carry out sampling and analysis obligations under this Part shall:

- (a) do so in accordance with the [**applicable Ministry protocol**], as it may be amended from time-to-time, except where otherwise provided by this regulation;
- (b) use the results determined under sections **9.6, 9.7, 9.8, 9.12, 9.13, and 9.15 and the NMAN program** to determine the application rates for the material analyzed; and
- (c) incorporate the application rates into the nutrient management plan for the application of the material.

(2) Where an arithmetic average or geometric mean of concentrations is required to be determined, the most recently determined arithmetic average or geometric mean, as the case may be, shall be used for the purpose of this regulation.

Calculations - general

9.3. (1) For the purposes of performing a calculation under this regulation the person shall use the actual analytical result obtained by the laboratory doing the analyses for the purposes of this regulation.

(2) Subsection (1) does not apply where the person is performing a calculation by using data in the NMAN program.

Obligations under approvals, orders, etc.

9.4. (1) The requirements of this regulation are in addition to and independent of the requirements in an approval, order or instrument issued under any Act and in the event of conflict, shall prevail unless the requirement in this regulation is less stringent than the requirement under an approval, order or instrument issued under any Act.

(2) Subsection (1) does not apply to a requirement under a municipal by-law.

Limitation on application - general

9.5. No person shall apply to land a prescribed material or a commercial fertilizer at a rate that exceeds the application rate for the material or fertilizer as provided in the nutrient management plan.

PARAMETERS: NITROGEN, PHOSPHORUS, POTASSIUM,
TOTAL SOLIDS, VOLATILE SOLIDS

Sample collection B Agricultural source material B Category 1, 2, 3, 4

9.6. (1) Each person who applies to land an agricultural source material generated at a Category 1, 2, 3 or 4 farm unit shall, prior to the application to land, collect at least one sample from the material to be applied for analysis for each of the parameters of nitrogen, phosphorus, potassium and total solids on each occasion when the nutrient management strategy or nutrient management plan in relation to the material is required to be renewed or updated by this regulation.

Analysis

(2) Each person who has a sampling obligation under subsection (1) and collects one sample from the material to be applied for analysis shall determine by using laboratory analysis, the concentration in the material for each of the parameters of nitrogen, phosphorus, potassium and total solids.

Same

(3) Each person who collects more than one sample for the purposes of analyzing the parameters listed in subsection (1) shall:

(a) determine using laboratory analysis, the concentration in the material for each sample for each of the parameters of nitrogen, phosphorus, potassium and total solids; and

(b) determine the arithmetic average of the concentrations of the parameters analyzed under clause (a) and for the purpose, the arithmetic average shall be determined using the concentrations determined under clause (a) in each of the preceding 12 months, including the month in which the samples were analyzed for the parameters listed in subsection (1) for the parameters.

USE OF NMAN DATA

(4) Despite subsections (1), (2) and (3), when the NMAN program provides default data for concentrations of the parameters required by subsection (2) for the agricultural source material, a Category 1, 2 or 3 Generator may, instead of collecting and analyzing samples for the parameters in accordance with subsection (1), use the default data in the NMAN program to provide the concentration of the parameters required by subsection (2) or the arithmetic average of the concentrations required by subsection (3) in relation to each of the parameters of nitrogen, phosphorus, potassium and total solids.

Sample collection B non-agricultural source material B paragraph 1.7 (1) 3

9.7. (1) Each person who applies to land a material prescribed under paragraph 1.7 (1) 3 shall, prior to the application to land, collect a sample from the material to be applied for analysis for each of the parameters of nitrogen, phosphorus, potassium, total solids and volatile solids in accordance with the frequency for sampling for those parameters required to be sampled for the sewage treatment works under the *Ontario Water Resources Act* or for the material under the *Environmental Protection Act*, and in any case, not less often than the following:

- a. for sewage treatment works with an approved design capacity of 22,700 cubic metres per day or less, the person shall collect no less than 6 samples in a year, including samples as follows:

one sample in each month when the material is being applied, and
one sample in each of the two months preceding the first application of material.

- b. for sewage treatment works with an approved design capacity of greater than 22,700 cubic metres per day but less than 45,400 cubic metres per day, the person shall collect no less than one sample per month;
- c. for sewage treatment works with an approved design capacity of 45,400 cubic metres per day or greater, the person shall collect no less than two samples per month.

Analysis, Calculation of average of concentrations

- (2) Each person who has a sampling obligation under subsection (1) shall for each sample determine:
- (a) using laboratory analysis, the concentration in the material for each of the parameters of nitrogen, phosphorus, potassium, total solids and volatile solids; and
 - (b) the arithmetic average of the concentrations of the parameters analyzed under clause (a) and for the purpose, the arithmetic average shall be determined using the four most recent samples analyzed for the parameters.

Sample collection B non-agricultural source material B other than paragraph 1.7 (1) 3

9.8. (1) Each person who applies to land a non-agricultural source material other than one prescribed under paragraph 1.7 (1) 3 shall, prior to the application to land, collect a sample from the material to be applied for analysis for each of the parameters of nitrogen, phosphorus, potassium, total solids and volatile solids in accordance with any frequency for sampling required under the *Environmental Protection Act* in relation to the material, and in any case, not less often than the following:

for facilities with a production capacity of 1,250 tonnes or less, the person shall collect no less than 6 samples in a year, including samples as follows:

- i. one sample in each month when the material is being applied, and
one sample in each of the two months preceding the first application of material.
- b. for facilities with a production capacity of greater than 1,250 tonnes but less than 2,500 tonnes, the person shall collect no less than one sample per month;
- c. for facilities with a production capacity of greater than 2,500 tonnes, the person shall collect no less than two samples per month.

Analysis and calculation of average concentrations

(2) Each person who has a sampling obligation under subsection (1) shall for each sample determine:

- (a) using laboratory analysis, the concentration in the material for each of the parameters of nitrogen, phosphorus, potassium, total solids and volatile solids; and
- (b) using the arithmetic average of the concentrations of the parameters analyzed under clause (a) and for the purpose, the arithmetic average shall be determined using the four most recent samples analyzed for the parameters.

Regulated Metals

Table 1: Standards for Regulated Metals

Column 1	Column 2	Column 3	Column 4
Regulated Metals	Maximum metal concentration in non-agricultural source materials	Maximum metal addition to soil receiving non-agricultural source materials	Maximum metal concentration in soils receiving non-agricultural source materials
	(mg / Kg of TS ¹ d.w ² .)	(Kg / Ha / 5 Years)	(mg / Kg of Soil, d.w.)
Arsenic	170	1.40	14
Cadmium	34	0.27	1.6
Cobalt	340	2.70	20
Chromium	2800	23.30	120
Copper	1700	13.60	100
Mercury	11	0.09	0.5
Molybdenum	94	0.80	4
Nickel	420	3.56	32
Lead	1100	9.00	60
Selenium	34	0.27	1.6
Zinc	4200	33.00	220

¹ TS means total solids.

² d.w. means dry weight.

Soil Sample Collection

9.9. (1) Each person who intends to apply to land a non-agricultural source material shall, prior to the application to land collect samples in accordance with the **[applicable ministry protocol.]** from the soil to which the material is proposed to be applied for analysis for each regulated metal not less than once in the five year period immediately prior to the application of the material.

(2) Where the soil of the land to which the material is proposed to be applied has been analyzed under subsection (1) by another person for each regulated metal in the 5 year period immediately prior to the application referred to in subsection (1), the person mentioned in subsection (1) is relieved of the obligation to collect and analyse samples under subsections (1) and (3) if that person instead uses the laboratory data that were obtained by the other person under subsection (3) during the 5 year period.

Analysis

(3) Each person who has a sampling obligation under subsection (1) shall determine by laboratory analysis for the samples collected, the concentration of each regulated metal in accordance with the **applicable Ministry protocol]**

Prohibition on Application

(4) No person who has an obligation under subsection (1) shall apply a non-agricultural source material to land if a concentration for a regulated metal determined under subsection (3) exceeds the Maximum metal concentration in soils receiving non-agricultural source materials as set out in Column 4 of Table 1 for the regulated metal.

Analysis B non-agricultural source material

9.10. (1) Each person who applies to land a non-agricultural source material shall, prior to the application to land, for each sample collected under section 9.7 or 9.8, determine by laboratory analysis the concentration in the material for each regulated metal.

Same

(2) Where a person is required under subsection (1) to make a determination and the person has collected more than the minimum number of samples required under subsection 9.7 (1) or 9.8 (1), the person is relieved of the requirement to determine the concentration in the material for the additional samples collected under subsection 9.7 (1) or section 9.8 (1) and instead is required to determine by laboratory analysis the concentration in the material for each regulated metal for the minimum number of samples collected under subsection 9.7 (1) or 9.8 (1).

Determination of arithmetic average of concentrations

(3) Each person who is required to determine a concentration for a regulated metal under subsection (1) or (2) shall determine the arithmetic average of the concentration of each regulated metal in milligrams per kilogram of the material dry weight and for the purpose, the arithmetic average shall be determined using the four most recent samples analyzed.

Prohibition on Application

- (4) No person who has an obligation under subsection (1) or (2) shall apply a material to land if the most recently determined arithmetic average for a concentration of a regulated metal determined under subsection (3) exceeds the Maximum metal concentration in non-agricultural source materials as set out in Column 2 of Table 1 for the regulated metal and where the person continues intending to apply the material to land, the person shall comply with the requirements in subsection (5).

Resampling

- (5) Where a person determines that an arithmetic average for a concentration of a regulated metal under subsection (1) or (2) exceeds the Maximum metal concentration set out in Column 2 of Table 1 for a regulated metal and the person continues to intend to apply the material to land, the person shall:

continue to collect samples in accordance with subsection 9.7 (1) or 9.8 (1) with an interval of no less than 2 days between the samples collected;
analyze each sample to determine the concentration in the material for each regulated metal; and
determine the arithmetic average concentration for each of the regulated metals as required by subsection (1) or (2) until the most recent arithmetic average no longer exceeds the Maximum metal concentration set out in Column 2 of Table 1 for the regulated metal.

Determination of metal additions

9.11. (1) Where a person determines under subsection 9.10 (3) or (5) that the most recently determined arithmetic average for a concentration of a regulated metal does not exceed the Maximum metal concentration set out in Column 2 of Table 1 for the regulated metal, the person shall determine pursuant to clause (2) (b) and section 9.12 the addition which may be made to soil for each regulated metal in each month in which a non-agricultural source material is applied to the land.

- (2) The addition in subsection (1) shall be determined in kilograms for each regulated metal per hectare dry weight by:

(a) multiplying the most recent arithmetic average determined under subsection 9.10 (3) or (5) for a material by the quantity of the material in tonnes per hectare, dry weight, intended to be applied to the land in that month and multiplying by a unit conversion factor of 0.001; and

(b) adding the quantity of each regulated metal determined under clause (a) to the quantity of that regulated metal applied to the land as a result of the application of non-agricultural source material each month in each year for the previous four calendar years commencing on January 1st of the first year up to and including the current year.

Determining application rates

9.12 Each person who has an obligation to conduct analyses under section 9.9, 9.10, or 9.11 shall determine the application rate of the material for the purpose of the nutrient management plan and for that purpose, the person shall ensure that the quantity of a regulated metal determined under paragraph 9.11 (2)(b) does not exceed the Maximum metal addition to soil receiving non-agricultural source materials set out in Column 3 of Table 1 for the regulated metal.

Determining least application rate

9.13. Each person who has an obligation to determine an application rate for non-agricultural source material under this regulation shall further determine which application rate determined under section 9.7 or 9.8 and 9.12 is the least.

Incorporation into nutrient management plan

9.14 Each person who has an obligation to determine the least application rate for a material under section 9.13 shall, subject to section 9.15, incorporate the rate into the nutrient management plan for the material.

Limitation on application rate - non-agricultural source material - paragraph 1.7 (1) 3

9.15 (1) Subject to subsection (2), each person who has an obligation to determine the least application rate under section 9.13 in relation to a material prescribed under paragraph 1.7 (1) 3 shall incorporate into the nutrient management plan for the material the least application rate.

(2) No person shall use a least application rate for non-agricultural source material which prescribed under paragraph 1.7 (1) 3 exceeds 8 tonnes dry weight of the material per hectare in each 5 year period following the coming into force of this regulation.

PATHOGENS

Interpretation

9.16 For the purposes of section 9.17 to 9.19:

Apathogen material \equiv means non-agricultural source material prescribed under paragraph 1.7 (1) 3 that is treated by a process that is described as a Pathogen Treatment Process in the **[applicable Ministry protocol to be named]** as amended from time to time.

Prohibition on Application

9.17. No person shall apply to land a non-agricultural source material prescribed under paragraph 1.7 (1) 3 unless the material has been treated by a pathogen treatment process and in accordance with this regulation.

Pathogen Sample collection

9.18 (1) Each person who intends to apply to land a pathogen material shall, prior to the application to land, collect a sample from the material to be applied for analysis for E. Coli in accordance with the following:

- a. for sewage treatment works with an approved design capacity of 22,700 cubic metres per day or less, the person shall collect no less than 6 samples in a year, including samples as follows:
 1. one sample in each month when the material is being applied,
 - and
 2. one sample in each of the two months preceding the first application of material;
- b. for sewage treatment works with an approved design capacity of greater than 22,700 cubic metres per day but less than 45,400 cubic metres per day, the person shall collect no less than one sample per month;
- c. for sewage treatment works with an approved design capacity of 45,400 cubic metres per day or greater, the person shall collect no less than two samples per month.

Analysis

(2) No person who has a sampling obligation under subsection (1) shall apply the material unless prior to the application, the person has determined by laboratory analysis the density in the material for E.Coli.

Geometric Mean density

(3) Each person who is required to determine a density under subsection (2) shall determine a geometric mean density of E. Coli and for the purpose the geometric mean density shall be determined using the four most recent samples collected and analyzed under subsection (1).

(4) Where the geometric mean density determined under subsection (3):

- a. does not exceed the maximum density of 2×10^6 colony forming units per gram total solids, dry weight, the person may apply the material to land in accordance with this regulation;
- b. exceeds the maximum density set out in clause (a), no person shall apply the material to land and where the person continues to intend to apply the person shall:
 - i. continue to collect samples in accordance with subsection (1) and shall maintain an interval of at least 2 days between successive sampling days;
 - ii. analyze each sample to determine the density of E. Coli in accordance with subsection (2), and
 - iii. determine the geometric mean density for E. Coli in each sample collected in accordance with subsection (3) until the most recent geometric mean density no longer exceeds the maximum density set out in clause (a).

Application of Pathogen material

9.19. No person who has an obligation under subsection 9.18 (1) shall apply the material to land unless the most recent geometric mean determined under clause 9.18 (4) (a) or clause 9.18 (4) (b) (iii) does not exceed the maximum density set out in clause 9.18 (4) (a).

Odour Control

Odour classification

9.20. Each person who is required to prepare a nutrient management plan or strategy shall, for the purpose, determine the odour classification of each prescribed material intended to be applied to land in accordance with the **[applicable Ministry protocol]** as amended from time to time.

Separation distances, incorporation practices

9.21 Each person who is required to determine an odour classification for a material under section 9.20 shall:

- a. use the classification to determine the separation distance and incorporation practices for each material intended to be applied to the land under section 6.17 and 6.18 of this regulation; and
- b. incorporate into the nutrient management plan or strategy, the separation distance and incorporation practices determined under clause (a).

Part X TRAINING AND LICENCING

Nutrient management plan or strategy development licence

10.1. (1) No person shall prepare a nutrient management plan or nutrient management strategy prior to March 31, 2004, for a farm unit for which an approval is required under this Regulation unless the person has attended Day 1 and Day 2 workshops approved by the Director.

(2) By no later than March 31, 2004, no person shall prepare a nutrient management plan or nutrient management strategy for an operation when they are not an owner operator or employee of that operation, except under and in accordance with a nutrient management plan or nutrient management strategy development licence.

(3) Subsections (1) and (2) do not apply to a person who is an owner, operator or employee of the operation.

Same - requirements

(4) The Director shall issue an initial nutrient management plan or nutrient management strategy development licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has completed a nutrient management plan or nutrient management strategy development course approved by the Director or has appropriate, previous formal or non-formal training approved by the Director;
2. The applicant has had at least 3 plans for Category 3 or 4 farm units approved by the Director in accordance with section 4.1; and
3. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy development exam approved by the Director.

(5) The Director shall issue a subsequent nutrient management plan or nutrient management strategy development licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent nutrient management plan or nutrient management strategy development licence and has not had the licence cancelled; and
2. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy development exam approved by the Director.

(6) For greater clarity, subsection (2) does not prevent a person from preparing a nutrient management plan or nutrient management strategy for a Category 3 or 4 farm unit provided:

- (a) the purpose of developing the plan or strategy is to meet the requirements in clause (4)2; and
- (b) the plan or strategy developed is submitted to the Director for approval.

Nutrient application business licence

10.2. (1) For the purpose of this section, a nutrient application business includes the application of prescribed materials.

(2) By no later than March 31, 2005, no person shall engage in a nutrient application business except under and in accordance with a nutrient application licence.

Nutrient application business licence - requirements

(3) The Director shall issue an initial nutrient application business licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who has completed a nutrient application business training course approved by the Director or has appropriate, previous formal or non-formal training approved by the Director.

(4) The Director shall issue a subsequent nutrient application business licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. the applicant has obtained an initial or subsequent nutrient application business licence with a five year term and has not had the licence cancelled; and
2. the applicant has successfully completed a subsequent nutrient application business training course approved by the Director.

Nutrient application commercial enterprise licence

10.3 (1) For the purpose of this section, a person who is engaged in the application of nutrients on a fee-for-service basis is engaged in the application of nutrients to land on behalf of a commercial enterprise.

(2) By no later than March 31, 2006, no person shall engage in the application of nutrients to land on behalf of a commercial enterprise except under and in accordance with a nutrient application commercial enterprise licence.

Same- requirements

(3) The Director shall issue an initial nutrient application commercial enterprise licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who has completed a nutrient application commercial enterprise training course approved by the Director or has appropriate, previous formal or non-formal training approved by the Director.

(4) The Director shall issue a subsequent nutrient application commercial enterprise licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

(a) The applicant has obtained an initial or subsequent nutrient application commercial enterprise licence with a five year term and has not had the licence cancelled; and

(b) The applicant has successfully completed a subsequent nutrient application commercial enterprise training course approved by the Director.

Nutrient application licence - Category 3, 4

10.4 (1) By no later than March 31, 2006, no person who owns or operates an agricultural operation which requires an approved nutrient management plan or nutrient management strategy shall apply nutrients to the land without a Category 3-4 nutrient application licence.

(2) Subsection (1) does not apply to an owner who engages a manager to be responsible for nutrient application at the farm unit, provided the manager has a Category 3-4 nutrient application licence.

Same - requirements

(3) The Director shall issue an initial Category 3-4 nutrient application licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has successfully completed a Category 3-4 nutrient application training course approved by the Director; or
2. The applicant has appropriate, previous formal or non-formal training approved by the Director.

(4) The Director shall issue a subsequent Category 3-4 nutrient application licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent Category 3-4 nutrient application licence with a five year term and has not had the licence cancelled; and
2. The applicant has successfully completed a subsequent Category 3-4 nutrient application course approved by the Director.

Brokers Licence

10.5 (1). By no later than March 31, 2005, no person shall act as a broker except under and in accordance with a brokers licence.

Same - requirements

(2) The Director shall issue an initial brokers licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has successfully completed a brokers training course approved by the Director; or
1. The applicant has appropriate, previous formal or non-formal training approved by the Director.

(3) The Director shall issue a subsequent brokers licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent brokers licence with a five year term and has not had the licence cancelled; and
2. The applicant has successfully completed a subsequent brokers course approved by the Director.

Planning licence Category 3-4

10.6 (1) By no later than March 31, 2005 no person who owns or operates an agricultural operation which requires an approved nutrient management plan or nutrient management strategy shall develop a nutrient management plan or nutrient management strategy for the operation except under and in accordance with nutrient management planning licence.

Same - requirements

(2) The Director shall issue an initial nutrient management planning licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has successfully completed a nutrient management planning course approved by the Director; or
2. The applicant has appropriate, previous formal or non-formal training approved by the Director.

(3) The Director shall issue a subsequent nutrient management planning licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent nutrient planning licence with a five year term and has not had the licence cancelled; and
2. The applicant has successfully completed a subsequent nutrient management planning course approved by the Director or has appropriate, alternate qualifications approved by the Director.

Category 1-2 licence

10.7 (1) By no later than March 31, 2007, each person who owns or operates an agricultural operation which does not require an approved nutrient management plan or nutrient management strategy but on which prescribed materials are generated or nutrients applied to land shall obtain a Category 1-2 licence.

(2) Subsection (1) does not apply to an owner who engages a manager to be responsible for nutrient application at the farm unit, provided the manager has obtained a Category 1-2 licence.

(3) Subsections (1) and (2) do not prevent the holder of a planning licence category 3 – 4 from carrying out the functions of the holder of a category 1-2 licence holder.

Same - requirements

(4) The Director shall issue an initial Category 1-2 licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has attended a nutrient management plan seminar or nutrient management strategy seminar approved by the Director; or
2. The applicant has appropriate, previous formal or non-formal training approved by the Director.

(5) The Director shall issue a subsequent Category 1-2 licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent Category 1-2 licence and has not had the licence cancelled; and

2. The applicant has attended an additional nutrient management plan seminar or nutrient management strategy seminar approved by the Director or has alternate qualifications approved by the Director.

Reviewer licence

10.8 (1) By no later than March 31, 2005, no person shall review a nutrient management plan or nutrient management strategy for approval except under and in accordance with a reviewer licence.

Same - requirements

(2) The Director shall issue an initial reviewer licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has a nutrient management plan or nutrient management strategy development licence;
2. The applicant has completed a nutrient management plan or nutrient management strategy reviewer course approved by the Director or has appropriate, previous formal or non-formal training approved by the Director;
3. The applicant has had no less than 10 nutrient management plans, nutrient management strategies, or a combination of plans and strategies approved by the Director; and
4. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy reviewer exam approved by the Director.

(3) The Director shall issue a subsequent reviewer licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent reviewer licence and has not had the licence cancelled; and
2. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy reviewer exam approved by the Director.

Trainers licence

10.9 (1) By no later than March 31, 2006, no person shall provide training in nutrient management planning except under and in accordance with a trainer licence.

Same - requirements

(2) The Director shall issue an initial trainer licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has a nutrient management plan or nutrient management strategy reviewer licence;
2. The applicant has completed a nutrient management plan or nutrient management strategy trainer course approved by the Director or has appropriate, previous formal or non-formal training approved by the Director;
3. The applicant has reviewed no less than 10 nutrient management plans, nutrient management strategies, or a combination of plans and strategies and the Director has approved the plans or strategies; and
4. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy trainer exam approved by the Director.

(3) The Director shall issue a subsequent trainer licence with a five year term, to an applicant who has paid the fee, if any, established by the Minister and who meets the following qualifications:

1. The applicant has obtained an initial or subsequent trainer licence and has not had the licence cancelled; and
2. The applicant has obtained a passing grade on a nutrient management plan or nutrient management strategy trainer exam approved by the Director.

Preparation of non-agricultural nutrient management strategy

10.10 By no later than March 31, 2005, no person who owns, manages or operates a generator of non-agricultural source materials mentioned in paragraphs 1 to 4 of subsection 1.7 (1) and no intermediate handler that is required to have a nutrient management strategy shall have a nutrient management strategy prepared other than by a person licenced to prepare nutrient management strategies under this Part.

Cancellation of Licences

10.11 (1) The Director may, by written notice, amend or cancel a licence if the holder of the licence contravenes the Act or regulations or in the opinion of the Director the holder has demonstrated incompetence or bad faith in carrying out the activity with respect to which the licence is issued.

(2). A notice shall not be issued under subsection (1) unless the Director has given at least (15) fifteen days written notice of the Director=s intention to do so.

(3). Written notices under subsection (1) and (2) shall provide reasons for the Director=s proposal under subsection (2) or decision under subsection (1).

(4). Written notice under subsection (1) shall set out the procedure for appeals under section 9 of the Act.

PART XI **RECORD-KEEPING**

General

11.1. Every owner or operator of a farm unit or other operation, which is subject to this regulation, shall keep detailed records of the operation in accordance with this Part for a minimum period of seven years, or such longer period as the Director may require.

11.2. All records maintained under this Part shall be stored at the farm unit or operation, unless it is not practical to do so, in which case they shall be stored at a location which is accessible to the operator on a 24 hour a day basis

11.3. All records may be kept by means of paper copies, mechanical, electronic or other devices provided the registrant:

- (a) takes adequate precautions, appropriate to the means used, to guard against the risk of falsification or alteration of the information recorded; and
- (b) provides a means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

11.4. Records that shall be maintained by the owner or operator of the farm unit or operation under this Part include:

- 1. The farm unit description used for the nutrient management or strategy;
- 2. The farm category and the calculation by which the category was determined.
- 3. Maintenance and inspection records of any permanent and temporary nutrient storages.
- 4. Certificates of operation issued to the operation;

5. Compliant nutrient management strategies or plans and approvals and certificates for those strategies and plans;
6. Records of soil and nutrient analyses done for purposes of the Act.
7. Site characterization studies;
8. Records of complaints received in written form;
9. Activity logs, containing information such as quantities of nutrients in each storage, dates and quantities of nutrient application, cropping practices and yields, livestock purchases and sales, feed records, outdoor feeding and temporary infield nutrient storage records, as outlined in the applicable ministry protocol;
10. Records of events when the contingency plan was used or a spill event occurred.
11. The records referred to in subsections 11.6(2)(3).

11.5. Any person who is any holder of a licence under Part X shall maintain a copy of each licence at the location of their operation or business.

Specific Informational Requirements For Plans And Strategies

11.6. (1) When an identification number is required for a nutrient management strategy or plan for purposes of this Regulation, OMAF shall assign the nutrient management strategy and nutrient management plan a unique identification number and advise the person by or for whom the nutrient management strategy or nutrient management plan was prepared of that identification number.

(2) Where a nutrient management strategy or nutrient management plan provides for the use of another nutrient management strategy or nutrient management plan for the use or disposal of some or all of the nutrients dealt with by the first mentioned nutrient management strategy or nutrient management plan the person by or for whom the first mentioned nutrient management strategy or nutrient management plan was prepared shall advise each person (the “recipient”) by or for whom the other nutrient management strategies or nutrient management plans were prepared the identification assigned by OMAF for the first mentioned nutrient management strategy or nutrient management plan and the recipient shall keep a record of that number so that the recipient may keep records of the nutrients received from others. Similarly the recipient shall provide the identification assigned by OMAF for the recipient’s nutrient management strategy or nutrient management plan to the first mentioned person so that person can keep a record of the nutrients delivered to others .

(3) Every person by or for whom a nutrient management strategy or nutrient management plan is prepared shall keep a record of all nutrients generated by that person or received from others and the use, transfer to others or disposal of those nutrients in accordance with the procedure set out in in the applicable ministry protocol.

Part XII

Local Advisory Committees

12.1. In Part 12 of this regulation,

“committee” means a local advisory committee;

“council” means the council of a municipality;

“municipality” means a single-tier municipality or an upper-tier municipality as defined in the *Municipal Act, 2001*, as amended.

12.2. Subject to this Part a council may, by by-law, establish a committee to address nutrient management issues in the municipality.

12.3. A Municipality shall follow the committee structure as outlined in section 12.4 when establishing a Local Advisory Committee.

12.4. (1) A committee shall consist of not fewer than five persons who are residents of the municipality appointed by the council.

(2) The council may appoint a chair and one or more vice-chairs from among the members of the committee.

(3) A majority of the members of the committee shall be persons who are farmers or who represent an agricultural operation located in the municipality.

(4) At least one member of the committee shall be a person who is not a farmer or representative of an agricultural operation.

(5) At least one member of the committee shall be appointed from among the members of the council or the staff of the municipality.

(6) The committee shall adopt rules of procedure to facilitate its activities.

12.5. (1) The council shall ensure that all members of the committee have knowledge of nutrient management practices.

(2) The council shall ensure that members of the committee who are involved in the mediation of disputes have knowledge of mediation practices.

- 12.6.** The members of the committee shall:
- (a) follow the prescribed procedure for mediations as set out in section 12.7 when engaged in mediation;
 - (b) follow the prescribed procedure for educational activities as set out in section 12.8 when engaged in education; and
 - (c) follow the prescribed procedure for consultations as set out in section 12.9 when engaged in consultations.

Mediation

12.7 (1) Members of the Local Advisory Committees may mediate incidents:

- a) reported by local residents to the local municipality, which do not violate the Act, the Environmental Protection Act, or the Ontario Water Resources Act; or
- b) reported to the Ministry of the Environment, which are referred to the Local Advisory Committee at the discretion of the Ministry of the Environment.

(2) If at any time during the course of mediating a dispute the chair of the committee is advised by a director or a provincial officer that the matters in dispute do involve an alleged violation of the Act, the Environmental Protection Act, or the Ontario Water Resources Act the committee shall suspend its process until the alleged violations have been dealt with in accordance with the applicable legislation.

(3) The staff of the Ministry of Environment shall use its statutory discretion when referring complaints to a committee.

(4) Subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* and other relevant legislation all mediations shall be conducted on a confidential basis.

Conflict of Interest

(5) Where a member of a committee, who is assigned to mediate a dispute has, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, as defined in the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, direct or indirect, in the matter, he or she,

- a) shall, prior to participating in the mediation of a dispute, disclose the interest and the general nature thereof; and
- b) shall not take part in the discussion or mediation of any question in respect of the matter unless all parties agree otherwise.

(6) The outcome of a mediation of a dispute does not relieve any of the parties to the dispute of the responsibility to comply with the requirements of any Act that governs the management of materials that contain nutrients.

(7) Members of a committee who act as mediators shall not provide advice that might be regarded as legal advice to any of the parties to the dispute or their representatives.

(8) Members of committees shall conduct mediations in accordance with the applicable ministry protocol.

Education

12.8. (1) Members of a committee may engage in educational activities related to the management of materials containing nutrients on a formal or informal basis.

(2) Committees may hold seminars for the purpose of educating people about matters related to the management of materials containing nutrients.

(3) The members of a committee may consult with representatives of the Ministry of Agriculture and Food regarding the presentation and content of educational seminars.

Consultation

12.9. (1) Subject to subsection (2) the members of a committee may consult with representatives of the municipality with regard to issues related to the management of materials containing nutrients including site plan or building permit issues.

(2) The members of a committee shall not engage in the processes of evaluating, approving or endorsing nutrient management strategies or nutrient management plans.

Reports to Council

12.10. The by-law that establishes a committee may require the chair of the committee to provide reports about its activities to the clerk of the municipality from time to time.